

The NEW City of **CANTERBURY BANKSTOWN**

.....

Agenda for the

Extraordinary Committee

14 June 2016

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1 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

The following minutes are submitted for confirmation or notation -

1.1	Minutes of the City Services Committee Meeting of 14 April 2016	7
1.2	Minutes of the City Development Committee Meeting of 14 April 2016	9
1.3	Minutes of the Ordinary Meeting of Council of 28 April 2016	49
1.4	Minutes of the Extraordinary Meeting of Council of 11 May 2016	61
1.5	Minutes of the Extraordinary Meeting of Council of 24 May 2016	77

**MINUTES OF THE MEETING OF THE CITY SERVICES COMMITTEE, HELD IN THE COUNCIL CHAMBERS,
137 BEAMISH STREET, CAMPSIE ON THURSDAY, 14 APRIL 2016 AT 7.33 P.M.**

PRESENT

Councillor P Azzi, in the Chair, the Mayor, Councillor B. Robson and Councillors M. Adler, L. Eisler, F. Kebbe, K. Nam, E. Paschalidis-Chilas and C.Vasiliades.

The Chairperson acknowledged the traditional owners of the land on which we meet and paid respect to any people present and to their elders both past and present.

In terms of authority delegated to it by Council (refer Minute No. 69, 21 March 2013) the Committee resolved the following matters.

CONFIRMATION OF MINUTES

Min. No. 96 RESOLVED (Councillors Kebbe/Adler)
THAT the Minutes of the Meeting of the City Services Committee held on 10 March 2016, numbered 56 to 58, copies of which were previously circulated to the Councillors, be taken as read and confirmed.

APOLOGIES

Apologies tendered on behalf of the Deputy Mayor, Councillor K Saleh and Councillor M. Hawatt were received and leave granted.

OFFICERS REPORTS

- 1 EXHIBITION OF DRAFT ANNUAL BUDGET AND OPERATIONAL PLAN 2016-17**
FILE NO: C-114-7

Min. No. 97 RESOLVED (Councillors Adler/Kebbe)
THAT the draft Annual Budget and Operational Plan for 2016-17 as provided to Councillors and discussed at the briefing on 5 April 2016, be endorsed for public exhibition.

2 PROGRESS OF WORKS - MARCH 2016

FILE NO: E-33-1 PT 5

Min. No. 98 RESOLVED (Councillors Adler/Kebbe)

THAT the report be noted.

The meeting concluded at 7.36 p.m.

MINUTES OF THE MEETING OF THE CITY DEVELOPMENT COMMITTEE, HELD IN THE COUNCIL CHAMBERS, 137 BEAMISH STREET, CAMPSIE ON THURSDAY, 14 APRIL 2016 AT 7.38 P.M.

PRESENT

Councillor M. Adler, in the Chair, the Mayor, Councillor B. Robson and Councillors P. Azzi, L. Eisler, F. Kebbe, K. Nam, E. Paschalidis-Chilas and C. Vasiliades.

The Chairperson acknowledged the traditional owners of the land on which we meet and paid respect to any people present and to their elders both past and present.

In terms of authority delegated to it by Council (refer Minute No. 69, 21 March 2013) the Committee resolved the following matters.

CONFIRMATION OF MINUTES

Min. No. 99 RESOLVED (Councillors Kebbe/Azzi)

THAT the Minutes of the Meeting of the City Development Committee held on 10 March 2016, numbered 59 to 77, copies of which were previously circulated to the Councillors, be taken as read and confirmed.

APOLOGIES

Apologies tendered on behalf of the Deputy Mayor, Councillor K. Saleh and Councillor M. Hawatt were received and leave granted.

OFFICERS REPORTS

1 DEVELOPMENT APPLICATIONS DETERMINED BY COUNCIL OFFICERS UNDER DELEGATION

FILE NO: D-4-8 PT4

Min. No. 100 RESOLVED (Councillors Eisler/Kebbe)

THAT the report be noted.

2 49-51 ANGLO ROAD, CAMPSIE: DEMOLITION AND CONSTRUCTION OF FOUR STOREY RESIDENTIAL FLAT BUILDING CONTAINING RESIDENTIAL UNITS AND BASEMENT PARKING

FILE NO: 31/49D PT2

Min. No. 101 RESOLVED (Councillors Azzi/Kebbe)

THAT the Development Application DA-217/2015, be approved as a **DEFERRED COMMENCEMENT** Consent under Section 80(3) of the Environmental Planning and Assessment Act, 1979.

- A. This consent is not to operate until the Applicant has amended the development within 12 months of the date of this notice to:
1. The intersection area between the base of the ramp to the lower basement and the lower basement parking aisle can only be used by one vehicle at a time but does not satisfy the design requirements of clause 2.5.2(c) of AS/NZS 2890.1: 2004 Parking facilities Part 1: Off-street car parking for single vehicle use. The design of this intersection area must be amended to comply with AS/NZS 2890.1: 2004.
A plan of the amended design must be submitted together with swept path analyses undertaken in accordance with Clause 2.5.2(c) of AS/NZS 2890.1: 2004 demonstrating compliance with AS/NZS 2890.1. The plan and swept path analyses must be certified by a qualified practicing civil engineer.
 2. The disabled parking spaces do not comply with the dimensional requirements for disabled parking spaces and associated shared areas shown in Figures 2.2 and 2.3 of AS/NZS 2890.6: 2009 Parking facilities Part 6: Off-street parking for people with disabilities. The design of the basement parking facility must be amended to comply with the Standard.
- B. The following conditions of consent will be included in the development consent issued by Council after the applicant provides information sufficient to satisfy Council in relation to the conditions of the deferred commencement consent. Additional conditions, including levying Development Contributions, will be imposed as a result of satisfying the above matters.

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 the relevant Construction Certificate:
 - 1.1. Details of:
 - ☐ Structural Engineering Plan
 - ☐ Protection from termites
 - ☐ Building Specifications
 - ☐ Fire Safety Schedule
 - ☐ Landscape Plan
 - ☐ Hydraulic Plan
 - ☐ Firewall Separation
 - ☐ Section 73 Compliance Certificate
 - ☐ Soil and Waste Management Plan
 - ☐ Consolidation of All Lots into One Lot
 - ☐ Mechanical Ventilation of Basement Carpark (Compliance with Section 4.4 of AS 1668.2)
 - ☐ BASIX Certification
 - ☐ Compliance with Disability (Access to Premises – Buildings) Standards 2010.
 - ☐ Compliance with Conditions regarding Waste Management
 - 1.2. Payment to Council of:

Kerb and Gutter Damage Deposit	\$2,723.00
Section 94 Contributions	\$193,965.53
Certificate Registration Fee	\$36.00
Long Service Levy	\$20,591.70

Note 1: 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 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: Section 94 contribution payments are payable by cash, bank cheque, or EFTPOS.

Note 4: 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 the relevant Construction Certificate by the Council or an Accredited Certifier, and
 - 2.2. you must appoint a Principal Certifying Authority (either Canterbury City Council, or an Accredited Certifier) and notify the Council of the appointment (see Attachment – Notice of Commencement copy), and
 - 2.3. you must give the Council at least 2 days notice of your intention to commence erection of the building (see Attachment – Notice of Commencement copy).
 - 2.4. In the case of work which includes residential development, you must inform us in writing before the commencement of work of the following:
 - 2.4.1. The name and contractor or licence number of the licensee who has contracted to do or intends to do the work; or
 - 2.4.2. The name and permit number of the owner-builder who intends to do the work.

SITE SIGNAGE

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

GENERAL

4. 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
DA001	Site Plan and Site Analysis	CD Architects	24/09/2015
DA100 Rev C	Lower Basement Floor Plan	CD Architects	12/4/2016
DA101 Rev C	Upper Basement Floor Plan	CD Architects	12/4/2016
DA102 Rev D	Ground Floor Plan	CD Architects	12/4/2016
DA103 Rev B	Level 01 Floor Plan	CD Architects	12/4/2016
DA104 Rev B	Level 02 Floor Plan	CD Architects	12/4/2016
DA105 Rev C	Level 03 Floor Plan	CD Architects	12/4/2016
DA106 Rev A	Roof Level Plan	CD Architects	12/4/2016
DA200 Rev D	North and East Elevations	CD Architects	12/4/2016
DA201 Rev C	South and West Elevations	CD Architects	12/4/2016
DA300	Section A	CD Architects	24/09/2015
DA301	Section B	CD Architects	24/09/2015
DA302	Cross Section C	CD Architects	24/09/2015
DA500	Pre and Post Adaptable Unit Layout	CD Architects	24/09/2015
DA704	-	CD Architects	May 2015

5. Finishes and materials including the treatment of external walls, windows, doors and balustrades being in accordance with the architectural drawings on the Cover Sheet

prepared by CD Architects and received by Council on 20 May 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.

6. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area. The amount of the contribution (as at the date of this consent) has been assessed as \$193,965.53. The amount payable is based on the following components:

Contribution Element	Contribution
<input type="checkbox"/> Community Facilities	\$17,543.78
<input type="checkbox"/> Open Space and Recreation	\$171,489.33
<input type="checkbox"/> Plan Administration	\$4,932.46

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.

7. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 – 2004. All car parking associated with the development must be accommodated on site.
8. A total of 34 off street car parking spaces being provided in accordance with the approved DA plans. Car parking within the development shall be allocated as follows:
- ☐ 34 residential spaces, with five (5) of which retained as visitor spaces and one (1) disabled space.
 - ☐ One (1) car wash bay
 - ☐ One (1) courier space

If the development is to be strata subdivided, the carpark layout must respect the above allocation.

9. All disabled parking space dimensions, cross-falls, vertical clearances for access paths and above spaces are to be in accordance with the requirements of AS2890.6.
10. Resident and visitor car parking shall be clearly signposted at the entry to the car parking area.
11. All bicycle spaces are to be provided in accordance with AS2890.3.
12. Renewal or provision of fencing, attributable to the proposed development being the responsibility of the developer.
13. The bathroom and ensuite window(s) being translucent glass.
14. The development is to be levied 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 2005, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area. A monetary contribution shall be paid to Canterbury City Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is to be calculated at the time of payment. **Note:** The rates applying to each contribution element are subject to indexing using the Consumer Price Index. The Contributions payable will be adjusted, at the time of payment, to reflect CPI increases which have taken place since the DA was determined.

- Council's Section 94 Contributions Plan 2005 may be inspected at Council's Administration Centre, 137 Beamish Street, Campsie or from Council's website 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.
15. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
 16. 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.
 17. 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.
 18. All building construction work must comply with the National Construction Code.
 19. Provide a Surveyor's Certificate to the Principal Certifying Authority at all floor 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.
 20. 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.
 21. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
 22. 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.
 23. 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.
 24. 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.
 25. 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.
 26. 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.
 27. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
 28. All disturbed areas must be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
 29. 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.
 30. 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.
 31. The implementation of adequate care during building construction to ensure that no damage is caused to any adjoining properties.

32. Erection of a hoarding/fence 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.
33. Payment of an additional garbage levy for each new dwelling upon completion of work
34. All activity being conducted so that it causes no interference to the existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.
35. All vehicles carrying materials to or from the site having their loads covered at all times with tarpaulins or similar covers in accordance with the Roads (General) Regulation 2000, Section 11 (1) (d).
36. No construction work outside the hours of Monday to Friday, 7.00 a.m. to 5.00 p.m. and Saturday, 7.00 a.m. to 12.00 noon, is permissible without the prior approval of Council. Noise from construction activities associated with the development shall comply with the following guidelines (from NSW Environment Protection Authority Environmental Noise Control Manual Chapter 171).
Construction periods of 4 weeks and under:
The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 20dB(A) when assessed to the any sensitive noise receiver.
37. 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."

STORMWATER ENGINEERING

38. That the stormwater system be constructed in general, in accordance with the plans, specifications and details received by Council on 2nd October 2015, drawing numbers, 2015-061-H1^B to H7^B inclusive being seven sheets; prepared by Burgess, Arnott & Grava Pty Ltd and as amended by the following conditions.
39. 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.
40. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's DCP 2012, Part 6.4.
41. Full width grated drains being provided across the vehicular entrance/exit to the site where internal areas drain towards the street, and be connected to the drainage system upstream of the silt arrestor pit and in accordance with Clause 4 of Council's DCP 2012, Part 6.4.
42. OSD is required; three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority PCA and Canterbury City Council, if Council is not the PCA. The plans must be prepared by a 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 DCP 2012, Part 6.4.

43. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1st March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.
44. A geotechnical report must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. The Geotechnical/Civil Engineering report must be prepared to addresses (but is not limited to) the following:
- a) The type and extent of substrata formations by the provision of representative bore hole logs, the location and number of which are to be advised by a geotechnical engineer, which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum;
 - b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated;
 - c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site);
 - d) The existing groundwater levels in relation to the basement structure, where influenced;
 - e) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.
- The geotechnical report must be prepared by a consulting geotechnical/ hydrogeological engineer with previous experience in such investigations and reporting.
45. The basement must be tanked to at least 1000 mm above the ground water level identified in the Geotechnical Report.
46. A full width heavy duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 5.5 metres at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
47. 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.

48. 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.
49. 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.
50. The vehicle access and parking facilities shall be in accordance with AS/NZS 2890.1: 2004 Parking facilities Part 1: Off-street car parking and AS/NZS 2890.6: 2009 Parking facilities Part: Off-street car parking for people with disabilities. In this regard the Approved 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.
 - b) The gradient of the driveway for the first 6 metres from the property boundary must not exceed 1 in 20 (5%) in accordance with the requirements of Clause 3.3(a) of AS/NZS 2890.1-2004.
 - c) Minimum headroom of 2200mm must be provided throughout the access and parking facilities. Minimum headroom of 2500mm must be provided above any disabled parking space(s). Note that the headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, ducts, etc, and at any open garage door.
 - d) Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of the Standard.
 - e) The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle. Longitudinal sections must be provided along each outer edge of all ramps.
 - f) The vehicular access must be amended to provide clear sight lines (triangles) to pedestrians in Lillian Street in accordance with the requirements of Clause 3.2.4(b) of AS/NZS 2890.1-2004.
 - g) Longitudinal section along the worst case outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.

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

PUBLIC IMPROVEMENTS

51. Development Consent does NOT give approval to undertake any works on Council property. An application must be made to Council for a Approval under Section 138 of the *Roads Act 1993* for approval to undertake works on Anglo Road and Lillian Street. Council Approval for the works on its road must be obtained prior to the issue of a Construction Certificate. These works must be constructed in accordance with the conditions of the Approval and be completed prior to the issue of an Occupation Certificate.
- Note: The cost of adjustment or relocation of any public utility service shall be borne by the owner/applicant. Where the finished levels of the new works will result in changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant.

52. All redundant vehicular crossings shall be replaced with kerb in the existing material 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".
53. The reconstruction of the kerb and gutter along all areas of the site fronting Lillian Street 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".
54. The reconstruction/replacement of damaged or missing sections of sandstone kerb and gutter along all areas of the site fronting Anglo Road 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 as directed by Councils City Works Group.
55. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting Anglo Road and Lillian Street is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
56. 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.
57. Class 2, 3 or 4 Buildings
- 57.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 57.2. prior to covering any stormwater drainage connections, and
- 57.3. 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
- 57.4. prior to covering any stormwater drainage connections, and
- 57.5. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
58. 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.

SYDNEY WATER REQUIREMENTS

59. 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, 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.

VEHICULAR ENTRY / EXIT POINTS

60. Separate entry and exit driveways, separated by a median of minimum 1.0m in width must be provided.

COMPLETION OF DEVELOPMENT

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

LANDSCAPING

62. The existing property trees identified on the landscape plan may be removed to accommodate construction.
63. Street tree planting is to be provided to both street frontages (2 x street trees to Anglo Road and 2 x street trees to Lillian Street) with 4 x 75ltr (container size) *Lagerstroemia indica* (common name Crepe Myrtle). These trees to be planted in the grass verge a minimum of 2m away from the proposed driveway, existing neighbouring driveways and existing power poles. The street trees 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.
64. All canopy trees are to be a minimum 75litre pot size and a mature height of greater than 5m.
65. A maintenance period of 12 months is to be specified for this application. During this maintenance period, the landscaping must be maintained in accordance with the details specified on the submitted landscape plan.
66. The proposed planting to all podium levels should comply with the following as required in the CDCP 2012 Part 6.6: Landscape:

Raised planters:

- ☐ Use masonry or concrete construction;
- ☐ Provide drainage for each planter box, and coordinate drainage details with hydraulics plan; and
- ☐ Provide waterproofing to each planter box.

Minimum soil depth:

- ☐ 100-300mm for turf
- ☐ 300-450mm for groundcovers;
- ☐ 500-600mm for small shrubs;
- ☐ 600-750mm for medium shrubs;
- ☐ 750-900mm for small trees with approximate soil area of 3.5m x 3.5m;
- ☐ 1000mm for medium trees with approximate soil area of 6m x 6m; and
- ☐ 1300mm depth for large trees with approximate soil area of 10m x 10m.

The landscape plan is to be amended to include adequate soil depths to all raised planter beds/boxes, and palm species identification.

67. Please annotate planting to south-west of new driveway.

WASTE MANAGEMENT

68. The development will be allocated 13x 240L rubbish bins and 9x 240L recycling bins. These bins will need to be stored in the waste bin storage room as per the plans.
69. The development will also be eligible to receive up to 5x 240L garden vegetation bins. These bins should be stored in the waste bin storage room however they are to be presented on the nature strip for collection. These bins will then be returned to the property.
70. The applicant will need to provide a waste bin presentation area that is located within 15m of the kerb (the front north-western corner of the property appears suitable). The applicant should see clause 6.9.4.1 and 6.9.4.2 of the CDCP for further details in this regard. The bins must not be presented on the road.

DISABILITY ACCESS

71. The development must be constructed to comply with the Commonwealth Disability (Access to Premises – Buildings) Standard 2010.
72. A continuous accessible path of travel is to be provided from the street alignment to the building entries, and from the underground carpark, to and within each of the adaptable units, and to and within all common areas of the buildings, including landscaped areas and the residential garbage room. It must not contain a step or other impediment, and must have an unobstructed width of at least 1000mm, and vertical clearance of 2000mm. Vegetation in landscaped areas should not overhang an accessible path of travel.
73. The Disability (Access to Premises – Buildings) Standards require a fully accessible lift (AS1735.12). If the lift travels more than 12 metres it is to have minimum floor dimensions of 1400mm X 1600mm. However, as this is a residential development, with the accessible units on the upper floors, lifts that provide adequate space for a paramedic stretcher with minimum dimensions of 2100 mm X 550 mm, should be provided for the benefit of every resident who may have to be evacuated in a horizontal position. Circulation space in front of lift doors is to be at least 1550 mm.
74. The minimum vertical clearance in the accessible parking spaces and adjacent shared areas is to be 2500mm, and the path of travel from the building entry to accessible parking spaces is to have a minimum vertical clearance of 2200mm.
75. Paving in the entry foyers and the common areas is to be non-slip in wet and dry conditions.
76. Steps are to have equal height risers and are to comply with AS1428.1 (2009). Handrails are required on both sides of the steps. Tactile Ground Surface Indicators (TGSIs) are required at the top and base of these steps, to comply with AS1428.4.1.
77. Ramps are to comply with AS1428.1 (2009), with a maximum gradient of 1:14. Ramps with gradients between 1: 20 and 1:14 are to have compliant handrails on each side, and TGSIs at the top and base to comply with AS1428.4.1.
78. Adaptable Units
 - 78.1. All glazed doors and panels within adaptable units are required to have a transom or luminance strip at a height between 900mm and 1100mm above the floor level. The strip is to provide a luminance contrast of at least 30% to its surroundings, when viewed from either the inside or the outside the door.
 - 78.2. Entry doorways to the Units are to provide a minimum clear width of 850 mm, when the door is fully open. Internal and external latch-side clearances for all doors are to comply with AS1428.1 (2009).
 - 78.3. The terrace or balcony levels are to be the same as the internal floor levels of the adaptable units in the post-adaptation stage, with the tracks of the sliding doors to be recessed level with the unit floor, to avoid a trip hazard. Alternately, a threshold ramp may be installed, with a maximum length of 280 mm, a maximum height of 35 mm, and a maximum gradient of 1:8.

Wet areas in the bathroom, kitchen and balcony/terrace are to have surfaces that are non-slip, in wet and dry conditions.
79. Corridors are to have a minimum width of 1000 mm, but must be wider at the entrances to adaptable units, to comply with AS1428.1 (2009).

WE ALSO ADVISE:

80. This application has been assessed in accordance with the National Construction Code.
81. 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.
82. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
 - ☐ Structural engineering work

- ☐ Air handling systems
 - ☐ Final fire safety certificate
 - ☐ Glazing
 - ☐ Waterproofing
 - ☐ BASIX completion
83. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
84. 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.
85. 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.
86. 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.
87. 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.
88. If you are not satisfied with this determination, you may:
- 88.1. 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
 - 88.2. 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.
- C. The Independent Hearing and Assessment Panel recommendation was not supported and the City Development Committee adopted the Officers recommendation.

FOR	AGAINST
Councillor Adler	The Mayor, Councillor Robson
Councillor Azzi	Councillor Eisler
Councillor Kebbe	Councillor Paschalidis-Chilas
Councillor Nam	
Councillor Vasiliades	

3 44 COLIN STREET, LAKEMBA: DEMOLITION AND CONSTRUCTION OF AFFORDABLE HOUSING DEVELOPMENT COMPRISING RESIDENTIAL APARTMENTS AND BASEMENT PARKING

FILE NO: 198/44D

Min. No. 102 RESOLVED (Councillors Azzi/Kebbe)

THAT the development application DA-484/2015 be **APPROVED** subject to the following conditions:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

- ☐ Structural Engineering Plan including method of shoring during excavation
 - ☐ Building Specifications
 - ☐ Fire Safety Schedule
 - ☐ Landscape Plan
 - ☐ Hydraulic Plan
 - ☐ Firewall Separation
 - ☐ Soil and Waste Management Plan
 - ☐ BASIX Certification
 - ☐ Ventilation of basement in accordance with AS 1668.2
- 1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
- 1.3. Payment to Council of:
- | | |
|--------------------------------|--------------|
| Kerb and Gutter Damage Deposit | \$3,328.00 |
| Section 94 Contributions | \$101,509.90 |
| Certificate Registration Fee | \$36.00 |
| Long Service Levy | \$6,247.50 |
- 1.4. If you appoint Council as your Principal Certifying Authority, the following fees are payable:
- | | |
|--|------------|
| Construction Certificate Application Fee | \$6,518.00 |
| Inspection Fee | \$1,785.00 |
| Occupation Certificate Fee | \$492.00 |

Note 1: Long Service Leave Levy payment; 0 (Long Service Leave is payable where the value is \$25,000 or more under Part 5 Section 36 of the Building and Construction Industry Long Service Payments Act 1986).

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

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

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

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

BEFORE COMMENCING THE DEVELOPMENT

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

INSURANCE

3. If it is intended to engage a builder or licensed contractor to do the work where it is valued over \$20,000 and is not a multi storey building then this person must take out home building insurance with a private insurer. The builder or person doing the work

must also satisfy Council that they have taken out an insurance policy by producing evidence of the insurance certificate or other documentation. Further information on insurance requirements is available from the Department of Fair Trading (NSW Consumer Protection Agency) on 1800 802 055.

SITE SIGNAGE

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

DEMOLITION

5. Demolition must be carried out in accordance with the following:
 - (a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
 - (b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.
 - (c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
 - (d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
 - (e) Demolition of buildings is only permitted during the following hours:

7.00 a.m. – 5.00 p.m.	Mondays to Fridays
7.00 a.m. – 12.00 noon	Saturdays

No demolition is to be carried out on Sundays or Public Holidays.
 - (f) Burning of demolished building materials is prohibited.
 - (g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
 - (h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
 - (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
 - (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
 - (k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
 - (l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).

- (m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
- (n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 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.
- (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 following plans, specifications and details, except where amended by the conditions specified in this Notice.

Drawing No.	Drawing Name	Rev No.	Prepared By:	Dated Received by Council:
-	Schedule of Exterior Finishes	A	KVMZV Architecture	12 October 2015
DA100	Notes & Legends & BASIX Commitments	A	KVMZV Architecture	12 October 2015
DA102	Site Plan	B	KVMZV Architecture	29 December 2015
DA103	Demolition	A	KVMZV Architecture	12 October 2015
DA104	Landscape Calculation Plan	B	KVMZV Architecture	29 December 2015
DA105	Landscape Plan	B	KVMZV Architecture	29 December 2015
DA106	Landscape Details and Notes	B	KVMZV Architecture	29 December 2015
DA201	Basement Floor Plan: Building A	B	KVMZV Architecture	18 February 2016
DA202	Basement Floor Plan: Building B	B	KVMZV Architecture	18 February 2016
DA203	Ground Floor Plan: Building A	B	KVMZV Architecture	29 December 2015
DA204	Ground Floor Plan: Building B	B	KVMZV Architecture	29 December 2015
DA205	Level 01: Floor Plan: Building A	B	KVMZV Architecture	29 December 2015
DA206	Level 01: Floor Plan: Building B	B	KVMZV Architecture	29 December 2015
DA207	Level 02: Floor Plan: Building B	B	KVMZV Architecture	29 December 2015
DA208	Level 02: Floor Plan: Building A	A	KVMZV Architecture	12 October 2015
DA209	Roof Plan: Building B	A	KVMZV Architecture	12 October 2015
DA210	Roof Plan: Building A	A	KVMZV Architecture	12 October 2015

DA301	Elevations	B	KVMZV Architecture	29 December 2015
DA302	Elevations	B	KVMZV Architecture	29 December 2015
DA303	Elevations	A	KVMZV Architecture	12 October 2015
DA304	Elevations	B	KVMZV Architecture	29 December 2015
DA305	Elevations	B	KVMZV Architecture	29 December 2015
DA401	Sections	A	KVMZV Architecture	12 October 2015
DA402	Sections	A	KVMZV Architecture	12 October 2015
DA403	Sections	A	KVMZV Architecture	12 October 2015
DA404	Sections	A	KVMZV Architecture	12 October 2015
DA405	Sections	B	KVMZV Architecture	29 December 2015
DA601	Adaptable Unit G01 Details: Post Adaptation Layout	A	KVMZV Architecture	12 October 2015
DA602	Adaptable Bathroom Details: Post Adaptation Layout	A	KVMZV Architecture	12 October 2015
DA603	Accessibility Details	A	KVMZV Architecture	12 October 2015

- 6.1. Intercom, code or card locks or similar must be installed at main entries to the building to control access, including the car parks.
- 6.2. Each apartment in the development must be provided with sufficient storage to comply with Part 4G of the Apartment Design Guide.
- 6.3. Windows to habitable rooms along the side elevations are to have a sill height of 1.5m above finished floor level. Details of these changes are to be provided to the Principle Certifying Authority prior to the issue of the Construction Certificate.
- 6.4. Privacy screens are to be applied to the windows and balconies as indicated within the approved architectural plans.
- 6.5. The bathroom and ensuite window(s) being translucent glass. Details of these changes are to be provided to the Principle Certifying Authority prior to the issue of the Construction Certificate.
- 6.6. At least one apartment is to be an accessible apartment in accordance with the stamped plans.
7. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The amount of the contribution (as at the date of this consent) has been assessed as \$101,509.90. The amount payable is based on the following components:

Contribution Element	Contribution
<input type="checkbox"/> Community Facilities	\$9,181.87
<input type="checkbox"/> Open Space and Recreation	\$89,743.63
<input type="checkbox"/> Plan Administration	\$2,584.40

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

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

8. Nine (9) off-street car spaces being provided in the basement car park area in accordance with the submitted plans.
9. 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.
10. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
11. 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.
12. All building construction work must comply with the National Construction Code.
13. 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.
14. Provide a Surveyor's Certificate to the Principal Certifying Authority indicating the finished floor levels and roof to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
15. 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."
16. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
17. 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.
18. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
19. 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.
20. 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.
21. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
22. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.

The site must be provided with a vehicle washdown area at the exit point of the site. The area must drain to an approved silt trap prior to disposal to the stormwater drainage system in accordance with the requirements of Specification S2 of Council's Stormwater Management Manual. Vehicle tyres must be clean before leaving the site.

23. 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.

ENGINEERING

Prior to issuing Construction Certificate

24. Plans and specification to be prepared of the stormwater system and be designed conceptually, in general, in accordance with the plans, specifications and details received by Council on 12th October 2015; Project number 2015447 sheet number H1 and H2 Revision (not noted)-Prepared by ANA Civil Pty Ltd.
25. The plans must be prepared by an appropriately qualified and practising 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.
26. An appropriately qualified and practising Civil Engineer is to be registered on the NER of Engineers Australia or be appropriately qualified to be on the register and be experienced in the design of stormwater drainage.
27. Stormwater management and OSD details, three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority (PCA) and Canterbury City Council, if Council is not the PCA.
28. The overflow from O.S.D system and other pits are to be directed to the street and away from the entry driveway and other places where it could cause damage or nuisance.
29. All emergency overflows from the site stormwater system must be directed overland to the street, the flowpath must **not** cause damage or flood nuisance. The overflow capacity of the proposed overflow path is to be (2x) two times the 1:100 ARI peak flow rate. This is to include a HGL for the discharge to demonstrate adequate flow capacity to a free outlet.
30. Connection details to council kerb are to be included.
31. A maintenance plan including maintenance schedule and inspection check list must be produced for the on-site detention facility. The maintenance plan must be submitted to the Principal Certifying Authority prior to the issue of a construction Certificate.
32. All downpipes, pits and drainage pipes shall be designed and installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's Stormwater Management Manual - Specification 9 "A Guide for Stormwater Drainage Design".
- a) 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.
 - b) All external surfaces to be graded to facilitate subterranean drainage and excess surface waters to the overland flow path(s).
 - c) 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.
- d) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage
 - e) All pits to be minimum 450 x 450 with childproof lockable grated lids.
 - f) All grated trench drain to be min 200mm wide.
 - g) All 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".
33. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
34. The Basement pump-out drainage system is to be designed and certified to comply with Council's DCP 2012, Part 6.4.11. All waters pumped from the site must only be those generated by rainfall and seepage. If a groundwater table is present, the basement and pit must be tanked and structurally designed to cater for hydrostatic forces and to prevent the ingress of water from the ground table. Pumped waters from the pit are to be directed to the Silt arrestor pit prior to connection to the legal point of discharge.
- a) The pumps are not to drain any groundwater table encountered on the site.
 - b) A geotechnical report must be prepared by a consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting. Groundwater must not be captured by the drainage system of the basement. The basement must be tanked to at least 1000 mm above measured groundwater levels.
35. A full width **heavy** duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 5 metres at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
36. 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.
37. 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.
38. 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) Basement external walls are shown on plan as approx. 200 mm thickness, this width is to be maintained to preserve the internal geometry of the basement.
 - b) A driveway long section scaled at 1:20 (both vertical & horizontal) is to be submitted indicating the appropriate grades, lengths, transitions and height clearances above the driveway. The existing street levels are to be included in the design of the driveway (The existing street levels include kerb & gutter, footpath and boundary line levels which cannot be altered). The driveway widths, grades, lengths and transitions shall be in accordance with Australian Standard AS 2890.1 - 2004 "Off-street Parking Part 1 - Carparking Facilities".

39. The applicant shall consult Energy Australia to determine the need for an electricity substation prior to the submission of a Construction Certificate and, if a site is required, it being situated adjacent to the street alignment with the size, location and area being in accordance with the requirements of Council and Energy Australia. The land required being dedicated without cost as a public roadway to enable Energy Australia to establish the substation.
40. 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.
41. Development Consent does NOT give approval to undertake any works on Council property. An application must be made to Council for a Road Opening Permit under Section 138 of the Roads Act 1993 for approval to undertake works on council roads.
 - a) The Road Opening Permit must be provided prior to the issue of a Construction Certificate.
 - b) These works must be constructed in accordance with the conditions of the Road Opening Permit and be completed prior to the issue of an Occupation Certificate.
 - c) Note: The cost of adjustment or relocation of any public utility service shall be borne by the owner/applicant. Where the finished levels of the new works will result in changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant.
42. 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".
43. 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.
44. Retaining walls greater than 1000 mm high or retaining more than 600 mm of cut or fill proposed to be located within one metre of a boundary are to be designed by a Structural Engineer and must have subsoil drainage connected to the site stormwater system. Design plans prepared by an appropriately qualified and practising structural engineer must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.
 - a) All components of any retaining walls, including subsoil drainage, must be located entirely within the property boundary. The subsoil drainage lines of the retaining walls must be shown on the stormwater drainage plan.
45. The basement excavation must be stabilised and a safe working platform to be maintained during construction. The works must be duly designed and certified by an appropriately qualified and practising Civil Engineer
46. The basement excavation works may provide an option that potentially utilises neighbouring properties and the roadway for support. The legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged with Canterbury City Council prior to the issue of a Construction Certificate.
 - a) Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent.

- b) Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.
 - c) Permanent rock anchors are not permitted in Council road.
 - d) Where temporary anchors are proposed to be used in Colin Street, an Application must be made to Canterbury City Council for approval under Section 138 of the Roads Act 1993, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:
 - e) Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.
 - f) Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
 - g) The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
47. The amended plans must be certified by an appropriately qualified and practising Civil Engineer and be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.
48. 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.

Prior to Occupation Certificate

49. The stormwater drainage works are to be inspected during construction by the Principal Certifying Authority at the following stages:
- a) Prior to backfilling of trenches
 - b) Prior to pouring concrete in OSD areas
 - c) On completion of drainage works
50. Private contractors/applicants shall submit an application and pay an inspection fee to Council seven days prior to commencement of any works on the footpath or roadway. No work shall be carried out without Council approval.
51. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system.
52. The plan shall be prepared by a registered surveyor. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards.
53. Certification from an appropriately qualified and practising Civil Engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
- a) An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in appendix 7.5 of Council's Stormwater Management Manual – Specification 9.
 - b) The plan shall record all the relevant existing, proposed and actual levels and dimensions relative to the constructed drainage system.
 - c) The required certification must be issued by an appropriately qualified and practising Civil Engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.

54. A sign shall be installed over every tap connected to the proposed rainwater stating "This water is not for drinking. This water is for landscaping purposes only".
55. A sign adjacent to and clearly visible at the OSD facility is to be placed permanently notifying the location of OSD tank/basin and its filling with stormwater after storms.
56. The OSD tank must comply with relevant work cover codes and confined space legislation.
57. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the [on site detention / on-site retention/re-use] facilities. The Plan must set out the following at a minimum:
 - a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
 - b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.
 - c) The Plan must be prepared by a an appropriately qualified and practising Civil Engineer and provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.
 - d) The maintenance plan produced for the Occupation certificate must be kept in a visible place on-site at all times.

LANDSCAPING

58. The existing property trees, located in the rear yard, may be removed to accommodate construction. This removal is conditional on their replacement with minimum 5 x 75ltr (container size) Australian native specimen to be planted in the development as shown in the Landscape Plans.
59. The existing street tree, 1 x *Lophostemon confertus* (common name Brushbox), growing on the nature strip in front of the property must be retained and protected during construction. A 3 metre radius (measured from the edge of the tree trunk) 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.
60. The proposed planting to all podium levels shall comply with the following as required in the CDCP 2012 Part 6.6: Landscape:

Raised planters:

 - Use masonry or concrete construction;
 - Provide drainage for each planter box, and coordinate drainage details with hydraulics plan; and
 - Provide waterproofing to each planter box.

Minimum soil depth:

 - 100-300mm for turf
 - 300-450mm for groundcovers;
 - 500-600mm for small shrubs;
 - 600-750mm for medium shrubs;
 - 750-900mm for small trees with approximate soil area of 3.5m x 3.5m;
 - 1000mm for medium trees with approximate soil area of 6m x 6m; and
 - 1300mm depth for large trees with approximate soil area of 10m x 10m.

The landscape plan is to include adequate soil depths to all on podium beds and raised planter boxes.
61. The landscaping must be completed according to the submitted landscape plan (drawn by KVMZV Architecture, drawing no. 1534-DA105 and 106 revision B, submitted to council on 29th December 2015) except where amended by the conditions of consent.

62. 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).
63. All scheduled plant stock shall be **pre-ordered**, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
64. An automatic watering system is to be installed in common areas at the applicant's cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer's specification and current Sydney Water guidelines.
65. The application has been submitted with a BASIX certificate (659721M) which outlines a water commitment of 49.2 square meters indigenous or low water use vegetation. The landscaping must be completed according to the submitted landscape plan to fulfill this requirement.

WASTE

66. The waste bin storage area is to be designed and constructed in accordance with clause 6.9.4.1 and 6.9.4.2 of the CDCP.
67. Unobstructed and unrestricted access must be provided to the waste bin storage area on collection days from 5.00am. The bins must not be presented on the road.

STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

68. In accordance with Clause 17(1) (a) of State Environmental Planning Policy (Affordable Rental Housing) 2009, a minimum of 20% of the floor space within the approved development must be used for the purpose of affordable housing for a tenure of 10 years from the date of the issue of the occupation certificate. All affordable rental housing at the site must be managed by a registered community housing provider.
69. A restriction being registered against the title of the property on which development is to be carried out, in accordance with section 88E of the [Conveyancing Act 1919](#), prior to the issue of the occupation certificate requiring that a minimum of 20% of the floor space within the approved development to be used for the purposes of affordable housing for 10 years from the date of issue of the occupation certificate in accordance with Clause 17(1) (b) of State Environmental Planning Policy (Affordable Rental Housing) 2009. In this regard, the restriction shall specifically nominate those units to be allocated as affordable housing.

SYDNEY WATER REQUIREMENTS

70. 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, 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.

STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

71. In accordance with Clause 17 of State Environmental Planning Policy (Affordable Rental Housing) 2009, a minimum of 22.7% of the floor space (two apartments) within the

approved development must be used for the purpose of affordable housing for a tenure of 10 years from the date of the issue of the occupation certificate. All affordable rental housing at the site must be managed by a registered community housing provider.

72. A restriction being registered against the title of the property on which development is to be carried out, in accordance with section 88E of the [Conveyancing Act 1919](#), prior to the issue of the occupation certificate requiring that a minimum of 22.7% of the floor space (2 apartments) within the approved development to be used for the purposes of affordable housing for 10 years from the date of issue of the occupation certificate in accordance with Clause 17 of State Environmental Planning Policy (Affordable Rental Housing) 2009.

STREET ADDRESSING

73. Allocation of street numbers has been based on the Rural and Urban Addressing Standard AS/NZS 4819:2011.
74. Future Street Addressing for the proposed development within DA-484/2015, is advised as follows: 44 Colin Street, Lakemba NSW 2195.
75. All sub-property numbering must be unique, and numbering is advised as follows:
- | | |
|---------------|---------------------------|
| Ground Floor: | Units 1, 2, 3; |
| Level 1: | Units 101, 102, 103, and; |
| Level 2: | Units 201, 202. |

CRITICAL INSPECTIONS

76. The following critical stage inspections must be carried out:
- Class 2, 3 or 4 Buildings
- 76.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 76.2. prior to covering any stormwater drainage connections, and
- 76.3. 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
- 76.4. prior to covering any stormwater drainage connections, and
- 76.5. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
77. 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

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

WE ALSO ADVISE:

79. This application has been assessed in accordance with the National Construction Code.
80. 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.
81. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
 - Air handling systems
 - Final fire safety certificate
 - Glazing

- Waterproofing
 - BASIX completion
82. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
 83. 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.
 84. 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.
 85. 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.
 86. 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.
 87. If you are not satisfied with this determination, you may:
 - 87.1. 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
 - 87.2. 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.

FOR	AGAINST
The Mayor, Councillor Robson	Councillor Eisler
Councillor Adler	
Councillor Azzi	
Councillor Kebbe	
Councillor Nam	
Councillor Paschalidis-Chilas	
Councillor Vasiliades	

4 610-618 NEW CANTERBURY ROAD, HURLSTONE PARK: CONSTRUCTION OF ADDITIONAL LEVEL ON APPROVED MIXED USE DEVELOPMENT, AMENDMENTS TO BASEMENT LEVELS AND EXTERNAL DESIGN

FILE NO: 634/610D PT3 & Pt4

Min. No. 103 RESOLVED (Councillors Azzi/Nam)

THAT the application be deferred for consideration at the Council meeting on 28 April 2016 to allow the applicant the opportunity to consider whether or not to submit a S.96 modification application relating to the residential component on the ground floor.

5 INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT - 4 APRIL 2016

FILE NO: D-6-9 PT11

Min. No. 104 RESOLVED (Councillors Azzi/Kebbe)

THAT the report be noted.

6 31A BURLINGTON AVENUE, EARLWOOD: SUBDIVISION OF EXISTING LOT INTO TWO NEW LOTS

FILE NO: 132/31AD

Min. No. 105 RESOLVED (Councillors Azzi/Paschalidis-Chilas)THAT Development Application DA-593/2015 be **APPROVED** subject to the following conditions:
GENERAL

1. The development being carried out in accordance with the Plan of Subdivision Drawing No. 2682/16047 dated 23 September 2015, prepared by Geoffrey Browne except where modified by conditions specified in this Notice and the following specific conditions:
PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE
2. Test holes or other suitable means acceptable to Ausgrid are to be used to determine the exact locations of proposed easements to protect Ausgrid's low voltage overhead conductor (service mains), underground high voltage and auxiliary cables that burden the site. These exploratory works are to be carried out only after full consultation with Ausgrid.
3. All easements benefitting Ausgrid's services are to be shown on the plan of subdivision prior to issue of the Subdivision Certificate.
4. The submission of one final plan of subdivision and five copies to Council.

SYDNEY WATER REQUIREMENTS

5. 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, 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.

WE ALSO ADVISE

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

FOR	AGAINST
The Mayor, Councillor Robson	
Councillor Adler	
Councillor Azzi	
Councillor Eisler	
Councillor Kebbe	
Councillor Nam	
Councillor Paschalidis-Chilas	
Councillor Vasiliades	

Declaration of Interest

Councillor Vasiliades declared a pecuniary conflict of interest in the following item and stated the nature of the interest as being a financial interest. Councillor Vasiliades left the Council Chamber at 8.17 p.m. prior to consideration of the matter and did not return.

**7 86-92 KINGSGROVE ROAD, BELMORE: CONSTRUCTION OF SHOP TOP HOUSING
DEVELOPMENT CONTAINING RESIDENTIAL APARTMENTS, COMMERCIAL/RETAIL
PREMISE AND BASEMENT PARKING**

FILE NO: 486/86D

Min. No. 106 RESOLVED (Councillors Azzi/Kebbe)

THAT

A. The Application DA-445/2015 be **APPROVED** subject to the following:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

1.1. Details of:

- Structural Engineering Plan including method of shoring during excavation
- Building Specifications
- Fire Safety Schedule
- Landscape Plan
- Hydraulic Plan
- Firewall Separation
- Soil and Waste Management Plan
- BASIX Certification
- Ventilation of basement carpark
- Compliance with the BCA in terms of access

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	\$3,328.00
Section 94 Contributions	\$206,395.92
Certificate Registration Fee	\$36.00
Long Service Levy (including \$19.80 levy)	\$14,333.55

1.4. If you appoint Council as your Principal Certifying Authority, the following fees are payable:

Construction Certificate Application Fee	\$13,451.00
Inspection Fee	\$3,450.00
Occupation Certificate Fee	\$1,110.00

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

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

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

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

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

BEFORE COMMENCING THE DEVELOPMENT

2. Before the erection of any building in accordance with this Development Consent;

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

SITE SIGNAGE

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

GENERAL

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

Drawing Number	Drawing Title	Prepared By	Received By Council On
204142-1	Plan of Levels and Details	W.Buxton Pty Ltd	25 September 2015
A-0000	Material Sample	Architecture and Building Works	25 September 2015
A-0100	Site Plan	Architecture and Building Works	25 September 2015
A-1000	Basement Plan	Architecture and Building Works	10 February 2016
A-1010	Ground Floor Plan	Architecture and Building Works	10 February 2016
A-1020	First Floor Plan	Architecture and Building Works	17 December 2015
A-1030	Second Floor Plan	Architecture and Building Works	17 December 2015
A-1040	Third Floor Plan	Architecture and Building Works	17 December 2015
A-1100	Elevations	Architecture and Building Works	10 February 2016
A-1110	Elevations	Architecture and Building Works	25 September 2015
A-1200	Section A & B	Architecture and Building Works	17 December 2015
A-1400	Adaptability Details	Architecture and Building Works	25 September 2015
A-1500	Demolition Plan	Architecture and Building Works	25 September 2015
A-1510	Construction & Waste Management Plan	Architecture and Building Works	25 September 2015
1S0188DA1	Landscape Plan	Isthmus Pty Ltd	25 September 2015
1S0188DA2	Landscape Plan	Isthmus Pty Ltd	25 September 2015
1S0188DA3	Landscape Plan	Isthmus Pty Ltd	25 September 2015

- 4.1. The floor to ceiling heights (from FFL to ceiling of each floor) being a minimum of 2.7m for habitable rooms.
- 4.2. The basement to floor ceiling heights (from FFL to ceiling of each level) being a minimum of 2.8m.
- 4.3. All service and utility elements such as air conditioning, communal antennas and clothes drying area must be integrated into the design and screened from public view.

- 4.4. Each apartment in the development must be provided with sufficient storage to comply with Part 4G of the Apartment Design Guide.
- 4.5. Intercom, code or card locks or similar must be installed at main entries to the building to control access, including the car parks.
- 4.6. Access to the rooftop terrace is to be restricted to residential occupants only. Controlled access is to be provided through use of intercom, code or card locks or similar.
- 4.7. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.
- 4.8. All windows to habitable rooms along the eastern elevation are to have a sill height of at least 1.5m and/or appropriately screened through the inclusion of aluminium louvres or the like.
- 4.9. The location of hot water systems are to be decided prior to the issuing of a Construction Certificate. The systems are to be integrated within the design of the building and are to be screened from public view. Details of the location of hot water systems are to be presented to the Principle Certifying Authority prior to the issuing of a Construction Certificate.
- 4.10. At least two apartments are to be accessible apartments in accordance with the stamped plans.
- 4.11. Increase and improve the definition of the main pedestrian entry adjacent to the driveway on Turton Avenue by a modification to the awning design for this area.
- 4.12. The partition wall between the lobby and driveway on the ground floor to be constructed of vertical louvres in translucent glass, arranged to direct the view towards the street, not toward the driveway.
- 4.13. The balustrade for unit A105 to be designed to allow natural light and ventilation (eg translucent glass louvres), to be full height and to provide security between the proposed terrace and Turton Lane."
5. Maintenance of the roof top communal open space area is to form part of common property within any future strata subdivision and the maintenance will be the responsibility of the body corporate.
6. Non-reflective materials are to be used on external finishes with all publically accessible areas being treated with anti-graffiti coating.
7. Twenty-seven (27) off street car parking spaces being provided in accordance with the approved architectural plans. If the development is to be strata subdivided, the car park layout must respect the allocation as shown on the approved architectural plans.
8. All disabled parking space dimensions, cross-falls, vertical clearances for access paths and spaces are to be in accordance with the requirements of AS2890.6.
9. Resident, commercial and visitor car parking shall be clearly signposted at the entry to the car parking area.
10. The bathroom and ensuite window(s) being translucent glass.
11. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area. The amount of the contribution (as at the date of this consent) has been assessed as \$206,395.92. The amount payable is based on the following components:

Contribution Element	Contribution
<input type="checkbox"/> Community Facilities	\$18,669.14
<input type="checkbox"/> Open Space and Recreation	\$182,471.18
<input type="checkbox"/> Plan Administration	\$5,255.60

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.

12. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
13. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 a.m. - 5.00 p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays.
14. All building construction work must comply with the National Construction Code.
15. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to walls being erected more than 300mm above adjacent ground surfaces to indicate the exact location of all external walls in relation to allotment boundaries.
16. Provide a Surveyor's Certificate to the Principal Certifying Authority indicating the finished floor levels and roof to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
17. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.
In this condition:
 - a) relevant BASIX Certificate means:
 - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
 - b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."
18. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
19. 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.
20. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
21. 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.
22. 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.
23. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
24. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.

The site must be provided with a vehicle washdown area at the exit point of the site. The area must drain to an approved silt trap prior to disposal to the stormwater drainage system in accordance with the requirements of Specification S2 of Council's Stormwater Management Manual. Vehicle tyres must be clean before leaving the site.

25. 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.

SYDNEY WATER REQUIREMENTS

26. 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, 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.

DILAPIDATION AND EXCAVATION

27. A photographic survey of the adjoining property at 94 Kingsgrove Road, Belmore, detailing the physical condition of that 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 and Canterbury City Council if Council is not the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premise is to be provided to the Principal Certifying Authority and Canterbury City Council if Council is not 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 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 this Consent.
28. A dilapidation report prepared by an Accredited Engineer, detailing the structural adequacy of the adjoining property at 94 Kingsgrove Road, Belmore, and its ability to withstand the proposed excavation, and any measures required to be incorporated into the work to ensure that no damage will occur during the course of the works, shall be submitted to Council, or the Principal Certifying Authority with the Construction Certificate. All costs to be borne by the applicant.

LANDSCAPING

29. Prior to the issue of the Construction Certificate the existing property trees x 11, located throughout the property may be removed to accommodate geotechnical investigations and construction. This removal is conditional on their replacement with 5 x 75ltr (container size) street trees to be planted in the street reserve. 3 x *Callistemon viminalis* (common name Weeping bottlebrush) to Turton Avenue and 2 x *Tristanopsis laurina* (common name Weeping bottlebrush) are to be planted in Kingsgrove Road and in accordance with condition 34.

30. 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.
- ☐ Provide 2 x street trees to Kingsgrove Rd to be planted in 1.5m² tree pits with groundcover planting to the base and suitably sized cut outs to the awning above to allow for the growth of the trees.
 - ☐ Provide 3 x street trees to Turton Ave to be planted in 1m wide garden beds along the road edge with groundcover planting and suitably sized cut outs to the awning above to allow for the growth of the trees.
 - ☐ Provide a 300mm wide strip planting bed with groundcover and climber planting along the building edge to the north-east of the garage in Turton Ave to provide softening to the building structure.
 - ☐ Provide planting of 45square meters indigenous or low water use vegetation within the development site to fulfil the BASIX requirements.
 - Include design of the street verges including trees incorporated into footpath paving.
31. The proposed planting to all podium levels shall comply with the following as required in the CDCP 2012 Part 6.6: Landscape:
- Raised planters:
- Use masonry or concrete construction;
 - Provide drainage for each planter box, and coordinate drainage details with hydraulics plan; and
 - Provide waterproofing to each planter box.
- Minimum soil depth:
- 100-300mm for turf;
 - 300-450mm for groundcovers;
 - 500-600mm for small shrubs;
 - 600-750mm for medium shrubs;
 - 750-900mm for small trees with approximate soil area of 3.5m x 3.5m;
 - 1000mm for medium trees with approximate soil area of 6m x 6m; and
 - 1300mm depth for large trees with approximate soil area of 10m x 10m.
- The landscape plan is to include adequate soil depths to all on podium beds and raised planter boxes.
32. An automatic watering system is to be installed in common areas at the applicant's cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer's specification and current Sydney Water guidelines.
33. 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).
34. All scheduled plant stock shall be pre-ordered, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. In addition to the details in the above table, the order confirmation shall include name, address and contact details of supplier; and expected supply date.

WASTE

35. The waste bin storage areas are to be designed and constructed in accordance with Part 6.9.4.1 and 6.9.4.2 of Canterbury Development Control Plan 2012.
36. Unobstructed and unrestricted access must be provided to the waste bin storage area on collection days from 5.00am. The bins must not be presented on the road.

STORMWATER

Prior to Construction Certificate

37. The submitted stormwater drainage design must make provision for the following:
- a) The design must be generally in accordance with the plans, specifications and details received by Council on 25th September 2015, drawing numbers 101 – B, 201 – B, 301 – B, 401 – B, and 501 – B; prepared by Lomford Engineers and as amended by the following condition.
 - 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 Kingsgrove Road.
 - 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) The rising main from the basement pump out tank must discharge to the OSD.
 - e) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
 - f) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.

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

38. OSD is required; three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority PCA and Canterbury City Council, if Council is not the PCA. The plans must be prepared by a 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 DCP 2012, Part 6.4.
39. 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.
40. 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.

Prior to and During Construction

41. 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.
42. If Groundwater is encountered, it must not be captured by the drainage system of the basement. In this regard the basement must be tanked to at least 1000 mm above measured groundwater levels.

Prior to Occupation Certificate

43. 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.
44. 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.
45. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrate dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the

issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1st March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.

46. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that Operation and Management Plans has been prepared and implemented for the OSD and basement pump out facilities. The Plan must set out the following at a minimum:
- a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
 - b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

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

47. The Operation and Management Plan for the OSD and basement pump out facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

RETAINING WALL(S)

Prior to Construction Certificate

48. Retaining walls greater than 1000 mm high or retaining more than 600 mm of cut or fill proposed to be located within one metre of a boundary are to be designed by a Structural Engineer and must have subsoil drainage connected to the site stormwater system. Design plans prepared by an appropriately qualified and practising structural engineer must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.
- All components of any retaining walls, including subsoil drainage, must be located entirely within the property boundary. The subsoil drainage lines of the retaining walls must be shown on the stormwater drainage concept plan.

AWNING(S)

Prior to Construction Certificate

49. Details of the proposed street awning, including plans and sections, must be provided to the Principal Certifying Authority. The details must include:
- a) The street awning(s) must be setback 600mm from the kerb line.
 - b) The awnings must be entirely self-supporting; posts are not permitted.
 - c) The person or company carrying out the works will be required to carry public liability insurance to a value of ten million dollars. In this regard a Certificate of Currency must be submitted to the Principal Certifying Authority.
 - d) All stormwater is to be collected and connected to Council's street gutter. In this regard awning downpipes for drainage are to be fully concealed within or recessed into the ground floor frontage of the building. Awning gutters are to be constructed so that they are not visible from the footpath or are integral to the awning structure.
 - e) The awning(s) must be approved by the relevant Road Authority pursuant to Section 138 of the Roads Act. Note that this Consent does not give approval to construct an awning in the road.
 - f) The applicant must indicate the extent of any service adjustments necessary, and submit with the design, proof of approval by the relevant service authorities. The

applicant shall bear all responsibility and costs associated with the proposed relocation of services.

- g) The awning(s) must be designed by a Structural Engineer for Roof Category R1 in accordance with AS/NZS 1170.1: 2002, AS/NZS 1170.0: 2002, and AS/NZS 1170.3: 2011. The design must incorporate all loads including dead loads, live loads, wind load (lateral, uplift, and downward pressure), and potential impact load.
- h) If the awning(s) is to be built over an exit that would be utilised in an emergency it must be constructed of non-combustible material.
- i) Lighting is required and must comply with AS/NZS 1158.3.1: 2005 and AS/NZS 1158.0: 2005. Lighting must be recessed into the awning and be integral to its structure with all wiring and conduits concealed.
- j) A maintenance plan must be provided in respect of the awing(s) to address the following issues at a minimum:
 - i. Inspection schedule of structural members, connections, and supports covering the life of the awing(s).
 - ii. Inspection schedule of non-structural components.
 - iii. Schedule of maintenance actions and maintenance frequency including cleaning, replacement of lighting based on expected operational life, replacement of protective coatings, and cleaning/maintenance of guttering and downpipes.

The plans and details of the awing(s) must be certified by a Structural Engineer and be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

Prior to Occupation Certificate

- 50. The Principal Certifying Authority must ensure that the awing(s) have been constructed in accordance with this Consent and the relevant standards. Prior to the issue of an Occupation Certificate certification must be provided by a Structural Engineer that the awing(s) have been constructed in accordance with the design submitted with the Construction Certificate and National Construction Code.
- 51. The maintenance plan approved with the Construction Certificate must be retained on site and implemented at all times.

ROCK ANCHORING

Prior to Construction Certificate

- 52. Where rock anchors or other temporary retaining measures are to encroach on adjoining properties, including the roadway, the Principal Certifying Authority must ensure that the permission of the relevant landowner has been obtained. The legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged Canterbury City Council prior to the issue of a Construction Certificate. Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent.
Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.
- 53. Where temporary anchors are proposed to be used in Kingsgrove Road, Turton Avenue, and Turton Lane an Application must be made to Canterbury City Council for approval under Section 138 of the Roads Act 1993, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- a) Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.
- b) Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
- c) The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.

PARKINGPrior to Construction Certificate

54. 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, plans must be submitted addressing the following issues, prior to the issue of a Construction Certificate:
- a) The B99 vehicle swept path requires an additional 300 mm clearance to structural members in accordance with Clause 2.5.2(c) of AS/NZS 2890.1 2004.
Note – In addition, longitudinal grades must provide a B99 ground clearance.
 - b) A circulation clearance has not been provided. If not required, justification must be provided.
 - c) The traffic management plan makes provision for vehicles entering and exiting the site. This needs to be extended to within the building addressing how vehicles access and exit the basement safely.
 - d) The submitted swept path analysis is based on 200mm thick structural walls. Please provide a structural concept plan from a suitably qualified structural engineer demonstrating that this will be achieved.
 - e) 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.
 - f) The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
 - g) 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.
 - h) Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of AS/NZS 2890.1:2004.
 - i) A longitudinal section along the worst case outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
 - j) The Engineer must certify that the access and parking complies with current Australian Standards including AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking, AS 2890.2-2002 Parking Facilities - Off-Street commercial vehicles facilities, AS/NZS 2890.6-2009 Off-street parking for people with disabilities and AS 2890.3-1993 Parking Facilities - Bicycle parking facilities.

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

Prior to and During Construction

- 55. 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.
- 56. A full width light duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 5.5 metres at the boundary line. This work to be carried

- out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
57. 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, carpark, 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.
58. 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

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 reconstruction of the kerb and gutter along all areas of the site fronting Kingsgrove Road, Turton Avenue, and Turton Lane 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".
61. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting Kingsgrove Road, Turton Avenue, and Turton Lane. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
62. 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.

TRAFFIC ENGINEER

63. A new pedestrian path is to be constructed along the Turton Avenue frontage of the property to replace the path that is currently located within the property. Plans detailing the new pedestrian path are to be submitted to the Principle Certifying Authority prior to the issuing of a Construction Certificate.

STREET ADDRESSING

64. The site being consolidated into one allotment. The plan of consolidation being lodged and registered with the Land and Property Information NSW prior to the release of the Occupation Certificate or occupation of the building.
65. Allocation of street numbers has been based on the Rural and Urban Addressing Standard AS/NZS 4819:2011.
66. Future Street Addressing for the proposed development within DA-445/2015, is advised as follows: 2A Turton Avenue, Belmore NSW 2192.
67. All sub-property numbering must be unique.
68. Commercial unit numbering is advised as follows: Ground Floor: Shop 1/2A Turton Avenue, Belmore NSW 2192.
69. Residential Unit numbering is advised as follows (the first digit represents the floor level and the next two digits represent the unit number).
- ☐ Level 1: Units 101, 102, ...105;
 - ☐ Level 2: Units 201, 202, ...205;

- ☐ Level 3: Units 301, 302, ...305;

CRITICAL INSPECTIONS

70. The following critical inspections must be carried out:

Class 2, 3 or 4 Buildings

- 70.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 70.2. prior to covering any stormwater drainage connections, and
- 70.3. 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

- 70.4. prior to covering any stormwater drainage connections, and
- 70.5. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

71. 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

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

WE ALSO ADVISE:

- 73. This application has been assessed in accordance with the National Construction Code.
- 74. 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.
- 75. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
 - Structural engineering work
 - Air handling systems
 - Final fire safety certificate
 - Glazing
 - Waterproofing
 - BASIX completion
- 76. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
- 77. 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.
- 78. 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.
- 79. 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.
- 80. 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.
- 81. If you are not satisfied with this determination, you may:

- 81.1. 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
- 81.2. 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.
- B. The Independent Hearing and Assessment Panel recommendation was adopted with the deletion of proposed conditions 4.12 and 4.14 of their recommendation. The reasons for the deletions from the Independent Hearing and Assessment Panel recommendation are:
- Deletion of 4.12
 - The proposed external materials and finishes were unclear.
 - Deletion of 4.14
 - The proposed changes would require considerable redesign.

FOR	AGAINST
The Mayor, Councillor Robson	
Councillor Adler	
Councillor Azzi	
Councillor Eisler	
Councillor Kebbe	
Councillor Nam	
Councillor Paschalidis-Chilas	

ADJOURNMENT

During consideration of the above item, the meeting was adjourned at 8.25 p.m. on the motion of the Mayor, Councillor Robson and Councillor Azzi.

At 8.30 p.m. the meeting resumed.

During consideration of the above item, Councillor Kebbe left the Council Chamber at 8.18 p.m. and returned at 8.22 p.m.

The meeting concluded at 8.32 p.m.

MINUTES OF THE ORDINARY MEETING OF CANTERBURY CITY COUNCIL, HELD IN THE COUNCIL CHAMBERS, 137 BEAMISH STREET, CAMPSIE ON THURSDAY, 28 APRIL 2016 AT 7.37 P.M.

PRESENT

The Mayor, Councillor B. Robson, in the Chair, and Councillors M. Adler, P. Azzi, L. Eisler, M. Hawatt, F. Kebbe, K. Nam and C. Vasiliades.

Councillor Vasiliades was not present in the Council Chamber at the commencement of the meeting.

The Chairperson acknowledged the traditional owners of the land and paid respect to their ancestors.

OPENING PRAYER

Councillor Kebbe opened the meeting with a prayer.

CONFIRMATION OF MINUTES

Min. No. 107 RESOLVED (Councillors Hawatt/Adler)

THAT the Minutes of the Council Meeting held on 17 March 2016, numbered 78 to 95, copies of which were previously circulated to the Councillors, be taken as read and confirmed.

APOLOGIES

Apologies tendered on behalf of the Deputy Mayor, Councillor K. Saleh and Councillor E. Paschalidis-Chilas were received and leave granted.

REFERRED COMMITTEE MATTERS

1 610-618 NEW CANTERBURY ROAD, HURLSTONE PARK: CONSTRUCTION OF ADDITIONAL LEVEL ON APPROVED MIXED USE DEVELOPMENT, AMENDMENTS TO BASEMENT LEVELS AND EXTERNAL DESIGN

FILE NO: 634/610D PT3 & Pt4

Min. No. 108 RESOLVED (Councillors Eisler/Hawatt)

THAT Development Application DA-543/2014 be **REFUSED** on the following grounds:

1. The Clause 4.6 variation submission has not adequately addressed and demonstrated that:
 - a) compliance with the 18 metre height limit is unreasonable or unnecessary in the circumstances of this case, and
 - b) there are sufficient environmental planning grounds to justify the contravention of the 18 metre height limit.
2. Additional housing and lack of specific environmental harm does not address the requirements of clause 4.6(3) (a) (b).

FOR	AGAINST
Councillor Adler	The Mayor, Councillor Robson
Councillor Azzi	
Councillor Eisler	
Councillor Hawatt	
Councillor Kebbe	
Councillor Nam	

ADOPTION OF TRAFFIC COMMITTEE REPORT

FILE NO: L-50 PT5

Min. No. 109 RESOLVED (Councillors Azzi/Eisler)

THAT the minutes of the Traffic Committee meeting held on 4 April 2016 and the recommendations contained therein, be adopted.

OFFICERS REPORTS**1 2A WILSON AVENUE, BELMORE - LEASE RENEWAL AND REQUEST FOR RENTAL SUBSIDY**

FILE NO: 959/2AD

Min. No. 110 RESOLVED (Councillors Adler/Hawatt)

THAT

1. The CCCL be offered a new ten year lease.
2. The commencing rent be set at \$29,900 p.a plus GST, with the rent subsidy of \$7,103.82, requested by CCCL, to be granted.

2 FUTURE PROVISION OF MODERN AQUATIC AND FITNESS LEISURE FACILITIES

FILE NO: P-84-3

Min. No. 111 RESOLVED (Councillors Hawatt/Adler)

THAT the progress report on the future provision of modern aquatic and fitness leisure facilities in the City of Canterbury be noted.

3 NOMINATIONS FOR COMMUNITY REPRESENTATION ON THE COMMUNITY SAFETY COMMITTEE

FILE NO: C-245-2 PT23

Min. No. 112 RESOLVED (Councillors Adler/Azzi)

THAT the following be appointed as community representatives on the Community Safety Committee:

1. A representative to be nominated by the Riverwood Community Centre.
2. Ms Jenny Ashwood representing the Canterbury Domestic Violence Liaison Committee.
3. A representative to be nominated by the United Muslims of Australia.
4. Mr Mohammad Huda representing the Lakemba Business Association.
5. Ms Elizabeth Haines representing the Drug Health Services at Sydney Local Health District.

During discussion on the above item, Councillor Vasiliades entered the Council Chambers at 7.49 p.m.

4 OUTCOMES OF THE REVIEW OF THE FINANCIAL ASSISTANCE PROGRAM 2016/17

FILE NO: D-14-6 2016/17

Min. No. 113 RESOLVED (Councillors Hawatt/Azzi)

THAT

1. The amended Financial Assistance Program Policy be endorsed.
2. The amended Financial Assistance Program Guidelines be endorsed.
3. The amended Financial Assistance Program Application Form be endorsed.
4. The proposed budget allocation of \$92,500 for the Financial Assistance Program 2016/17 round be endorsed.

5 RENTAL RETURNS FOR COUNCIL PROPERTIES

FILE NO: C-140-9, C-140-2 PT2

Min. No. 114 RESOLVED (Councillors Hawatt/Azzi)

THAT half yearly reports be provided to Council on our property rental returns.

6 INVESTMENTS AS AT 31 MARCH 2016

FILE NO: I-30-9 PT4

Min. No. 115 RESOLVED (Councillors Hawatt/Azzi)

THAT the report be noted.

7 CONCEPT DESIGN FOR PACIFIC STREET KINGSGROVE

FILE NO: Roads 2016 (e)

Min. No. 116 RESOLVED (Councillors Hawatt/Azzi)

THAT

1. Pacific Street, Kingsgrove be narrowed by 0.3m and existing parking conditions be retained as per Option 2.
2. The project at the estimated cost of \$335,000 be listed for construction in the draft 2016-17 budget.
3. The inclusion of traffic calming devices from Kingsgrove Road the end of Pacific Street be referred to the Traffic Committee for evaluation.

8 FLOODLIGHTS IN SPORTING FIELDS AND FACILITIES

FILE NO: P-5-12

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

THAT the report be noted.

9 PROPOSED TRIAL OF INSINKERATORS IN LARGE MULTI-UNIT DWELLINGS

FILE NO: M-19-2

Min. No. 118 RESOLVED (Councillors Hawatt/Azzi)

THAT

1. The allocation of \$33,000 to assist the proposed trial to install insinkerators within 2A Charles Street, Canterbury be approved.
2. The trial be funded from the Waste Management Fund Reserve.
3. A further report be brought back to Council on the findings of the trial and implications for future Waste DCP consideration, with a view to encourage the use of insinkerators within multiple occupancy residential developments.

Councillor Eisler requested that her name be recorded as having voted against the resolution.

10 195 LAKEMBA STREET AND 3-5 HAMPDEN ROAD, LAKEMBA: MODIFICATION TO LAYOUT OF TWO UPPERMOST LEVELS TO CREATE AN ADDITIONAL DWELLING IN APPROVED DEVELOPMENT

FILE NO: 493/195D PT8

Min. No. 119 RESOLVED (Councillors Azzi/Hawatt)

THAT the application to modify Development Consent DA-24/2012 (as modified) be **APPROVED** as set out below:

- A. The rewording of Condition No. 1 to read as follows:
1. The development being carried out in accordance with plans referenced prepared by Benson McCormack and received by Council on 26 May 2015, Project No. 1342A, Drawing Nos. A-101 & A102 (Rev.F), A-0103, A-0104, A0105, A-0106, A-0107, A-0108, A0109, A-0110, A-0111, A-0112, A-0118, A-0119, A-0201, A-0203, A-0221, A-0222, A-0223, A-0226, A-0227 (Rev. E), A-0112a (Rev. B), A-0113, A-0114, A-0115, A-0116, A-0117, A-0120, A-0121, A-0122, A-0123, A-0124, A-0125, A-0126, A-0127, A-0128, A-0129, A-0130, A-0131, A-0132, A-0133, A-0134, A-0202, A-0204, A-0224, A-0225, A-0228, A-0229 (Rev. D), and A-0230 (Rev. A), except where amended by the conditions of consent and for changes highlighted on plans prepared by Benson McCormack , Project No. 1342A, Drawing Nos. A-0111, Issue F, A-0132, A-0133, A-0134, A-0201, A-0204, A-0223, A-0224, A-0225, A-0228, A-0229, Issue E, received by Council on 17 December 2015; Drawing Nos. A-1205, A1206, A-1207, A-1210, A-1211, Issue C, received by Council on 15 April 2016, and the following conditions:
'Building C' Conditions
 - a. The existing easement and right of way is to be maintained as per the existing reservations and conditions for Lot 1 DP 597005.
 - b. The specific fit-out and use of the retail/commercial units, including any associated signage, being the subject of a separate approval.
 - c. The Cantilevered Awning along the Lakemba Street frontage is to have a width of 3 metres.
 - d. All balconies along the rear (north) elevation on the 5th storey of Building C, be installed with privacy screens to a total height of 1800mm using a combination of fixed and moveable panels and covering a minimum of two thirds of the length of the balconies.'Building B' Conditions
 - e. All balconies along the north elevations of the northern wing of Building B on the 2nd and 3rd levels be installed with privacy screens to a total height of 1800mm

using a combination of fixed and moveable panels and covering a minimum of two thirds of the length of the balconies.

- f. The balconies associated with Unit B6.01, B6.02 and B6.03 be reduced to a maximum depth of 2m to increase the separation distance and provide an approximate 6.2m setback to the boundary. The remaining depth beyond the balustrading is to be non-accessible.
- g. The balcony area of Units B4.08 and Unit B7.01 must each be at least 12m².
- h. The eastern part of the balcony for Unit B6.03 at the upper level (adjacent to Bedroom 2 and 3) is to be deleted as it encroaches on the setback requirements and causes privacy impacts.
- i. All windows along the eastern side of Building B are to be either of translucent glazing or high sill to 1500mm, except in relation to Unit B7.03.
- 1.1. **Finishes and materials** including the treatment of external walls, windows, doors and balustrades being in accordance with the 'Finishes' received by Council on 30 May 2014. 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.
- 1.2. The **stormwater system** be constructed in general, in accordance with the plans, specifications and details received by Council on 19th February 2015, drawing numbers D00, D01, D02, D03, D04, D05, D06, D07, D08, D09 and D10, prepared by Australian Consulting Engineers Pty Ltd and as amended by the following conditions where applicable.
 - 1.2.1 The on-site detention facility "A" must be amended so that surcharge to the carpark in which it is located will occur at a 100 year Average Recurrence Interval.
- 1.3. The submitted **landscape plan** (Drawn by Zenith Landscape Designs, drawing no 13-2762 L01-L07, and submitted to council on 20th June 2014) must be amended to address the following items:
 - ☐ A detailed Maintenance Schedule is to be included:
 - replacement strategy for failures in plant materials and built works,
 - maintenance schedule for watering, weeding and fertilizing during the establishment period
 - The maintenance period for the landscaping must be set for 12 months post practical completion.

This amendment must be submitted to Council or certifier prior to the issue of the relevant Construction Certificate.

- B. The rewording of Condition No. 2 to read as follows:
- 2. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of the relevant Construction Certificate:

Details of:

 - ☐ Structural Engineering Plan including method of shoring during excavation
 - ☐ Building Specifications
 - ☐ Fire Safety Schedule
 - ☐ Landscape Plan
 - ☐ Hydraulic Plan
 - ☐ Firewall Separation
 - ☐ Section 73 Compliance Certificate
 - ☐ Soil and Waste Management Plan
 - ☐ Consolidation of All Lots into One Lot
 - ☐ Mechanical Ventilation of Basement Carpark (Compliance with Section 4.4 of AS 1668.2)

- ☐ BASIX Certification
- ☐ Compliance with Disability (Access to Premises – Buildings) Standards 2010.
- 2.1 Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
- 2.2 Payment to Council of:
- | | |
|--------------------------------|----------------|
| Kerb and Gutter Damage Deposit | \$9,693.00 |
| Certificate Registration Fee | \$36.00 |
| Long Service Levy | \$70,735.00 |
| Section 94 Contributions | \$1,096,699.68 |

Note 1: Section 94 contribution payments are payable by cash, bank cheque, or EFTPOS.

Note 2: 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.

C. The rewording of Condition No. 57 to read as follows:

CANTERBURY DEVELOPMENT CONTRIBUTIONS PLAN 2013

57. 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 \$1,096,699.68 shall be paid to Canterbury City Council before the relevant 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
<input type="checkbox"/> Community Facilities	\$99,198.02
<input type="checkbox"/> Open Space & Recreation	\$969,591.74
<input type="checkbox"/> Plan Administration	\$27,909.92

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.

- D. All other conditions remain unchanged.

FOR	AGAINST
The Mayor, Councillor Robson	Councillor Eisler
Councillor Adler	
Councillor Azzi	
Councillor Hawatt	
Councillor Kebbe	
Councillor Nam	
Councillor Vasiliades	

11 PLANTING OF BAMBOO

FILE NO: N-12-1

Min. No. 120 RESOLVED (Councillors Hawatt/Azzi)

THAT Council

- Limit all types of bamboo hedging to a height no greater than 2 metres
- Prohibit all types of bamboo from being planted within 0.5 metres of a boundary line
- Ban the planting of bamboo.

**12 ENFORCEMENT ACTION IN RELATION TO OFFENCES DETECTED DURING THE NRL GAME
AT BELMORE SPORTSGROUND ON 26 FEBRUARY 2016**

FILE NO: B-27-22

Min. No. 121 RESOLVED (Councillors Adler/Kebbe)

THAT the continuation of programmed patrols to target illegal parking offences on days that major events are held at Belmore Sportsground be endorsed.

13 COUNCIL BOUNDARY REVIEW PROCESS - UPDATE AND PREPARING FOR THE FUTURE

FILE NO: L-44-4 PT7, L-40-3 PT3

Min. No. 122 RESOLVED (Councillors Hawatt/Azzi)

THAT the report be received and noted and that the staff arrangements outlined in the report be adopted.

ADVISORY COMMITTEES

1 COMMUNITY SAFETY COMMITTEE

FILE NO: C-245-2 PT23

Min. No. 123 RESOLVED (Councillors Eisler/Adler)

THAT the minutes of the Community Safety Committee meeting held on 21 March 2016 be endorsed.

2 YOUTH COUNCIL

FILE NO: C-170-1 PT8

Min. No. 124 RESOLVED (Councillors Vasiliades/Nam)

THAT the minutes of the Youth Council meeting held on 8 March 2016 be endorsed.

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

02/16 SHADE STRUCTURES - GOUGH WHITLAM PARK

FILE NO: C-123-6 PT5, G-12-2

Min. No. 125 RESOLVED (Councillors Vasiliades/Hawatt)

THAT a report be prepared to investigate erecting shade structures in Gough Whitlam Park, adjacent to the Cooks River canteen and the new children's playground.

03/16 ARCHERY RANGE AT WATERWORTH PARK AND BIKE EDUCATION FACILITY AT GOUGH WHITLAM RESERVE

FILE NO: C-123-6 PT5, W-11-11, G-12-2 PT5

MOTION: (Councillor Eisler)

THAT

- ☐ Council reverse its 27 August 2015 decision to develop an archery range in Waterworth Park and a bike education facility at Gough Whitlam Reserve.
- ☐ Council allow those issues to be considered by the community in their meetings with the consultants who are developing a Plan of Management for those parks; and that the consultants develop plans based on the whole of the community's needs and preferences.

There being no seconder the motion **LAPSED**.**04/16 PROMOTING MULTICULTURALISM IN THE CITY OF CANTERBURY**

FILE NO: C-123-6 PT 5, M-53-1

Min. No. 126 RESOLVED (Councillors Adler/Vasiliades)

THAT a report be prepared concerning the naming of a place in Lakemba and other appropriate options to honour the contribution being made to our rich, diverse local multicultural society by the Bangladeshi community.

Following the above item, Councillor Eisler left the Council Chamber at 8.40 p.m. and returned at 8.44 p.m.

CLOSED COUNCIL

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, the following business is considered to be of a kind as referred to in section 10A(2) of the Act, and should be dealt with as part of the meeting closed to the media and the public. Detailed below is section 10A (2) of the Local Government Act 1993 that sets out those matters which can be dealt with in the closed part of a meeting.

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the Council or
 - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councillors, council staff or council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

ITEM 1. SSROC TENDER FOR SUPPLY AND DELIVERY OF PRINT, ASSOCIATED PRODUCTS AND SERVICES

This report was considered in closed council in accordance with Section 10A (2) (d) (i) of the Local Government Act 1993, as it contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. Disclosure of the information tender details may result in commercial disadvantage to parties involved in the tender process. Some information provided to Council by tenderers is provided on the basis that Council will treat it as commercial in confidence. It is not in the public interest to reveal all details of these tenders or the assessment process. Tenderers have provided sensitive information about their operations in the confidence that their details will not be made public by Council. The practice of publication of sensitive information provided by tenderers could result in the withholding of such information by tenderers and reduction in the provision of information relevant to Council's decision.

ITEM 2. TENDER FOR CONSTRUCTION OF KERB AND GUTTER, ROAD AND DRAINAGE WORKS IN BEVERLEY CRESCENT, ROSELANDS

This report was considered in closed council in accordance with Section 10A (2) (d) (i) of the Local Government Act 1993, as it contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. Disclosure of the information tender details may result in commercial disadvantage to parties involved in the tender process. Some information provided to Council by tenderers is provided on the basis that Council will treat it as commercial in confidence. It is not in the public interest to reveal all details of these tenders or the assessment process. Tenderers have provided sensitive information about their operations in the confidence that their details will not be made public by Council. The practice of publication of sensitive information provided by tenderers could result in the withholding of such information by tenderers and reduction in the provision of information relevant to Council's decision.

ITEM 3. TENDER FOR CONSTRUCTION OF KERB AND GUTTER, ROAD AND DRAINAGE WORKS IN CROSS STREET, CAMPSIE

This report was considered in closed council in accordance with Section 10A (2) (d) (i) of the Local Government Act 1993, as it contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. Disclosure of the information tender details may result in commercial disadvantage to parties involved in the tender process. Some information provided to Council by tenderers is provided on the basis that Council will treat it as commercial in confidence. It is not in the public interest to reveal all details of these tenders or the assessment process. Tenderers have provided sensitive information about their operations in the confidence that their details will not be made public by Council. The practice of publication of sensitive information provided by tenderers could result in the withholding of such information by tenderers and reduction in the provision of information relevant to Council's decision.

ITEM 4. TENDER FOR INSTALLATION OF ADDITIONAL FLOODLIGHTING AND UPGRADE WORKS AT PARRY PARK, LAKEMBA

This report was considered in closed council in accordance with Section 10A (2) (d) (i) of the Local Government Act 1993, as it contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. Disclosure of the information tender details may result in commercial disadvantage to parties involved in the tender process. Some information provided to Council by tenderers is provided on the basis that Council will treat it as commercial in confidence. It is not in the public interest to reveal all details of these tenders or the assessment process. Tenderers have provided sensitive information about their operations in the confidence that their details will not be made public by Council. The practice of publication of sensitive information provided by tenderers could result in the withholding of such information by tenderers and reduction in the provision of information relevant to Council's decision.

EXCLUSION OF PRESS AND PUBLIC

In accordance with the provisions of the Local Government Act 1993, the press and the public were advised that it was proposed to consider the above matters, as described on the agenda, in closed council for the reasons specified. The General Manager reported that there were no written submissions received objecting to these matters being considered in closed council and no verbal representations were received from the public gallery.

Min. No. 127 RESOLVED (Councillors Vasiliades/Hawatt)

THAT

1. Council resolve into closed council to consider reports, together with any late reports tabled at the meeting.
2. Pursuant to section 10A (1)-(3) of the Local Government Act 1993, the media and public be excluded from the meeting on the basis the business to be considered is classified confidential under the provisions of section 10A(2) as outlined above.
3. The correspondence and reports relevant to the subject business be withheld from access to the media and public as required by section 11(2) of the Local Government Act 1993.

Council closed its meeting at 8.50 p.m. The media and public left the Chamber.

Min. No. 128 RESOLVED (Councillors Hawatt/Azzi)

THAT Council move out of closed session into open Council.

Open Council resumed at 8.53 p.m.

Min. No. 129 RESOLVED (Councillors Kebbe/Vasiliades)

THAT the following recommendations of the Closed Council meeting on 28 April 2016, be adopted.

1 SSROC TENDER FOR SUPPLY AND DELIVERY OF PRINT, ASSOCIATED PRODUCTS AND SERVICES

FILE NO: S-105-27(e)

RECOMMENDATION: (Councillor Hawatt/Azzi)

THAT the tenders of:

- Advertising Printing Australia Pty Ltd
- Anchorage Media Pty Ltd
- Cliff Lewis Printing
- Eco-Design eco-Print (Universal Graphics & Printing Australia)
- Embellish Creative Pty Ltd
- Focus Print Group (Trustee for Print Warehouse Australia Trust)
- Graphitype Printing Services
- Masterprint Pty Ltd
- Oxford Printing and Promotions
- Print Media Group
- Print Media (The Trustee for Daniel Sawan Family Trust and the Trustee for Derar Sawan Family Trust and the Trustee for Petrovic Investment Trust)
- Sema Operations Pty Ltd
- Staples Australia Pty Ltd
- The Camerons Group
- The Flagstaff Group Limited
- TMA Group of Companies Pty Ltd
- Worldwide Printing Solutions Kogarah (Trustee for Breakaway Imaging Trust)

for the supply and delivery of print, associated products and services for the period 1May 2015 to 30 April 2018 be accepted.

2 TENDER FOR CONSTRUCTION OF KERB AND GUTTER, ROAD AND DRAINAGE WORKS IN BEVERLEY CRESCENT, ROSELANDS

FILE NO: T-8-6

RECOMMENDATION: (Councillor Hawatt/Adler)

THAT the tender of D & M Excavations and Asphaltting Pty Ltd to construct kerb and gutter, road and drainage works in Beverley Crescent, Roselands at a cost of \$134,466.60 (excluding GST), be accepted.

3 TENDER FOR CONSTRUCTION OF KERB AND GUTTER, ROAD AND DRAINAGE WORKS IN CROSS STREET, CAMPSIE

FILE NO: T-8-6

RECOMMENDATION: (Councillor Hawatt/Azzi)

THAT the tender of D & M Excavations and Asphaltting Pty Ltd to construct kerb and gutter, road and drainage works in Cross Street, Campsie at a cost of \$382,006.95 (excluding GST), be accepted.

**4 TENDER FOR INSTALLATION OF ADDITIONAL FLOODLIGHTING AND UPGRADE WORKS AT
PARRY PARK, LAKEMBA**

FILE NO: t-8-51

RECOMMENDATION: (Councillor Hawatt/Adler)

THAT the tender of CBD Mechanical Electrical, for the installation of additional floodlighting and upgrade works at Parry Park, Lakemba, at a cost of \$252,722.00 (excluding GST), be accepted.

The meeting concluded at 8.54 p.m.

BANKSTOWN CITY COUNCIL
MINUTES OF THE
EXTRAORDINARY MEETING OF COUNCIL
HELD IN COUNCIL CHAMBERS
ON 11 MAY 2016

PRESENT: His Worship the Mayor, Councillor Asfour,
Councillors Kuskoff, Winterbottom, Nguyen, Waud, Stromborg,
Golledge, Daniel, Downey, Tadros, Najjar, Parker

APOLOGIES Nil

**HIS WORSHIP THE MAYOR DECLARED THE MEETING OPEN AT
6.00 PM**

REF: CONFIRMATION OF MINUTES

(1501) CLR. STROMBORG:/CLR. NAJJAR

RESOVLED that the minutes of the Ordinary Council Meeting held on 26 April 2016 be adopted.

- CARRIED

LEAVE OF ABSENCE

Nil

**DECLARATIONS OF PECUNIARY INTEREST OR NON-PECUNIARY
CONFLICT OF INTEREST**

Clr Stromborg declared a Significant, Non-Pecuniary Conflict of Interest in respect of Items 3.3 and 3.4 – South East Local Area Plan and South West Local Area Plan as he is a Board Member of the Revesby Workers Club who are a major land holder in respect of land subject to the Local Area Plans.

Clr Parker declared a Pecuniary Interest in respect of Items 3.3 and 3.4 – South East Local Area Plan and South West Local Area Plan as a relative owns property in areas subject of the Local Area Plans.

Clr Daniel declared a Less than-Significant, Non-Pecuniary Conflict of Interest in respect of Items 3.1, 3.2, 3.3 and 3.4 – North Central Local Area Plan, North East Local Area Plan, South East Local Area Plan and South West Local Area Plan as he is an acquaintance of consultants who have made submissions in respect of the Local Area Plans.

Clr Asfour declared a Less than-Significant, Non-Pecuniary Conflict of Interest in respect of Item 3.2 - North East Local Area Plan as he is a member of a local church who has made a submission in respect of the Local Area Plan.

BANKSTOWN CITY COUNCIL
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Clr Asfour declared a Significant, Non-Pecuniary Conflict of Interest in respect of Item 3.3 – South East Local Area Plan as a relative owns property in the area subject of the Local Area Plan.

SECTION 2: MAYORAL MINUTES

ITEM 2.1 PASSING OF JOHN JAMES (JACK) BEDFORD OAM
(1502) CLR. ASFOUR

RESOLVED that the Mayoral Minute be received.

- CARRIED

ALL THOSE PRESENT STOOD FOR ONE MINUTES SILENCE IN
MEMORY OF THE LATE JOHN JAMES BEDFORD OAM.

SECTION 3: PLANNING MATTERS

(1503) PUBLIC ACCESS
CLR. STROMBORG:/CLR. WINTERBOTTOM

RESOLVED that permission be granted to those people who have made the necessary application to address Council for five minutes in respect of the Local Area Plans.

- CARRIED

ITEM 3.1 NORTH CENTRAL LOCAL AREA PLAN

CLR DANIEL DECLARED A LESS THAN-SIGNIFICANT, NON-PECUNIARY CONFLICT OF INTEREST IN RESPECT OF ITEM 3.1 - NORTH CENTRAL LOCAL AREA PLAN, AS HE IS AN ACQUAINTANCE OF CONSULTANTS WHO HAVE MADE SUBMISSIONS IN RESPECT OF THE LOCAL AREA PLAN. CLR DANIEL REMAINED IN THE CHAMBER.

THE FOLLOWING SUBMISSIONERS ADDRESSED COUNCIL:

MR JOE CINCOTTA, MS DONNA PEARMAN, MR COLIN WILLS,
MR MATTHEW DANIEL/MR GARY PUNCH.

MOTION CLR. KUSKOFF:/CLR. GOLLEDGE

That

BANKSTOWN CITY COUNCIL
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ON 11 MAY 2016

1. Council adopt the North Central Local Area Plan as shown in Attachment A and incorporate the following amendments (to be read in conjunction with Table contained in the report):
 - (a) As per the Draft LAP recommendation contained in the plan.
 - (b) As per the Draft LAP recommendation contained in the plan.
 - (c) As per the Draft LAP recommendation contained in the plan.
 - (d) As per the Draft LAP recommendation contained in the plan.
 - (e) Retain the property at No. 55A Gascoigne Road in Birrong (Gascoigne Reserve) as open space.
2. Based on the actions of the North Central Local Area Plan, Council delegate authority to the General Manager to prepare and submit a planning proposal to the Department of Planning & Environment to seek a gateway determination.
3. Council seek authority from the Department of Planning & Environment to exercise the delegation of the Minister for Planning regarding the plan making functions under section 59 of the Environmental Planning & Assessment Act 1979.
4. Subject to approval from the Department of Planning & Environment, Council exhibit the planning proposal to provide further community comment, and the matter be reported to Council following the exhibition.

AMENDMENT

CLR. DANIEL:/CLR WAUD

1. Council adopt the North Central Local Area Plan as shown in Attachment A and incorporate the following amendments (to be read in conjunction with Table contained in the report):
 - (a) For the properties bound by Highland Avenue, The Crescent, Dutton Street and Yagoona Lane in Yagoona; provide a maximum building height of 12 storeys and provide a FSR to match the height limit.
 - (b) For the properties at Nos. 176–184 Cooper Road in Yagoona; provide a maximum building height of 8 storeys and provide a FSR to match the height limit.

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- (c) For the properties at Nos. 255–291 Cooper Road in Yagoona; provide a maximum building height of 6 storeys and provide a FSR to match the height limit.
 - (d) For the properties at Nos. 11–31 Rookwood Road in Yagoona; provide a maximum building height of 6 storeys and provide a FSR to match the height limit.
 - (e) Retain the property at No. 55A Gascoigne Road in Birrong (Gascoigne Reserve) as open space.
 - (f) For the properties at Nos. 30-46 Auburn Road in Regents Park provide a maximum building height of 10-12 storeys and provide a FSR of 2.25:1.
- 2. Based on the actions of the North Central Local Area Plan, Council delegate authority to the General Manager to prepare and submit a planning proposal to the Department of Planning & Environment to seek a gateway determination.
 - 3. Council seek authority from the Department of Planning & Environment to exercise the delegation of the Minister for Planning regarding the plan making functions under section 59 of the Environmental Planning & Assessment Act 1979.
 - 4. Subject to approval from the Department of Planning & Environment, Council exhibit the planning proposal to provide further community comment, and the matter be reported to Council following the exhibition.

THE AMENDMENT WAS PUT AND DECLARED LOST.

For:-

Clrs Tadros, Daniel, Najjar and Waud

Against:-

Clrs Kuskoff, Golledge, Parker, Downey, Nguyen, Winterbottom, Stromborg and Asfour

CLR WINTERBOTTOM PREVIOUSLY FORESHADOWED AN AMENDMENT.

AMENDMENT

CLR. WINTERBOTTOM:/CLR NGUYEN

BANKSTOWN CITY COUNCIL
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ON 11 MAY 2016

1. Council adopt the North Central Local Area Plan as shown in Attachment A and incorporate the following amendments (to be read in conjunction with Table contained in the report):
 - (a) For the properties bound by Highland Avenue, The Crescent, Dutton Street and Yagoona Lane in Yagoona; provide a maximum building height of 8 storeys and provide a FSR to match the height limit.
 - (b) For the properties at Nos. 176–184 Cooper Road in Yagoona; provide a maximum building height of 8 storeys and provide a FSR to match the height limit.
 - (c) For the properties at Nos. 255–291 Cooper Road in Yagoona; provide a maximum building height of 6 storeys and provide a FSR to match the height limit.
 - (d) As per the Draft LAP recommendation contained in the plan.
 - (e) Retain the property at No. 55A Gascoigne Road in Birrong (Gascoigne Reserve) as open space.
 - (f) For the properties at Nos. 30-46 Auburn Road in Regents Park provide a suitable building height and provide a FSR of 2.25:1, subject to traffic and public domain works.
2. Based on the actions of the North Central Local Area Plan, Council delegate authority to the General Manager to prepare and submit a planning proposal to the Department of Planning & Environment to seek a gateway determination.
3. Council seek authority from the Department of Planning & Environment to exercise the delegation of the Minister for Planning regarding the plan making functions under section 59 of the Environmental Planning & Assessment Act 1979.
4. Subject to approval from the Department of Planning & Environment, Council exhibit the planning proposal to provide further community comment, and the matter be reported to Council following the exhibition.

For:- Ctrs Tadros, Daniel, Parker, Nguyen, Najjar, Winterbottom, Waud and Asfour

Against:- Ctrs Kuskoff, Golledge, Downey and Stromborg

THE AMENDMENT WAS PUT AND CARRIED.

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THE AMENDMENT THEN BECAME THE MOTION.

CLR NGUYEN PREVIOUSLY FORESHADOWED AN AMENDMENT.

AMENDMENT

CLR. NGUYEN:/CLR. DANIEL

1. Council adopt the North Central Local Area Plan as shown in Attachment A and incorporate the following amendments (to be read in conjunction with Table contained in the report):
 - (a) For the properties bound by Highland Avenue, The Crescent, Dutton Street and Yagoona Lane in Yagoona; provide a maximum building height of 8 storeys and provide a FSR to match the height limit.
 - (b) For the properties at Nos. 176–184 Cooper Road in Yagoona; provide a maximum building height of 8 storeys and provide a FSR to match the height limit.
 - (c) For the properties at Nos. 255–291 Cooper Road in Yagoona; provide a maximum building height of 6 storeys and provide a FSR to match the height limit.
 - (d) For the properties at Nos. 11–31 Rookwood Road in Yagoona; provide a maximum building height of 6 storeys and provide a FSR to match the height limit.
 - (e) Retain the property at No. 55A Gascoigne Road in Birrong (Gascoigne Reserve) as open space.
 - (f) For the properties at Nos. 30-46 Auburn Road in Regents Park provide a suitable building height and provide a FSR of 2.25:1, subject to traffic and public domain works.
2. Based on the actions of the North Central Local Area Plan, Council delegate authority to the General Manager to prepare and submit a planning proposal to the Department of Planning & Environment to seek a gateway determination.
3. Council seek authority from the Department of Planning & Environment to exercise the delegation of the Minister for Planning regarding the plan making functions under section 59 of the Environmental Planning & Assessment Act 1979.
4. Subject to approval from the Department of Planning & Environment, Council exhibit the planning proposal to provide further community

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comment, and the matter be reported to Council following the exhibition.

For:- Clrs Tadros, Daniel, Parker, Nguyen, Najjar and Waud

Against:- Clrs Kuskoff, Golledge, Downey, Winterbottom, Stromborg and Asfour

THE MAYOR EXERCISED HIS CASTING VOTE AND VOTED FOR THE AMENDMENT.

THE AMENDMENT WAS DECLARED CARRIED.

THE AMENDMENT THEN BECAME THE MOTION.

(1504) CLR. NGUYEN:/CLR. DANIEL

RESOLVED that

1. Council adopt the North Central Local Area Plan as shown in Attachment A and incorporate the following amendments (to be read in conjunction with Table contained in the report):
 - (a) For the properties bound by Highland Avenue, The Crescent, Dutton Street and Yagoona Lane in Yagoona; provide a maximum building height of 8 storeys and provide a FSR to match the height limit.
 - (b) For the properties at Nos. 176–184 Cooper Road in Yagoona; provide a maximum building height of 8 storeys and provide a FSR to match the height limit.
 - (c) For the properties at Nos. 255–291 Cooper Road in Yagoona; provide a maximum building height of 6 storeys and provide a FSR to match the height limit.
 - (d) For the properties at Nos. 11–31 Rookwood Road in Yagoona; provide a maximum building height of 6 storeys and provide a FSR to match the height limit.
 - (e) Retain the property at No. 55A Gascoigne Road in Birrong (Gascoigne Reserve) as open space.
 - (f) For the properties at Nos. 30-46 Auburn Road in Regents Park provide a suitable building height and provide a FSR of 2.25:1, subject to traffic and public domain works.
2. Based on the actions of the North Central Local Area Plan, Council delegate authority to the General Manager to prepare and submit a

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planning proposal to the Department of Planning & Environment to seek a gateway determination.

3. Council seek authority from the Department of Planning & Environment to exercise the delegation of the Minister for Planning regarding the plan making functions under section 59 of the Environmental Planning & Assessment Act 1979.
4. Subject to approval from the Department of Planning & Environment, Council exhibit the planning proposal to provide further community comment, and the matter be reported to Council following the exhibition.

- CARRIED

For:- Clrs Najjar, Tadros, Waud, Winterbottom, Asfour, Daniel, Nguyen and Parker

Against:- Clrs Downey, Kuskoff, Stromborg and Golledge

ITEM 3.2 NORTH EAST LOCAL AREA PLAN

CLR ASFOUR DECLARED A LESS THAN-SIGNIFICANT, NON-PECUNIARY CONFLICT OF INTEREST IN RESPECT OF ITEM 3.2 - NORTH EAST LOCAL AREA PLAN AS HE IS A MEMBER OF A LOCAL CHURCH WHO HAS MADE A SUBMISSION IN RESPECT OF THE LOCAL AREA PLAN AND REMAINED IN THE CHAMBER ADVISING THAT IT WOULD NOT AFFECT HIS VOTE.

CLR DANIEL DECLARED A LESS THAN-SIGNIFICANT, NON-PECUNIARY CONFLICT OF INTEREST IN RESPECT OF ITEM 3.2 - NORTH EAST LOCAL AREA PLAN AS HE IS AN ACQUAINTANCE OF CONSULTANTS WHO HAVE MADE SUBMISSIONS IN RESPECT OF THE LOCAL AREA PLAN. CLR DANIEL REMAINED IN THE CHAMBER ADVISING THAT IT WOULD NOT AFFECT HIS VOTE.

THE FOLLOWING SUBMISSIONERS ADDRESSED COUNCIL:

MR DAVID SALAZAR, MR PETER CARD, MR MATTHEW BENSON, MS MAREE LEDSON

(1505) CLR. DANIEL:/CLR. TADROS

RESOLVED that

1. Council adopt the North East Local Area Plan as shown in Attachment A and incorporate the following amendments (to be read in conjunction with Table contained in the report):

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- (a) For the properties at Nos. 66–86 Waterloo Road and No. 2 Mimosa Road in Greenacre; rezone the properties to Zone R4 High Density Residential with a maximum building height of 3 storeys and provide a FSR to match the height limit.
 - (b) For the property at No. 102 Columbine Avenue in Punchbowl (Warwick Reserve); rezone the property to Zone R2 Low Density Residential with a maximum building height of 2 storeys (plus attic) and provide a FSR to match the height limit.
 - (c) For the property at 23 Canterbury Road in Punchbowl provide a maximum building height of 4 storeys.
- 2. Based on the actions of the North East Local Area Plan, Council delegate authority to the General Manager to prepare and submit a planning proposal to the Department of Planning & Environment to seek a gateway determination.
 - 3. Council seek authority from the Department of Planning & Environment to exercise the delegation of the Minister for Planning regarding the plan making functions under section 59 of the Environmental Planning & Assessment Act 1979.
 - 4. Subject to approval from the Department of Planning & Environment, Council exhibit the planning proposal to provide further community comment, and the matter be reported to Council following the exhibition.
 - 5. The funding requirements as outlined in this report be approved and reflected as part of Council's Quarterly Budget review process.

- CARRIED

For:- Ctrs Najjar, Tadros, Waud, Winterbottom, Daniel, Nguyen and Parker

Against:- Ctrs Downey, Kuskoff, Stromborg, Asfour and Golledge

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ITEM 3.3 SOUTH EAST LOCAL AREA PLAN

CLR DANIEL DECLARED A LESS THAN-SIGNIFICANT, NON-PECUNIARY CONFLICT OF INTEREST IN RESPECT OF ITEM 3.3 - SOUTH EAST LOCAL AREA PLAN AS HE IS AN ACQUAINTANCE OF CONSULTANTS WHO HAVE MADE SUBMISSIONS IN RESPECT OF THE LOCAL AREA PLAN. CLR DANIEL REMAINED IN THE CHAMBER ADVISING THAT IT WOULD NOT AFFECT HIS VOTE.

CLR STROMBORG DECLARED A SIGNIFICANT, NON-PECUNIARY CONFLICT OF INTEREST IN RESPECT OF ITEM 3.3 - SOUTH EAST LOCAL AREA PLAN AS HE IS A BOARD MEMBER OF THE REVESBY WORKERS CLUB WHO ARE A MAJOR LAND HOLDER IN RESPECT OF LAND SUBJECT TO THE LOCAL AREA PLAN.

CLR PARKER DECLARED A PECUNIARY INTEREST IN RESPECT OF ITEM 3.3 - SOUTH EAST LOCAL AREA PLAN AS A RELATIVE OWNS PROPERTY IN AREAS SUBJECT OF THE LOCAL AREA PLANS.

CLR ASFOUR DECLARED A SIGNIFICANT, NON-PECUNIARY CONFLICT OF INTEREST IN RESPECT OF ITEM 3.3 – SOUTH EAST LOCAL AREA PLAN AS A RELATIVE OWNS PROPERTY IN THE AREA SUBJECT TO THE LOCAL AREA PLAN.

CLRS STROMBORG, PARKER AND ASFOUR VACATED THE CHAMBERS AT 7.40 PM TAKING NO PART IN THE DEBATE.

THE DEPUTY MAYOR, CLR NGUYEN ASSUMED THE CHAIR.

THE FOLLOWING SUBMISSIONERS ADDRESSED COUNCIL:

MR ANTHONY BETROS, MR MARK RAYMUNDO, MR CHRIS BROGAN, MR BRETT COURT, MR MICHAEL CHAMLEY, MR NATHAN GREEN, MR WALT COULSTON, MS WENDY LINDSAY

(1506) CLR. DANIEL:/CLR. TADROS

RESOLVED that

1. Council adopt the South East Local Area Plan as shown in Attachment A and incorporate the following amendments (to be read in conjunction with Table contained in the report):
 - (a) For the properties at Nos. 41–75C Marco Avenue and Nos. 36–38 Polo Street in Revesby; provide a maximum building height of 8 storeys and provide a FSR to match the height limit.

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- (b) For the properties at Nos. 2–26 Swan Street and Nos. 9–13 Polo Street in Revesby; provide a maximum building height of 6 storeys and provide a FSR to match the height limit.
- (c) For the properties bound by Bransgrove Road, Polo Street and The River Road (north of the proposed Revesby Village Centre Structure Plan boundary); rezone the properties to Zone R4 High Density Residential with a maximum building height of 3 storeys and provide a FSR to match the height limit.
- (d) For the properties at No. 60 McGirr Street and Nos. 60–80A Uranus Road in Revesby; rezone the properties to Zone R4 High Density Residential with a maximum building height of 4 storeys and provide a FSR to match the height limit.
- (e) For the properties at Nos. 20–26 Howard Road in Padstow; provide a maximum building height of 8 storeys and provide a FSR to match the height limit.
- (f) For the properties at Nos. 2–16A Banks Street and Nos. 43–49 Cahors Road in Padstow; rezone the properties to Zone B2 Local Centre with a maximum building height of 8 storeys and provide a FSR to match the height limit.
- (g) For the properties at Nos. 7–9 and 10–12 Jeanette Street, Nos. 18–22 Banks Street and Nos. 25–39 Stephanie Street in Padstow; provide a maximum building height of 8 storeys and provide a FSR to match the height limit.

For the remaining properties at Nos. 1–5 and 2–8 Jeanette Street, Nos. 24–30 Banks Street and Nos. 1–23 Stephanie Street in Padstow; provide a maximum building height of 6 storeys and provide a FSR to match the height limit.

- (h) For the properties at Nos. 1–31 Segers Avenue and Nos. 12–20 Faraday Road in Padstow; rezone the properties to Zone B2 Local Centre with a maximum building height of 6 storeys and provide a FSR to match the height limit.
- (i) For the properties Nos. 1–25 Banks Street and Nos. 1–8 Nigel Place in Padstow; provide a maximum building height of 8 storeys and provide a FSR to match the height limit.
- (j) For the properties Nos. 42–86 and Nos. 45–89 Iberia Street in Padstow; rezone the properties to Zone R4 High Density Residential with a maximum building height of 4 storeys and provide a FSR to match the height limit.
- (k) As per the Draft LAP recommendation contained in the plan.

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- (l) For the properties at Nos. 1-23 Gloucester Avenue rezone to R3 Medium Density with a building height of 3 storeys and properties at Nos. 8-12 Segers Avenue in Padstow rezone to R4 High Density Residential with a maximum building height of 4 storeys and provide FSR to match the height.
 - (m) Council investigate the heritage listing of Endeavour Hall at No. 89 The River Road, Revesby.
 - (n) The current proposal to rezone the properties at Nos. 89-99 Howard Road, Nos. 2-6 Segers Avenue and Nos. 2-6 Gloucester Avenue in Padstow be deferred and rezoning options be investigated.
- 2. Based on the actions of the South East Local Area Plan, Council delegate authority to the General Manager to prepare and submit a planning proposal to the Department of Planning & Environment to seek a gateway determination.
 - 3. Council seek authority from the Department of Planning & Environment to exercise the delegation of the Minister for Planning regarding the plan making functions under section 59 of the Environmental Planning & Assessment Act 1979.
 - 4. Subject to approval from the Department of Planning & Environment, Council exhibit the planning proposal to provide further community comment, and the matter be reported to Council following the exhibition.

- CARRIED

For:- Ctrs Najjar, Tadros, Waud, Winterbottom and Daniel

Against:- Ctrs Downey, Kuskoff, Golledge and Nguyen

ITEM 3.4 SOUTH WEST LOCAL AREA PLAN

HIS WORSHIP THE MAYOR, CLR ASFOUR RETURNED TO THE MEETING AT 9.10 PM AND RESUMED THE CHAIR.

CLR DANIEL DECLARED A LESS THAN-SIGNIFICANT, NON-PECUNIARY CONFLICT OF INTEREST IN RESPECT OF ITEM 3.4 – SOUTH WEST LOCAL AREA PLAN AS HE IS AN ACQUAINTANCE OF CONSULTANTS WHO HAVE MADE SUBMISSIONS IN RESPECT OF THE LOCAL AREA PLAN. CLR DANIEL REMAINED IN THE CHAMBER ADVISING THAT IT WOULD NOT AFFECT HIS VOTE.

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CLR STROMBORG DECLARED A SIGNIFICANT, NON-PECUNIARY CONFLICT OF INTEREST IN RESPECT OF ITEM 3.4 - SOUTH WEST LOCAL AREA PLAN AS HE IS A BOARD MEMBER OF THE REVESBY WORKERS CLUB WHO ARE A MAJOR LAND HOLDER IN RESPECT OF LAND SUBJECT TO THE LOCAL AREA PLAN.

CLR PARKER DECLARED A PECUNIARY INTEREST IN RESPECT OF ITEM 3.4 - SOUTH WEST LOCAL AREA PLAN AS A RELATIVE OWNS PROPERTY IN AREAS SUBJECT OF THE LOCAL AREA PLANS.

CLRS STROMBORG AND PARKER VACATED THE CHAMBERS AT 9.15 PM TAKING NO PART IN THE DEBATE AND RETIRED FROM THE MEETING.

THE FOLLOWING SUBMISSIONERS ADDRESSED COUNCIL:

MS MARIA KATSELAS, MR CHRIS BROGAN, MR PETER MAY.

MOTION

CLR. KUSKOFF:/CLR WINTERBOTTOM

1. Council adopt the South West Local Area Plan as shown in Attachment A.
2. Based on the actions of the South West Local Area Plan, Council delegate authority to the General Manager to prepare and submit a planning proposal to the Department of Planning & Environment to seek a gateway determination.
3. Council seek authority from the Department of Planning & Environment to exercise the delegation of the Minister for Planning regarding the plan making functions under section 59 of the Environmental Planning & Assessment Act 1979.
4. Subject to approval from the Department of Planning & Environment, Council exhibit the planning proposal to provide further community comment, and the matter be reported to Council following the exhibition.
5. The funding requirements as outlined in this report be approved and reflected as part of Council's Quarterly Budget review process.

AMENDMENT

CLR. DANIEL:/CLR. WAUD

1. Council adopt the South West Local Area Plan as shown in Attachment A and incorporate the following amendments (to be read in conjunction with Table contained in the report):

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- (a) As per the Draft LAP recommendation contained in the plan.
 - (b) As per the Draft LAP recommendation contained in the plan.
 - (c) As per the Draft LAP recommendation contained in the plan.
 - (d) Retain the property at No. 96 Malvern Street in Panania (Malvern Reserve) as Open Space.
- 2. Based on the actions of the South West Local Area Plan, Council delegate authority to the General Manager to prepare and submit a planning proposal to the Department of Planning & Environment to seek a gateway determination.
 - 3. Council seek authority from the Department of Planning & Environment to exercise the delegation of the Minister for Planning regarding the plan making functions under section 59 of the Environmental Planning & Assessment Act 1979.
 - 4. Subject to approval from the Department of Planning & Environment, Council exhibit the planning proposal to provide further community comment, and the matter be reported to Council following the exhibition.
 - 5. The funding requirements as outlined in this report be approved and reflected as part of Council's Quarterly Budget review process.

CLR DOWNEY ABSTAINED FROM VOTING.

For:-

Clrs Kuskoff, Golledge, Tadros, Daniel, Najjar, Waud, Asfour

Against:-

Clrs Nguyen, Winterbottom

THE AMENDMENT WAS DECLARED CARRIED.

THE AMENDMENT THEN BECAME THE MOTION.

(1507)

CLR. DANIEL:/CLR. WAUD

RESOLVED that

- 1. Council adopt the South West Local Area Plan as shown in Attachment A and incorporate the following amendments (to be read in conjunction with Table contained in the report):
 - (a) As per the Draft LAP recommendation contained in the plan.
 - (b) As per the Draft LAP recommendation contained in the plan.

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- (c) As per the Draft LAP recommendation contained in the plan.
- (d) Retain the property at No. 96 Malvern Street in Panania (Malvern Reserve) as Open Space.
- 2. Based on the actions of the South West Local Area Plan, Council delegate authority to the General Manager to prepare and submit a planning proposal to the Department of Planning & Environment to seek a gateway determination.
- 3. Council seek authority from the Department of Planning & Environment to exercise the delegation of the Minister for Planning regarding the plan making functions under section 59 of the Environmental Planning & Assessment Act 1979.
- 4. Subject to approval from the Department of Planning & Environment, Council exhibit the planning proposal to provide further community comment, and the matter be reported to Council following the exhibition.
- 5. The funding requirements as outlined in this report be approved and reflected as part of Council's Quarterly Budget review process.

- CARRIED

For:- Ctrs Kuskoff, Najjar, Tadros, Waud, Winterbottom, Asfour, Daniel, Golledge and Nguyen

Against:- Ctr Downey

THE MEETING CLOSED AT 9.40 PM

Minutes noted 14 JUNE 2016

.....
Administrator

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PRESENT: Administrator – Richard Colley
General Manager – Matthew Stewart
Director City Works – Wayne Cooper
Director Corporate Services – Andy Sammut
Director City Planning – Spiro Stavis
Group Manager, Governance – Brad McPherson
Director City Planning and Environment - Scott Pedder
Director Corporate and Financial Services - Ken Manoski
Director City Services - Graeme Beattie
Director City Assets and Infrastructure - Anthony Vangi
Manager Corporate Services - Adam Brownlee

APOLOGIES Nil

THE ADMINISTRATOR DECLARED THE MEETING OPEN AT 6.00 PM.

LEAVE OF ABSENCE

Nil

DECLARATIONS OF PECUNIARY INTEREST OR NON-PECUNIARY CONFLICT OF INTEREST

Nil

SECTION 1: ADMINISTRATOR MINUTES

ITEM 1.1 FORMATION OF THE NEW CITY OF CANTERBURY-BANKSTOWN

(1) MOVED AND RESOLVED BY THE ADMINISTRATOR

That the minute be noted.

- CARRIED

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SECTION 2: REPORT OF THE GENERAL MANAGER

ITEM 2.1 INSTRUMENT OF DELEGATIONS, APPOINTMENT OF STATUTORY OFFICERS

(2) MOVED AND RESOLVED BY THE ADMINISTRATOR

That

1. The Instrument of Delegations, as attached be adopted.
2. A further review be undertaken of the Development Assessment Delegations having regard to the finalisation of Council's IHAP.
3. The appointment of Statutory Officers be noted.

- CARRIED

ITEM 2.2 SCHEDULE OF ORDINARY MEETINGS

(3) MOVED AND RESOLVED BY THE ADMINISTRATOR

That

1. The revised Schedule of Council Meetings for 2016 be adopted.

- CARRIED

ITEM 2.3 COMMITTEES AND DELEGATES TO EXTERNAL AGENCIES

(4) MOVED AND RESOLVED BY THE ADMINISTRATOR

That

1. All Standing and Advisory Committees of the former Bankstown and Canterbury councils be discontinued or suspended, as outlined in Attachment A to this report.
2. The respective Committee Members be advised accordingly.
3. A further report be prepared outlining the appropriate Committee structure, governance framework and nomination process for community representation to assist Council in effectively exercising its statutory obligations, as outlined in this report.

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4. The Administrator be delegated authority to appoint appropriate representatives and/or delegates to all other External Bodies, as required.
5. An Audit Committee be established as outlined in the report.

- CARRIED

ITEM 2.4 JOINT REGIONAL PLANNING PANEL

(5) MOVED AND RESOLVED BY THE ADMINISTRATOR

That

1. In accordance with the 12 May 2016 proclamation, existing members of the former Canterbury Council JRPP be permitted to finalise those matters which were deferred immediately prior to the proclamation, but not consider any new matters.
2. Subject to item 1 above members previously appointed to the Joint Regional Planning Panel (JRPP) for the former Bankstown and Canterbury Councils be removed due to the cessation of the former Councils.
3. The Administrator appoint new members to the JRPP(s), as required.
4. The General Manager in consultation with the Administrator determine an appropriate fee in accordance with NSW Government Guidelines.

- CARRIED

ITEM 2.5 POLICY FOR THE PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS

(6) MOVED AND RESOLVED BY THE ADMINISTRATOR

That

1. Council endorse the former Bankstown City Council's Policy for the Payment of Expenses and Provision of Facilities for Councillors.

- CARRIED

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**ITEM 2.6 APPOINTMENT OF DELEGATES TO SOUTHERN SYDNEY REGION OF COUNCIL'S
AND WESTERN SYDNEY REGION OF COUNCIL'S**

(7) MOVED AND RESOLVED BY THE ADMINISTRATOR

That

1. Council confirm its membership of SSROC and WSROC.
2. It be noted that the Administrator is appointed the City of Canterbury-Bankstown's delegate to SSROC and WSROC.
3. The Administrator be delegated the power to appoint an alternate delegate to SSROC and WSROC as required.
4. A review be undertaken of Council's membership of WSROC.

- CARRIED

**ITEM 2.7 INDEPENDENT HEARING AND ASSESSMENT PANEL (IHAP) FOR THE FORMER
CANTERBURY COUNCIL LOCAL GOVERNMENT AREA**

(8) MOVED AND RESOLVED BY THE ADMINISTRATOR

That

1. In the interim, the Independent Hearing and Assessment Panel (IHAP) continue to operate for former Canterbury City Council area.
2. Authority be delegated to the IHAP under Section 377 of the Local Government Act 1993 to consider and determine development applications referred to it by the General Manager.
3. The amended IHAP Policy (including the Constitution and Rules) included in the Attachment, be adopted.
4. A review be conducted of the IHAP, its membership and its relevant Policy, and the recommendations arising from this review be reported to the Administrator.
5. Subject to the recommendation 4 above, the existing IHAP Panel and substitute members continue to exercise their function in the terms set out in this report.

- CARRIED

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ITEM 2.8 2016-17 DRAFT OPERATIONAL PLAN, BUDGET AND FEES AND CHARGES

(9) MOVED AND RESOLVED BY THE ADMINISTRATOR

That

1. The reports of the former Bankstown and Canterbury Councils (as attached) be noted.
2. Pursuant to item 1 above, and in accordance with Section 405 of the *Local Government Act*, and the proclamation made on 12 May 2016, Council resolve to place on public exhibition the Canterbury-Bankstown Draft Operational Plan 2016-17, including the Draft 2016-17 Budget and Draft 2016-17 Schedule of Fees & Charges.
3. The draft Section 94A Development Contributions Plan - Bankstown (Amendment No. 3) for former Bankstown City Council Local Government Area, as shown in Attachment D, be placed on public exhibition and that a further report to adopt the plan be submitted following the exhibition period.

- CARRIED

SECTION 3: CONFIDENTIAL SESSION

(10) MOVED AND RESOLVED BY THE ADMINISTRATOR

That, in accordance with Section 10A(2) of the Local Government Act, 1993, the Public and the Press be excluded from the meeting to enable Council to determine Items 3.1, 3.2 in confidential session for the reasons indicated:

Item 3.1 Campsie Library Refurbishment - Request For Tender

This report is considered to be confidential in accordance with Section 10A(2)(d)(i) of the Local Government Act, 1993, as it relates to commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

Item 3.2 Organisation Structure

This report is considered to be confidential in accordance with Section 10A(2)(a) of the Local Government Act, 1993, as it relates to personnel matters concerning particular individuals.

- CARRIED

CANTERBURY-BANKSTOWN COUNCIL
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**COUNCIL RESOLVED INTO CONFIDENTIAL SESSION AT 6.12 PM AND
REVERTED BACK TO OPEN COUNCIL AT 6.15 PM.**

ITEM 3.1 CAMPSIE LIBRARY REFURBISHMENT - REQUEST FOR TENDER

(11)

MOVED AND RESOLVED BY THE ADMINISTRATOR

That

1. Council accepts the tender from Cooper Commercial Construction Pty Ltd as the Main Contractor for the refurbishment of Council's Campsie Library in the amount of \$530,138.00.
2. The General Manager be authorised to enter into a contract and sign all documentation in accordance with Council's resolution, as required.
3. Council notifies the unsuccessful tenderers in writing and thank them for tendering.

- CARRIED

ITEM 3.2 ORGANISATION STRUCTURE

(12)

MOVED AND RESOLVED BY THE ADMINISTRATOR

That

1. In accordance with Section 333 of the Local Government Act 1993, Council's Organisational Structure be re-determined, as contained in this report.
2. The General Manager proceed to implement the changes to Council's Management Structure, as contained in this report.

- CARRIED

THE MEETING CLOSED AT 6.17 P.M

Minutes confirmed 14 JUNE 2016

.....
Administrator

2 LEAVE OF ABSENCE

**3 DECLARATIONS OF PECUNIARY INTEREST OR NON-
PECUNIARY CONFLICT OF INTEREST**

4 ADMINISTRATOR MINUTES

There were no items submitted for this section at the time the Agenda was compiled.

5 PLANNING MATTERS

The following items are submitted for consideration -

- | | | |
|------|--|-----|
| 5.1 | 9 Ogilvie Street, East Hills
Demolition of Existing Structures and Construction of an Attached Dual
Occupancy and Torrens Title Subdivision | 91 |
|
 | | |
| 5.2 | 16 / 7 Birmingham Avenue, Villawood
Fitout and Use of Premises as a Brothel

S96AA Amendment: Modify Condition 7A to Allow an Extension of Time for the
Construction of a New Driveway | 103 |
|
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| 5.3 | 226 Chapel Road, Bankstown
Demolition of Existing Structures and Construction of a Six (6) Storey Mixed
Commercial/Residential Development Comprising of One (1) Ground Floor
Commercial Tenancy and Thirty-Seven (37) Residential Units, with At Grade and
Basement Car Parking | 111 |
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| 5.4 | 1 Baltimore Street, Belfield - Demolition, Removal of Trees and Construction of
Secondary Dwelling | 129 |
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| 5.5 | 44 Dennis Street, Lakemba - Demolition, Construction of Two Storey Dwelling
and Detached Secondary Dwelling | 145 |
|
 | | |
| 5.6 | 47-47A Lakemba Street, Belmore - Use of Illuminated Pylon Sign in Front of
Service Station | 165 |

5.7	13 Seventh Avenue, Campsie - Construction of Three Storey Residential Building with Basement Parking and Front Fence	177
5.8	2-4 Barnes Avenue, Earlwood - Conversion of Garage into Secondary Dwelling and Construction of Carport	203
5.9	6 Bellombi Street, Campsie - Construction of Secondary Dwelling	219
5.10	418-422 Canterbury Road, Campsie - Modification to Approved Six Storey Mixed Use Development comprising Additional Basement Level, Alteration to Dwelling Layouts, Additional Two Levels of Residential Apartments and VPA Offer for Provision of a Laneway	231
5.11	424-426 Canterbury Road, Campsie - Modification to Approved Six Storey Mixed Use Development Comprising Additional Basement Level, Alteration to Dwelling Layouts, Additional Two Levels of Residential Apartments and VPA Offer for Provision of a Laneway	267
5.12	46 Prince Edward Avenue, Earlwood - Modification Relating to Wall Height for a Single Dwelling	303
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Planning Matters - 14 June 2016

ITEM 5.1	9 Ogilvie Street, East Hills Demolition of Existing Structures and Construction of an Attached Dual Occupancy and Torrens Title Subdivision
FILE	DA-200/2016
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	11 March 2016
APPLICANT	In Vision Design
OWNERS	Samuel Alber Shenouda
ESTIMATED VALUE	\$578,379.00
SITE AREA	556.4m²
AUTHOR	City Development

RECOMMENDATION

It is recommended that:

1. The Clause 4.6 submission in relation to the breach of the height limit contained in Clause 4.3 of Bankstown Local Environmental Plan 2015 be accepted; and
2. Development Application No. DA-200/2016 be approved subject to the attached conditions.

REPORT

This matter was called for the determination of council prior to the proclamation of 12 May 2016 by former Councillors Daniel and Waud.

Development Application No. DA-200/2016 proposes demolition of the existing dwelling and detached garage, and the construction of a two storey attached dual occupancy development with Torrens Title subdivision.

DA-200/2016 has been assessed against the relevant planning controls and complies with all relevant controls, with the exception of the wall height control established in Bankstown Local Environmental Plan 2015, and balcony and setback controls contained in Bankstown Development Control Plan 2015. The breach of the wall height limit is minor and is limited to a light well element that has been introduced into the design to provide adequate solar access to the development. The applicant has submitted a request to vary the development standard, made pursuant to the provisions of Clause 4.6 of the LEP. The recommendation of this report will be that the Clause 4.6 submission be accepted and the variation to the wall height limit be permitted. With respect to the balcony and setback non compliances, these are proposed to be remedied through conditions of development consent.

The application was notified for two periods, each for 14 days. The first notification period occurred on submission of the development application and extended from 14 March 2016 to 28 March 2016. During this notification period, 6 submissions were received, including a petition containing 23 signatures. However, many of the submissions were from the same households. Submissions were received from 2 households, plus the petition.

Following the receipt of amended plans, the application was re- notified for a further period of 14 days from 8 April 2016 to 22 April 2016. Two submissions were received during the second notification period, both from persons who objected to the proposal during the initial notification period.

The issues raised in the objections focus on privacy impacts, claims that the existing on street car parking and maneuvering situation is problematic and that this development will exacerbate these issues, concerns for access to the street by emergency vehicles and garbage collection vehicles, and potential for extra strain on existing sewerage infrastructure. There is also a claim that the number of dual occupancies being constructed in the local area has the ability to change the character of the area and cause social disharmony. Submissions have also questioned whether the site is large enough to accommodate the proposal.

The proposed development is compliant with all relevant planning controls, with the exception of a minor and isolated exceedance of the wall height limit and setback and balcony controls. Suitable conditions are recommended to be imposed to address setback and privacy issues. Accordingly, it is considered that the issues raised in the submissions do not warrant refusal or further amendment of the proposal and it is recommended that the application be approved.

POLICY IMPACT

There are no policy implications associated with the recommendation for approval.

FINANCIAL IMPACT

There are no financial implications associated with the recommendation for approval.

RECOMMENDATION

It is recommended that:

1. The Clause 4.6 submission in relation to the breach of the height limit contained in Clause 4.3 of Bankstown Local Environmental Plan 2015 be accepted; and
2. Development Application No. DA-200/2016 be approved subject to the attached conditions.

DA-200/2016 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 9 Ogilvie Street, East Hills. The site is a regular allotment and is generally rectangular in shape, apart from a splayed frontage to Ogilvie Street and splayed rear boundary. The site has an area of 556.4m², a frontage to Ogilvie Street of 16.764m, is lightly vegetated and is generally flat with a fall of 530mm from north east to south west (i.e. away from Ogilvie Street). The site is zoned R2 Low Density Residential under the provisions of Bankstown Local Environmental Plan 2015 and is currently occupied by a single storey dwelling and detached garage. The site is affected by medium risk flooding associated with Kelso Swamp and local overland flow. The depth and velocity of flood waters is minimal.

The map below shows that the site is located towards the western end of Ogilvie Street which terminates at Marco Reserve, a large multipurpose public open space area. Properties to the immediate east and west of the site have been developed for two storey dwellings, whilst remaining properties in the vicinity of the site have been developed for single storey dwellings. Two properties in Ogilvie Street have been developed for dual occupancy purposes, with these properties located at or close to its intersection with Enright Street.



PROPOSED DEVELOPMENT

Development Application No. DA-200/2016 proposes demolition of the existing dwelling and detached garage, and the construction of a two storey attached dual occupancy development with Torrens Title subdivision.

Each unit contains four bedrooms and a single car garage. The second car space to each unit is to be “stacked” on the driveway. Each unit contains a balcony to the front and one to the rear, located off bedroom areas.

SECTION 79C ASSESSMENT

The proposed development has been assessed pursuant to section 79C of the *Environmental Planning and Assessment Act, 1979*. The relevant findings of this assessment are detailed in the following sections of this report.

Environmental planning instruments [section 79C(1)(a)(i)]

The development application has been assessed against the provisions of State Environmental Planning Policy No 55—Remediation of Land, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment, and Bankstown Local Environmental Plan 2015 (LEP 2015). The proposal is compliant with all these planning controls, with the exception of LEP 2015. The following sections of this report deal with those matters.

Bankstown Local Environmental Plan 2015

The following clauses of the Bankstown Local Environmental Plan 2015 were taken into consideration:

- Name of Plan
- 1.1AA Commencement
- Aims of Plan
- Land to which Plan applies
- Definitions
- Notes
- Consent authority
- Maps
- Application of SEPPs
- 1.9A Suspension of covenants, agreements and instruments
- 2.1 Land use zones
- 2.2 Zoning of land to which Plan applies
- 2.3 Zone objectives and Land Use Table
- Subdivision—consent requirements
- 2.7 Demolition requires development consent
- Zone R2 Low Density Residential
- 4.1A Minimum lot sizes and special provisions for dual occupancies
- 4.1C Minimum lot sizes for certain land
- 4.3 Height of buildings

- 4.4 Floor space ratio
- 4.5 Calculation of floor space ratio and site area
- 4.6 Exceptions to development standards
- 5.6 Architectural roof features
- 5.9 Preservation of trees or vegetation
- 6.3 Flood planning

The development is compliant with all relevant provisions of LEP 2015, with the exception of a proposed variation to the wall height limit specified in Clause 4.3 of the LEP.

Clause 4.3 of LEP 2015 states:

- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The height shown on the map is 9 metres. However, Clause 2B states:

- 2B) Despite sub clause (2), the following restrictions apply to development on land in Zone R2 Low Density Residential:

.....

- (b) for a dwelling house or a dual occupancy—the maximum wall height is 7 metres,....

The proposed development complies with this height limit at all points, except for a minor variation to a light well element, which has been introduced to the design to allow solar access to the southern unit. The light well has a total height of 7.71 metres, has dimensions of 3 metres x 1 metre, and is located about the common wall of the units.

The applicant has made a submission under the provisions of Clause 4.6 of LEP 2015, seeking variation to the provisions of Clause 4.3. A copy of this submission is attached to this report. In summary, the submission states:

“In reference to (1) the proposal light shaft was design and position above the proposed eave line for maximum light penetration without being over shadowed by the existing hipped roof, this allows a longer amount of ambient light into the living area, which in turn articulates the side elevation & rear elevation giving a greater architectural presence. In turn the non-compliance at this point has no impact on adjoining dwelling in regards to privacy and over shadowing.

- *The articulated design of the proposed dwelling ensures no additional adverse impacts on the amenity of adjoining neighbours in terms of overshadowing, privacy, solar access and ventilation are to arise.*
- *The height, scale and mass design of the proposed dwelling is consistent with the established character of the locality ensuring visual dominance is avoided.*
- *The design of the proposed dwelling ensures bulk and scale of the locality is retained and not further increased.*
- *The encroachment of the building height control does not result in an over scaled development for the subject site as it complies with the overall allowable height.*
- *The proposed dwelling is well integrated with development in the immediate locality.*

- *The building height encroachment does not adversely impact on views enjoyed by adjoining neighbours.*
- *The development proposal is considered to achieve the objectives of the Bankstown Local Environmental Plan 2015 in relation to maintaining the amenity of residential areas and controlling and managing impacts associated with development.*
- *Approval of the development application will not adversely impact on the amenity of the neighbouring properties or detrimentally impact on the character of the existing Planning and Assessment act, 1979”.*

It is agreed that the non- compliance is minor in nature. It is worth noting that compliance with the wall height limit could be achieved by deletion of the light well. However, such an action would be to the detriment of amenity within the southern unit as it would fail solar access provisions. The inclusion of the light well will not have a detrimental impact on adjoining properties and appears similar to a chimney element. Owing to the minor nature of the non- compliance, and on the basis of the applicant’s submission, it is considered that compliance with the standard is unnecessary in this instance, that sufficient environmental planning grounds exist to vary the standard, and that variation to the standard is in the interests of the general public.

Draft environmental planning instruments [section 79C(1)(a)(ii)]

There are no applicable draft environmental planning instruments.

Development control plans [section 79C(1)(a)(iii)]

The following table provides a summary of the development application against the controls contained in Part B1 of Bankstown Development Control Plan 2015.

STANDARD	PROPOSED	BDCP 2015 PART B1		LEP 2015 COMPLIANCE
		REQUIRED	COMPLIANCE	
Site area	556.4m ²	500m ²	Yes	Yes
Site width	16.764m	15.0m	Yes	Yes
Height	2 storeys	2 storeys	Yes	No
Front setback	5.5m ground floor 6.5m first floor 5.0m to Unit 2 blade wall at ground and first floors	5.5m ground floor 6.5m first floor	Yes Yes No	N/A
Floor space ratio	0.49:1	0.5:1	Yes	Yes
Private open space	84m ² minimum per unit	80m ² minimum per unit	Yes	N/A
Car parking	2 spaces per unit	2 spaces per unit	Yes	N/A
Balcony depth	2.0m	1.5m maximum	No	N/A

The table indicates that there are two non- compliances with respect to DCP 2015. These matters are dealt with as follows.

Setback

Clause 4.8 of Part B1 of DCP 2015 requires a 5.5m ground floor and 6.5m first floor setback. The proposal is fully compliant with the required setbacks, with the exception of a blade wall which has been introduced to the northern edge of Unit 2, where a 5.0 metre setback is proposed.

The site has a splayed frontage, meaning that this wall may be visually prominent and dominate the streetscape if allowed to remain. Accordingly, it is recommended that a condition of development consent be introduced to require this wall to be set back the required distance.

Balcony Depth

Clause 4.21 of Part B1 of DCP 2015 states the following with respect to balcony areas:

4.21 Council may allow dual occupancies to have an upper floor side or rear balcony solely where the balcony is not accessible from a living area or hallway, and the balcony design:

- (a) does not have an external staircase; and
- (b) does not exceed a width of 1.5 metres throughout; and
- (c) incorporates a form of screening to the satisfaction of Council such as partially recessing the balcony into the building.

The development has two rear facing first floor balcony areas, one to each unit. The proposed balconies satisfy the provisions of Clause 4.21, with the exception of the depth of the balcony areas, which are proposed at 2.0 metres. There is no reason why compliance cannot be achieved in this instance and so it is proposed that an appropriate condition of consent be imposed to reduce the depths of the balcony areas to a compliant 1.5 metres. Further, the balcony areas are not screened and it is considered reasonable to require screening to the side elevations of these balconies to prevent direct overlooking into No. 7 & 11 Ogilvie Street. This will also be dealt with by way of a suitable condition of consent.

Planning agreements [section 79C(1)(a)(iia)]

There are no planning agreements that apply to this application.

The regulations [section 79C(1)(a)(iv)]

The proposal does not raise any issues with respect to the Regulations.

The likely impacts of the development [section 79C(1)(b)]

The likely impacts of the development have been managed largely through the design of the development which is compliant with Council's planning controls, with the exception of variations to the setback and balcony depth requirements of DCP 2015, which will be brought into compliance with suitable conditions of consent. This leaves the non-compliance with the wall height provisions contained in LEP 2015 as the only unresolved non-compliance. However, as detailed earlier in this report, it is considered that the variation is minor and worthy of support.

There is the potential for privacy impacts arising from the need to elevate the ground floor level of the building above the 100 year flood level. The requirement of the Stormwater System Report obtained for this development is for a 500mm freeboard to be provided. This is provided for in this instance and, as a result of the minimal depth of water likely to be experienced in severe flood events, results in finished floor levels in the order of 500mm above natural ground level for the south-eastern unit and 870mm for the north- western unit.

The applicant has attempted to overcome this by the use of highlight windows or windows located below the fence line. Appropriate conditions are included in the attachment to this report to ensure that privacy is maintained to the immediately adjoining properties.

Suitability of the site [section 79C(1)(c)]

Subject to the imposition of conditions, as described in this report, the site is considered suitable for the development.

Submissions [section 79C(1)(d)]

The application was notified for two periods, each for 14 days. The first notification period occurred on submission of the development application and extended from 14 March 2016 to 28 March 2016. During this notification period, 6 submissions were received, including a petition containing 23 signatures. However, many of the submissions were from the same households, resulting in submissions being received from 2 households, plus the petition.

Following the receipt of amended plans, the application was re- notified for a further period of 14 days from 8 April 2016 to 22 April 2016. Two submissions were received during the second notification period, both from persons who objected to the proposal during the first notification period.

The issues raised in the objections are dealt with as follows.

Objection: The development will exacerbate existing car parking and maneuvering issues already present in the street.

Comment: The submissions suggest that the combination of the narrow nature of Ogilvie Street, which is in the order of 7.6 metres kerb to kerb, existing on street car parking, and parking problems experienced when Marco Reserve is being used, will all be made worse when the development is completed. The submissions claim that this will make normal resident access, emergency vehicle access, and garbage collection difficult.

LEP 2015 does not establish a minimum street width for the construction of a dual occupancy development. Pre- requisite zoning, site area and site width controls are contained in the LEP, and these controls are complied with in this instance. Accordingly, the site can be considered to satisfy the locational requirements for a dual occupancy development. The development complies with the provisions of Council's DCP with respect to the supply of on-site car parking and so claims that the development, because of a car parking generation of traffic generation, will have a negative impact on the road network, cannot be sustained.

Objection: Whether the site is large enough to accommodate the proposal.

Comment: As mentioned previously, the site complies with the minimum area and width requirements to allow a dual occupancy to be considered, and the proposal complies with the applicable floor space ratio control. Accordingly, it is not considered that the site is too small to accommodate the development.

Objection: Impact on sewerage infrastructure.

Comment: The impact of the development on water and sewerage infrastructure is a matter for Sydney Water and this is dealt with by way of the Section 73 Certificate process, which requires the developer to make application to Sydney Water prior to commencement of works to determine whether augmentation is required.

Objection: Potential privacy impacts

Comment: Earlier sections of this report have agreed that the rear facing first floor balconies have the potential to impact on the privacy of the eastern and western adjoining properties and No. 7 & 11 Ogilvie Street. Conditions of consent attached to this report recommend a reduction in balcony depth to one which is compliant with the provisions of DCP 2015, the introduction of privacy screening, and the treatment of certain windows. These conditions will adequately deal with potential privacy impacts.

Objection: Changing character of the area and social impacts.

Comment: The development is a permitted form of development within the zone, and like any permitted form of development, it can be reasonably expected that such development may occur in the locality. There is no evidence to suggest that dual occupancy development will create negative social impacts.

The public interest [section 79C(1)(e)]

The development is considered to be in the interests of the general public.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, and the relevant planning controls.

The proposed development complies with all applicable planning controls, with the exception of the wall height control established by LEP 2015, and the setback and balcony controls contained within DCP 2015. The latter variations will be corrected by appropriate conditions to achieve compliance with Council's planning controls. The minor breach of the wall height limit is the only unresolved variation and it is recommended that the applications request to vary the height standard be supported due to the minor nature of the exceedance of the height limit.

Whilst the application has attracted a number of submissions against the proposal, it is not considered that the matters raised in the submissions warrant refusal of the application. Therefore, approval of the development application is recommended.

ATTACHMENTS [Click here for attachments](#)

- A. Conditions of consent
- B. Locality Plan
- C. Site Plan
- D. Elevations and Sections
- E. Clause 4.6 submission
- F. Objector Plan

Planning Matters - 14 June 2016

ITEM 5.2	16 / 7 Birmingham Avenue, Villawood Fitout and Use of Premises as a Brothel
	S96AA Amendment: Modify Condition 7A to Allow an Extension of Time for the Construction of a New Driveway
FILE	DA-666/2009/3
ZONING	IN1 – General Industrial
DATE OF LODGEMENT	24 March 2015
APPLICANT	Habitat Design Studio
OWNERS	Wei Krausmann
AUTHOR	City Development

RECOMMENDATION

The application be approved, and Condition 7A be modified to allow an extension of time for the completion of the works associated with the amended driveway and car parking layout.

REPORT

In March 2009, Council refused DA-666/2009 which proposed the fitout and use of the subject premises as a brothel. Council's refusal was appealed by the applicant to the NSW Land and Environment Court. The Court upheld the applicant's appeal and granted consent to the application in August 2010, for a 12-month trial period.

This consent was subsequently modified to provide an additional 12-month trial period. The use was then granted permanent approval, subject to certain conditions including the requirement for a new driveway and parking layout to be provided within six (6) months to resolve issues concerning security arrangements. A separate development consent has been granted for the new driveway and parking layout, however the process has taken in excess of six (6) months. The current section 96 application seeks an extension of time for completion of these works.

The proposed modification maintains compliance with *Bankstown Development Control Plan 2005*, however is reported to Council for determination due to the nature of the use.

The application was publicly advertised and notified in accordance with the requirements of the *Bankstown Development Control Plan 2015*. This included an advertisement in the local newspaper 'The Torch'. A submission was made by the owner's corporation of the unit complex, requesting additional works to Unit 16 to achieve complete separation from the main strata complex.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

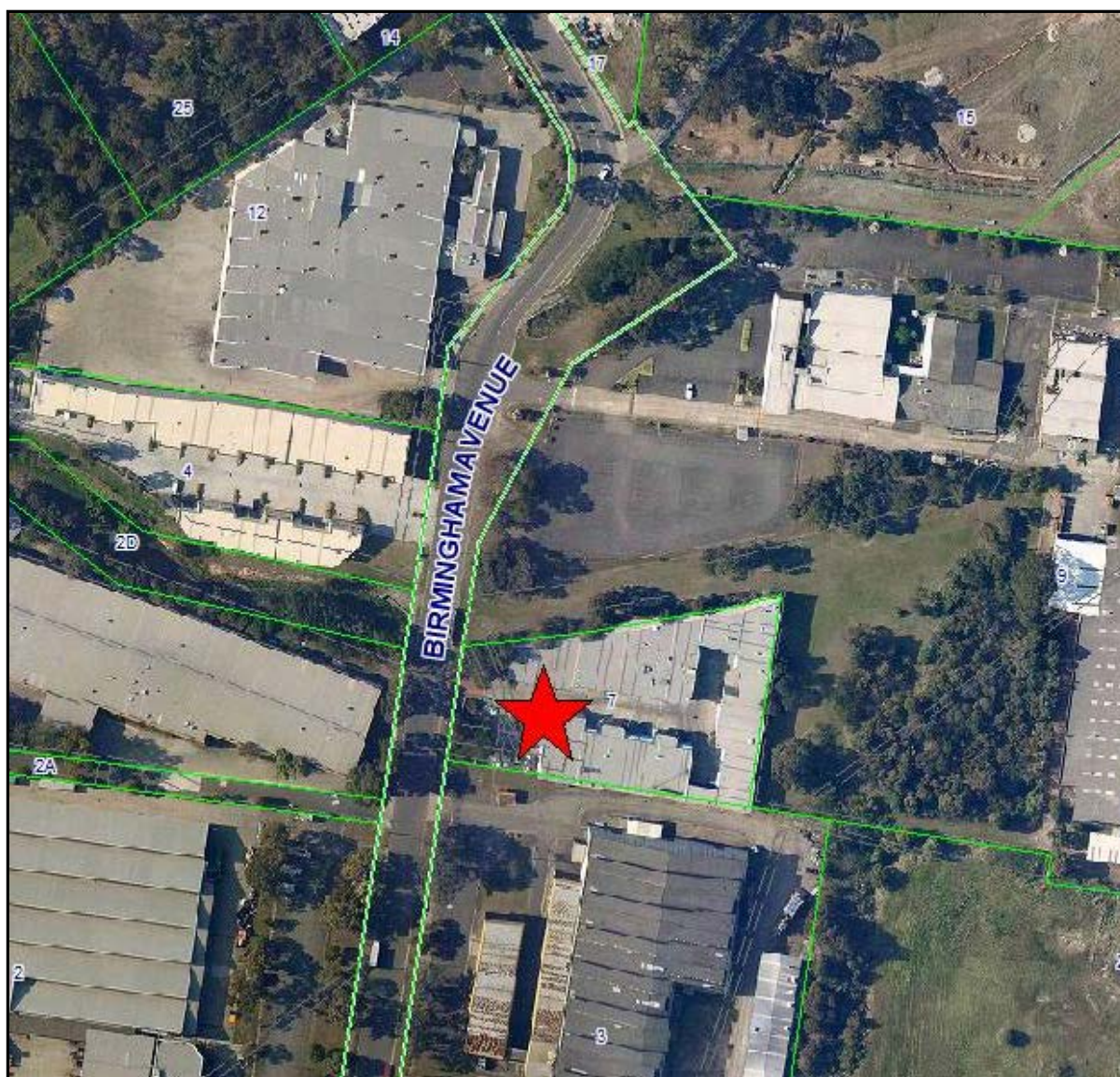
The application be approved, and Condition 7A be modified to allow an extension of time for the completion of the works associated with the amended driveway and car parking layout.

DA-666/2009/3 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as Unit 16/7 Birmingham Avenue, Villawood and is located at the front of a 16-unit industrial complex. The site is zoned IN1 – General Industrial and other units in the complex are occupied for various uses including manufacturing, warehousing, and vehicle repair.

Development surrounding the site comprises similar industrial developments. The Villawood Immigration Detention Centre is located approximately 130 metres north of the site. The aerial photo below shows the subject site and its surrounds.



PROPOSED DEVELOPMENT

This application seeks to modify a development consent that was granted in the NSW Land and Environment Court for the use of Unit 16 as a brothel. Section 96AA of the *Environmental Planning and Assessment Act 1979* enables Council to modify this consent.

Consent was originally granted for the brothel to operate for a 12-month trial basis. This consent was subsequently modified to provide an additional 12-month trial period. The use was then granted permanent approval, subject to certain conditions including the following which was imposed to resolve issues concerning security arrangements:

'7A. A new driveway is to be provided for the exclusive use of Unit 16 within six (6) months of the date of consent. The driveway is to have a width of 3 metres and must maintain a minimum 1 metre clearance to the existing substation. Any necessary changes to the car parking layout must be endorsed by the body corporate and would require separate approval from Council.'

A separate development application was lodged, and subsequently approved, for amendments to the driveway and parking arrangements at the front of the site. These amendments satisfy the design requirements of the condition noted above, however this process has taken in excess of six (6) months.

The current section 96 application seeks to extend the time period stated in Condition 7A, to allow for completion of the works associated with the amended driveway and car parking layout.

SECTION 96AA ASSESSMENT

The proposed modification has been assessed pursuant to section 96AA of the *Environmental Planning and Assessment Act 1979*.

(a) the development as modified is substantially the same development as the development for which the consent was originally granted

The proposed modification seeks to amend Condition 7A with respect to the time frame within which an amended driveway and parking layout is to be provided at the site. There are no proposed changes to the approved use of the premises. The development as proposed to be modified is therefore considered substantially the same as that approved under DA-666/2009.

(b) Has the application has been notified in accordance with the regulations or a development control plan?

The application was publicly advertised and notified in accordance with the requirements of the *Bankstown Development Control Plan 2015*. This included an advertisement in the local newspaper 'The Torch'.

(c) *Has each person who made a submission in respect of the relevant development application of the proposed modification been notified?*

The public notification of the application included each person who made a submission in respect of the original DA-666/2009.

(d) *Have any submissions been made concerning the proposed modification and have they been considered?*

A submission was made by the owner's corporation of the unit complex, requesting additional works to Unit 16 to achieve complete separation from the main strata complex. Consideration of this submission follows later in this report.

SECTION 79C ASSESSMENT

The proposed modification has been assessed pursuant to section 79C of the *Environmental Planning and Assessment Act 1979*.

Environmental planning instruments [section 79C(1)(a)(i)]

Although the original DA-666/2009 was approved under the *Bankstown Local Environmental Plan 2001*, this current section 96 application was lodged under the *Bankstown Local Environmental Plan 2015* and has been assessed accordingly. The following clauses of the *Bankstown Local Environmental Plan 2015* were taken into consideration:

- Clause 1.2 Aims of Plan
- Clause 2.3 Zone objectives and Land Use Table
- Clause 6.10 Location of sex services premises

An assessment of the application revealed that the proposed modification maintains compliance with the matters raised in each of the above LEP clauses. It is noted that the subject site is located in an area identified in the LEP within which 'sex services premises' are permitted with consent.

Draft environmental planning instruments [section 79C(1)(a)(ii)]

There are no draft environmental planning instruments applicable to the proposed modification.

Development control plans [section 79C(1)(a)(iii)]

Similar to the situation concerning the LEP, the original DA-666/2009 was approved under *Bankstown Development Control Plan 2005* however the current section 96 application was lodged and assessed under *Bankstown Development Control Plan 2015*.

The proposed modification does not involve any building works and does not seek to change any element of the approved use of the premises. There would therefore be no change to the level of compliance with the relevant provisions of the DCP.

For completeness, a summary of compliance with the relevant provisions contained in *Part B9* of the *Bankstown Development Control Plan 2015* is provided below.

STANDARD	PROPOSED	BDCP 2015 PART B9	
		REQUIRED	COMPLIES?
Distance to other brothels and restricted premises	Approx. 270m	Min. 200m	Yes
Proximity to a state road	Not located on nor within 100m of a state road	Not front or locate within 100m of a state road	Yes
No. of rooms	7	Max. 10	Yes
Distance to a residential or sensitive land use	Approx. 750m	Min. 100m	Yes
Car parking	11	11	Yes

Planning agreements [section 79C(1)(a)(iia)]

There are no planning agreements applicable to the proposed modification.

The regulations [section 79C(1)(a)(iv)]

The proposed modification is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

The likely impacts of the development [section 79C(1)(b)]

The application does not propose any building works and does not seek any intensification of the use of the premises. Hence the proposed modification would not have any adverse or unreasonable impact on the locality.

Suitability of the site [section 79C(1)(c)]

The ongoing use of the subject premises as a brothel is permitted with consent according to the provisions of the *Bankstown Local Environmental Plan 2015*. It has been demonstrated that the use is capable of operating without significant impacts on the surrounding area and it is held that the site remains suitable for the development.

Submissions [section 79C(1)(a)(d)]

The application was publicly advertised and notified in accordance with the requirements of the *Bankstown Development Control Plan 2015*. This included an advertisement in the local newspaper 'The Torch'. A submission was made by the owner's corporation of the unit complex, requesting additional works to Unit 16 to achieve complete separation from the main strata complex.

Objection: The roller shutter and exit door in the northern wall of Unit 16 should be completely blocked by a new wall so that complete separation of Unit 16 from the main complex can be achieved.

Comment: According to the provisions of the Environmental Planning and Assessment Act 1979, Council is unable to consider any modifications beyond what the applicant proposes. The subject section 96 application relates only to the modification of Condition 7A and the time within which the driveway and parking layout changes are to be completed. Any works to the existing roller shutter and exit door would have to be considered under a separate development application.

The public interest [section 79C(1)(a)(e)]

The proposed modification would not contravene the public interest. An amended driveway and parking layout would resolve a number of ongoing security issues for the strata complex, and it would be appropriate to allow additional time for this amended layout to be provided.

CONCLUSION

The proposed modification has been assessed in accordance with the provisions of section 96 of the *Environmental Planning and Assessment Act 1979* and the relevant provisions of the *Bankstown LEP 2015* and *Bankstown DCP 2015*.

There have been no issues identified that warrant a refusal of the application. An extension of time for the provisions of an amended driveway and parking layout would result in a positive outcome for the strata complex and its ongoing operations.

ATTACHMENTS [Click here for attachments](#)

- A. Conditions of Consent
- B. Locality Plan

Planning Matters - 14 June 2016

ITEM 5.3	226 Chapel Road, Bankstown Demolition of Existing Structures and Construction of a Six (6) Storey Mixed Commercial/Residential Development Comprising of One (1) Ground Floor Commercial Tenancy and Thirty-Seven (37) Residential Units, with At Grade and Basement Car Parking
FILE	DA-1084/2015
ZONING	B4 Mixed Use
DATE OF LODGEMENT	15 September 2015
APPLICANT	Global Project Engineers Pty Ltd
OWNERS	Bassam Chehade and Hussam Chehade
ESTIMATED VALUE	\$8,905,019
AUTHOR	City Development

RECOMMENDATION

The application be approved subject to the attached conditions.

REPORT

This matter is reported to Council due to a variation proposed to the amount of solar access to the dwelling on the adjoining southern property.

Development Application No. DA-1084/2015 proposes the demolition of all structures on site, and construction of a six (6) storey mixed use development comprising of one (1) ground floor commercial tenancy and thirty-seven (37) residential units with at grade and basement car parking, landscaping and associated site works.

The development application has been assessed against State Environmental Planning Policy No. 55- Remediation of Land, State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the associated Apartment Design Guide, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (a deemed SEPP), Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

The application was advertised and notified for a period of 21 days. Four objections from two households were received (two from each household). The application was then re notified for 21 days following the submission of amended plans. No submissions were received during the second notification period.

Of the four objections received concerns were raised in relation to traffic and car parking, overshadowing, visual privacy, impacts on the adjoining development, stormwater and sewerage capacity, land locking and fencing.

Despite the minor non compliances proposed and the objections received to the application, it is considered that the development application is an appropriate outcome in the context of the surrounding locality and has been recommended for support.

POLICY IMPACT

This matter has no direct policy implications. The proposed variation to the solar access requirements are appropriate in the context of the site, its surrounds and the legislation under which the DA has been assessed against.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

The application be approved subject to the attached conditions.

DA-1084/2015 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 226 Chapel Road, Bankstown. The site is a corner allotment and is generally rectangular in shape. The site is generally flat with a slight fall to the south east of approximately 500mm. The site has a primary frontage to Chapel Road measuring 31.85m, a secondary frontage to Cambridge Avenue measuring 41.97m with a total site area of 1516.8m².

The subject site contains a fruit shop with associated parking and signage. The site's use as a fruit shop was approved in 2006, previously the structures on site facilitated the use of the site for a purpose built service station. The site is zoned B4 Mixed Use and forms part of the Southern Central Business District (CBD) core. To the north (the corner allotment) is zoned B4 Mixed Use, to the north west, west and south of the site the surrounding area is zoned R4 High Density Residential while to the east land is zoned RE1 Public Recreation.

The site is bound by Chapel Road to the east with Memorial Oval immediately to the east of Chapel Road together with its associated infrastructure. Cambridge Avenue to the north contains a mixed commercial building to the north eastern corner. To the west of the subject site exists a one and two storey residential dwelling with associated residential structures, while the site to the south is occupied by a single storey cottage with its associated residential structures.

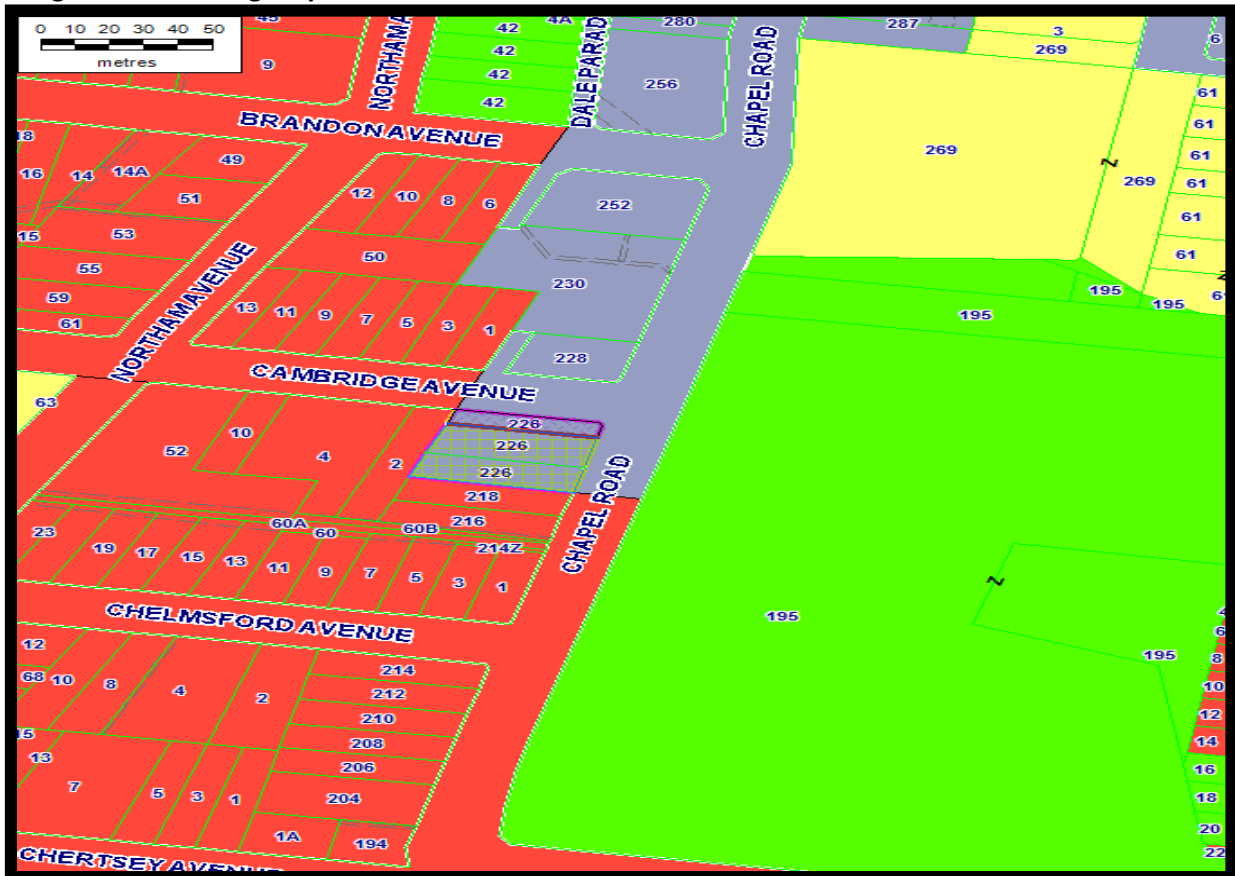
To the south exists two allotments 218 and 216 Chapel Road zoned R4 High Density containing single storey cottages and associated residential structures. No. 216 Chapel Road is bound to the south by a Sydney water channel. For the property located to the west at 2 Cambridge Avenue, a one and two storey dwelling occupies the site with the site to its west (4 Cambridge Avenue) containing a 3 storey brick residential flat building.

The site is located on the southern fringe of the Bankstown CBD, and this is evident in the split of business and residential zonings that are in place in the immediate area.

Image 1- Arial photo of the subject site



Image 1- Land zoning map



PROPOSED DEVELOPMENT

The Development Application proposes the demolition of all structures on site, and construction of a six (6) storey mixed use development comprising of one (1) ground floor commercial tenancy and thirty-seven (37) residential units with at grade and basement car parking, landscaping and associated site works.

The proposal has a ground floor containing on grade car parking, one (1) commercial tenancy and waste services facilities. Vehicular access for the residential units is located off Cambridge Avenue, with a commercial loading/access located off Chapel Road. The design incorporates a mix of materials and finishes including face brick, concrete, render and wood texture tiles.

The proposal has a mix of apartment sizes containing 8 x one (1) bedroom units, 25 x two (2) bedroom units and 4 x three (3) bedroom units, with levels 1-2 containing 8 units and level 3-5 contain 7 units per floor.

The first and second level proposes a consistent setback to the respective boundaries as outlined elsewhere in this report, with the third level providing an increased setback to the building wall, whilst utilising the transition space for private open space for each unit. The fourth and fifth floor maintain the building wall setback as established on level three.

The proposal does not contain a use in this application for the ground floor tenancy and will be subject to a future application.

SECTION 79C ASSESSMENT

The proposed development has been assessed pursuant to section 79C of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 79C(1)(a)(i)]

State Environmental Planning Policy No. 55 – Remediation of Contaminated Land

SEPP 55 requires the consent authority to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works.

The site has a history of commercial uses with the most recent use being a fruit shop. Prior to this, a service station operated from the site. The applicant has submitted an Environmental Assessment Report with analytical test results based on the works undertaken at the site in 2006 when the service station was decommissioned and use of the site for a retail fruit shop was submitted. The report notes the test results against the new National Environmental Protection Measures (NEPM) as updated in 2013. Council officers have reviewed the documentation and test results and are satisfied that the site is suitable subject to conditions of consent for the residential use.

It is therefore considered that the consent authority can be satisfied that the development site is suitable for the proposed development, in accordance with Clause 7 of SEPP 55.

Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment

It is considered that the proposed development will not significantly impact upon the environment of the Georges River, either in a local or regional context, and that the development is not inconsistent with the general and specific aims, planning principles, planning considerations and policies and recommended strategies.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65), and the Apartment Design Guide (ADG)

SEPP No. 65 applies to residential flat buildings having 4 or more units and 3 or more storeys. Accordingly the SEPP applies, and an assessment against the nine Design Quality Principles in SEPP 65 and the accompanying Apartment Design Guide (ADG) has been carried out.

The proposed development is considered to be consistent with the objectives and Design Quality Principles contained in the SEPP and ADG, and responds appropriately to the site's context. Moreover, the application generally conforms with the key 'design criteria' contained in the Apartment Design Guide, as illustrated in the table below.

'DESIGN CRITERIA'	PROPOSED	COMPLIES?
<p>3B-2 Overshadowing of neighbouring properties</p> <p>Solar access to living rooms, balconies and private open space of neighbours should be considered</p> <p>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures that solar access to neighbouring properties is not reduced by more than 20%</p> <p>If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond the minimums outlined in 3F</p> <p>Overshadowing should be minimised to the south or down hill by increased upper setbacks</p>	<p>The proposal will result in a reduction in solar access for the residential dwelling to the south.</p> <p>The adjoining site would currently receive three hours to 50% of three windows on the northern elevation of the dwelling.</p> <p>Setbacks to the south have not been increased in order to reduce any loss of solar access to the residential dwelling at 218 Chapel Road.</p> <p>The setbacks proposed are compliant to the southern side in accordance with the provisions of the ADG. For the applicant to amend the design to comply with solar access to the southern property, the single storey cottage at 218 Chapel Road, the proposal would have to increase the</p>	<p>No (see below)</p>

	<p>9m setback to wall containing habitable window/sliding doors</p> <p>Single balcony off unit 407 and 507 setback 8m to the balustrading located off a habitable room</p> <p><u>South</u></p> <p>Level 1, (ground floor) the proposal has provided at grade communal open space adjacent to the western boundary, no building wall</p> <p>Levels 2-3, 6m setback to a blank wall and balconies</p> <p>Levels 3, 9m to building walls containing windows and balconies setback at 6m or greater</p> <p>Level 5 -6, 9m setback to the building wall containing windows and balconies</p>	<p>No, discussed below</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>3J-1 Car Parking</p> <p>Minimum car parking requirement must be provided on site</p>	<p>54 spaces are provided, in excess of the minimum required under the Roads and Maritime Services (previously Roads and Transport Authority) Guide to Traffic Generating Developments, RTA 2002.</p> <p>The development was also found to comply with the minimum car parking requirements as contained in the BDCP 2015, Part B5.</p>	<p>Yes</p>
<p>4A-1 Solar access</p> <p>70% of units should receive 2hrs solar access between 9am – 3pm midwinter.</p>	<p>24 of 37 (65%) units receive 2hrs direct solar access between 9am – 3pm midwinter.</p>	<p>No. However this increases to 71% if upper floor units (units 505 and 506) with clerestory windows are included. While the Code discourages the use of skylights as a primary source of daylight, the Clerestory windows are considered an acceptable means of achieving solar access as they provide for opportunities for the units to have a natural source of sunlight light into the</p>

<ul style="list-style-type: none"> • Master Beds: 10m² min • Other beds: 9m² min • Bedrooms min dimension of 3m • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	All rooms achieve compliance	Yes
4E-1 Private Open Space 1 bed: Min 8m ² , 2m depth 2 bed: Min. 10m ² , 2m depth 3 bed: Min 12m ² , 2.4m depth to primary balconies. Ground level units: Min 15m ² , 3m depth	All units meet required minimum areas and dimensions.	Yes
4F-1 Internal circulation 1. Max. 8 units accessed from a single corridor. 2. For buildings 10 storeys and over, the maximum number of apartments sharing a single lift is 40	8 apartments on levels 2-3 accessed from a single corridor. 7 apartments on levels 4-6 accessed from a single corridor The proposal is a 6 storey residential flat building containing 37 residential units, one lift is proposed	Yes Yes Yes
4G-1 Storage 1 beds: 6m ³ , 2 beds: 8m ³ , 3 beds: 10m ³ (At least half to be provided within the unit)	All units provided with sufficient storage, and at least half provided within the unit	Yes

The following comments are provided in respect to the departures as identified in the table above:

Overshadowing of neighboring properties

The proposed development will result in the adjoining single-storey dwelling immediately to the south at No. 218 Chapel Road being significantly overshadowed at the winter solstice (21 June). Living area windows to the adjoining dwelling will not receive direct solar access for two hours.

In this instance, it is important to consider the planning principle established by the Land Environment Court of NSW, firstly by Senior Commissioner John Roseth, and subsequently updated by Senior Commissioner Tim Moore.

Both senior commissioners felt that, *“in areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered, as well as the existing development”* and *“at higher densities, sunlight is harder to protect and the claim to retain it is not as strong”*. Furthermore *“overshadowing arising out of poor design is not acceptable... The poor quality of a proposal’s design may be demonstrated by a sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours”*, and each of these elements form part of the planning principle on how the Court assesses solar access.

The living area windows of the dwelling occupying No. 218 Chapel Road are located along the northern elevation, towards the front of the dwelling. The western elevation is covered by a significant awning and verandah. The eastern elevation contains two windows, one to the south east is a small sitting room with the north western window being to a bedroom. The living area window along the eastern elevation would currently receive little solar access with sunlight between 8am and approximately 10am, with only those windows along the northern elevation receiving substantial solar access.

The construction of a 6-storey mixed use building on the property immediately to the north will result in a significant level of overshadowing of the existing dwelling at No. 218 Chapel Road, despite the provision of a compliant setback of at least 6m from the common boundary between the development and adjoining site.

In this instance, the dwelling at No. 218 Chapel Road, will be overshadowed to a significant degree at the winter solstice (21 June). The three (3) living area windows on the north elevation of the dwelling would currently receive three (3) hours to at least 50 percent of the windows between 9am and 12pm. The living area windows on the northern elevation of the adjoining dwelling will not receive any direct solar access as a result of the proposed development. It should be noted that the dwelling will still receive sunlight in the morning on 21 June at the front (east) of the dwelling (from 8am until 10am), but this light will be to a bedroom and not to a living area as is generally accepted as the minimum standard. The private open space provided to No. 218 Chapel Road will receive solar access to 50% from 1pm onwards, increasing through the day when measured at both the winter solstice (21 June) and the equinoxes (21 March and 21 September).

The development is considered to be of good design and generally compliant with the requirements of building separation and design. The subject site is zoned B4 Mixed Use and is located on the southern fringe of the CBD, with the sites immediately adjoining the subject site to the west and the south transitioning to R4 High Density Residential (previously 2(b) Residential). On sites bordering zone changes containing existing forms of residential developments it is expected that there will be some difficulty in ensuring all aspects of existing low density residential development “expectations” will be achieved. It’s important to note that the planning principal also recognises the difficulty in achieving solar access stating *“at higher densities sunlight is harder to protect and the claim to retain it is not as strong”*.

Whilst 218 Chapel Road retained a high density zoning under the BLEP 2001 and under the BLEP 2015 (2(b) Residential, now R4 High Density Residential) the existing built form is that of a low scale residential nature and makes compliance with the development controls for single dwelling amenity difficult to achieve.

Whilst the adjoining dwelling immediately to the south of the subject site will be overshadowed by the proposed development, it is considered that the proposed development will still allow for an appropriate level of amenity to the single-storey dwelling. Solar access is still provided to the dwelling, albeit not to a living area. The setback of the development will still allow for natural light to the living area windows of the adjoining dwelling, albeit not direct solar access, and the private open space provided to the dwelling will have access to sunlight to 50 percent of its area from 1pm onwards in midwinter. As such, it is considered that the issue of overshadowing is not of significant weight to justify a refusal of the application, and that the good design outcome achieved by the proposed development is worthy of support in this instance.

Setbacks

It is considered that the design of the development meets the side and rear setback objectives of the ADG and is assessed as being satisfactory subject to a condition to install a privacy screen to the widest section of a number of the balconies for a length of two metres. The balconies to both Unit 407 and 507 will have privacy screening, making it difficult to look directly into areas of adjoining residential properties, specifically 2 Cambridge Avenue. The balconies generally orientate towards the north west, with the installation of the privacy screening restricting the significant views to the western property.

In light of the above, the proposal ensures that an appropriate degree of visual privacy is maintained to the adjoining properties and for future residents. Despite the numerical non-compliances, sufficient separation and visual privacy is achieved to each boundary due to the use of architectural treatments and floor plan layout and is considered worthy of support subject to a condition in regards to privacy screening.

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

A valid BASIX Certificate accompanies the Development Application. The Certificate details the thermal, energy and water commitments which are also detailed on the submitted plans. The proposal satisfies the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and is supported in this instance.

Bankstown Local Environmental Plan 2015

The following clauses of *Bankstown Local Environmental Plan (BLEP) 2015* are relevant to the proposed development and were taken into consideration:

Clause 1.2 – Aims of Plan
Clause 2.1 – Land use zones
Clause 2.2 – Zoning of land to which Plan applies
Clause 2.3 – Zone objectives and Land Use Table
Clause 2.7 – Demolition requires development consent
Clause 4.3 – Height of buildings
Clause 4.4 – Floor space ratio
Clause 4.5 – Calculation of floor space ratio and site area
Clause 5.9 – Preservation of trees or vegetation
Clause 6.1 – Acid sulfate soils
Clause 6.2 – Earthworks
Clause 6.3 – Flood Planning

An assessment of the development application has revealed that the proposal complies with the matters raised in each of the above clauses of *Bankstown Local Environmental Plan 2015*.

The below table is provided to demonstrate the proposals compliance with the numerical controls as set out in the BLEP 2015.

STANDARD	PROPOSED	BLEP 2015 COMPLIANCE
Clause 4.3 Height	21m proposed	Yes (23m max)
Clause 4.4 FSR	2:1 proposed	Yes 2:1

Draft environmental planning instruments [section 79C(1)(a)(ii)]

There are no draft environmental planning instruments that are applicable in this instance.

Development control plans [section 79C(1)(a)(iii)]

The following table provides a summary of the development application against the controls contained in Part A1 and B5 of the Bankstown Development Control Plan 2015.

STANDARD	PROPOSED	PART A1 and B5 of BDCP 2015		BLEP 2015 COMPLIANCE
		REQUIRED	COMPLIANCE	
Part A1 Centres				
Primary and secondary setback	<p>East Level 1 (Ground Floor) setback 3m to Building wall for both residential and commercial</p> <p>Levels 2-6, setback to balcony balustrade at closet is 3m</p> <p>North Level 1 (Ground Floor), 3m setback to the building wall or greater</p> <p>Levels 2-6, 1.8m to balcony balustrade at closest point on the north eastern corner element only, setback 3m to the building wall across the elevation and to the balustrading elsewhere on the elevation.</p>	3m min required	No, a corner feature has been included in the design which protrudes 1.2m into the 3 setback and is discussed below.	N/A
Part B5 Parking				
Car Parking	<p>Commercial area Commercial area 77sqm $77 / 40 = 1.925$</p> <p>B4 mixed use rate</p> <p>$37 \text{ units} \times 1$ (minimum) = 37</p> <p>$37 \times 3 = 111$ (maximum)</p> <p>1 visitors space per 5 dwellings $37/5 = 7.4$</p> <p>Total (assuming the minimum) $37 + 7.4 + 1.925 = 46.32$ (46) Required</p> <p>Total (assuming the maximum) $111 + 7.4 + 1.925 = 120.32$ (120) required</p>	<p>Bankstown CBD 1 car space per 40m² of half the gross floor area of the premises; and a planning agreement is considered on the remaining 50% of parking requirements for the purpose of Public parking.</p> <p>In Zone B4 A minimum of 1 car space and a maximum of 3 car spaces per dwelling; and 1 visitor car space per 5 dwellings.</p>	Yes – proposed 54 car parking spaces	N/A

Setback

The non-compliant setback is a function of the site's location at the fringe of the southern frame of the CBD. It is typical for developments that address a corner in a commercial environment to provide building elements that reinforce the corner with a reduced setback, and this site is no different.

The proposal seeks to provide a 1.8m setback to the north eastern corner of the building for a distance of 8m along the northern frontage running to the west. The balcony design as proposed has been included to allow for a corner feature and to enhance the visual aesthetics of the design proposed. The design provides for visual interest and a high quality finish to the overall development. It is considered from an urban design perspective there is merit in allowing the reduced setback proposed in this instance, and no planning consequences arise from allowing this departure.

Planning agreements [section 79C(1)(a)(iia)]

There are no planning agreements applicable to this development application.

The regulations [section 79C(1)(a)(iv)]

The proposed development is not considered to be inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

The likely impacts of the development [section 79C(1)(b)]

The proposed development is not considered likely to result in any significant detrimental environmental, social or economic impacts on the locality. As detailed in this report, where non-compliances with the relevant development controls and/or the 'design criteria' in the ADG occur, they have been addressed and are considered worthy of support subject to conditions when required, with limited impact as a result. As such, it is considered that the impact of the proposed development on the locality will be acceptable.

Suitability of the site [section 79C(1)(c)]

The site is considered suitable for the proposed development.

Submissions [section 79C(1)(d)]

The application was advertised and notified for a period of 21 days. Four objections from two households were received (two from each household). The application was then re notified for 21 days following the submission period of amended plans. No submissions were received during the second notification period.

Of the four objections received concerns were raised in relation to traffic and car parking, overshadowing, visual privacy, impacts on the adjoining development, stormwater and sewerage capacity, land locking and fencing.

Objection: Concerns are raised over the limited solar access to the dwelling on the southern property and to the rear yard and the impacts it will have on the residents

Comment: As outlined earlier in the report the matter has been assessed and is considered the impact of solar access can be supported in the context of the site and the surrounding area.

Objection: *Concerns are raised over the issue of stormwater and sewerage capacity and potential impacts that may occur as a result of flooding after it rains.*

Comment: The proposal has been assessed and conditions of consent imposed to manage stormwater runoff from the proposed development in accordance with the Bankstown Development Engineering Standards. It is not considered the proposal should produce any significant negative impact by way of run off as a result of the engineering design put forth.

In regards to the capacity of Sydney water in relation to the sewer, the consent will include a condition to obtain a Section 73 certificate and Sydney water will assess the proposal and capacity of the infrastructure as required.

Objection: *Concerns are raised over the impact of the proposal on car parking and congestion of the local area*

Comment: The proposal has been assessed in accordance with SEPP 65 - Apartment Design Guidelines which states that, if the site is located within 800m of a train station the development can utilise the Guide to Traffic Generating Development, or the applicable DCP whichever is the lesser.

In accordance with the Guide to Traffic Generating Development a minimum of forty-two (42) spaces and in accordance with the BDCP 2015 Part B5, a minimum of forty-six (46) spaces are required to be provided.

For this site the proposal must comply with the Guide to Traffic Generating Development requirement of 42 car parking spaces.

The proposal provides for fifty four (54) car parking spaces on site. As such it is considered the impact of the proposal in terms of car parking will be minimal as the proposal provides in excess of the parking as required on site.

In terms of traffic congestion a Traffic and Parking Impact Assessment has been submitted and reviewed. Access to the site for residential units has been located on Cambridge Avenue with limited retail access proposed off Chapel Road. The proposal has been reviewed and it is considered the impact of the proposed traffic generation has been shown to have no detrimental impact on the road network and residential amenity surrounding the site.

Objection: *A concern is raised over the potential damage to the adjoining property's footings during construction of the proposal at 226 Chapel Road*

Comment: It is recommended that a condition be imposed requiring that a dilapidation report be prepared prior to the commencement of any work, detailing the existing condition of all adjoining properties. A copy of the report shall be

provided to all adjoining owners and any damage caused during the construction process will be the responsibility of the developer to rectify at their cost.

Objection: Loss of privacy from the proposed building

Comment: The setbacks of at least 6m are consistent with the ADG in terms of achieving appropriate visual privacy, and it is a function of the proposed high-density development adjoining a low-density dwelling that exacerbates the perception of privacy loss. Balcony locations and layouts are such that it is considered there will be minimal impact on privacy afforded to adjoining properties to the south.

Objection: Approval of the application will result in land locking of the property to the west (2 Cambridge Ave) and devaluing of properties

Comment: As outlined earlier in the report, the subject site is zoned B4 Mixed use, whilst the adjoining properties to the west and south are zoned R4 High density development.

The subject site is currently occupied by a commercial development and the approval of this application is not expected to result in any changes to the current ability of the adjoining sites to be developed.

Objection: We would like a reasonably high, brick fence to be built on the boundary to replace the existing rotting timber fence to the western boundary to assist in preventing the spread of fire between the developments and adjoining sites.

Comment: A condition has been placed on the consent requiring the developer to replace all existing boundary fencing with a lapped and capped or sheet metal fence at a height of 1.8m.

The proposal has been designed in accordance with the Building Code of Australia and it is not considered a brick fence is required to ensure that the spread of fire is minimised between properties as a result of the proposed development.

The public interest [section 79C(1)(e)]

Approval of the proposed development is not considered to contravene the public interest.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the *Environmental Planning and Assessment Act, 1979* requiring, amongst other things, assessed against State Environmental Planning Policy No. 55- Remediation of Land, State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the associated Apartment Design Guide, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (a deemed SEPP), Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

Subject to the imposition of conditions to address minor matters, the assessment of the application has found that the development is generally capable of complying with the relevant development controls and requirements. It is considered that the development application is an appropriate outcome in the context of the surrounding locality.

ATTACHMENTS

[Click here for attachments](#)

- A. Conditions of Consent
- B. Locality Plan
- C. Site Elevations
- D. Objector's Map

Planning Matters - 14 June 2016

ITEM 5.4	1 Baltimore Street, Belfield - Demolition, Removal of Trees and Construction of Secondary Dwelling
FILE	DA-620/2015
ZONING	R3 Medium Density Residential under Canterbury Local Environmental Plan 2012
DATE OF LODGEMENT	15 December 2015
APPLICANT	Boris Grgurevic & Associates Pty Ltd
OWNERS	Est Late Peter Bakhos and Mrs Rita Yaacoub Bakhos
AUTHOR	City Development

ISSUE

- A Development Application has been received for the construction of a secondary dwelling.
- The proposal relates to a 'secondary dwelling', which is permissible in the R3 Medium Density Residential Zone under the State Environmental Planning Policy (Affordable Rental Housing) 2009.
- The application has been assessed against the relevant provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy 2004 (Building and Sustainability Index: BASIX), Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012. The proposed development is referred to the City Development Committee as it involves a non-compliance with State Environmental Planning Policy (Affordable Rental Housing) 2009, with respect to minimum frontage. This is discussed in the body of this report.
- In accordance with Part 7 of the CDCP 2012, all owners and occupiers of adjoining properties were notified of the proposed development. During the notification period, no submissions were received in relation to the proposal.
- It is recommended the application be approved subject to conditions.

BACKGROUND

Site Details

The subject site, identified as 1 Baltimore Street, Belfield (Lot 6 DP 501360), is situated on the eastern side of Baltimore Street, Belfield. The site is a regular shaped allotment, with an area of 550.1m² and a frontage of 10.055 metres to Baltimore Street. The site contains an existing single storey dwelling. The surrounding area is characterised by single and double storey residential dwellings.



Aerial view of site

Proposal

The proposal seeks consent for the demolition of an existing garage, removal of trees and construction of a secondary dwelling to the rear of the site. The proposed secondary dwelling will have a gross floor area of 60m², comprising two bedrooms, one bathroom and an open plan living and kitchen area. A single space garage is also proposed to be attached to, but internally accessible from the proposed secondary dwelling.

Statutory Considerations

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

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

REPORT

Assessment

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

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

An assessment against the provisions of Clause 22 of the ARH SEPP 2009 is provided below:

Standard	Required	Proposed	Complies
Number of dwellings on site	Primary and secondary dwellings only	One primary and one secondary dwelling	Yes
Floor Space Ratio	0.5:1	0.28:1	Yes
Floor Space of Secondary Dwelling	Max 60m ²	60m ²	Yes
Minimum site area	450m ²	550.1m ²	Yes
Required parking for secondary dwelling	No additional parking required	No car parking proposed for the secondary dwelling. Parking is only provided for the existing principal dwelling.	Yes

An assessment against the provisions of Schedule 1 Development standards for secondary dwellings of the ARH SEPP 2009 is provided below:

Standard	Required	Proposed	Complies
Site and Lot Requirements			
Number of dwellings	Primary and secondary dwellings only	One primary and one secondary dwelling	Yes
Boundary with primary road	Site shall have a boundary with a primary road, measured at the building line, of at least 12 metres.	10.055m	No – see comment [1] below
Access to primary road	A lot on which a new secondary dwelling is erected must have lawful access to a public road.	The subject site has lawful access to Baltimore Street.	Yes
Maximum site coverage of all development			
Site coverage	50% (225m ²)	33% (181.200m ²)	Yes
Maximum floor area for principal and secondary dwelling			
Maximum floor area	60m ²	60m ²	Yes
Total floor area	330m ²	182.200m ²	Yes
Setbacks and maximum floor area			
Balconies, decks, patios, terraces and verandahs	The total floor area of all balconies, decks, patios, terraces and verandahs on a lot must not be more than 12 square metres if: (a) any part of the structure is within 6 metres from a side, or the rear, boundary, and (b) the structure has any point of its finished floor level more than 2 metres above ground level (existing).	The proposed structure is within 6 metres of the rear boundary, however no point of the finished floor level exceeds 2 metres above existing ground level. As such, this control does not apply.	N/A
	The balcony, deck, patio, terrace or verandah must not have any point of its finished floor level: (a) if it is located within 3 metres of a side, or the rear, boundary—more than 2 metres above ground level (existing).	The proposed deck is 300mm above existing ground level.	Yes

Standard	Required	Proposed	Complies
Building height			
Building height	8.5 metres.	4.5 metres	Yes
Setbacks from side boundaries			
Side setbacks	0.9 metres	NW side: 0.9 metres SE side: 1.0 metre	Yes Yes
Setbacks from rear boundaries			
Rear setbacks	3 metres	4 metres	Yes
Privacy			
Privacy relating to habitable room windows	A window in a new secondary dwelling, or a new window in any alteration or addition to an existing principal dwelling for the purpose of a new secondary dwelling, must have a privacy screen for any part of the window that is less than 1.5 metres above the finished floor level if: (a) the window: is in a habitable room that has a finished floor level that is more than 1 metre above ground level (existing), and (ii) has a sill height that is less than 1.5 metres above that floor level, and (iii) faces a side or rear boundary and is less than 3 metres from that boundary, or	The proposed finished floor level is a maximum of approximately 300mm above existing ground level. As such, this control does not apply.	N/A
Landscaping			
Landscaped area	20% of the site area is to be landscaped (or 110m ²)	20.5% (113.27m ²)	Yes
	50% of landscaped area behind building line.	90% of landscaped area or 101m ² is located behind the building line	Yes
	The landscaped area must be at least 2.5 metres wide.	The landscaped area is at least 4 metres wide	Yes
Principal Private Open Space			
Principal private open space	Minimum principal private open space of 24m ²	Private open space 40m ² for each dwelling unit	Yes
	Principal private open space must be: (a) directly accessible from, and adjacent to, a habitable room, other than a bedroom, and (b) more than 4 metres wide, and (c) is not steeper than 1:50 gradient.	The principal private open space is directly accessible from the living areas of the principal dwelling and secondary dwelling, exceeds 4m in width and the area is flat.	Yes

[1] Site frontage

The proposed development complies with the controls contained in the ARH SEPP, with the exception of minimum frontage.

Part 2(2)(1)(b) of Schedule 1 of the ARH SEPP stipulates that sites shall have a boundary with a primary road, measured at the building line, of at least 12 metres. The proposed frontage to Baltimore Street is 10.055m metres, which does not comply with this control. While no objectives are contained in the ARH SEPP, our DCP states that the aims of the minimum frontage controls are to ensure that land is appropriate in size and dimension for the proposed building, there is adequate garden area and that appropriate vehicle access can be accommodated. The proposed secondary dwelling is modest in scale, provides reasonable separation to adjoining development, whilst providing opportunities for landscaped open space. There are no implications on vehicle access arrangements as no changes have been proposed as part of this application.

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

- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)**
 The BASIX commitments outlined in Certificate No. 653420S, dated 14 December 2015, include landscaping, installation of water-saving devices, construction of the floor, walls and ceiling/roof in accordance with the specifications, glazing, lighting and ventilation. A condition shall be imposed on the consent requiring compliance with the submitted BASIX certificate.
- Canterbury Local Environmental Plan 2012 (CLEP 2012)**
 The site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012 (CLEP 2012). Secondary dwellings are not a permissible use within the R3 Zone under CLEP 2012. However, secondary dwellings are permissible under the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP). Accordingly, the proposal shall be assessed under the provisions of the ARH SEPP. The controls applicable to this application are:

Standard	Requirement	Proposal	Complies
Zoning	R3 Medium Density Residential	The proposed secondary dwelling is not a permissible use within the R3 Zone	No *
FSR	0.5:1	0.28:1	Yes
Building height	8.5m	4.5m	Yes

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

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

- Canterbury Development Control Plan 2012 (CDCP 2012)**
 The proposal compares to the relevant provisions of Part 2 of the Canterbury Development Control Plan 2012 as follows:

Standard	Required	Proposal	Complies
Streetscape	Compatibility with existing scale, rhythm of built elements, fenestration and building materials, street edge.	The proposed secondary dwelling is situated in the rear setback and shall not be visible from Baltimore Street	Yes
Side setbacks for dwellings on narrow lot	900mm	North-Western side: 0.9 metre South-Eastern side: 1 metre	Yes Yes
Maximum height	Maximum external wall height 7m and two storeys.	2.8m One storey	Yes Yes
Car parking spaces	Two spaces behind building line for principal dwelling, nil required for secondary dwelling.	Car parking is provided by a garage on site for the existing dwelling accessed along the side driveway. This is to be removed and newly replaced, attached to the Secondary dwelling and used in association with the existing dwelling. As no changes are proposed to the façade of the existing dwelling, and no additional car parking is required for the proposal, it is deemed acceptable in this regard.	Yes

Part 6.2 - Climate, energy and resource efficiency

The proposed secondary dwelling is a single storey, and as such, is not considered to result in overshadowing on adjoining properties.

Part 6.4 - Development Engineering, Flooding and Stormwater

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

Part 6.6 - Landscape

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

- **Canterbury Development Contributions Plan 2013**

The application requests consideration for the construction of a secondary dwelling. In accordance with Section 94 Contributions Plan 2013, the proposed development attracts a contribution of \$4,406.32. This will be included as a condition of development consent.

Other Considerations

- **Garage**

In addition to the proposed secondary dwelling, the application is seeking our consent to construct a single space garage at the rear of the site (accessible from the existing driveway) but attached to the proposed Secondary Dwelling. The garage complies with our controls for garages/outbuildings as follows.

Required	Proposal	Complies
Maximum height 4.8m	3.7m	Yes
Maximum external wall height 3.5m	2.7m	Yes
Maximum width of 6m	6m	Yes

Required	Proposal	Complies
Height of buildings map 8.5m limit	Applies to this site	Yes

The location of the garage to be attached to the secondary dwelling is problematic as an internal entry way from the garage into the secondary dwelling is feasible, thereby increasing the Gross Floor Area of the secondary dwelling to exceed our controls. However the plans clearly show the garage as being separate from the secondary dwelling by a fire rated wall, thereby preventing internal access.

A condition of consent is recommended to ensure the garage is suitably fire separated and is not internally accessible via the Secondary Dwelling.

- **Sediment and Erosion Control**

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

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

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

- **Suitability of Site for the Development**

The proposed development is permissible in the subject site's current zoning under the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009. The proposal has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act, 1979 and, as demonstrated throughout the body of this report, the proposal generally complies with the provisions of all relevant state environmental planning policies, development control plans, codes and policies with the exception of the control relating to building separation.

Notification

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

Conclusion

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

POLICY IMPACT

The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION

Development Application DA-620/2015 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:
 - Fire Separation between garage and secondary dwelling
 - 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:

Damage Deposit	\$1814.00
Certificate Registration Fee	\$36.00
Long Service Levy	\$347.70
Development Contributions	\$4,406.32
 - 1.5. If you appoint Council as your Principal Certifying Authority, the following fees are payable:

Construction Certificate Application Fee	\$1233.00
Inspection Fee	\$832.00
Occupation Certificate Fee	\$161.00

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

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

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

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

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

BEFORE COMMENCING THE DEVELOPMENT

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

INSURANCE

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

SITE SIGNAGE

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

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 Occupational Health and Safety Regulation 2001.
 - (d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
 - (e) Demolition of buildings is only permitted during the following hours:
7.00 a.m. – 5.00 p.m. Mondays to Fridays

7.00 a.m. – 12.00 noon Saturdays

No demolition is to be carried out on Sundays or Public Holidays.

- (f) Burning of demolished building materials is prohibited.
- (g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
- (h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
- (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
- (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
- (k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
- (l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).
- (m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
- (n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of Australian Standard AS2601-2001: Demolition of Structure. Note: For further advice you may wish to contact the Global Lead Advice and Support Service on 9716 0132 or 1800 626 086 (freecall), or at 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 prepared by:

Drawing No.	Plan Name	Revision	Dated
1 of 4	Site, Drainage & Sediment Control Plan	Rev 2 – DA Submission	14-12-15
2 of 4	Floor Plan	Rev 2 – DA Submission	14-12-15
3 of 4	Elevations	Rev 2 – DA Submission	14-12-15
4 of 4	BASIX Notes	Rev 2 – DA Submission	14-12-15

- Waste Management Plan, prepared for 1 Baltimore Street, Belfield, dated 12 August 2015;

- Schedule of External Colours and Finishes, Prepared for 1 Baltimore Street, Belfield.
 - BASIX Certificate Nos. 653420S dated Monday 14 December 2015
- 6.1 At no point is an internal connection, (e.g. a door) to be made between the garage and the Secondary Dwelling.

7. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The amount of the contribution (as at the date of this consent) has been assessed as \$4,406.32. The amount payable is based on the following components:

Contribution Element (2013)	Contribution
• Community Facilities	\$398.48
• Open Space and Recreation	\$3,895.94
• Plan Administration	\$111.90

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

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

8. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
9. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00a.m.-5.00p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays.
10. All building construction work must comply with the National Construction Code.
11. Under clause 97A(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:
- 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
 - if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."
12. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
13. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.

14. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
15. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
16. 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.
17. Stormwater from roof areas must be linked via a temporary downpipe to a council approved stormwater disposal system immediately after completion of the roof area.

SYDNEY WATER REQUIREMENTS

18. The approved plans shall be submitted to the appropriate Sydney Water Quick Check agent OR from November 2015, via a new online service Sydney Water Tap in; 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 by the agent OR a receipt will be issued from Sydney Water Tap in.
For Quick Check agent details or access to Sydney Water Tap in visit Sydney Water's web site at www.sydneywater.com.au/SW/plumbing-building-developing/building/quick-check-agents, 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 or a receipt has been issued from Sydney Water Tap in before the issue of any Construction Certificate. Quick Check agents will stop processing approvals from 1 December 2015.

ENGINEERING

19. 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:
 - 19.1 Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines discharged by gravity to the kerb and gutter of a public road. All downpipes, pits and drainage pipes shall be installed in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's DCP2012, Part 6.4.
 - 19.2 Any existing component of the stormwater system that is to be retained must be checked and certified by a Licensed Plumber or qualified practicing Civil Engineer to be in good condition and operating satisfactorily. If any component of the existing system is not in good condition and /or not operating satisfactorily, it must be upgraded.
 - 19.3 All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage.
 - 19.4 Total impervious areas on the site must not exceed 75% of the lot area. 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.
20. 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.
21. 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.
22. 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.

23. 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.
24. 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.
25. The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 – Car-parking Facilities".

LANDSCAPING

26. The existing street tree is to be retained and protected during demolition and construction. A tree protection zone (TPZ) of 2 metre radius (measured from the edge of the tree trunk) must be observed. A tree protection barrier is to be erected around the perimeter of the TPZ prior to the commencement of any site works. This barrier must be a minimum 1800mm high chain link fabric (with standard 50mm pitch) on 2400mm star pickets driven 600mm into the ground so that the fencing cannot be breached. A 600mm x 450mm prohibition sign complying with AS1319, and stating 'TREE PROTECTION ZONE – KEEP OUT' must be attached to the barrier. The barrier is to be well maintained during construction. No building material storage or construction activity shall be allowed to encroach within this TPZ.
27. The existing property trees x 5 nominated to be removed as identified on the Site Plan (prepared by Boris Grgurevic & Assoc. and submitted to council on 15th December 2015) may be removed to accommodate construction. This is conditional on the replacement planting of 2 x 75ltr Australian native trees. One to be planted in an appropriate position in the front yard and one to be planted in an appropriate position in the rear yard.
28. All other property trees must be retained and protected during construction. A tree protection zone (TPZ) of 2m radius minimum (measured from the edge of the tree trunks) must be observed. A tree protection barrier is to be erected around the perimeter of the TPZ prior to the commencement of any site works. This barrier must be a minimum 1800mm high chain link fabric (with standard 50mm pitch) on 2400mm star pickets driven 600mm into the ground so that the fencing cannot be breached. A 600mm x 450mm prohibition sign complying with AS1319, and stating 'TREE PROTECTION ZONE – KEEP OUT' must be attached to the barrier. The barrier is to be well maintained during construction.

CRITICAL INSPECTIONS

29. 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):

- 29.1. at the commencement of the building work, and
- 29.2. after excavation for, and prior to the placement of any footings, and
- 29.3. prior to paving any in-situ reinforced concrete building element, and
- 29.4. prior to covering of the framework for any floor, wall, roof or other building element, and
- 29.5. prior to covering waterproofing in any wet areas, and
- 29.6. prior to covering any stormwater drainage connections, and
- 29.7. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

30. 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

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

WE ALSO ADVISE

32. This application has been assessed in accordance with the National Construction Code.
33. 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.
34. 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
 - Waterproofing
 - Glazing
 - Protection from termites
 - Smoke alarms
 - BASIX completion
35. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
36. 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.
37. 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.
38. 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.
39. 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.
40. If you are not satisfied with this determination, you may:
- 40.1. 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
 - 40.2. 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.

ATTACHMENTS

[Click here for attachments](#)

- A. Locality Map
- B. Site Plan
- C. Elevations

Planning Matters - 14 June 2016

ITEM 5.5	44 Dennis Street, Lakemba - Demolition, Construction of Two Storey Dwelling and Detached Secondary Dwelling
FILE	DA-478/2015
ZONING	R3 Medium Density Residential
DATE OF LODGEMENT	9 October 2015 (Amended information received on 11 January 2016, 24 February 2016, 7 March 2016 and 27 April 2016)
APPLICANT	Austral Build Pty Ltd
OWNERS	Mr Hassan Nahid and Ms Ferzana Tehseen
AUTHOR	City Development

ISSUE

- The Development Application proposes the demolition of existing structures and the construction of a two storey dwelling and a secondary dwelling at the rear of the site.
- This application has been referred to the City Development Committee because it seeks a variation of 16% to our minimum site width control.
- 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 controls in Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012 and seeks variation from our minimum site width. This issue of non-compliance is discussed in the body of this report.
- In accordance with our notification policy, all owners and occupiers of adjoining properties were notified of the proposed development. One submission was received during the notification period. The issues that were raised include location of windows, privacy and solar access.
- It is recommended that the Development Application be approved, subject to conditions.

BACKGROUND

Site Details

The subject site (Lot 1 in DP 957119) is known as 44 Dennis Street, Lakemba and is located on the eastern side of Dennis Street. The site is a regular shaped allotment with a primary frontage of 10.06m and total site area of 499.5m². Existing on site is a single storey dwelling.

The surrounding development consists of a mixture of low density residential developments, interspersed with dual occupancy development.



Aerial view of site

Background

The application was submitted to Council on 9 October 2015 and notified in accordance with Part 7 of Canterbury Development Control Plan 2012 from 2 to 16 November 2015. Amended plans were requested on the 23 November 2015 and 7 March 2016. Suitable plans were received on 27 April 2016.

Proposal

Consent is sought for the demolition of existing structures and the construction of a two storey dwelling and a detached secondary dwelling at the rear of the site.

The ground floor of the two storey dwelling comprises a single garage, kitchen, dining room, guestroom, bathroom, laundry, two living rooms, alfresco dining area with a staircase leading to the first floor. The first floor comprises one master suite with a walk in robe and ensuite, two bedrooms, a bathroom, family area and two balconies. The secondary dwelling comprises two bedrooms, a combined kitchen/living room and a bathroom.

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

REPORT

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 2004 (Building Sustainability Index: BASIX)**
 A BASIX Certificate (Certificate 672837S and 672770S) accompanies this application. The certificate lists a number of commitments which have been shown on the DA plans and the proposal meets the energy targets of the SEPP. The DA will be conditioned to ensure compliance with the State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX).
- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)**
 Clause 20 of State Environmental Planning Policy (Affordable Rental Housing) 2009 requires that the controls provided for secondary dwellings apply if development for the purposes of a dwelling house is permissible on the land. Dwelling houses are permissible within the R3 Zone under Canterbury Local Environmental Plan 2012, and as such, the development standards provided in Clause 22 and Schedule 1 of the ARH SEPP apply to the subject proposal.

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

Standard	Required	Proposed	Complies
Number of dwellings on site	Primary and secondary dwellings only	One primary and one secondary dwelling	Yes
Floor Space of Secondary Dwelling	Max 60m ²	60m ²	Yes
Minimum site area	450m ²	499.5m ²	Yes
Required parking for secondary dwelling	No additional parking required	Parking provided for the proposed principal dwelling.	Yes

An assessment against the provisions of Schedule 1 of the ARH SEPP is provided below.

Standard	Required	Proposed	Complies
Lot Requirements			
Number of dwellings	Primary and secondary dwellings only	One primary and one secondary dwelling	Yes
Boundary with primary road	Site shall have a boundary with a primary road, measured at the building line, of at least 12 metres.	10.06m	No – see comment [1] below
Access to primary road	A lot on which a new secondary dwelling is erected must have lawful access to a public road.	The subject site has lawful access to Dennis Street	Yes
Maximum site coverage of all development			
Site coverage	The site coverage of the principal dwelling, secondary dwelling and all ancillary development on a lot must not be more than 50% of the area of the lot, if the lot has an area of at least 450m ² but not more than 900 m ²	48% (243.07m ² is inclusive of the principal and secondary dwelling gross floor area)	Yes
Maximum floor area for principal and secondary dwelling			
Maximum floor area	60m ²	60m ²	Yes

Standard	Required	Proposed	Complies
Total floor area	330m ²	324.96m ² (134.76 m ² +147.9 m ² +60m ²) inclusive of the principal and secondary dwelling gross floor area	Yes
Setbacks and maximum floor area			
Balconies, decks, patios, terraces and verandahs	The total floor area of all balconies, decks, patios, terraces and verandahs on a lot must not be more than 12m ²	7m ² decks proposed at the rear of the Secondary Dwelling within 6 metres of the rear boundary.	Yes
	The balcony, deck, patio, terrace or verandah must not have any point of its finished floor level more than 2 m above grounds level	The proposed deck is 500mm above ground level	Yes
Building height			
Building height	8.5 metres.	4.2m	Yes
Setbacks from side boundaries			
Side setbacks	900mm	North (Side) Elevation : 900mm South (Side) Elevation : 900mm	Yes Yes
Setbacks from rear boundaries			
Rear setbacks	3m	3m	Yes
Privacy			
Privacy relating to habitable room windows	A window in a new secondary dwelling, or a new window in any alteration or addition to an existing principal dwelling for the purpose of a new secondary dwelling, must have a privacy screen for any part of the window that is less than 1.5 metres above the finished floor level if: (a) the window: (i) is in a habitable room that has a finished floor level that is more than 1 metre above ground level (existing), and (ii) has a sill height that is less than 1.5 metres above that floor level, and (iii) faces a side or rear boundary and is less than 3 metres from that boundary.	The proposed finished floor level is a maximum of approximately 500mm above existing ground level. As such, this control does not apply.	N/A
Landscaped area			
Landscaped area	20% of site area	20% (103sqm) of the site is proposed to be deep soil landscaped	Yes
Landscaped area	50% of site area of landscaped area behind building line.	85% of landscaped area is behind the principal building line	Yes
Landscaped area	The landscaped area must be at least 2.5 metres wide.	2.5m	Yes
Principal Private Open Space			

Standard	Required	Proposed	Complies
Principal private open space	Minimum principal private open space of 24 square metres required.	37.1m ² is provided for the Secondary Dwelling and 87.5m ² for the Principal Dwelling. Adequate private open spaces provided for secondary dwelling and principal dwelling.	Yes
Principal private open space	Principal private open space must be: (a) directly accessible from, and adjacent to, a habitable room, other than a bedroom, and (b) more than 4 metres wide, and (c) is not steeper than 1:50 gradient.	The principal private open space is directly accessible from the living areas of the secondary dwelling,	Yes

[1] Site frontage

Part 2(2) (1) (b) of Schedule 1 of the ARH SEPP requires that sites be at least 12 metres wide. The site has a frontage to Dennis Street of 10.06m a 16% departure from our site frontage control.

While no objectives are contained in the ARH SEPP, Canterbury Development Control Plan 2012 states that the aims of the minimum frontage controls are to ensure that land is appropriate in size and dimension for the proposed building, there is adequate garden area and that appropriate vehicle access can be accommodated. The proposed secondary dwelling is modest in scale, provides reasonable separation to adjoining development, whilst providing opportunities for landscaped open space. There are no implications on vehicle access arrangements as no changes have been proposed as part of this application.

Were it not for the site's non-compliance with the DCP minimum site width control, this development could be approved as a Complying Development Certificate and potentially bypass Council all-together. However despite the proposed building being beyond compliant with the relative controls, the site does not meet the required 12m width control in accordance with the ARH SEPP. As the width of the site falls outside the range of departures from our policies that we can consider under delegated authority, this matter is referred to the City Development Committee for determination.

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

The subject site is zoned R3 Medium Density Residential under CLEP 2012. The proposed secondary dwelling is permissible with consent in this zone by virtue of the overriding ARH SEPP. It is noted that the Floor Space Ratio standards in the R3 Medium Density zone do not apply to this type of development. The maximum building height is 8.5m and the proposed development is 7m.
- Canterbury Development Control Plan 2012 (DCP 2012)**

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

Standards	Numerical requirements	Proposal	Complies
Height	Maximum 8.5m External wall max.7m Maximum finished ground floor 1m	7m 7m 865mm (from Natural Ground to Finished Floor Level)	Yes Yes Yes
Detached dwelling on a regular site with a front boundary less than 12.5m width	Front setback 5.5m	7.084m to garage	Yes
	Side setback 900mm	1000mm (North elevation) 900mm (South elevation)	Yes
	Rear setback 6m	Primary = 8.75m Secondary Dwelling = 3m	Yes
Deep soil area	20% of the site area (90sqm) where lot area is less than 600sqm	27% (103sqm) of the site is proposed to be deep soil landscaped.	Yes
Max floor area and site coverage for all building on site	330m ² floor area	325m ² (inclusive of the secondary dwelling)	Yes
	50% of site area covered	48% (243sqm is inclusive of the principal and secondary dwelling gross floor area)	Yes
Car Parking	Two car spaces	Two spaces provided. one single garage and one car to be parked in the driveway.	Yes
Design Control	Features of existing buildings that influence streetscape and local character are preserved	The proposed new dwelling will have no adverse impacts on the streetscape as the design and materials give a fresh appearance to the streetscape. The design is unique to the location, however it is consistent with contemporary residential development.	Yes
Street address	Clearly identifiable entries Face at least one habitable room towards the Street	The entry is located in the front façade and fronts onto Dennis Street	Yes
Façade Design & articulation	Avoid long flat walls along street frontage	The façade used the porch and the balcony to break up the appears of long flat walls along street frontage	Yes
Roof Design	Roof design to be consistent with existing streetscape, no noticeability steep roof forms	The proposed roof design is unique to the locality, but the design is not unusual to modern development.	Yes
Front fencing	1.2m high	1.2m high	Yes
Service and Utility areas	Integrate services and utility areas with the design of the whole development	Service element such as air-conditioning, antennas and clothes drying areas will be conditioned into the design and screened from public view	Yes
	Appliances that are fitted to the exterior of a building, and enclosures for service meters do not detract from the desired architectural quality or character of the streetscape		Yes

Standards	Numerical requirements	Proposal	Complies
Visual privacy	Orient new living areas, balconies or terraces towards the street and rear of the lot to avoid overlooking	Concerns were initially raised in relation to windows from the first floor family room (Eastern, Northern and Southern Elevation). Northern and Southern elevation windows were amended to be half opaque. However concerns are still raised and the Eastern elevation windows will be conditioned to also be half opaque. The first floor balcony facing the street promotes casual surveillance.	Yes
Acoustic Privacy	Protect sensitive rooms, such as bedrooms, from likely sources of noise such as major roads, neighbours' living areas, driveways and building lobbies	It is considered that acoustic privacy will not be adversely impacted as the subject site is not located on a major road and is surrounded by residential uses.	Yes
Minimum Open Space	To provide a principal open space adjacent to the main living areas such as living room, dining room or kitchen, to extend the living space of the dwelling and provide direct access from a living room, dining room or family room of the dwelling	There is direct access from the family room to the open space 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 workspaces	Interior design is able to accommodate a range of furniture.	Yes
	Primary living area and principle bedrooms have a minimum width of 3.5m	Primary living area and master bedroom have a minimum width greater than 3.5m.	Yes
	Secondary bedrooms have a minimum width of 3m	All secondary bedrooms have a minimum width of 3m.	Yes
	Provide 10m ³ of general storage	>10m ³ general storage provided within the laundry. However the application will be conditioned to ensure that appropriate storage is provided.	Yes
Crime Prevention	Avoid blind corners, provide clear entry areas, fencing and landscaping to allow natural surveillance to/from street.	No blind corners, clear entry areas, and fencing and landscaping allow natural surveillance.	Yes
Waste Management	Facilities for handling, storage, collection and disposal of waste are incorporated into all development and are compatible with the design of the development	Satisfactory Waste Management Plan submitted with the application.	Yes

Part 6.2 - Climate, and energy and resource efficiency

Part 6.2.6 of CDCP 2012 requires that at least two hours of sunlight be received daily to indoor living space and 50% of the principal private open space between 9.00am and 3.00pm on 21 June for the proposed dwellings and adjoining properties. The development application is accompanied by shadow diagrams, which demonstrate that:

- two hours of sunlight is received daily by indoor living space between 9.00am and 12noon on 21 June; and
- 50% of proposed private open space for the proposed dwelling will receive greater than two hours solar access between 9.00am and 12noon on 21 June.

The design of the proposed development allows sufficient sunlight to the living room windows and private open space areas to satisfy the requirement of CDCP 2012. The Secondary Dwelling also receives adequate solar access.

Part 6.2.6(iii) of CDCP 2012 requires that the siting and form of new developments shall protect existing neighbouring dwellings. At least two hours solar access are to be provided to at least 50% of the principal portion of existing adjoining private open space of existing dwellings

The subject site has an east-west orientation. As such the southern neighbouring property will be most affected by the proposal. The southern neighbouring property is a single storey dwelling located towards the front of the site.

Solar access will be received to the neighbouring property's private open space between 9.00am to 1.00pm. The neighbouring property will receive solar access to its existing indoor living space between 1.00pm and 3.00pm on 21 June. The design of the proposed development allows sufficient sunlight to the living room areas and principle private open space to adjoining properties and satisfies the requirement of CDCP 2012.

Part 6.3 - Crime Prevention Through Environmental Design (CPTED)

As the development is a dwelling, the CPTED element of ownership is assumed due to the use of the building. The CPTED elements of natural surveillance and access points require special consideration and are summarised below:

Requirements	Proposal	Complies
Location of front door – visible to the street/ other properties	The location of the front door is visible to the street	Yes
Habitable rooms with windows to front street or adjacent to public areas	Habitable room windows and first floor balconies with large aluminum sliding doors fronting the street	Yes
Visibility to street/ public areas - not obstructed by new/existing landscaping or fencing.	Visibility of dwelling will not be obstructed by proposed front fence or landscaping	Yes

- **Canterbury Development Contributions Plan 2013**

The application requests the construction of a secondary dwelling at the rear of the subject site. In accordance with Canterbury Development Contributions Plan 2013, the proposed development will attract a payment which will be imposed as a condition of consent.

Other Considerations

- **Likely Impacts of the Development**

The proposed dwelling house and secondary dwelling is permissible within the R3 Medium Density Residential zone. The proposal will result in amenity impacts on the locality, including overshadowing and overlooking. However, the change is such that these impacts are reasonable and do not adversely affect the enjoyment of the neighboring amenity.

- **The Suitability of the Site**

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

- **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 development application was notified in accordance with Part 7 (Notification of development applications) of Canterbury Development Control Plan 2012. One submission was received which raised the following concerns:

- **Loss of solar access**

Comment

The proposed development will lead to a loss in solar access to the neighbouring property. Shadow diagrams have been provided by the applicant. The shadow diagrams show that the proposal satisfies Section 6.2.6 (Daylight and Access) of the CDCP 2012 in that the at least two hours of sunlight is available to the indoor living area from during the hours of 1:00pm and 3:00pm and to at least 50% of the principal portion of private open space of the adjoining property.

- **Privacy due to number of windows**

Comment

There are five proposed ground floor windows and seven proposed first floor windows facing the southern adjoining neighbouring property.

Only two ground floor windows are considered to be high trafficable rooms along the boundary between the proposed site and the neighbour. These two windows are located at the rear of the ground floor kitchen. One window has a sill height of 1.5m, the other 1m. These proposed windows will not look directly towards the neighbouring property windows but into their own private open space.

The size of the windows, the fall of the land, the nature of the dividing fence and that the proposed building is designed to be stepped down will assist in the prevention of any overlooking. The other windows are either in garage, bedrooms, bathrooms or the laundry and are therefore considered to be low trafficable rooms with less impact.

Two windows, located at the rear of the first floor will also directly overlook the neighbouring property's private open space. The windows are off from a proposed living space. These first floor windows will be conditioned so that opaque glass is required at height of 1.5m to ensure that overlooking is prevented but significant light can penetrate into the development.

- **Measurements are vague and conflicting**

Comment

The plans while basic are not conflicting and clearly illustrate what is proposed for the subject site.

- **Damage to the existing dwelling**

Comment

Any potential damage that may occur to a neighbouring property cannot be considered as a planning matter or reasons for refusal. However the application has been conditioned to provide a dilapidation report to ensure that the works at the subject site will not affect neighbouring properties.

Conclusion

The proposed principal dwelling and secondary dwelling development is referred to the Committee as it seeks variations from the minimum site width standard that is beyond our delegations for approval. The variation does not represent a loss to local amenity. The proposed development represents the reasonable use of the site, and, despite the departure from the minimum site width control, is supported.

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979. In this regard the proposal is considered to be a suitable development for the site. It is recommended that the development application be approved, subject to conditions.

POLICY IMPACT

The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION

Development Application DA-478/2015 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
 - 1.3. Evidence of a Home Building (Private) Insurance Certificate.
 - 1.4. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
 - 1.5. Payment to Council of:

Kerb and Gutter Damage Deposit	\$2723.00
Certificate Registration Fee	\$36.00
Long Service Levy	\$1,470.0
Section 94 Development Contributions	\$4406.32
 - 1.6. If you appoint Council as your Principal Certifying Authority, the following fees are payable:

Construction Certificate Application Fee	\$2,423.00
Inspection Fee	\$864.00
Occupation Certificate Fee	\$ 206.00

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: 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

BEFORE COMMENCING THE DEVELOPMENT

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

- 2.4. In the case of work which includes residential development, you must inform us in writing before the commencement of work of the following:
 - 2.4.1. The name and contractor or licence number of the licensee who has contracted to do or intends to do the work; or
 - 2.4.2. The name and permit number of the owner-builder who intends to do the work.

INSURANCE

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

SITE SIGNAGE

4. 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 Friday
7.00 a.m. – 12.00 noon Saturday
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.
- (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:

Plan	Prepared By	Date	Date received by Council
Site Plan Page 01	Austral Built	26 April 2016	27 April 2016
House – Ground Floor Plan Page 02	Austral Built	6 March 2016	7 March 2016
House – First Floor Plan Page 03	Austral Built	6 March 2016	7 March 2016
House – Elevation 1 Page 04	Austral Built	6 March 2016	7 March 2016
House – Elevation 2 Page 05	Austral Built	6 March 2016	7 March 2016
House – Section Page 06	Austral Built	6 March 2016	7 March 2016
Demolition Plan Page 08	Austral Built	5 October 2015	9 October 2015
Granny – Elevation Page 12	Austral Built	7 October 2015	7 March 2016
Granny – Elevation Page 13	Austral Built	7 October 2015	7 March 2016

- 6.1 Opaque glass at height of 1.5m shall be installed on the window marked as "W19" and "W20" on the southern elevation, "W26" and "W24" on the northern elevation and "W21" "W22" and "W23" on the eastern elevation. Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the issuing of the Construction Certificate.
- 6.2 All service elements such as air-conditioning, communal antennas and clothes drying areas must be integrated into the design and screened from public view.
- 6.3 10m³ of general storage shall be provided in the laundry space Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the issuing of the Construction Certificate.

7. The applicant shall provide a Dilapidation Report/photographic survey prepared by an appropriately qualified consultant for adjoining properties, 44 Dennis Street detailing the physical condition of the property, to 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.
8. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area. The amount of the contribution (as at the date of this consent) has been assessed as \$4406.32. The amount payable is based on the following components:

Contribution Element 2013	Contribution
• Community Facilities	\$398.48
• Open Space and Recreation	\$3,895.94
• Plan Administration	\$111.90

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.

Canterbury Development Contributions Plan 2013 may be inspected at Council's Administration Centre, 137 Beamish Street, Campsie or on Council's website 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.

9. Renewal or provision of fencing, attributable to the proposed development being the responsibility of the developer.
10. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
11. 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.
12. All building construction work must comply with the National Construction Code.
13. 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.
14. Provide a Surveyor's Certificate to the Principal Certifying Authority at all floor levels and roof indicating the finished level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.

15. 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
16. BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."
17. 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.
18. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
19. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
20. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
21. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
22. Stormwater from roof areas must be linked via a temporary downpipe to a council approve stormwater disposal system immediately after completion of the roof area.

LANDSCAPE

23. The existing street tree, *Callistemon viminalis* (common name Weeping bottlebrush), growing on the nature strip in front of the property is to be retained and protected during demolition and construction. A tree protection zone (TPZ) of 2 metre radius (measured from the edge of the tree trunk) must be observed. A tree protection barrier is to be erected around the perimeter of the TPZ prior to the commencement of any site works. This barrier must be a minimum 1800mm high chain link fabric (with standard 50mm pitch) on 2400mm star pickets driven 600mm into the ground so that the fencing cannot be breached. A 600mm x 450mm prohibition sign complying with AS1319, and stating 'TREE PROTECTION ZONE – KEEP OUT' must be attached to the barrier. The barrier is to be well maintained during construction. No building material storage or construction activity shall be allowed to encroach within this TPZ.
24. The landscaping must be completed according to the submitted landscape plan (drawn by Greenland Design, drawing no. 1263.L01, submitted to council on 8th January 2016) except where amended by the conditions of consent.
25. 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).

ENGINEERING

26. 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:

- 26.1. The design must be generally in accordance with the plans, specifications and details received by Council on 9th October 2015; drawing number 08-10-2015 SW01, SW02, SW03, and SW04 prepared by Australiawide Consulting Services Pty Ltd.
- 26.2. Drawing number 08-10-2015 SW02 prepared by Australiawide Consulting Services Pty Ltd received by Council on 9th October 2015 must display the pipe connection to the kerb and gutter of Dennis Street
- 26.3. Stormwater runoff from all roof 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 Dennis Street.
- 26.4. The roof water from the secondary dwelling must discharge to the kerb and gutter of Dennis Street via a charged line designed in accordance with Clause 6.4.11 of Canterbury Council's DCP 2012.
- 26.5. Stormwater runoff from paved areas that cannot physically be drained to Dennis Street may be drained to an absorption pit. Design in accordance with Clause 6.4.12 of Canterbury Council's DCP 2012. The total paved areas on the site draining to absorption pits must not exceed 20m².
- 26.6. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The development must not obstruct/divert runoff from uphill lands and must not concentrate runoff onto downstream lands
- 26.7. An overland flowpath must be provided within the setback to the Southeast boundary between the front and rear of the dwelling. The driveway area must be graded so that bypass flows from the driveway trench grate are directed to the overland flowpath.
- 26.8. 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. The design must make provision for a 150 mm step-up from garage to dwelling.
- 26.9. All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage.
- 26.10. A clean out pit designed in accordance with Figure 1 of the Appendices to Part 6.4 of Canterbury Council's DCP 2012, must be located on the nadir of each charged line.
- 26.11. Total impervious areas on the site must not exceed 70% of the lot area.
- 26.12. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- 26.13. 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.
27. 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.
28. 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.
29. 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.

30. 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
31. 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 70% of the lot area
32. 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
33. 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 require
34. 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.
35. 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:
 - 35.1. 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
 - 35.2. 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.
 - 35.3. 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.
36. 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
37. 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:
 - 37.1. Vehicle Crossings,
 - 37.2. Concrete Footpath,
 - 37.3. Concrete Kerb & Gutter".
38. 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

SYDNEY WATER REQUIREMENTS

39. 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, 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.
40. 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, 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.

CRITICAL INSPECTIONS

41. 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):

- 41.1. after excavation for, and prior to the placement of any footings, an
- 41.2. prior to paving any in-situ reinforced concrete building element, and
- 41.3. prior to covering of the framework for any floor, wall, roof or other building element, and
- 41.4. prior to covering waterproofing in any wet areas, and
- 41.5. prior to covering any stormwater drainage connections, and
- 41.6. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

42. 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

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

WE ALSO ADVISE:

- 44. The consent does not permit demolition of the existing site. Demolition cannot occur without prior consent being issued
- 45. This application has been assessed in accordance with the National Construction Code.
- 46. 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.

47. 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
 - Waterproofing
 - Glazing
 - Protection from termites
 - Smoke alarms
 - BASIX completion
48. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
49. 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.
50. 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.
51. 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.
52. 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.
53. If you are not satisfied with this determination, you may:
- 53.1. 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
 - 53.2. 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. This period is reduced to 6 months for applications lodged on or after 28 February 2011.

ATTACHMENTS

[Click here for attachments](#)

- A. Locality Map
- B. Site Plan
- C. Elevations

Planning Matters - 14 June 2016

ITEM 5.6	47-47A Lakemba Street, Belmore - Use of Illuminated Pylon Sign in Front of Service Station
FILE	DA-51/2016
ZONING	IN2 Light Industrial under Canterbury Local Environmental Plan 2012
DATE OF LODGEMENT	15 February 2016 (Additional information received 15 March 2016)
APPLICANT	Mr M K Patel
OWNERS	GTC Enterprise Group Pty Ltd
AUTHOR	City Development

ISSUE

- The applicant seeks retrospective approval for the use of an internally illuminated pylon sign (measuring 7m x 2m) erected unlawfully in front of the existing service station along the primary frontage of the site.
- The proposal is referred to the City Development Committee as it seeks a departure from the control for maximum advertising area in an industrial zone, beyond the delegation of our officers. The site is located within an IN2 Light Industrial zone and adjoins an R3 Medium Density Residential zone to the south and subsequently, the application also seeks a departure from the control for illuminated signage located in transition zones. These non-compliances are discussed in further detail in the body of the report.
- The site is zoned IN2 Light Industrial under the provisions of the Canterbury Local Environmental Plan 2012, where the proposed development is permissible with consent.
- 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 which raised concern regarding the brightness, the hours of illumination of the sign and hours of operation of the service station. The issues raised in the submission are discussed further in the body of the report.
- The development application is recommended for approval subject to conditions of consent.

BACKGROUND

On 11 December 2015, the owner of the premises was issued an Order pursuant to Section 121B of the Environmental Planning and Assessment Act 1979 for unauthorised erection of an illuminated structure towards the front of the site.

On 15 February 2016, the subject development application was lodged seeking retrospective approval for the use of the freestanding illuminated pylon sign at the site. Should this application be approved, a Building Certificate application will need to be submitted and approved to legalise the unauthorised building works.

Site Details

The subject site is located at 47-47A Lakemba Street, Belmore and is legally described as Lot A in DP 335707 and Lot C in DP 321266. The site has a frontage to Lakemba Street of 27.43m and comprises a total site area of approximately 1,125m². The site accommodates a service station (known as Metro Petroleum) and associated workshop. Separate entry and exit vehicular access is obtained via Lakemba Street to ensure vehicles can enter and exit the site in a forward direction.

The site is located within an IN2 Light Industrial Zone and is surrounded by single and two storey industrial warehouse buildings to the north, west and part of the east. On the opposite side of Lakemba Street to the south and at the rear of the site to the north-east is a R3 Medium Density Residential Zone comprising primarily single and two storey detached dwellings and dual occupancy developments.



Aerial view of site



Subject site and location of pylon sign, view north-east from Lakemba Street



Existing adjoining development to the west of the site, view north-west from Lakemba Street



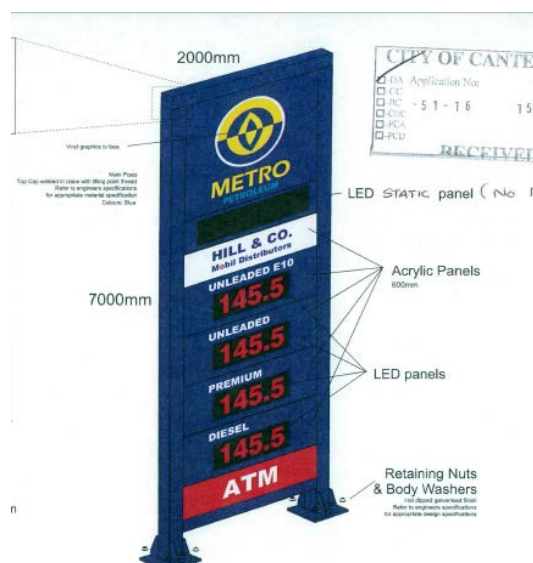
Existing adjoining development to the east of the site, view north-east from Lakemba Street



Existing residential properties located to the south of the site, on the opposite side of Lakemba Street, view south-west from Lakemba Street

Proposal

The applicant seeks retrospective approval for the use of the internally illuminated freestanding pylon sign that has been erected unlawfully in the south-western corner of the site.



The double sided pylon structure measures 7m(h) x 2m (w) and comprises illuminated vinyl panels as well as illuminated LED panels. The sign installed with this structure comprises a total of 20.72sqm of signage area, which is broken down as follows:

- two x brand light box measuring 1.2 x 1.8m (4.32sqm).
- LED message panel measuring 0.6 x 1.8m (2.16sqm).
- eight x price windows measuring 0.7sqm each (5.6sqm).
- four x sign panels comprising a total area of 8.64sqm.

The sign is visible by vehicles and pedestrians travelling in both directions along Lakemba Street. The content of the sign comprises the business name and retail offers that are available on site (i.e fuel pricing, ATM facilities etc). The message board comprises static wording relating to the business and/or offers available on site.

Statutory Considerations

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

- State Environmental Planning Policy 64 – Advertising and Signage (SEPP 64)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)

REPORT

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 64 – Advertising and Signage (SEPP 64)**
The proposed business identification sign compares to the requirements of SEPP 64 as follows:

Standard	Proposal	Complies
Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The site is located at 47-47A Lakemba Street. Lakemba Street is a main road consisting of a variety of land uses including residential, commercial and industrial. The proposed sign is appropriate for the service station use of the site and is in keeping with the existing signage associated with the commercial and industrial uses along Lakemba street.	Yes
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed sign is in keeping with existing pylon signage erected along the northern side of Lakemba Street (to the west of the site) that are associated with the existing industrial/commercial uses as well as other service stations within the locality.	Yes

Special areas		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	<p>The proposed sign is located within the south-western corner of the site, within the site boundaries, and is orientated towards vehicular and pedestrian traffic travelling east/west along Lakemba Street. The sign is suitably separated from the closest residential property orientated towards the sign (45 Cleary Avenue, Belmore located approximately 23m south of the site) by virtue of Lakemba Street. On this basis, the proposal will not detract from the amenity or visual quality of the adjoining residential area to the south.</p> <p>The site is not located within the vicinity of any heritage area, natural or conservation areas, open space, waterways or rural landscapes.</p>	Yes
Views and vistas		
Does the proposal obscure or compromise important views?	The proposed pylon sign comprises an overall height of 7m. The sign is located within the boundaries of the site and does not compromise any important views.	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	Given the height, size and location of the proposed sign, it will not dominate the skyline or reduce the quality of vistas.	Yes
Does the proposal respect the viewing rights of other advertisers?	The sign is located within the boundaries, in the south-western corner of the site. In light of this, (the type of sign (pylon sign) and size of the sign (7m x 2m)), it will respect the viewing rights of the existing industrial/commercial properties to the east and west of the site.	Yes
Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed sign is required to advise passing motorists and pedestrians of the retail offer available on site. The size of the sign is modest when compared to the street frontage of the site (27.43m to Lakemba Street) as well as the height of existing development within the vicinity. Therefore, the scale and proportion of the sign is appropriate for the streetscape and setting.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed sign provides visual interest to the streetscape by providing a modern, illuminated sign that identifies the retail offer available on site.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The existing pylon sign approved at the site has been removed and therefore the site will continue to comprise solely one pylon sign.	Yes
Does the proposal screen unsightliness?	The sign will not screen unsightliness.	Yes
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed sign will measure a maximum 7m in height and therefore will not protrude above the existing two storey buildings, structures or tree canopies in the area.	Yes

Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed sign is compatible with the subject site and its use as a service station.	Yes
Does the proposal respect important features of the site or building or both?	The proposed sign is suitably integrated within the subject site and its location assists in identifying the site to vehicles and pedestrians travelling along Lakemba Street.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building or both?	The sign is innovative through the inclusion of an LED illuminated screen.	Yes
Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	All lighting devices and logos have been integrated within the design of the sign.	Yes
Illumination		
Would illumination result in unacceptable glare?	A requirement to ensure the sign comprises a function to adjust the brightness of the LED screen, if required, will be included as a condition of consent.	Yes – via condition of consent
Would illumination affect safety for pedestrian, vehicles or aircraft?	The two x LED screens (total of 2.16sqm) will comprise static wording. A condition of consent will be included to ensure the sign does not comprise any flashing elements. The illuminated element of the sign will not adversely affect the safety for pedestrians, vehicles or aircraft.	Yes – via condition of consent
Would illumination detract from the amenity of any residence or other form of accommodation?	The sign is orientated towards vehicles/pedestrians travelling east/west along Lakemba Street and is orientated away from nearby residential properties located to the south of the site. Given the signs location and orientation, it will not detract from the amenity of the nearby residential properties.	Yes
Is the illumination subject to a curfew?	No	N/A
Safety		
Would the proposal reduce the safety for any public road?	Given the size of the illuminated element of the sign and its location within the site, it will not reduce the safety for the adjoining roads. A condition of consent will be included to ensure the signage content does not resemble traffic signals or signs or give instruction to traffic through imagery and/or wording to further ensure the safety for vehicles travelling along both streetscapes will be maintained.	Yes – via condition of consent.

Would the proposal reduce the safety for pedestrians or bicyclists?	The proposed sign will not obscure sightlines from public areas and will not comprise any flashing elements. On this basis, the sign will not reduce the safety for pedestrians or cyclists.	Yes
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- Canterbury Local Environmental Plan 2012 (CLEP 2012)**

The subject site is zoned IN2 Light Industrial under CLEP 2012. The proposed sign is defined as a 'business identification sign' within CLEP 2012 as follows:

- (a) that indicates:
 - (i) the name of the person or business, and
 - (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business, but that does not contain any advertising relating to a person who does not carry on business at the premises or place.

Business identification signs are permitted within the IN2 zone with our development consent.

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

Given the nature of the proposed development (solely a business identification sign), majority of the provisions specified within CDCP 2012 are not applicable. An assessment of the proposed sign against Part 5 of CDCP 2012 is provided in the table below.

Requirements	Proposal	Complies
General Design and Siting Controls		
Do not allow signage to project above predominant building scale	The sign will comprise a maximum height of 7m. Based on our visual inspection of the site, the pylon sign does not project above the main service station canopy nor the existing two storey development directly adjoining the site's eastern boundary. The existing building adjoining the site to the west is substantially setback from Lakemba Street (approx. 24m) and therefore views to this property are not impacted by the sign.	Yes
Use signage that complements the streetscape, landscape or building	As outlined within the SEPP 64 assessment above, the sign contributes to the existing streetscape.	Yes
Do not allow signage to dominate in terms of scale, number, proportion and form	The sign is in proportion with the size of the site and existing signage located within the vicinity of the site. Therefore the sign does not dominate in terms of scale, number or proportion when compared to existing development and signage within the locality.	Yes
Design and place signage so that it does not have any detrimental affect on occupants of residential properties	The sign is orientated in an east/west direction and is therefore orientated away from residential properties located to the south. Furthermore, the sign is substantially separated from residential properties by virtue of Lakemba Street.	Yes
Appearance and Maintenance		
A high standard of design and presentation is to be achieved	The proposed LED screen demonstrates innovative design.	Yes

Requirements	Proposal	Complies
Signs must be of durable materials and for easy maintenance	The sign will be constructed from durable materials and provides easy maintenance.	Yes
Remove signage that is no longer necessary	N/A – only one pylon sign is erected at the site.	Yes
Wording and Content		
Where the text of an advertisement is in a language other than English, include an English translation of a sufficient size to be legible	N/A – the content of the sign will be in English only.	N/A
When a business or organization offers a product or service, the name of the building or organization should have a greater dominance than the product or service.	The content of the sign will comprise the service station business name (Metro Petroleum), fuel pricing and retail offers available on site (i.e. ATM facilities etc). The business name is the largest item on the sign and is located at the top of the sign. Therefore the name of the business will have a greater dominance than the retail offer information.	Yes
Industrial Zones		
The total advertising area on each site is not to exceed 1sqm per 2m of road or access frontage for premise with a single frontage.	The site has a frontage to Lakemba Street of 27.43m and therefore a total advertising area of 13.72sqm is permitted on the site. The double sided pylon sign comprises a total signage area of 20.72sqm. Additional signage is erected on the site associated with the service station and vehicle repair station uses on the site. The total signage area (including the sign and other signage) equates to 32.38sqm.	No – refer comment [1] below
Buildings or sites having multiple occupants are to be identified at the entrances by no more than two signs.	The site comprises two occupants, however the pylon sign is the only sign provided at the entrance to the site.	Yes
Illuminated Signs		
Do not locate signage in the transitional zones between business, industrial or residential zones	The sign is located within an IN2 Zone that adjoins an R3 Medium Density Zone to the south.	No – refer comment [2] below
The lighting intensity of signage must be capable of modification or control after installation	This requirement will be imposed via condition of consent.	Yes – via condition of consent
Council may impose a curfew on sign illumination between 11pm and 7am	To ensure any adverse impact on nearby residential properties is minimised, a curfew will be imposed to ensure the signage is only illuminated during the hours of operation of the service station.	Yes – via condition of consent
Conceal or integrate the light source to any illuminated signage within the sign	The light source is integrated within the design of the sign.	Yes

As outlined above, the pylon sign generally complies with the provisions of CDCP 2012 with the exception of maximum signage area permitted and location within a transitional zone. These matters are discussed in further detail below.

[1] Total Advertising Area

Part 5.1.7 of CDCP 2012 specifies that the total advertising area on an industrial site is not to exceed 1sqm per 2m of road frontage. The site has a frontage to Lakemba Street of 27.43m and therefore a total advertising area of 13.72sqm is permitted on the site. The total area of the double sided pylon sign equates to 20.72sqm, however the total signage area on the site equates to 32.38sqm and therefore does not comply with the maximum requirement.

The service station and associated vehicle repair station use of the site solely comprises a total of four business identification signs (including the pylon sign). The signage associated with the service station use is consistent with the number and type of signage erected on other existing service stations within the locality. Further, the pylon sign is the only illuminated sign erected at the site and is orientated away from the nearby residential properties located to the south. On this basis, the proposed advertising area on the site will not adversely impact on the streetscape appearance of the site, nor the amenity of nearby residential properties and is therefore supported.

[2] Transitional Zone

Part 5.1.10(iii) of CDCP 2012 states that illuminated signage cannot be located in the transitional zones between business, industrial or other zones, and residential zones. The site is zoned IN2 Light Industrial and the area to the south, on the opposite side of Lakemba Street, is zoned R3 Medium Density with a R4 High Density Residential zone located further to the south-east. The proposed illuminated pylon sign is orientated towards vehicles and pedestrians travelling east-west along Lakemba Street, away from the existing residential properties located to the south of the site. Notwithstanding, a condition of consent will be imposed, should the application be supported, to ensure the brightness of the sign can be adjusted to acceptable levels that would not adversely impact on passing traffic. The location and orientation of the sign will not adversely impact on the amenity of the existing residential properties located to the south and is therefore supported.

Other Considerations

- **The Likely Impacts of the development**

Despite the non-compliance with our controls relating to location of illuminated signs in a transition zone and the maximum signage area permitted within industrial zones, it is important to note that the newly installed pylon sign replaced an existing pylon sign of the same dimensions. Notwithstanding this, given the location of the site along a main road and its orientation away from nearby residential properties, the continued use of the illuminated pylon sign will not result in any significant adverse impacts upon the surrounding and wider locality, particularly if all conditions are complied with at all times.

- **The Suitability of the Site for the Development**

The subject site is zoned IN2 Light Industrial under CLEP 2012 and the proposed business identification sign is permitted with development consent. The sign is located within the south-west corner of the site and is orientated towards passing motorists and pedestrians travelling east/west along Lakemba Street. The content of the sign will advise the wider community of the fuel retail offer available on site.

Appropriate conditions of consent will be imposed, should the application be approved, to ensure the sign will result in minimum impact upon nearby sensitive land uses.

- **The Public Interest**

The continued use of the pylon sign is not in conflict with the public interest. Having regard to the assessment above, the continued use of the business identification sign (pylon sign) is in the public interest as it identifies the retail offer available on site and is therefore worthy of support.

Notification

The application was publically notified for 14 days (until 4 March 2016) in accordance with Part 7 of CDCP 2012. On submission was received and the matters raised are discussed below:

- **The brightness of the sign adversely impacts on the amenity of residential properties located opposite the site.**

Comment

The pylon sign is consistent with the signage erected on similar service station uses within the locality. The pylon sign is orientated away from the existing residential properties located to the south of the sign and is orientated towards vehicles and pedestrians travelling east/west along Lakemba Street. Notwithstanding this, should the application be supported, a condition of consent will be imposed to guarantee the lighting intensity of signage must be capable of modification, if required. This will ensure the brightness of the sign will not adversely impact on the amenity of the existing residential properties located to the south of the site.

- **Hours of operation of the service station.**

Comment

Based on a review of previous consents relating to the site, there is no restriction to the hours of operation of the service station use.

- **Hours of operation of the sign.**

Comment

All the illuminated signage is to be switched off when the service station is not in use. Should the application be approved, a condition of consent will be enforce the hours of illumination.

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 proposed business identification sign is permissible within the IN2 Light Industrial Zone. The proposed variations to the maximum advertising area and location of the internally illuminated sign within a transition zone will not result in any significant adverse impact on the amenity of existing residents located within the vicinity of the site. On this basis, the proposal is recommended for approval, subject to conditions of consent.

POLICY IMPACT

The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION

Development Application DA-51/2016 be **APPROVED** subject to the following conditions:

BUILDING CERTIFICATE

1. A Building Certificate Application must be lodged with Council for the unauthorised erection and installation of the pylon and sign within 60 days of the date of this consent.

GENERAL

2. The development being carried out in accordance with the plans, specifications and details prepared by Manishkumal Patel, marked "Sign 1" as received by Council on 15 March 2016.
3. The LED screens are to comprise a function to enable the brightness of such signs to be adjusted (if required).
4. The sign is not to comprise any flashing elements.
5. The signage content is not to resemble traffic signals or signs that give instruction to traffic.
6. All the illuminated signage is to be switched off when the service station is not in use.

WE ALSO ADVISE

7. This application has been assessed in accordance with the National Construction Code.
8. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
9. 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.
10. 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.
11. 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.
12. 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.
13. If you are not satisfied with this determination, you may:
 - 13.1. 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

- 13.2. 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.

ATTACHMENTS

[Click here for attachments](#)

- A. Locality Map
- B. Site Plan
- C. Sign

Planning Matters - 14 June 2016

ITEM 5.7	13 Seventh Avenue, Campsie - Construction of Three Storey Residential Building with Basement Parking and Front Fence
FILE	DA-262/2015
ZONING	R4 High Density Residential under Canterbury Local Environmental Plan 2012
DATE OF LODGEMENT	22 June 2015 (with further information received by Council on 12 August 2015, 1 April 2016 and 15 April 2016)
APPLICANT	Doula Pty Ltd
OWNERS	Buddy Bechara
AUTHOR	City Development

ISSUE

- The applicant is seeking approval to demolish the existing dwelling and garage and for the construction of a three storey residential flat building, comprising six x two bedroom apartments, new front fence and basement carparking.
- The site is zoned R4 High Density Residential under Canterbury Local Environmental Plan 2012 (CLEP 2012). The proposed development, defined as a residential flat building, is permissible in the subject zone.
- The application has been referred to the City Development Committee for consideration and determination due to a variation from the minimum width of 20m in Part 2.1.2 of the Canterbury Development Control Plan 2012 of more than 10%. The width of the site is 15.24m. A variation is sought from the separation between windows and balconies controls in the Apartment Design Guide which requires a 6.0m setback from the side boundary.
- The development application has been assessed against the provisions contained in our relevant environmental planning instruments and development control plan. The proposal is found to generally be in compliance with the requirements of these policies, with the exception the minimum width of the allotment. This non-compliance is discussed in further detail in the body of this report.
- The development application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of Canterbury Development Control Plan 2012. No submissions were received.
- It is recommended the application be approved subject to conditions of consent.

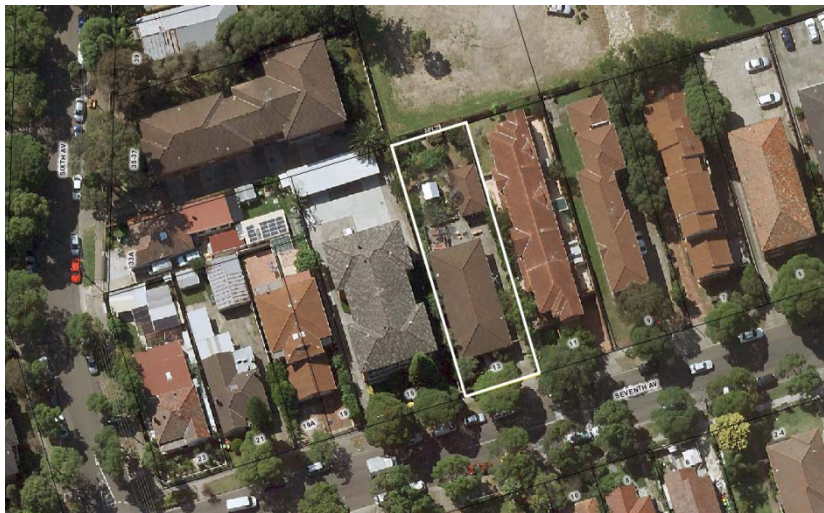
BACKGROUND

Site Details

The site, being Lot 1 in DP 7198 and known as 13 Seventh Avenue, Campsie, is located on the northern side of Seventh Avenue, between Beamish Street and Sixth Avenue. The site is a rectangular allotment with a frontage of 15.24m to Seventh Avenue. The depth of the site is 50.29m. The site has an area of 766.4m².

The site contains a brick dwelling with tile roof and a brick garage at the rear of the house. The site has a fall of approximately 650mm from the street to the rear. There are no significant mature trees on the site. There is a significant street tree in the middle of the allotment frontage that is to be retained.

The surrounding development comprises a public reserve to the Cooks River to the north, a two storey townhouse development at 11 Seventh Avenue to the east, and a three storey residential flat building at 15 Seventh Avenue to the west. There is a four storey residential flat building at 12-16 Seventh Avenue opposite the subject site.



Aerial view of site



Subject Site

Proposal

The proposed development involves the demolition of the dwelling and garage, and the erection of a three storey residential flat building with associated basement parking.

The proposed residential flat building comprises six x two bedroom apartments with basement parking for eleven vehicles, including two visitor spaces. Each floor contains two x two bedroom units. Unit 1 on the ground floor level is nominated as an adaptable unit.

Statutory Considerations

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

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

REPORT

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 2004 (Building Sustainability Index: BASIX)**
A BASIX Certificate No.622749M dated 5 June 2015 accompanies this application and lists a variety of commitments that are to be incorporated into the overall design of the project. The necessary commitments have been referenced on the architectural plans where required, meet the water, energy and thermal comfort targets and therefore satisfy the objectives of the SEPP.
- **State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (SEPP 65)**
This policy applies to residential apartment development and is required to be considered when assessing this application.

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

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

Design Quality Principles

The applicant has addressed these principles as follows:

1. Context and neighbourhood character

The development is consistent with our height controls and will align with the desired future character of the locality. The design ensures that the proposed development is appropriate in terms of scale and bulk. The proposal provides a quality infill residential development that responds and utilizes the advantages of its context.

2. Built Form and scale

The proposed floor space ratio (FSR) and height is less than the maximum permissible. The design ensures that the proposed development is appropriate in terms of scale and bulk.

The proposal presents a quality built form with an appropriate scale. The façade has been articulated to address the street by incorporating physical articulation of the built form and a mixed palette of building materials and finishes. The range of materials significantly contributes to the articulation of the building and reducing the overall bulk and mass of the building.

3. Density

The density of the proposed development is considered to be satisfactory and a reasonable response to the desired future context and built form. The proposed FSR is lower than that permitted under the Canterbury Local Environmental Plan 2012 to accommodate a building that is appropriate in terms of height, bulk and scale.

4. Resource, Energy and Water Efficiency

A BASIX Certificate has been submitted to Council with this development application, which details the resource, energy and water efficiency measures that will be incorporated into this proposal. The proposal promotes sustainability and environmental performance through the implementation of ESD (ecologically sustainable development) principles.

5. Landscape

All of the proposed units have access to a courtyard or a balcony. Deep soil zones are facilitated in the site primarily to the rear, side and front of the site. Given that this is an infill site and its context in relation to existing built up adjoining properties, a central space over a structure also is an appropriate form for landscaping to occur.

The focal point of the development is the pedestrian common access and central core and open space between the two building blocks that will provide interest and activity. The design of the open space promotes excellent casual surveillance and acts as a transition from private to public domain.

6. Amenity

The proposed development has been designed to maximise solar access and achieve three hours solar access to all units. The proposed units will have considerable internal amenity. The outdoor private open spaces are of sufficient size to meet the recreational needs of future occupants. Lift access has been provided from the basement throughout the building, thereby providing full accessibility for all residents and visitors.

All the apartments are naturally cross-ventilated.

7. Safety

The applicant has considered Crime Prevention Through Environmental Design (CPTED) principles as outlined in the Canterbury Development Control Plan 2012 in the design of the project. The proposal provides increased activation and passive surveillance of the surrounding streets and private open space areas on the site. Residential entry and lobby areas are to be secured and well lit.

The proposed development has been designed having regard to the principles of Crime Prevention Through Environmental Design. The proposed building has been designed with direct presentation to the street, with balconies and windows providing opportunities for casual surveillance. The incorporation of clearly defined and well lit entrance/ lobby will further improve increased activation and passive surveillance within the site. There are no areas for concealment and a clear demarcation between public/communal and private spaces has been adopted.

8. Housing Diversity and social interaction

The proposal offers all units with two bedrooms and a study space and will complement and extend the range and diversity of residential accommodation available in the area.

The unit mix consists of six x two bedroom units, with the ground floor unit fronting Seventh Avenue being fully adaptable for disabled access. All residential units in the development are accessible by lift with accessible parking allocated for residents and visitors.

9. Aesthetics

The proposed use of pattern, texture, form and colour seeks to produce a design aesthetic that reflects the quality of residential accommodation provided. The articulation of the external façades and compliance with the relevant built form standards lessens any perception of bulk, whilst maintaining internal and external amenity. The proposal utilizes contemporary architectural style to define clean lines and articulated structure and façade introduce a modern and contrasting expression to Seventh Avenue. These elements contribute to the desired future character of the locality and enhance the existing surrounding streetscapes.

Apartment Design Guide

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

A development needs to demonstrate how it meets the objectives and design criteria in Parts 3 and 4 of the ADG. This consideration includes an assessment of the objectives of Parts 3 and 4 of the ADG. The applicant's designer provided a design verification statement at lodgement to demonstrate that the objectives have been achieved.

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

Section	Design Criteria			Proposed	Complies
Siting the Development					
Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site.			25%	Yes
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9 am and 3 pm on 21 June (mid-winter).			The communal open space will receive more than two hours of direct sunlight between 9 am and 3 pm in Mid-Winter.	Yes
Deep Soil Zones	Deep soil zones are to meet the following minimum dimensions:			The area of the site is 766m2 and the deep soil zone to the east and west portion provides deep soil of 21 % of the site area with a minimum dimension of 3m	Yes
	Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)		
	650m ² – 1,500m ²	3m	7%		
Visual Privacy	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:			3.85m to 4.3m from northeastern side boundary and 4.0m from the southwestern side boundary.	No- See Comment [1]
	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms		
	Up to 12m (4 storeys)	6m	3m		
	Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (See Figure 3F.2 of ADG). Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.				
Bicycle and Car Parking	For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements as set out in the table below. Otherwise, the CDCP controls apply (See table below).			The site is 850m from Campsie Station. As this is more than 800m, our DCP applies. Our DCP requires 1.2 spaces for each two bedroom unit plus one visitor space, resulting in nine spaces Proposal – twelve spaces	Yes
	Development Type	Parking Requirement			
	Medium Density	• One space per unit • +one space for every five x two			

Section	Design Criteria		Proposed	Complies
	Residential Flat Buildings (less than 20 dwellings).	bedroom unit <ul style="list-style-type: none">• +one space for every two x three bedroom unit• +one space for five units (visitor parking)		
	High Density Residential Flat Buildings (20 or more dwellings).	Metropolitan regional centres (CBD) <ul style="list-style-type: none">• 0.4 spaces per one bedroom unit• 0.7 spaces per two bedroom unit• 1.2 spaces per three bedroom unit• +1 space per seven units (visitor parking) Metropolitan sub-regional centres <ul style="list-style-type: none">• 0.6 spaces per one bedroom unit• 0.9 spaces per two bedroom unit• 1.40 spaces per three bedroom unit• +one space per five units (visitor parking)		
	Commercial premises component where use is subject to future application	One space per 40m2 GFA		
	Commercial premises component where use is part of application	The parking requirement is the lesser of that for the use/s set out in the controls within the RTA’s Guide to Traffic Generating Development or Council’s requirements.		
	The car parking needs for a development must be provided off street.		All the car parking spaces are provided off street.	Yes
Designing the Building				
Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of two hours direct sunlight between 9 am and 3 pm at mid-winter.		Living rooms and private open spaces of at all apartments in the building receive a minimum of two hours direct sunlight between 9 am and 3 pm at mid-winter.	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter		All units receive direct sunlight	Yes
Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.		All units are naturally cross ventilated	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line		No cross over or cross through units.	N/A
Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:		Ceiling height is 2.7m	Yes

Section	Design Criteria			Proposed	Complies															
	<table><tr><td colspan="2">Minimum Ceiling Height for Apartment and Mixed Use Buildings</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr></table> <p>These minimums do not preclude higher ceilings if desired.</p>			Minimum Ceiling Height for Apartment and Mixed Use Buildings		Habitable rooms	2.7m	Non-habitable	2.4m											
Minimum Ceiling Height for Apartment and Mixed Use Buildings																				
Habitable rooms	2.7m																			
Non-habitable	2.4m																			
Apartment Size and Layout	Apartments are required to have the following minimum internal areas:			All units are two bedroom units with two bathrooms. The size of all units is larger than 75m².	Yes															
	<table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>					Apartment Type	Minimum Internal Area	Studio	35m²	1 bedroom	50m²	2 bedroom	70m²	3 bedroom	90m²					
	Apartment Type	Minimum Internal Area																		
	Studio	35m²																		
	1 bedroom	50m²																		
	2 bedroom	70m²																		
	3 bedroom	90m²																		
	The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.																			
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.																			
Habitable room depths are limited to a maximum of 2.5 x the ceiling height.																				
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.																				
Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).																				
Bedrooms have a minimum dimension of 3m (excluding wardrobe space).																				
Living rooms or combined living/dining rooms have a minimum width of:																				
<ul style="list-style-type: none">3.6m for studio and one bedroom apartments4m for two and three bedroom apartments																				
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.			No cross-over or cross-through apartments	N/A																
Private Open Space and Balconies	All apartments are required to have primary balconies as follows:			All are two bedroom apartments and they have a minimum area of 102 and minimum depth of 2.2m	Yes															
	<table><tr><th>Dwelling type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>One bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>Two bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>Three+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table>					Dwelling type	Minimum Area	Minimum Depth	Studio apartments	4m²	-	One bedroom apartments	8m²	2m	Two bedroom apartments	10m²	2m	Three+ bedroom apartments	12m²	2.4m
	Dwelling type	Minimum Area	Minimum Depth																	
	Studio apartments	4m²	-																	
	One bedroom apartments	8m²	2m																	
	Two bedroom apartments	10m²	2m																	
Three+ bedroom apartments	12m²	2.4m																		

Section	Design Criteria	Proposed	Complies										
	The minimum balcony depth to be counted as contributing to the balcony area is 1m.												
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	The two ground level apartments have private open space of more than 25m ² and a depth of over 4m	Yes										
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Two units per floor	Yes										
Storage	<div>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:<table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>One bedroom apartments</td><td>6m³</td></tr><tr><td>Two bedroom apartments</td><td>8m³</td></tr><tr><td>Three+ bedroom apartments</td><td>10m³</td></tr></table>At least 50% of the required storage is to be located within the apartment.</div>	Dwelling type	Storage size volume	Studio apartments	4m ³	One bedroom apartments	6m ³	Two bedroom apartments	8m ³	Three+ bedroom apartments	10m ³	Amount of storage area range from 8.13m ³ to 11m ³ , with at least 50% of the required storage is to be located within the apartment.	Yes
Dwelling type	Storage size volume												
Studio apartments	4m ³												
One bedroom apartments	6m ³												
Two bedroom apartments	8m ³												
Three+ bedroom apartments	10m ³												

The proposed development complies with the design criteria of the ADG apart from a variation from Visual Privacy. The following matters require further discussion:

[1] Visual Privacy

The ADG requires habitable room windows and balconies to be at least 6m from a side boundary. The proposal has a setback of 3.85m to 4.3m from the northern side boundary and 4.0m from the southern side boundary. The site is only 15.24m wide, and there is substantial landscape provided on the northern and southern sides of the proposed building. The units have been designed with the placement of the balconies off the living rooms orientated towards the rear of the building with wing walls and screens to prevent overlooking. Windows have been minimised and strategically located to minimise privacy impact. Given the design response, the proposed departure from the ADG is considered acceptable.

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

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

Standard	Requirement	Proposal	Complies
Zoning	R4 High Density	Residential Flat Building permissible with consent	Yes
FSR	0.9:1	0.8:1	Yes
Building height	11.5m	9.8m	Yes

The proposal complies with the standards within CLEP 2012.

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

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

Part 2 - Residential Neighbourhoods

Standard	Requirement	Proposal	Complies
Isolation of Sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed.	No isolation of neighbouring properties. Adjoining properties already developed.	Yes
Minimum Frontage	20m	15.24m	No - See Comment [1]
Height	Maximum three storeys and 10m wall height Basement projection – 1m maximum (otherwise included as storey).	Three storeys and 9.8m height Basement <1m	Yes Yes
	Basement permissible for single dwellings in all zones, multiple unit and residential flat building in R4 zone only.	Basement proposed – permitted for RFB in R4 zone.	Yes
Depth/ Footprint	25m maximum. Can be increased to 35m if deep soil planting is incorporated as per clause 2.1.5(v).	34m with deep soil planting provided as per clause 2.1.5(v).	Yes
Setbacks	Front: 6m	Front: 7m to front of building, 6.0m to balcony	Yes
	Rear: 6m	Rear: 4.9m to edge of balcony 7.2m to face of building	No- See Comment [2]
	Side: 4m	Side: 4m	Yes
	Deep soil: minimum 2m wide along the side boundaries, and minimum 5m along front and rear boundaries.	2m wide along the southwestern side boundary, 400mm to 1.6m along the northeastern boundary. 5m along the front and 6.0m along rear boundary.	No - See Comment [3]
	Less than five storeys – at least 12m between windows and/or balconies as per clause 2.1.9.	Separation distances ranging from 6.0m to 8.0m.	No - See Comment [4]
	Setback unscreened windows facing side or rear boundaries, at least half of the separation distance that is specified above.	Separation distances ranging from 6.0m to 6.5m.	Yes
	Provide deep soil or private open space in the separation area, as well as communal open space on multi dwelling and residential flat building sites.	Deep soil, communal open space and private open space provided in the separation area.	Yes
Car Parking			
Residential Flat Building	<u>Residential car parking</u> Six bedroom @ 1.2 parking spaces 7.2 required <u>Car wash bay</u> Ten+ units = one car wash bay Non required <u>Visitor parking</u> One space per five units 1.2 required <u>Total required</u> = Nine car parking spaces	Eleven carparking spaces and wash bay	Yes
	<u>Bicycle Parking</u> Residents: Minimum one space per five units – 1.2 required Visitors: Minimum one space per ten units - one required Total required: two spaces	Three bicycle parking spaces provided.	Yes

Standard	Requirement	Proposal	Complies
Basement Car Parking	Basement parking for residential flat buildings, and any other residential: <ul style="list-style-type: none"> - Maximises the amount of deep soil for canopy planting; - Gives ground floor dwellings access to ground level courtyards; - Allows ground floor dwellings to address the street. 	The current proposal: <ul style="list-style-type: none"> - Maximises the amount of deep soil for canopy planting; - Gives ground floor dwellings access to ground level courtyards; - Allows ground floor dwellings to address the street. 	Yes Yes Yes
Design Controls			
Street Address	Clearly identifiable entries	Clear entry points are provided	Yes
	Provide main common entry and separate private ground floor apartment entries where appropriate	Main common and alternate entries to ground floor where appropriate	Yes
	At least one habitable room window to face street	Windows face the street	Yes
	At least one habitable room window to face internal communal areas	Windows of bedrooms facing common areas	Yes
	No obstruction to views from street to development and vice versa	No obstruction to views to the street	Yes
Façade Design and Articulation	Avoid long flat walls	No long flat walls	Yes
	Step of at least 1m for RFBs	Steps of 1m+	Yes
	Use non reflective materials, treat publicly accessible areas with anti-graffiti coating	Schedule of finishes provides non-reflective materials	Yes
	Layer and step façades in order to avoid building forms that are bland, bulky or over-scaled by: <ul style="list-style-type: none"> - Complying with base and upper element setback controls - Incorporating balconies, staggered alignments for exterior walls, and by contrasting design elements. 	The current proposal complies with base and upper element setback controls The current proposal incorporates balconies, staggered alignments for exterior walls, and by contrasting design elements.	Yes Yes
Roof Design	No steep pitched roofs – use 10% pitch or less. Emphasise building articulation with shape and alignment of roof.	Flat roof proposed	Yes
	Relate roof design to building and respond to orientation of site	Roof design relates to building and site orientation	Yes
Fences	Provide boundary definition by construction of an open fence or hedge to the street boundary.	Front boundary fence provided	Yes
	Fences within the front boundaries or around courtyards are no higher than 1.2m.	Front fence 1.2m high	Yes
Service and Utility Areas	Integrated into the design of development and are not visually obtrusive. Unscreened appliances not to be visible from the street, communal area or driveway on the site (air con. units behind balustrades, screened recesses for water heaters, meters in service cabinets).	Service and utility areas integrated into the design of the development (i.e. air con, hot water units adequately screened), garbage bins screened	Yes
	Screen clothes drying areas from public view, storage space screened and integrated into design	Clothes drying and storage facilities screened	Yes

Standard	Requirement	Proposal	Complies
	Discretely located mailbox in front of property	Mailboxes can be discretely located at the front of the property	Yes
Performance Controls			
Visual Privacy	Locate and orientate new developments to maximise visual privacy between buildings – if preferred orientations are not achievable use high sill windows or <600mm wide	Privacy mitigation measures have been incorporated into the design.	Yes
Open Space	One bedroom = 9m ² Two bedroom = 12 m ² Three+ bedroom = 16 m ²	All two bedroom units achieve the minimum 12m ² private open space area requirements	Yes
	Locate the principal open space adjacent to the main living areas, such as living room, dining room or kitchen, to extend the living space of the dwelling, and provide: - Direct access from a living room, dining room or a family room. Indoor areas must not be elevated more than 300mm above the principal open space - One area at least 2.5m by 2.5m that is suitable for outdoor dining and can accommodate a dining table and two to four chairs	The current proposal provides principal open space adjacent to the main living areas and provides: - Direct access from a living room, dining room or a family room. Indoor areas must not be elevated more than 300mm above the principal open space; - One area at least 2.5m by 2.5m that is suitable for outdoor dining and can accommodate a dining table and two to four chairs;	Yes Yes
Open Space Design	Private open space, communal open space, garden courtyard or terrace, and balconies to be designed as per Clause 2.3.3.	Private open space areas comply with design requirements of Clause 2.3.3 in relation to size and depth and location.	Yes
Internal Dwelling Space and Design	Dimensions and design of interiors to accommodate furniture typical for purpose of room.	Typical furniture layout on plans demonstrates compliance by way of minimal use of furniture.	Yes
	Living room and main bedroom minimum 3.5m dimension Secondary bedrooms to have minimum 3m width.	All living room and main bedroom have a minimum of 3.5m dimension, with secondary bedrooms with a minimum 3m width.	Yes
	Storage: Minimum 6m ³ /One bedroom, 8m ³ /two bedroom, 10m ³ /Three+ bedroom dwelling.	All units have 8m ³ of storage space	Yes
	Communal stairwells to receive natural daylight and ventilation.	Natural day light available.	Yes
Housing Choice	10% of dwellings to be provided as accessible or adaptable units to suit residents with special needs	Unit 1 is capable of being an adaptable unit	Yes

As demonstrated in the table above, the proposal complies with the requirements of CDCP 2012 with the following exceptions that are discussed below.

[1] Width of site

The frontage of the site is 15.24m which is less than the minimum 20m frontage control in the DCP. However, this is an in-fill site and there are residential flat buildings on both sides of the site which will restrict any consolidation with the adjoining properties. Notwithstanding this, the design of the development is such that it is a suitable infill development with a lower floor space and height than our LEP allows.

As a result of the narrow frontage, there are associated variations with the setback, deep soil and building separation controls in the DCP. These variations are addressed below. It is considered that the shortfall in the frontage is satisfactory in this instance.

[2] Rear setback

The proposed rear setback is 4.9m to the edge of the balcony and 7.2m to the face of building. This is short of the 6.0m rear setback control. The rear of the site abuts a park and there is sufficient modulation and articulation in the design of the new building. The rear setback is considered to be satisfactory and does not represent a loss of amenity to either future occupants or park users.

[3] Deep Soil

The deep soil control in the DCP requires a minimum 2m wide along the side boundaries and minimum 5m along front and rear boundaries. The deep soil area is 2m wide alongside southern boundary, but is 400mm to 1.6m along northern side boundary. Due to the narrow site frontage it is not reasonable to expect full compliance with this control. The basement carpark and turning areas preclude compliance with this control. The amount and depth of deep soil is suitably provided at the front and rear of the site. The landscaping on the site is acceptable and the deep soil planting is considered to be adequate.

[4] Building separation

Part 2.1.9 of the DCP requires that buildings less than five storeys have at least 12m separation between windows and/or balconies. As the site has a width of only 15.24m, this control cannot be satisfied. The separation distances range from 6.0m to 8.0m. One of the objectives of the building separation requirements is to provide visual and acoustic privacy for existing and new residents. With regard to privacy, any balconies that do not meet the separation requirements are adequately screened. The other objective is to ensure that there is adequate sunlight to the building. The north/south orientation of the site ensures that the proposal does not result in any significant overshadowing through the day in mid-winter. The variation from the building separation control is considered acceptable.

Part 6.1 – Access and Mobility

The application was assessed against part 6.1 of our DCP and found to be satisfactory as one unit is accessible. Relevant conditions will be attached to any consent issued.

Part 6.2 – Climate, and Energy and Resource Efficiency

Standard	Requirement	Proposal	Complies
Site layout and building orientation	Design and orientate the building to maximise solar access and natural lighting, without unduly increasing the building's heat load.	Building designed and orientated to maximise solar access and natural lighting	Yes
	Where the shape of a lot permits face the long side of the building to the north to allow winter sun in, and then block it out during summer with shading devices and landscaping	Site configuration lends itself to face the s side of the building to the north	Yes
	Design and site the building to avoid casting shadows onto neighbouring buildings, outdoor space and solar cells on the site and on adjoining land (see solar access below)	Building has been designed to minimise shadow impact on adjoining properties	Yes

Standard	Requirement	Proposal	Complies
	Coordinate design for natural ventilation with passive solar design techniques	Design allows for natural ventilation and incorporates passive solar design techniques	Yes
	Provide adequate external clothes drying areas for all residents in the building	Each unit will be equipped with separate washer/dryer facilities	Yes
Internal layout	Configure the building to maximise solar access to rooms that are occupied during the day (such as living areas, offices, waiting rooms and lunchrooms). Locate service areas to the south and west of the building	Building configured to maximize solar access	Yes
Windows and glazing	Place more windows on the northern side than on other sides of the building, so that there are more windows gaining heat than there are losing heat in winter months, and sun penetration is reduced in summer	Placement of windows on the northern side has been incorporated into the design	Yes
Insulation and thermal mass	Use insulation in the roof, ceiling, walls and floors to deflect heat and prevent the building from heating up in summer, and to contain heat and prevent the building from cooling down in winter, as follows: <ul style="list-style-type: none"> • Roof: minimum 2.0 R-value • Wall: minimum 1.0 R-value • Floor: minimum 1.0 R-value 	This has been addressed in the BASIX Certificate	Yes
Daylight and sun access	At least two hours sunlight between 9.00am and 3.00pm on 21 June should be received daily: to indoor living areas and principal areas of private open space for at least 75% of the proposed dwellings.	All units receive three hours of sunlight to the living area.	Yes
	At least two hours sunlight between 9.00am and 3.00pm on 21 June shall be retained for existing indoor living areas and at least 50% of principal portion of existing private open space	Due to north south orientation of the site, sunlight access to adjoining properties has been satisfied.	Yes
Ventilation	Incorporate features to facilitate natural ventilation and convective currents – such as opening windows, high vents and grills, high level ventilation (ridge and roof vents) in conjunction with low-level air intake (windows or vents)	Satisfactory design features have been included to facilitate natural ventilation	Yes
	The rules of thumb as contained in the Residential Flat Design Code require that 60% of units achieve natural cross ventilation.	All units achieve natural ventilation.	

As demonstrated in the table above, the proposal complies with the requirements of Part 6.2 of DCP 2012.

Part 6.3 – Crime Prevention

The application was assessed against Part 6.3 of our DCP and found to be satisfactory. Relevant conditions will be attached to any consent issued.

Part 6.4 – Development Engineering Flood and Stormwater

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

Part 6.6 – Landscaping

The application has been reviewed by our Landscape Architect and was found to satisfy the requirements of Part 6.6 of the CDCP 2012. Conditions relating to landscaping have been recommended.

Part 6.8 – Vehicle Access and Parking

The quantum of parking on site has been addressed in the Residential Neighbourhoods section of this report and is deemed to be satisfactory.

Part 6.9 – Waste Management

The application has been reviewed by our Waste Services Coordinator and was found to satisfy the requirements of Part 6.9 of the CDCP 2012.

- **Canterbury Development Contributions Plan 2013**

The provisions of our Section 94 Contribution plan apply to the proposed development in that it will provide residential dwellings on the subject site. Based on the provision of six x two bedroom units, the proposed development attracts a contribution of \$63,606.86.

Other Considerations

- **Suitability of Site for the Development**

The site is located within a high density residential zone. The proposed development is permissible in the subject site's current zoning. The proposal has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act, 1979 and, as demonstrated throughout this report, the proposal is generally compliant with the provisions of all relevant development control plans, codes and policies. The application has been assessed by relevant Council officers, with any issues raised being resolved through additional information or conditions recommended for inclusion in any consent issued. On this basis it is considered that the site, despite its narrow width, is suitable for the proposed development and does not represent an unreasonable loss to local amenity.

- **The Public Interest**

The public interest was taken into consideration whilst assessing this development application. It is considered that the current proposal will not have a negative impact on the residential amenity of the neighbourhood and is therefore considered to be acceptable.

Notification

The development application was notified to all adjoining land owners and occupiers in accordance with Part 7 of the Canterbury Development Control Plan 2012. 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 proposed development is permissible in the zone subject to consent under the provisions of Canterbury Local Environmental Plan 2012. As demonstrated, the proposed development is generally consistent with the provisions of the relevant State Environmental Planning Policies and our development control plan.

As outlined throughout this report, the site is capable of accommodating the proposed residential development and is not expected to have any detrimental impacts on the amenity of the locality. In this regard the proposal is considered to be a suitable development for the site. It is recommended that the development application be approved, subject to conditions.

POLICY IMPACT

The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION

Development Application DA-262/2015 be **APPROVED** subject to the following:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
 - 1.1. Details of:
 - Structural Engineering Plan including method of shoring during excavation
 - Building Specifications
 - Fire Safety schedule
 - Landscape Plan
 - Hydraulic Plan
 - Firewall separation
 - Soil and Waste Management Plan
 - BASIX Certification
 - Ventilation of basement in accordance with AS 1668.2
 - 1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
 - 1.3. Payment to Council of:

Kerb and Gutter Damage Deposit	\$3,328.00
Section 94 Contributions	\$63,606.86
Certificate Registration Fee	\$36.00
Long Service Levy	\$5,463.50
 - 1.4. If you appoint Council as your Principal Certifying Authority, the following fees are payable:

Construction Certificate Application Fee	\$5,846.00
Inspection Fee	\$1,785.00
Occupation Certificate Fee	\$492.00

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.

BEFORE COMMENCING THE DEVELOPMENT

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

INSURANCE

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

SITE SIGNAGE

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

DEMOLITION

5. Demolition must be carried out in accordance with the following:
 - (a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
 - (b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must

be carried out in accordance with the requirements of the Workcover Authority of New South Wales.

- (c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
- (d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
- (e) Demolition of buildings is only permitted during the following hours:
7.00 a.m. – 5.00 p.m. Mondays to Fridays
7.00 a.m. – 12.00 noon Saturdays
No demolition is to be carried out on Sundays or Public Holidays.
- (f) Burning of demolished building materials is prohibited.
- (g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
- (h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
- (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
- (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
- (k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
- (l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).
- (m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
- (n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 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.
- (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 following plans, specifications and details except where amended by the conditions specified in this Notice.

Drawing No.	Prepared by	Date
LPDA 15-359Landscape Plan (Issue B)	Conzept Landscape Architect	April 2016, received by Council on 14/04/16
LPDA 15-359 Landscape Plan (Issue A)	Conzept Landscape Architect	March 2016, received by Council on 14/04/16
DA00 - Area Calculations	Urbanistica	25/05/15, received by Council on 19 June 2015
DA01 - Proposed Basement Floor Plan	Urbanistica	14/04/16, received by Council on 14/04/16
DA02 - Proposed Ground Floor Plan	Urbanistica	14/04/16, received by Council on 14/04/16
DA03 - Proposed First Floor Plan	Urbanistica	14/04/16, received by Council on 14/04/16
DA04 - Proposed Second Floor Plan.	Urbanistica	14/04/16, received by Council on 14/04/16
DA05 - Proposed Site and Roof Plan	Urbanistica	25/05/15, received by Council on 19 June 2015
DA06 - Proposed Elevations Sheet1	Urbanistica	25/05/15, received by Council on 19 June 2015
DA07 - Proposed Elevations Sheet 2	Urbanistica	25/05/15, received by Council on 19 June 2015
DA08 - Proposed Sections	Urbanistica	25/05/15, received by Council on 19 June

7. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The monetary contribution of \$63,606.86 shall be paid to Canterbury City Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is based on the following components:

Contribution Element	Contribution
• Open Space and Recreation	\$56,233.32
• Community Facilities	\$5,753.45
• Plan Administration	\$1,620.09

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.

8. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
9. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 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.
10. All building construction work must comply with the National Construction Code.

11. 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.
12. 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.
13. 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."
14. 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.
15. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
16. 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.
17. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
18. Drains, gutters, roadways and access ways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
The site must be provided with a vehicle wash-down 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.

LANDSCAPING REQUIREMENTS

20. The landscaping must be completed according to the submitted landscape plan (drawn by Conzept Landscape Architects, drawing no. LPDA15-359 issue B, submitted to council on the 14th April 2016) except where amended by the conditions of consent.
21. 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).

22. All scheduled plant stock shall be **pre-ordered**, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
23. An automatic watering system is to be installed in common areas at the applicant's cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer's specification and current Sydney Water guidelines.
24. The existing street tree, 1 x *Lophostemon confertus* (common name Brushbox), growing on the nature strip in front of the property must be retained and protected during demolition and construction. A tree protection zone (TPZ) of 2 metre radius (measured from the edge of the tree trunk) must be observed. A tree protection barrier is to be erected around the perimeter of the TPZ prior to the commencement of any site works. This barrier must be a minimum 1800mm high chain link fabric (with standard 50mm pitch) on 2400mm star pickets driven 600mm into the ground so that the fencing cannot be breached. A 600mm x 450mm prohibition sign complying with AS1319, and stating 'TREE PROTECTION ZONE – KEEP OUT' must be attached to the barrier. The barrier is to be well maintained during construction. No building material storage or construction activity shall be allowed to encroach within this TPZ.
25. The driveway crossover is to be located no closer than 2m from the tree (measured from the edge of the tree trunk).
26. The proposed planting to all podium levels should comply with the following as required in the CDCP 2012 Part 6.6: Landscape:
 Raised planters:
 - Use masonry or concrete construction;
 - Provide drainage for each planter box, and coordinate drainage details with hydraulics plan; and
 - Provide waterproofing to each planter box.
 Minimum soil depth:
 - 100-300mm for turf
 - 300-450mm for groundcovers;
 - 500-600mm for small shrubs;
 - 600-750mm for medium shrubs;
 - 750-900mm for small trees with approximate soil area of 3.5m x 3.5m;
 - 1000mm for medium trees with approximate soil area of 6m x 6m; and
 - 1300mm depth for large trees with approximate soil area of 10m x 10m.

ENGINEERING

27. 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 14th April 2016; drawing number C-2806-01, C-2806-02 prepared by Kozarovski&Partners.
 - 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 Onsite Detention System.

- c) An overland flow path must be maintained unobstructed between the front of the dwelling and the rear of the dwelling. This area must be graded so that bypass flows from the site drainage system and natural flow will remain unobstructed.
 - d) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- 28. 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.
- 29. 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.
- 30. The submitted plans provide an option that potentially utilises neighbouring properties and the roadway for support. The legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged Canterbury City Council prior to the issue of a Construction Certificate.
- 31. Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent.
- 32. Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.
- 33. Where rock anchors or other temporary retaining measures are to encroach on adjoining properties, including the roadway, the Principal Certifying Authority must ensure that the permission of the relevant landowner has been obtained. In this regard a copy of the owner's consent for private property and Section 138 Approval pursuant to the Roads Act for roads must be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.
- 34. Where temporary anchors are proposed to be used in Seventh Avenue an Application must be made to Canterbury City Council for approval under Section 138 of the Roads Act 1993, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:
 - a) Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.
 - b) Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
 - c) The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
- 35. 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) The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
 - c) 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.
 - d) All gates if any must be inward opening within its own boundary, and must not obstruct the pedestrian pathway.
 - e) A suitably qualified Engineer must certify that the access and parking complies with current Australian Standards including *AS/NZS 2890.1-2004* Parking Facilities - Off-Street Car Parking, *AS 2890.2-2002* Parking Facilities - Off-Street commercial vehicles facilities, *AS/NZS 2890.6-2009* Off-street parking for people with disabilities and *AS 2890.3-1993* Parking Facilities - Bicycle parking facilities.
36. Prior to and during construction, the applicant is to give sufficient notice to residents at adjacent property number 15 Seventh Avenue, prior to accessing council stormwater easement for the stormwater connection. The applicant is to restore work area
 37. Prior to and during construction, the applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.
 38. Prior to and during construction, 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. Prior to and during construction, a full width heavy duty vehicular crossing shall be provided at the vehicular entrance to the site, with variable width at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
 40. Prior to and during construction, 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.
 41. Prior to and during construction, if Groundwater is encountered, it must not be captured by the drainage system of the basement. In this regard the basement must be tanked to at least 1000 mm above measured groundwater levels.
 42. Prior to Occupation Certificate, the stormwater system be constructed in general, in accordance with the plans, specifications and details submitted with the Construction Certificate.
 43. Prior to issue of an Occupation Certificate, Certification from an accredited engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
 44. Prior to issue of an Occupation Certificate, an appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4. A Works-as-

Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1st March 2010.

45. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that Operation and Management Plans has been prepared and implemented for the OSD and basement pump out facilities. The Plan must set out the following at a minimum:

- a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
- b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

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

46. The Operation and Management Plan for the OSD and basement pump out facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
47. 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".
48. The reconstruction of the kerb and gutter along all areas of the site fronting Seventh 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".
49. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting Seventh Avenue is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".

WASTE

50. The waste bin storage area is to be designed and constructed in accordance with clause 6.9.4.1 and 6.9.4.2 of the Canterbury Development Control Plan.
51. Unobstructed and unrestricted access must be provided to the waste bin storage area on collection days from 5.00am. The bins must not be presented on the road.

SYDNEY WATER REQUIREMENTS

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/SW/plumbing-building-developing, Water Servicing Coordinators, or telephone 13 20 92. Following application, a "Notice of Requirements" will be forwarded detailing water and sewage extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since

building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the final plan of subdivision.

CRITICAL INSPECTIONS

53. Class 2, 3 or 4 Buildings

- 53.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 53.2. prior to covering any stormwater drainage connections, and
- 53.3. 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

- 53.4. prior to covering any stormwater drainage connections, and
- 53.5. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

54. 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

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

WE ALSO ADVISE

56. This application has been assessed in accordance with the National Construction Code.
57. 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.
58. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
 - Air Handling systems
 - Waterproofing
 - Glazing
 - Final fire safety certificate
 - BASIX completion
59. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
60. 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.
61. 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.
62. 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.

63. 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.
64. If you are not satisfied with this determination, you may:
 - 64.1. 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
 - 64.2. 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.

ATTACHMENTS

[Click here for attachments](#)

- A. Locality Map
- B. Site and Roof Plan
- C. Basement Floor Plan
- D. Sections Plan
- E. Elevations
- F. Elevations

Planning Matters - 14 June 2016

ITEM 5.8	2-4 Barnes Avenue, Earlwood - Conversion of Garage into Secondary Dwelling and Construction of Carport
FILE	DA-566/2015
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	20 November 2015 (additional information was received on 18 December 2015 and 16 March 2016)
APPLICANT	Filmer Architects
OWNERS	Zi Li Cong
AUTHOR	City Development

ISSUE

- The Development Application proposes to convert and fitout an existing garage into a secondary dwelling and the construction of a new carport.
- This application has been referred to the City Development Committee because it seeks a variation of 12% to our maximum site coverage control.
- The subject site is zoned R2 Low Density Residential under Canterbury Local Environmental Plan 2012 and the proposed development is permissible with our consent.
- The application has been assessed against the controls in Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012 and seeks variation from our maximum site coverage control. This issue of non-compliance is considered reasonable given the site history and that the overall impact of the site coverage is not significant. The variation can be supported which is discussed in greater detail in the body of this report.
- In accordance with our notification policy, all owners and occupiers of adjoining properties were notified of the proposed development. No submissions were received.
- It is recommended that the Development Application be approved, subject to conditions.

BACKGROUND

Over the years numerous applications have been applied to Council seeking use and works to be undertaken on site.

Development Application 5878/1992 approved the manufacture, sale and distribution of marinated food. Development Application 8811/1997 approved the making and sale of pasta and Development Application 9353/1998 approved the use of the shop premises as an office for telecom supplies.

Building Application 344/1998 approved a detached rear shop/residence with a triple garage.

On 10 October 2013 Council refused Building Certificate 9/2012 to retain an awning attached between the dwelling and existing garage and a carport at the rear of the property.

On 4 August 2015 Council approved Building Certificate 17/2015 to retain an existing, metal awning between the existing garage and an authorised secondary dwelling at 2-4 Barnes Avenue, Earlwood.

Having received the subject Development Application on 20 November 2015, it was not found to be suitable and amended plans were sought on 18 December 2015. Following notification from 12 to 28 February 2016 further amendments were sought on 3 March 2016. The primary issue regarding the request for the amendments focused on site coverage and the lack of landscaped open space. Amended plans were received on 16 March 2016 and are the subject of this report.

Site Details

The subject site is identified as 2-4 Barnes Avenue, Earlwood (Lot 48 DP 10662). The site is situated on the corner of Barnes Avenue and Woolcott Street. The site has a frontage of 12.80m, a depth of 45.72m with an overall area of 585.2m². The site falls to the front. The existing structures on the site include a single story dwelling and garage that has been partially converted to a Secondary Dwelling. Most of the site is covered by these structures and various awnings.



Aerial view of the site



Existing Garage to be converted to a Secondary Dwelling



Location of proposed carport and landscaping

Proposal

The proposal seeks consent to convert an existing garage into a secondary dwelling and construct a carport which can accommodate two cars in a tandem parking arrangement at the rear of the site that can be accessed from Woolcott Street.

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

REPORT

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 2004 (Building Sustainability Index: BASIX)**
A BASIX Certificate (Certificate No. 685231S) accompanies this application. The certificate lists a number of commitments which have been shown on the DA plans and the proposal meets the energy targets of the SEPP. The DA will be conditioned to ensure compliance with the State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX).
- **State Environmental Planning Policy 2009 (Affordable Rental Housing) (ARH SEPP)**
Clause 20 of the State Environmental Planning Policy 2009 (Affordable Rental Housing) (ARH SEPP) stipulates that the controls provided under the ARH SEPP for secondary dwellings apply if development for the purposes of a dwelling house is permissible on the land. Dwelling houses are permissible within the R2 zone under the Canterbury Local Environmental Plan 2012 and as such the development standards provided in Clause 22 and Schedule 1 of the ARH SEPP apply to the subject proposal.

Standard	Required	Proposed	Complies
Number of dwellings on site	Primary and secondary dwellings only	One primary and one secondary dwelling	Yes
Floor Space of Secondary Dwelling	Max 60m ²	60m ²	Yes
Minimum site area	450m ²	585.2 m ²	Yes
Required parking for secondary dwelling	No additional parking required	No additional parking provided specifically for the secondary dwelling, though two spaces are provided on site.	Yes

An assessment against the provisions of Schedule 1 of the ARH SEPP is provided below.

Standard	Required	Proposed	Complies
Site and Lot Requirements			
Number of dwellings	Primary and secondary dwellings only	One primary and one secondary dwelling	Yes
Boundary width primary road	12 metres.	12.80m	Yes
Access to primary road	A lot on which a new secondary dwelling is erected must have lawful access to a public road.	The subject site has lawful access to both Woolcott Street and Barnes Street	Yes
Maximum site coverage of all development			
Site coverage	50% (292. 6m ²)	56% or 327.9m ²	No – see comment [1] below
Maximum floor area for principal and secondary dwelling			
Maximum floor area	60m ²	60m ²	Yes

Standard	Required	Proposed	Complies
Total floor area	330m ²	185 m ² (125 m ² + 60 m ² inclusive of the principal and secondary dwelling gross floor area)	Yes
Setbacks and maximum floor area			
Balconies, decks, patios, terraces and verandahs	The total floor area of all balconies, decks, patios, terraces and verandahs on a lot must not be more than 12 square metres if: (a) any part of the structure is within 6 metres from a side, or the rear, boundary, and (b) the structure has any point of its finished floor level more than 2 metres above ground level (existing).	Balcony, deck, patio, terrace or verandah has not been proposed as part of this application	N/A
	The balcony, deck, patio, terrace or verandah must not have any point of its finished floor level: (a) if it is located within 3 metres of a side, or the rear, boundary—more than 2 metres above ground level (existing).	Balcony, deck, patio, terrace or verandah has not been proposed as part of this application	N/A
Building heights and setbacks			
Building height	Development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building having a building height above ground level (existing) of more than 8.5 metres.	3.7m	Yes
Setbacks from side boundaries			
Side setbacks	0.9 metres	Northern elevation: 1230m Southern elevation: 1540m	Yes Yes
Setbacks from rear boundaries			
Rear setbacks	3 metres	10.47m	Yes
Privacy			
Privacy relating to habitable room windows	A window in a new secondary dwelling, or a new window in any alteration or addition to an existing principal dwelling for the purpose of a new secondary dwelling, must have a privacy screen for any part of the window that is less than 1.5 metres above the finished floor level if: (a) the window: (i) is in a habitable room that has a finished floor level that is more than 1 metre above ground level (existing), and (ii) has a sill height that is less than 1.5 metres above that floor level, and (iii) faces a side or rear boundary and is less than 3 metres from that boundary.	The proposed finished floor level is a maximum of approximately 0.2mm above existing ground level. As such, this control does not apply.	N/A

Standard	Required	Proposed	Complies
Landscaping			
Landscaped area	20%	20.4% (119.2m ²)	Yes
	50 %	73% (87.7m ²) is located at the rear of the development.	Yes
	The landscaped area must be at least 2.5 metres wide.	Min. proposed width 2.5m	Yes
Principal Private Open Space			
Principal private open space	Minimum principal private open space of 24 square metres required.	80m ² is provided for the Secondary Dwelling and 45m ² for the principal dwelling. Adequate private open space provided for secondary dwelling and principal dwelling.	Yes
	Principal private open space must be: (a) directly accessible from, and adjacent to, a habitable room, other than a bedroom, and (b) more than 4 metres wide, and (c) is not steeper than 1:50 gradient.	The principal private open space is directly accessible from the living areas of the principal dwelling and secondary dwelling, exceeds 4m in width and is relatively flat.	Yes

[1] Site Coverage

Part 2 (2) (1) (b) of Schedule 1 of the ARH SEPP stipulates that sites shall have a minimum site coverage of 50% of the site. The proposed site coverage is 327.9m² (56%) and therefore exceeds this control by 12%. However, the proposed development complies with deep soil area requirements of clause 16(a) as well as significantly exceeding the private open space requirements in clause 17(1). Given the suitable quantity of landscaped open space on this site the impact from this variation to site coverage is minimal and does not represent a loss to local amenity.

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

The site is zoned R2 Low Density Residential under Canterbury Local Environmental Plan 2012 (CLEP 2012). Secondary dwellings are not a permissible use within the R2 Zone under CLEP 2012. However, secondary dwellings are permissible under the State Environmental Planning Policy (Affordable Rental Housing) 2009.

Standard	Requirement	Proposal	Complies
Zoning	R3 Medium Density Residential	The proposed secondary dwelling is not a permissible use within the R2 Zone	No *
Building height	8.5m	3.7m	Yes

* Secondary dwellings are permissible in the R2 Zone under the ARH SEPP

The proposal complies with the standards found in CLEP 2012 and is permissible in the R2 zone pursuant to the provisions of the ARH SEPP.

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

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

Standard	Required	Proposal	Complies
Streetscape	Compatibility with existing scale, rhythm of built elements, fenestration and building materials, street edge.	The proposed secondary dwelling is situated in the rear setback and shall not be visible	Yes

Part 6.2 - Climate, energy and resource efficiency

The proposed secondary dwelling is a single storey, and as such, is not considered to result in overshadowing on adjoining properties. Due to the orientation of the site, any shadow cast by the single story structure will fall onto the subject site or adjoining footpath. Suitable solar access from 11am to 3pm is achieved to the secondary dwellings living room.

Part 6.3 - Crime Prevention Through Environmental Design (CPTED)

The development has been assessed against the provisions of the DCP. As the development is a dwelling, the CPTED element of ownership is assumed due to the use of the building. The CPTED elements of natural surveillance and access points require special consideration and are summarised below:

Requirements	Proposal	Complies
Location of front door – visible to the street/ other properties	The location of the front door is existing and will not be modified as part of this application. The door is visible to the street and other properties. The proposed Secondary Dwelling door is not visible from the street; however once inside the property it is not hidden.	Yes
Habitable rooms with windows to front street or adjacent to public areas	Existing habitable room front the street providing casual surveillance.	Yes
Visibility to street/ public areas - not obstructed by new/existing landscaping or fencing.	Visibility of dwelling will be not be obstructed by proposed front fence or landscaping	Yes

Part 6.4 - Development Engineering Flood and Stormwater

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

Part 6.8 - Vehicle Access and Parking

Part 6.8 of CDCP 2012 requires that for a single dwelling with three or more bedrooms, two car parking spaces be provided per dwelling. Two parking spaces have been provided at the rear of the dwelling in the form of tandem carport.

Part 6.9 - Waste Management

A Waste Management Plan has been provided, detailing the demolition, construction and operational phases of the proposed development. Conditions relating to demolition have been included on the consent (by way of standard condition).

- **Canterbury Development Contributions Plan 2013**
The application requests the construction of a secondary dwelling at the rear of the subject site. In accordance with Canterbury Development Contributions Plan 2013, the proposed development will attract a payment which will be imposed as a condition of consent.

Other Considerations

- **Likely Impacts of the Development**
The proposed secondary dwelling is permissible within the R2 Low Density Residential. The proposal will result in amenity impacts on the locality. However, the change is such that these impacts are reasonable and do not adversely affect the enjoyment of the neighboring amenity.
- **The Suitability of the Site**
Given the unauthorised development at this site and the overall site coverage, some consideration should be given as to the suitability of this site and for this development. However, given the development generally complies with our controls and that the site has an intense history including use as a shop and as a manufacturing outlet on balance the favourable consideration of this application can be given.
- **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 development application was publicly exhibited to adjoining land owners in accordance with the provisions of Part 7 of the DCP. No submissions have been 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 codes and policies. Whilst some variation to site coverage is sought, the overall impact of the development is not significant and can be supported.

POLICY IMPACT

The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION

Development Application DA-566/2015 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 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	\$2723.00
Certificate Registration Fee	\$36.00
Long Service Levy	\$238.00
Section 94 Development Contributions	\$4406.32
 - 1.5. If you appoint Council as your Principal Certifying Authority, the following fees are payable:

Construction Certificate Application Fee	\$938.00
Inspection Fee	\$832.00
Occupation Certificate Fee	\$161.00

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

BEFORE COMMENCING THE DEVELOPMENT

2. Before the erection of any building in accordance with this Development Consent;
 - 2.1. detailed plans and specifications of the building must be endorsed with a Construction Certificate by the Council or an Accredited Certifier, and
 - 2.2. you must appoint a Principal Certifying Authority (either Canterbury City Council, or an Accredited Certifier) and notify the Council of the appointment (see Attachment – Notice of Commencement copy), and

- 2.3. you must give the Council at least 2 days notice of your intention to commence erection of the building (see Attachment – Notice of Commencement copy).
- 2.4. In the case of work which includes residential development, you must inform us in writing before the commencement of work of the following:
 - 2.4.1. The name and contractor or licence number of the licensee who has contracted to do or intends to do the work; or
 - 2.4.2. The name and permit number of the owner-builder who intends to do the work.

INSURANCE

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

SITE SIGNAGE

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

GENERAL

5. The development being carried out in accordance with:

Plan	Prepared By	Issue	Date	Date Received By Council
DA 00 Site and Roof Plan, Project No. 1107/15	Filmer Architects	B	15.03.16	16 March 2016
DA 01 Proposed Ground Floor Plan, Project No. 1107/15	Filmer Architects	B	15.03.16	16 March 2016
DA 02 Elevations and Sections, Project No. 1107/15	Filmer Architects	B	15.03.16	16 March 2016
DA 03 Soil and Water Management Plan, Project No. 1107/15	Filmer Architects	A	20.11.2015	20 November 2015
DA 05 Site Coverage Calculation , Proposed Landscaping Area + Principal Private Open Space, Project No. 1107/15	Filmer Architects	A	15.03.16	16 March 2016

- 5.1 At no time shall the “store” in the secondary dwelling to be made accessible from within the Secondary Dwelling. The only access to the “store” shall be from the door shown on the stamped approval plans located on the eastern elevation next to “W1”.
6. 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.
7. The amount of the contribution (as at the date of this consent) has been assessed as \$4406.32. The amount payable is based on the following components:

Contribution Element 2013	Contribution
• Community Facilities	\$398.48
• Open Space and Recreation	\$3,895.94
• Plan Administration	\$111.90

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. A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

8. Finishes and materials including the treatment of external walls, roofing, fascia , gutters, downpipes, windows, doors and carport in accordance with the Schedule of finishes and colour scheme received by Council on 20 November 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.
9. Renewal or provision of fencing, attributable to the proposed development being the responsibility of the developer.
10. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
11. 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.
12. All building construction work must comply with the National Construction Code.
13. 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.
14. Provide a Surveyor's Certificate to the Principal Certifying Authority at all floor levels and roof indicating the finished level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
15. 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."
- 16. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
- 17. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
- 18. 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.
- 19. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
- 20. 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.
- 21. 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.

LANDSCAPING

- 22. One major canopy property tree (75litre pot size) to be provided in the rear yard of the property. The major canopy tree is to be a mature height of greater than 5m and planted in a garden bed rather than turfed area.

ENGINEERING REQUIREMENTS – STORMWATER

Prior To Construction Certificate

- 23. 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:
 - 23.1. The design must be generally in accordance with the plans, specifications and details received by Council on 15 March 2016; drawing number 15-194 A, prepared by Portes Civil & Structural Engineers Pty Ltd.
 - 23.2. 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 Barnes Avenue.
 - 23.3. The construction of a concrete kerb along the northern boundary must be installed to direct overland flow to Barnes Avenue and is to be entirely contained within the site boundary
 - 23.4. 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.
 - 23.5. 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.
 - 23.6. 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

- 23.7. 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.
24. 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.
25. 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 Council's DCP 2012.

Prior To Construction

26. 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.
27. Any existing component of the stormwater system that is to be retained must be checked and certified by a Licensed Plumber or qualified practicing Civil Engineer to be in good condition and operating satisfactorily. If any component of the existing system is not in good condition and /or not operating satisfactorily, it must be upgraded.

Prior To Occupational Certificate

28. 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.
29. 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.

ENGINEERING REQUIREMENTS – PARKING

Prior To Construction Certificate

30. 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:
 - 30.1. 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
 - 30.2. The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
 - 30.3. Physical control barriers are required around the carport in accordance with Section 2.4.5.3 of AS/NZS 2890.1:2004.
 - 30.4. A minimum of 2200mm Headroom must be provided throughout the access and parking facilities. Note that Headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
 - 30.5. 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.
 - 30.6. Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of AS/NZS 2890.1:2004.

31. 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.

Prior and During Construction

32. 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.
33. 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

34. 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.

SYDNEY WATER REQUIREMENTS

35. 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, 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.
36. 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, 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.

CRITICAL INSPECTIONS

37. 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):
- 37.1. after excavation for, and prior to the placement of any footings, and
 - 37.2. prior to paving any in-situ reinforced concrete building element, and
 - 37.3. prior to covering of the framework for any floor, wall, roof or other building element, and
 - 37.4. prior to covering waterproofing in any wet areas, and
 - 37.5. prior to covering any stormwater drainage connections, and
 - 37.6. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
38. 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

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

WE ALSO ADVISE:

40. This application has been assessed in accordance with the National Construction Code.
41. 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.
42. 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
 - Waterproofing
 - Glazing
 - Protection from termites
 - Smoke alarms
 - BASIX completion
43. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
44. 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.
45. 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.
46. 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.
47. 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.
48. If you are not satisfied with this determination, you may:
- 48.1. 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
 - 48.2. 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.

ATTACHMENTS

[Click here for attachments](#)

- A. Locality Map
- B. Site and Roof Plan
- C. Ground Floor Plan
- D. Elevations

Planning Matters - 14 June 2016

ITEM 5.9	6 Bellombi Street, Campsie - Construction of Secondary Dwelling
FILE	DA-30/2016
ZONING	R3 Medium Density Residential under Canterbury LEP 2012
DATE OF LODGEMENT	2 February 2016 (with additional information received on 30 March 2016)
APPLICANT	Boris Grgurevic and Associates
OWNERS	Jason Singh
AUTHOR	City Development

ISSUE

- A Development Application has been received for the construction of a new secondary dwelling.
- 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 provisions of State Environmental Planning Policy (Building Sustainability Index) 2004, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Affordable Rental Housing) 2009, Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policy controls.
- The proposed development has been referred to the City Development Committee as it involves a number of non-compliances relating to the minimum lot width and the rear building setback, which exceed the delegated powers of our officers. These are discussed in greater detail in the body of this report, but are considered acceptable and should be supported.
- In accordance with Part 7 of the DCP, all owners and occupiers of adjoining properties were notified of the proposed development, and no submissions were received.
- It is recommended the application be approved subject to conditions.

BACKGROUND

Site Details

The subject site is commonly known as 6 Bellombi Street, Campsie (Lot 2 in DP 304408). The site has a dual frontage with Nowra Lane at the rear, is irregular in shape with a splay along the rear boundary, has an area of 487.7m², and contains a single dwelling. The surrounding area is characterised primarily by various forms of residential accommodation, ranging from detached dwellings to residential flat buildings. The subject site is located to the west of the Campsie Town Centre.



Aerial view of site



Subject site, looking south from Bellombi Street, Campsie

Proposal

The proposal involves the construction of a secondary dwelling to the rear of the existing dwelling house.

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 2004 (Building Sustainability Index: BASIX) (SEPP 2004 BASIX)
- State Environmental Planning Policy 2007 (Infrastructure) (SEPP 2007)
- State Environmental Planning Policy 2009 (Affordable Rental Housing) (ARH SEPP)
- Canterbury Local Environmental Plan (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013

REPORT

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 2004 (Building Sustainability Index: BASIX)**
A BASIX Certificate (Certificate No 700589S) accompanies this application. The certificates list a number of commitments which have been shown on the DA plans and the proposal meets the energy targets of the SEPP.
- **State Environmental Planning Policy 2007 (Infrastructure) (SEPP 2007)**
Clause 87 of this SEPP refers to residential development adjacent to a rail corridor. In order to respond to the requirements as set out in this Clause, a referral was sent to Sydney Trains for comment.

A response was received which raised no objections with the proposed development, subject to the imposition of conditions, which will be imposed in any consent.

- **State Environmental Planning Policy 2009 (Affordable Rental Housing) (ARH SEPP)**
The proposal compares to the provisions of ARH SEPP in the following manner:

Standard	Required	Proposed	Complies
Number of dwellings	No more than two dwellings on site	Two dwellings will be contained on the site	Yes
Total floor space	Total floor area of principal dwelling and secondary dwelling is no more than 0.5:1	Gross floor space of the total development (principal dwelling and secondary dwelling) is 200.4m ² , which represents an FSR of 0.41:1.	Yes
Floor space of secondary dwelling	Total floor area of the secondary dwelling is no more than 60m ²	Total floor area is 60m ²	Yes
Site area	Site area is at least 450m ²	Total site area is 487.4m ²	Yes
Car parking	No additional parking is to be provided on the site	No additional parking is provided.	Yes

An assessment against the provisions of Schedule 1 of the ARH SEPP is provided below.

Standard	Required	Proposed	Complies
Site requirements			
Lot requirements	Minimum size of 450m ²	487.4m ²	Yes
	Minimum frontage of 12m at the front building line of primary dwelling for sites greater than 450m ² and less than 600m ²	10.16m	No – see comment [1] below
Maximum site coverage	Maximum coverage of all buildings to be 50%	41%	Yes
Maximum floor area for principal and secondary dwelling	Maximum floor area of 330 m ²	200.1m ²	Yes
Building heights and setbacks			
Building height	Maximum height of 8.5m	4m	Yes
Side setback	Minimum setback of 0.9m	0.9m	Yes
Rear setback	Minimum setback of 3m	Minimum of 0.8m	No – see comment [2] below
Landscaping			
Landscaped area	Minimum of 35%, with 50% behind the building line	Approximately 113m ² ; with approximately 56% behind the building line of the primary dwelling	Yes
Principal private open space	Minimum of 24m ²	At least 24m ² is available	Yes

As demonstrated in the above table, the proposed development complies with the numerical controls with the exception of the following matters discussed below:

[1] Minimum Site Width

The objective of the site width control is contained in Clause 2.1.2 of the DCP and states 'to allow dual occupancy development on sites that have sufficient dimensions for adequate garden areas around dwellings and adequate vehicle access and parking. Despite the non-compliance with the site width control by 1.84m (or 15.3%), the proposed development will provide sufficient garden areas and good amenity for future occupants of both the principal and secondary dwelling. The area of private open space for each dwelling exceeds that required by our controls and will not result in any adverse impact on neighbouring residential development by way of overshadowing, loss of privacy and the like.

[2] Minimum Rear Setback

The proposed secondary dwelling is setback 800mm from the rear boundary. This represents a significant departure from the required 3m setback. However, given the circumstance of the local environment a variation to this control can be given.

The rear of the property adjoins Nowra Lane which in itself runs parallel to the railway line. Further, there is no established building pattern along Nowra Lane with neighbouring properties containing buildings that have a similar setback to that proposed by this secondary dwelling.

Given the utilitarian nature of the adjoining land and the lack of an established building line, the proposed rear setback does not represent a loss of amenity for neighbouring properties.

Notwithstanding this departure the proposed secondary dwelling still provides an adequate amount of private open space to its future occupants.

Given that the proposal complies with all other aspects of the numerical controls and does not result in any adverse impacts on adjoining residential development as a result of the site width and rear setback, a variation to the control is considered reasonable in this instance.

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

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

Land Use Table

The subject site is zoned R3 Medium Density Residential under CLEP 2012. The proposed secondary dwelling is permissible with consent in this zone by virtue of the overriding ARH SEPP.

Part 4 – Principal Development Standards

Standard	Requirement	Provided	Complies
Height of Building	8.5m	A maximum height of 4m.	Yes
Floor Space Ratio	Maximum floor space ratio standard is 0.5:1	Gross floor space of the total development (principal dwelling and secondary dwelling) is 200.4m ² , which represents an FSR of 0.41:1.	Yes

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

Council has adapted the provisions contained in the ARH SEPP for the purposes of assessing proposals for the secondary dwellings. Any proposals that fall outside there controls should be dealt with on their merits. The relevant controls have been addressed above.

Part 6.2 Climate, and energy and resource efficiency

For new residential buildings that are of one to two storeys in height, living room windows and principal ground level open space receive at least two hours sunlight between 9am and 3pm in mid-winter. The proposed secondary dwelling will allow for a minimum of two hours sunlight to the neighbouring living areas and private open space areas.

Part 6.4 Development Engineering Flood and Stormwater

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

Part 6.9 Waste Management

A Waste Management Plan has been provided, detailing the demolition, construction and operational phases of the proposed development.

- **Canterbury Development Contributions Plan 2013**
The provisions contained in our Section 94 Contributions Plan apply to developments involving the construction of additional residential development that creates further demand to improve or upgrade existing facilities, amenities or services. The proposed secondary dwelling attracts a contribution of \$4,406.32 by creating a secondary dwelling in the area.

Other Considerations

- **Sediment and Erosion Control**
The submitted development plans show details of sediment and erosion control measures to be installed as part of the construction of the development. Standard conditions will be included regarding the installation and maintenance of the sediment and erosion control measures as part of the pre and during construction phase of the development.
- **Health, Safety and Amenity during Construction Phase**
During the construction of the development, the health and amenity of workers, the public and adjoining properties alike need consideration under Section 79C of the Environmental Planning Assessment Act. Accordingly, all works associated with the development will be restricted to daytime hours to ensure the works will not be a nuisance to adjoining occupiers and property owners (by way of standard condition).
- **Suitability of Site for the Development**
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 and, as demonstrated throughout the body of this report, the proposal generally complies with the provisions of all relevant state environmental planning policies, development control plans, codes and policies with the exception of the control relating to building separation.

Notification

The development application was publicly exhibited and adjoining land owners notified in accordance with the provisions of Part 7 of the DCP. During this time, Council received no submissions.

Conclusion

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

POLICY IMPACT

The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION

Development Application DA-30/2016 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	\$1,814.00
Certificate Registration Fee	\$36.00
Long Service Levy	\$350.00
 - 1.5. If you appoint Council as your Principal Certifying Authority, the following fees are payable:

Construction Certificate Application Fee	\$1,014.90
Inspection Fee	\$832.00
Occupation Certificate Fee	\$161.00

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

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

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

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

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

BEFORE COMMENCING THE DEVELOPMENT

2. Before the erection of any building in accordance with this Development Consent;
 - 2.1. detailed plans and specifications of the building must be endorsed with a Construction Certificate by the Council or an Accredited Certifier, and
 - 2.2. you must appoint a Principal Certifying Authority (either Canterbury City Council, or an Accredited Certifier) and notify the Council of the appointment (see Attachment – Notice of Commencement copy), and

- 2.3. you must give the Council at least 2 days notice of your intention to commence erection of the building (see Attachment – Notice of Commencement copy).
- 2.4. In the case of work which includes residential development, you must inform us in writing before the commencement of work of the following:
 - 2.4.1. The name and contractor or licence number of the licensee who has contracted to do or intends to do the work; or
 - 2.4.2. The name and permit number of the owner-builder who intends to do the work.

INSURANCE

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

SITE SIGNAGE

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

GENERAL

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

Drawing No.	Drawing Title	Prepared by	Received by Council on
1 of 3	Site Plan, Drainage Plan and Sediment Control	Boris Grgurevic and Associates	30/3/16
2 of 3	Floor Plan and BASIX notes	Boris Grgurevic and Associates	30/3/16
3 of 3	Elevations	Boris Grgurevic and Associates	30/3/16

6. Finishes and materials including the treatment of external walls, roofing, balcony balustrades, fences, windows and doors being in accordance with the approved Schedule of External Finishes prepared by AustralBuilt, received by Council on 26 October 2015. The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the external appearance of the building without the approval of Council.
7. 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 \$4,406.32 shall be paid to Canterbury City Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is based on the following components:

Contribution Element	Contribution
• Community Facilities	\$398.48
• Open Space and Recreation	\$3,895.94
• Plan Administration	\$111.90

The rates applying to each contribution element are subject to quarterly indexing using the Consumer Price Index. If the contribution is not paid within the current quarterly period that the Consent Notice is issued, the contribution will be reviewed at the time of payment in accordance with the adopted Section 94 Plan.

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. A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

8. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
9. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 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.
10. All building construction work must comply with the National Construction Code.
11. Provide a Surveyor's Certificate to the Principal Certifying Authority at all floor levels and roof indicating the finished level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
12. 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."
13. 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.
14. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
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. All disturbed areas must be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
18. The implementation of adequate care during building construction to ensure that no damage is caused to any adjoining properties.

19. Erection of a hoarding/fence 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.
20. 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.
21. Stormwater from roof areas must be linked via a temporary downpipe to a council approved stormwater disposal system immediately after completion of the roof area.

ENGINEERING

22. A stormwater drainage design prepared by a Licensed Plumber or qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared to make provision for the following:
 - (a) 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.
 - (b) 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.
 - (c) 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.
 - (d) 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.
 - (e) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
 - (f) 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.
23. 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.
24. 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.
25. Any existing component of the stormwater system that is to be retained must be checked and certified by a Licensed Plumber or qualified practicing Civil Engineer to be in good condition and operating satisfactorily. If any component of the existing system is not in good condition and /or not operating satisfactorily, it must be upgraded.
26. 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.
 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 if OSD is not provided.
27. 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.

28. 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.
29. Redundant vehicular crossings in Nowra Lane 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".

RAILCORP

30. An acoustic assessment is to be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate, demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines".
31. Prior to the issue of a Construction Certificate, the applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

SYDNEY WATER REQUIREMENTS

32. 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, 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.

CRITICAL INSPECTIONS

33. 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):
 - 33.1. after excavation for, and prior to the placement of any footings, and
 - 33.2. prior to paving any in-situ reinforced concrete building element, and
 - 33.3. prior to covering of the framework for any floor, wall, roof or other building element, and
 - 33.4. prior to covering waterproofing in any wet areas, and
 - 33.5. prior to covering any stormwater drainage connections, and
 - 33.6. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
34. 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

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

WE ALSO ADVISE:

36. This application has been assessed in accordance with the National Construction Code.
37. 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.
38. 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
 - Waterproofing
 - Glazing
 - Protection from termites
 - Smoke alarms
 - BASIX completion
39. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
40. 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.
41. 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.
42. 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.
43. 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.
44. If you are not satisfied with this determination, you may:
- 44.1. 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 12 months of the date of this Notice of Determination and be accompanied by the relevant fee; or
 - 44.2. 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.

ATTACHMENTS

[Click here for attachments](#)

- A. Locality Map
- B. Site Plan
- C. Elevations

Planning Matters - 14 June 2016

ITEM 5.10	418-422 Canterbury Road, Campsie - Modification to Approved Six Storey Mixed Use Development comprising Additional Basement Level, Alteration to Dwelling Layouts, Additional Two Levels of Residential Apartments and VPA Offer for Provision of a Laneway
FILE	DA-528/2014/B
ZONING	B5 Business Development under Canterbury Local Environmental Plan 2012
DATE OF LODGEMENT	23 November 2015 (Additional information received 30 November 2015, 29 February 2016 and 12 April 2016)
APPLICANT	CD Architects
OWNERS	Kolpos Pty Ltd
AUTHOR	City Development

ISSUE

- Council has received a Section 96 (2) Application to amend Development Application DA-528/2014, seeking consent to make alterations and additions to an approved mixed use development. The alterations and additions consist of an additional two residential levels (levels 6 and 7) resulting in an additional 16 units, private rooftop terraces, an additional basement level and a range of alterations to the internal layout of the approved units. The applicant also proposes to widen the rear access way to create a public laneway as part of a Voluntary Planning Agreement. The laneway will not be dedicated to Council as a public road but will contain provisions for an easement and rights of way allowing public use of the lane.
- Council engaged the services of an independent town planning consultant (Willana Associates Pty Ltd) to assess and prepare a report in respect of the application. The contents of this report have been prepared by the independent consultant.
- The approved development application (DA) currently consists of 62 residential units, four commercial units and two levels of basement providing parking for 103 vehicles including one car wash bay. The approved unit mix consists of 27 x one bedroom units, 34 x two bedroom units and one x three bedroom unit.
- DA-528/2014 was considered by the Independent Hearing and Assessment Panel (IHAP). The DA was subsequently approved by Council on 11 June 2015.

- The site is known as 418-422 Canterbury Road and is zoned B5 Business Development under Canterbury Local Environmental Plan 2012 (CLEP 2012). The site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal retains the approved ground floor commercial uses and as such, satisfies the definition of a mixed use development. This use is permissible in the subject zone.
- This Section 96 application has been assessed against the provisions contained in State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Canterbury Local Environmental Plan (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The proposal is found to generally be in compliance with the requirements of these policies.
- In approving the original development application, Council also permitted a relatively minor variation of the building height development standard, pursuant to a Clause 4.6 submission submitted by the applicant. The proposal now seeks to provide an additional two levels (levels 6 and 7), resulting in an increased building height. The bulk of the additional units is located in the northeast corner of the Site.
- The Section 96(2) application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of the CDCP 2012 between 15 December 2015 and 12 February 2016. Council received seven submissions objecting to the proposed modifications. Amended plans submitted by the applicant were also subject to public notification with surrounding properties notified and advertisements placed in local newspapers. A response is provided to each of the issues raised in the submissions in the body of this report.
- The independent external consultant is also concurrently assessing a Section 96 (2) application seeking to amend DA-576/2014, for a virtually identical proposal on the adjoining properties of 424-426 Canterbury Road, Campsie. While the two applications represent separate developments, it is intended that the buildings will appear as a single development, which will provide a new public lane through the proposed VPA. The basement car parks will also be connected and have a reciprocal right of way over it to allow access from the adjoining building.
- Notwithstanding the variation sought to building height standard, the Section 96 application is recommended for approval subject to modification of the appropriate conditions.

BACKGROUND

- **Original Development Application - DA-528/2014**
DA-528/2014 was approved on 11 June 2015 for the demolition of the existing site structures and construction of a six storey mixed use development comprising four commercial units, 62 residential units and associated basement car parking, subject to conditions. In detail, the approved development included the following:
 - Demolition of the existing site structures and excavation for basement car parking
 - Construction of two levels of basement parking containing 103 car spaces and 19 bicycle spaces, with access via a new laneway along the southern boundary of the property

- Four ground floor level commercial units
 - 62 residential units (27 x one bedroom units, 34 x two bedroom units and one x three bedroom unit).
- **Section 96(1A) Application to Modify DA-528/2014**
A Section 96 (1A) application to amend DA-528/2014 was received by Council to modify the subject development consent. The modification involves minor changes to the scope of the approved works. The proposed changes largely involved a reduction to the amount of window glazing on shop front windows at ground level as well as the replacement of louvers with perforated privacy screens on the levels above. The location of some windows was altered slightly. Changes to the southern and south-east elevations largely involved substituting privacy panels with perforated screens and changes to the amount of rendered paint finish. The application was approved on 13 January 2016.
 - **Amendment to CLEP 2012 – Building Heights**
Council resolved at its meeting on 31 October 2013 to endorse an amendment to the CLEP 2012, which included adoption of the draft Canterbury Residential Development Strategy. The LEP amendment also included a proposal to increase the building height limits at particular sites within the Canterbury Road corridor. The subject site was not one of those properties.

While the Residential Development Strategy originally recommended increasing the building height limit for a number of properties within the Canterbury Road Corridor up to 25m. The Amendment to the CLEP 2012 was subsequently placed on public exhibition and at an Extraordinary Meeting of Council on 2 October 2014, Council resolved to adopt the exhibited planning proposal. The Planning Proposal was then sent to the NSW Department of Planning and Environment for a Gateway Determination.

During this process, the RMS raised concerns at the unknown traffic and road safety implications across the Regional Road Network as a result of increased dwelling yields and density on a number of identified sites. In relation to the subject site, the RMS made the following comments:

“Roads and Maritime notes that the planning proposal to increase permissible building height of the subject site has the potential to generate a significant volume of additional traffic. Roads and Maritime will support the proposed rezoning subject to the potential traffic impacts of the maximum developable yield of the site being considered and assessed. Traffic impacts on Canterbury Road and the junction of Elizabeth Street and Canterbury Road should be assessed. Roads and Maritime is likely to require access to be provided from the adjoining local road network for any future development or subdivision of the subject site.”

Consequently, Council determined to omit various specific properties from the Planning Proposal to allow resolution of the issues separately, while proceeding with a range of other important amendments to the CLEP 2012. The CLEP 2012 was formally amended in March 2015.

Site Details

The site is located on the southern side of Canterbury Road at its intersection with Scahill Street, Campsie. The site is regular in shape, with a primary frontage to Canterbury Road of 40.725m, a secondary frontage to Scahill Street of 42.67m and an overall site area of 1,723m².

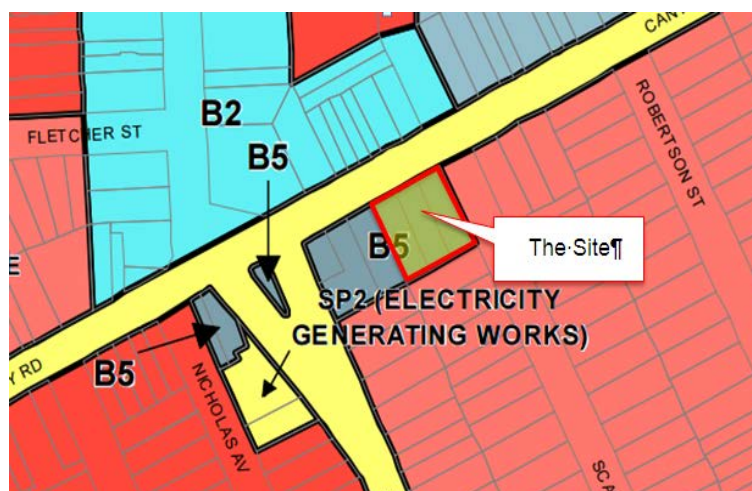
The site comprises three allotments, each containing a single dwelling with associated outbuildings and landscaping. To the south of the site are single storey dwellings. Council is also considering a Section 96 application for the immediately adjoining properties to the south west at 424-426 Canterbury Road Campsie, which proposes similarly to the subject application. The streetscape of this portion of Canterbury Road is characterised by a mix of low to high density residential, commercial and industrial development as shown in photos below.



Aerial photograph of locality



Aerial photograph of site



Zoning Map Extract showing the Subject Site

Proposal

The application proposes to construct an additional 16 units over two additional residential levels, private rooftop terraces and undertake a range of alterations to the layout of the approved units. The applicant also proposes to widen the rear access way to create a public laneway as part of a Voluntary Planning Agreement.

The proposed amendments to each level are detailed in Table 1 below:

Table 1. Proposed Amendments	
Level	Proposed Amendments
Roof	New roof terrace layout
Level 7	New floor layout with an additional nine units
Level 6	New floor layout with an additional nine units
Level 5	Shadow line between units 57 and 58 amended
Level 4	Shadow line between units 47 and 48 amended
Level 3	No amendments
Level 2	Façade to units 21 and 22 revised
Level 1	Alterations to the layout of units 09 and 10
Ground	Alterations to the configuration of units 03 and 04, entry corridor and commercial services room, communication room and commercial accessible toilet, widened laneway
Basement 1	Amended car park layout
Basement 2	Amended car park layout
Basement 3	Additional basement level containing resident storage facilities and 49 resident parking spaces (includes two disabled spaces)

The approved and proposed unit mix is also detailed in the Table 2, below:

Table 2. Comparison Between Approved and Proposed Unit Mix		
Unit Configuration	Approved	Proposed
1 bedroom	27	37
2 bedroom	34	41
3 bedroom	1	Nil
Total	62	78

The applicant's offer to enter into a VPA includes the following salient features:

- Construction of a 9m wide laneway including a 1.5m wide pedestrian pathway, 6m wide roadway allowing two-way traffic and a 1.5m wide landscaping strip along the southern site boundary
- Granting a 9m wide easement over the laneway in gross for the public for the right to use of a laneway as shown on Drawing DA802 Issue B through a Section 88B Instrument
- Imposition of an obligation on the proposed Owners Corporation to maintain the site and retention of ownership of the site by the Owners Corporation which is to be established upon creation of the Strata Scheme.

Statutory Considerations

When determining this application, the relevant matters listed in Sections 96(2) and 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

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

REPORT

Assessment

Section 96(2) of the Environmental Planning and Assessment Act 1979 imposes four tests for an application seeking consent to modify a development consent, which are detailed below.

1. Is the proposal substantially the same development as originally approved?

Section 96(2)(a) of the Environmental Planning and Assessment Act 1979 provides that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

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

There is a considerable body of case law surrounding the “substantially the same” test, including *Marana Developments Pty Limited v Botany City Council [2011]*. In this case, the original approval was for the construction of five residential flat buildings (with basement car parking) comprising a total of 76 units. The modification application sought ‘significant changes to the external appearance and layout of the buildings’ including an increase in unit numbers from 76 up to 102, and an additional level of basement car parking. This also involved a changed unit mix. Despite significant internal changes, the Court held that the minimal change to the external floorplates and layout was of great significance and the test was satisfied.

In *Sydney City Council v Ilenc Pty Ltd [1984]* the Court judgment found that a proposal can only be regarded as a modification if it involves “alteration without radical transformation”. In *Vacik Pty Ltd v Penrith City Council [1992]* the Court judgment found that “substantially the same” meant “essentially or materially having the same essence”.

Furthermore, in *Moto Projects (No 2) Pty Ltd v North Sydney Council [1999]* the Court judgment found that when undertaking the “substantially the same” test a comparison is required to be made between the consent as originally granted and the proposed modification and a consideration of the quantitative and qualitative elements of the proposal must be made with an appreciation of the proper context.

Likewise, in *Schroders Australia Property Management Ltd v Shoalhaven City Council and Anor [1999]*, the Court acknowledged the amendment concerned would result in additional floor space and that while some of the changes to the consent sought may have been significant, they did not change the essence of the development.

As can be seen by these examples, the addition and deletion of storeys within a development is not so different or radical as to require a new DA and are considered to have the same essence of elements as what was originally granted consent by the consent authority. Accordingly, it is considered that the proposal, albeit one that proposes additional elements to the approved building, is still substantially the same development as that originally approved by Council.

In the opinion of Willana Associates, the modifications sought with the subject Section 96(2) Application represent substantially the same development as that originally granted Development Consent DA-528/2014 for following reasons:

- The proposed amendments do not alter the approved use or definition as a mixed use building containing a residential flat building, commercial suites and basement car parking
- The proposed modifications sought are not anticipated to give rise to a significant adverse impact upon traffic and on-street car parking in the locality subject to proposed conditions of the modified development consent
- The proposed modifications will not have any additional amenity impacts on adjoining properties by way of overshadowing, loss of views, privacy or noise
- There will be no change to the size or description of the land to which the consent relates.

Furthermore, consideration of the quantitative and qualitative elements of the proposal has been made with an appreciation of the elements proper context and are considered to satisfy the “substantially the same” test of Section 96(2)(a) of the EP&A Act 1979. As such, the modifications sought as part of this Application are considered to be consistent with the provisions of Section 96(2)(a) of the Act.

The applicant has also provided legal advice to support their case that the proposal can be considered pursuant to Section 96(2) of the EP&A Act 1979.

2. Has the relevant Minister been consulted?

Section 96(2)(b) of the Environmental Planning and Assessment Act 1979 requires the Consent Authority to consult any government agencies who were involved in the original determination of the application, as follows:

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

Council consulted with the Roads and Maritime Services (RMS) with respect to DA-528/2014 and accordingly, the Section 96 application has again been referred to the RMS for comment. The RMS has advised that they raise no objections to the amendments, subject to the modification of several conditions on the consent.

3. Has the Application been notified in accordance with the Regulations or a DCP?

Section 96(2)(c) of the EP&A Act 1979 requires the Consent Authority to undertake public notification before determining a Section 96(2) application, as follows:

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

The Section 96(2) Application has been notified in accordance with Part 7 of DCP 2012. Amended plans which were also received during the course of the assessment of this application were also publicly exhibited.

4. Have any submissions received concerning the modifications been considered?

Section 96(2) (d) of the EP&A Act 1979 provides that:

- (d) It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan.*

The Section 96(2) application was publicly notified for a period of 59 days between 15 December 2015 and 12 February 2016, with surrounding properties notified and advertisements placed in local newspapers. Council received seven submissions objecting to the proposed modifications.

The matters raised in the submissions have been considered and are addressed within this report.

In determining an application for modification of a consent, Section 96 (3) of the EP&A Act 1979, requires the consent authority to consider matters of Section 79C (1) that are of relevance.

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

SEPP 65 applies to the amended scheme. Clause 115 of the Environmental Planning and Assessment Regulation 2000 outlines the mandatory information to accompany a Section 96 application, including a statement by a qualified designer, as follows:

(3A) *The statement by the qualified designer must:*

- (a) *verify that he or she designed, or directed the design of, the modification of the development and, if applicable, the development for which the development consent was granted, and*
- (b) *provide an explanation of how:*
 - (i) *the design quality principles are addressed in the development, and*
 - (ii) *in terms of the Apartment Design Guide, the objectives of that guide have been achieved in the development, and*
- (c) *verify that the modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was granted.*

A revised Design Verification Statement has been submitted by the applicant. An assessment of the Statement against the provisions of Section 96(3A) has been undertaken. The Statement demonstrates that the proposed amendments (and the development in itself) satisfy the relevant Design Criteria and Design Guidelines.

In terms of compliance with the Apartment Design Guide (ADG) Design Criteria, the only controls that have relevance to the modifications proposed are identified in Table 3 below. The remaining controls are unaffected by the proposed modifications or are only guidelines and accordingly, are not displayed in the table below.

ADG Design Criteria Compliance

Criteria	ADG	Proposal (amendments only)	Complies
Communal open space	Communal Open Space equivalent to 25% of the Site Area	Combined communal open space areas total 620m ² , or 36% of the total site area.	Yes
	Minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9 am and 3 pm on 21 June (mid-winter).	100% of the roof terrace communal area achieves at least two hours sunlight in mid-winter.	Yes
Visual Privacy	Minimum Separation Distances are to be: <u>5 to 8 storeys/ up to 25m:</u> <ul style="list-style-type: none"> • 9m for habitable rooms/ balconies • 4.5m for non-habitable rooms 	No change to approved layout and distances with additional units essentially replicating the approved floor plate of the levels below.	Yes
Bicycle and Car Parking	Off-street parking is to be provided in accordance with the RMS' Guide to Traffic Generating Development	A total of 113.9 car parking spaces and 23 bicycle spaces are required. The amended proposal provides 130 car parking spaces and 23 bicycle spaces through the reconfigured basement parking.	Yes

Criteria	ADG	Proposal (amendments only)	Complies
Solar Access	>two hours to living areas and private open space of 70% dwellings (54) between 9:00am – 3:00pm on 21 June	The amendments will result in 55 (70.5 %) units with the required solar access.	Yes
	No more than 15% of units have no solar access between 9:00am – 3:00pm on 21 June	29.5% of units (23) do not achieve any direct sunlight. This criterion was not contained in the former Residential Flat Design Code (RFDC) that the original development was approved under. The original development was approved with 32% (20) of the units not having any direct solar access. The proposal, albeit providing a slightly increased number of units, improves on the proportion of units without direct solar access.	No however the proposal has sufficient merit to warrant approval.
Natural Ventilation	60% of the units are naturally cross-ventilated	60.2 % (47) units are cross ventilated.	Yes
	Overall unit depth of a cross over or cross through unit is not greater than 18m	No unit exceeds 18m. The floor plate of the proposed level essentially replicates the levels below.	Yes
Ceiling Heights	Habitable rooms – 2.7m Non-habitable – 2.4m	Habitable rooms – 2.7m Non-habitable – 2.4m	Yes
Apartment Size and Layout	One bed > 50m ² Two bed > 70m ²	All units achieve or exceed the minimum respective sizes	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.	All habitable rooms achieve or exceed the minimum glazing area.	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	All habitable room depths achieve the required standard. The floor plan and layout of the additional units essentially replicate those already approved.	Yes
	Maximum habitable room depth of open plan layouts is 8m from a window.	All habitable room depths achieve the required standard. The floor plan and layout of the additional units essentially replicate those already approved.	Yes
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space) Bedrooms have a minimum dimension of 3m (excluding wardrobe space) Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> 3.6m for studio and one bedroom apartments 	All bedrooms and living rooms achieve the required standard. The floor plan and layout of the additional units essentially replicate those already approved.	Yes

Criteria	ADG	Proposal (amendments only)	Complies
	<ul style="list-style-type: none"> 4m for two and three bedroom apartments The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts		
Private Open Space	One bed – 8m ² Two bed – 10m ² Minimum depth of 2m	All private open spaces achieve the required depth and area. Additional private terraces on the rooftop are proposed for several units. The floor plan and balcony sizes of the additional units essentially replicate those already approved.	Yes
Common Circulation and Spaces	Maximum of eight units off a single circulation core per level.	The approved development provides two lift cores and two stair wells, serving a maximum of ten units per level. This will be extended to the new level 7, which proposes a total of nine units.	Yes
Storage	6m ³ per one bed unit 8m ³ per two bed unit At least 50% of the storage volume is to be within the apartment.	The proposed development, as amended, will achieve the required storage volumes and locations.	Yes

Context

The site is located on Canterbury Road which is expected to undergo change into the future having regard to the new planning controls that now apply and properties on Canterbury Road more generally. As such, the proposed development, as amended, while contemporary in design, is expected to complement and positively contribute with existing and likely future development in the locality.

Scale

The scale of the proposed development is determined by the height controls contained within the CLEP 2012 and the building envelope controls contained within CDCP 2012. Further, Council's policy intentions for development within the Canterbury Road corridor are clearly stated in Council's resolution dated 9 October 2014.

The proposal satisfies the underlying objectives of the height, building setback and separation controls applying to the land, despite the numerical non-compliance with the maximum building height as it currently stands. This numerical non-compliance is not necessarily fatal to the application. Notwithstanding this, the development is consistent with the scale of development identified for the future character of the locality.

Built Form

The proposal achieves the built form objectives as it contributes positively to the streetscape and generally provides good amenity for residents. All dwellings are reasonable in dimension and have balconies and/or courtyards that provide reasonably good amenity and are accessible from living areas.

Density

As noted above, the scale of the proposed development is clearly determined by the height controls contained within the CLEP 2012 and the building envelope controls contained within the CDCP 2012, as well as the ADG. No specific floor space ratio or density controls apply to the subject development. The form and scale of the proposed development is consistent with the type of development contemplated by the CDCP 2012 controls in a locality that is expected to undergo transition into the future.

Resource, Energy and Water Efficiency

The proposal has been assessed against BASIX and adequately meets all required categories of water, thermal comfort and energy.

Landscape

The proposed development provides a number of good quality and functional private and communal open space areas including courtyards and roof terraces, in excess of the minimum requirements of the CDCP 2012 and the ADG. Landscape treatments for the site will add to the general amenity offered to future residents and satisfy the requirements of Part 6.6 of CDCP 2012. It is also noted that the development provides good amenity for future occupants with each unit being provided with adequate and functional balcony/ terrace spaces.

Amenity

The proposed amendments will provide good levels of amenity for future occupants of the development, with good solar access, natural ventilation and privacy. In this regard, the amended proposal is generally consistent with the requirements of the ADG. The proposed units contain reasonable living spaces with direct access to areas of private open space in the form of courtyards or balconies.

Safety and Security

Satisfactory provision for security and resident/ public safety is provided. The proposal does not alter the previous findings for DA-528/2014 with respect to safety and security.

Social Dimensions and Housing Affordability

The amended proposal does not alter the previous findings for DA-528/2014 with respect to the potential social impacts, housing mix or affordability. The proposal (as amended) will provide a variety of apartment layouts and an appropriate housing mix to complement the housing available within the locality and meet the anticipated future demands.

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

The original proposal was accompanied by A BASIX Certificate, which listed a variety of commitments that are to be incorporated into the overall design of the project. An amended BASIX Certificate accompanies the application and also lists the commitments to be incorporated into the overall project. The necessary commitments have been included on the architectural drawings where required, meet the water, energy and thermal comfort targets and satisfy the requirements of the SEPP.

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

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Council previously considered that the site held a low risk of contamination in its assessment of DA 528/2014. The proposed development does not alter the conclusions previously reached in respect of the SEPP.

- **State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)**

State Environmental Planning Policy (Infrastructure) 2007 aims to facilitate the effective delivery of infrastructure, including providing appropriate consultation with relevant public authorities about certain development during the assessment process.

The proposed amendments do not alter the previous conclusions made in respect to upgrading existing utility services such as water, gas or telecommunications.

The subject site is located on Canterbury Road which is a classified road for the purposes of the SEPP. Clause 102 of the SEPP states that a consent authority must consider likely impacts from road noise and vibration for development adjacent to certain road corridors. In particular, the SEPP requires, for the purposes of a residential use, that the consent authority must not grant consent to the development unless it is satisfied appropriate measures will be taken to ensure the following LAeq levels are not exceeded:

- (a) in any bedroom in the building - 35 dB(A) at any time between 10 pm and 7 am
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.

DA-528/2014 was accompanied by an Acoustic Assessment which details various measures that were incorporated in the original conditions of development consent. These measures are to be incorporated into the construction of the building to ensure compliance with the above requirements and safeguard the amenity of future occupants of the development. An appropriate condition is included in the recommendation requiring the development to be constructed in accordance with this report.

In accordance with Clause 104 of the State Environmental Planning Policy (Infrastructure) 2007, the proposed development falls under the requirements of Schedule 3 of the SEPP and requires referral to Roads and Maritime Services (RMS). The application was referred to the RMS who subsequently advised that they raised no objections to the proposal, subject to the relevant conditions of consent being modified as appropriate.

The proposed development therefore meets the requirements of State Environmental Planning Policy (Infrastructure) 2007.

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

The site is zoned B5 Business Development under Canterbury Local Environmental Plan 2012. This site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal involves retaining the approved commercial uses with an additional two levels of residential apartments and modifications to the residential units on other levels, thus maintaining the approved mixed use definition and use. A mixed use development is permissible in the subject zone.

The proposed amendments compare to the relevant provisions within CLEP 2012 as follows:

Standard	Requirement	Proposal	Complies
Zoning	B5 Business Development	The proposed development is permissible with development consent	Yes
Floor Space Ratio (FSR)	No FSR applies	No FSR controls apply to the B5 zone under CLEP 2012.	N/A
Building Height	18m in Zone B5.	Approved at 19.9m however application seeks to increase to 27.9m to the top of the lift overrun and 26.4m to the roof level.	No – Refer to comment [1] below
Heritage	No adverse impact	No change to previous conclusions	Yes

[1] Building Height

In approving DA-528/2014, Council also approved a variation of 1.9m to the maximum building height, pursuant to the provisions of Clause 4.6 of the CLEP 2012. Council was satisfied that the proposal and its supporting documentation had satisfied the requirements of Clauses 4.6(3) and (4) of the CLEP 2012.

The application now before Council seeks to make alterations and additions to the approved building, which will result in a larger breach of the maximum building height standard. The maximum permitted building height is 18m, while the application seeks up to 27.9m for the lift overrun and 26.4m to the roof level, as demonstrated in the submitted plans. The lift overrun is located centrally in the northeastern corner element. A Clause 4.6 submission is not required to support this proposal on the basis that Clauses 4.6 (2), (3) and (4) of the CLEP 20012 specifically refer to the granting of a development consent, as distinct from the amendment of a consent.

This approach is also supported by relevant caselaw in the NSW Land and Environment Court. Originating with *North Sydney Council v Michael Standley & Associates Pty Ltd [1998] NSWSC 163*, the Court of Appeal held that Section 96 is a 'free-standing provision', meaning that "a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application". This principle was also upheld in the decision of *Gann v Sutherland Shire Council [2008]*.

The decision of the Court does not necessarily lead to the complete abandonment of the development standard (in this case, the height standard). The Court stated:

"Section 96(3) still requires the consent authority to take into consideration the matters referred to in section 79C, which in turn include the provision of any environmental planning instrument. That is, any development standard in an environmental planning instrument must be taken into consideration by the consent authority, but the absolute prohibition against the carrying out of development otherwise than in accordance with the instrument in s 76A(1) does not apply."

The applicant has argued that the additional levels are a consequence of trade off for the public roadway along the rear (southern) boundary of the Site. The applicant has also submitted that the additional units will not have any significant additional adverse impact on adjoining properties by way of loss of privacy or solar access.

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

An assessment of the proposal against the relevant requirements of Part 3 Business Centres of CDCP 2012, as they relate to the proposed amendments is detailed below.

Standard	Requirement	Proposed	Complies
Isolation of sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed	No isolation of neighbouring properties.	Yes
Building Height	18 m (shown on CLEP 2012 Map)	Refer to Assessment against CLEP 2012.	No – refer to comments under CLEP 2012 [1].
	Floor to ceiling heights – all levels	Floor to ceiling heights remain unchanged and replicated from lower levels in accordance with the ADG.	Yes
Building Depth	Commercial component 10-24 metres	N/A	N/A
	In general, an apartment building depth of 10-18 metres is appropriate	All apartments have a depth of less than 18m	Yes
Building Setbacks	1 to 4 storeys Minimum setback of 3 m from front street boundary <ul style="list-style-type: none"> No controls for secondary frontages 	N/A	N/A
	Buildings greater than five storeys requires an additional 5m setback (i.e. 3m +5m)	The proposed levels 6 and 7 maintain the approved setbacks of level 5 below, which is already stepped in. Notwithstanding the additional breach of the building height plane, additional setbacks would only lead to an undesirable ziggurat form. The additional breach of the building height plane does not lead to any significant additional amenity impacts. Refer to the assessment of the overshadowing impacts in response to the objections received in Section 79C (1) (d) – Submissions of this report, below.	Yes
Building Separation (as per SEPP 65)	6m up to three storeys 12m 4 th storey 18m 5 th storey	Refer to SEPP 65 assessment. Separation distances remain unchanged with the proposed level duplicating the level below.	Yes
Building Configuration	At ground floor level viable shop fronts for business activities are to be created	N/A	N/A
Design Controls	Clearly identifiable entries, Provide main common entry.	N/A	N/A

Standard	Requirement	Proposed	Complies
	Habitable room window to face communal areas	Habitable windows face communal areas and the perimeter of the development, in replication of the remainder of the approved floor plan.	Yes
	No obstruction to views from street to development and vice versa	Sufficient natural surveillance to areas surrounding building	Yes
Facades – New 3-5 storey buildings	To be in accordance with articulation controls of this DCP	The proposed modifications continue the façade treatments previously approved.	Yes
Shop front	Shop premises to present a suitable streetscape appearance and allowing adequate security	N/A	N/A
Cantilevered Awning along Canterbury Road frontage	Height of between 3.2m and 4.2m from natural ground/footpath	N/A	N/A
	Width of 3 metres	N/A	N/A
Articulation	Buildings should generally have a base and upper elements	Building has base and upper levels	Yes
	The design of the facade, including the quality and durability of its materials, should be emphasised.	The façade of the additional units will continue the approved detailing, articulation, materials and finishes.	Yes
	The ‘facade’ should have a strong sense of verticality, emphasised on the ground floor by modulation at intervals of 6-8 m with some variation. Modulation above the ground floor may take the form of party walls, small bays, as well as variations in materials and colours.	Vertical emphasis is provided with appropriate modulation through the use of varying materials and external finishes. The proposed modifications continue the approved façade treatment.	Yes
	A visual finish using expressed eaves, cornice or parapet elements with shadow lines is desirable.	Shadow lines to be created through the use of building design elements. Recessed balconies create shadow and visual depth.	Yes
	No blank walls are to face the public realm	No blank walls face Canterbury Road	Yes
	Balconies should be used in moderation and be integrated into the overall composition of the facade. They should not be implemented in a monotonous or repetitive configuration. This applies to both recessed and cantilevered balconies.	Balconies are integrated into the overall design of the façade. There is adequate variety in the balconies configuration between the lower and upper levels of the development.	Yes

Standard	Requirement	Proposed	Complies
	Balconies may have masonry or metal balustrades. The latter should generally have a separation of the grilles and a handrail.		
	The majority of windows shall be vertically rectangular	Additional windows are the same as those previously approved.	Yes
Roof Design	Relate roof design to the desired built form and or context	Roof design is consistent with the desired built form and context of the area. The roof design essentially replicates that which was previously approved.	Yes
	Design roofs to respond to the orientation of the site, for example, by using eaves and skillion roofs to respond to solar access.	A flat roof is proposed.	Yes
Service and Utility Areas	Integrated into the design of development and are not visually obtrusive	Service and utility areas integrated into the design adequately	Yes
	Unscreened appliances not to be visible from the street, communal area of driveway on the site. Air con units behind balustrades, screened recesses for water heaters, meters in service cabinets.	Appliances not visible from public areas	Yes
	Communal rooftop antenna to be provided	Antenna can be conditioned	Yes
	Screen clothes drying areas from public view, storage space screened and integrated into design	Adequately screened	Yes
	Discretely locate mailboxes in front of property	N/A	N/A
Performance Controls			
Visual Privacy	Locate and orientate new developments to maximise visual privacy between buildings	Design has adequately addressed visual privacy issue through window placements and sufficient setbacks with the adjoining property. Floor layouts from approved units below have generally been adopted.	Yes
Private Open Space, Balconies, terraces & Courtyards	Combined private open space area should be a minimum of 10% of dwelling floor space	Combined private open space area exceeds the minimum 10% of dwelling floor space.	Yes
	Primary 8sqm balconies for one bedroom dwellings and 12sqm for two and three bedroom dwellings with minimum depth of 2m	Balconies provide the minimum private open space requirements with adequate depth.	Yes

Standard	Requirement	Proposed	Complies
	Full length balconies without articulation are not permitted	Articulation and building design elements incorporated to provide relief to balconies.	Yes
	Primary balconies to be located adjacent to main living areas.	All primary balconies are accessible directly off living room.	Yes
	Primary balconies to have minimum depth of 2 m and be functional in dimensions	Minimum depth of 2m and functional in design.	Yes
	Design and detail balconies in response to local climate	Proposed balconies have been designed where achievable to have northern orientation to maximise solar access.	Yes
	Storage: 6m ³ / one bedroom unit 8m ³ / two bedroom unit 10m ³ / three bedroom unit	Complies.Refer to SEPP 65 Assessment.	Yes
	Communal Area: Min. 10% of site area as communal open space (Required 827.5sqm)	No change to ground floor areas. Rooftop communal area essentially duplicated from DA 528/2014.	Yes
Internal Dwelling Space and Design	Dimensions and design of interiors to accommodate furniture typical for purpose of room	Typical furniture layout on plans	Yes
	Living room min 3.5m dimension	Minimum 3.5m	Yes
Housing Choice	10% minimum of each bedroom configuration	Satisfies the requirements of SEPP 65	Yes
	10% of dwellings are adaptable	Satisfies the requirements of SEPP 65	Yes

Part 6.1 - Access and Mobility

The nature of the proposal is such that it does not raise any issues not already foreseen by Council in its original assessment of the building.

Part 6.2 - Climate and Resource Efficiency

Mixed Use Development

Part 6.2.6 and 6.2.7 provide requirements governing solar access and natural ventilation. These standards are generally higher than those contained within SEPP 65. The proposal satisfies the requirements for solar access and natural ventilation and given that the SEPP overrides the DCP control, the proposal is considered acceptable in this instance.

Part 6.3 - Crime Prevention Through Environmental Design

The additional units and basement level will not contribute to creating opportunities for additional criminal activity and is consistent with the objectives and principles in Part 6.3 of CDCP 2012 relating to natural surveillance, access control and ownership. The applicant outlines the following features in the design of the proposed development that address the CPTED principles:

Residential Development

- The upper levels of the approved mixed use development contain residential units that address the street
- The parking area does not dominate the development as it is provided at basement level
- The proposal provides clearly delineated access points
- Secure basement access and access to the dwellings is proposed
- The communal open spaces provide different features in terms of use and landscaping to give a sense of ownership;
- The access arrangement is appropriate to service the number of units within the building.

Part 6.4 - Development Engineering, Flood and Stormwater

The proposal will connect into the approved stormwater infrastructure proposed and approved under DA 528/2014. No objections have been raised by Council's Development Engineer, subject to conditions being amended as required.

Part 6.6 - Landscaping and Part 6.7 - Preservation of Trees or Vegetation

The landscaping proposal for the subject development has been reviewed by Council's Landscape Architect who has advised that no objection is raised from a landscaping perspective, subject to appropriate conditions, being modified.

Part 6.8 - Vehicle Access and Parking

The proposal compares to the relevant requirements of Part 6.8 of CDCP 2012 as follows:

Requirement	Proposal	Complies
Residential Units: 37 x one BR (@one space/ unit) 49.2 x two BR (@1.2 spaces/ unit each) = (37+49.2) = 83.2 spaces (86.2)	42 59 = 42+59 = 101	Yes
Commercial Suites: 11.8 spaces @one space per 40m ² GFA	= 12	Yes
Residential Visitor: 15.6 (@one one space / five units)	= 16	Yes
One car wash bay	One Car Wash bay	Yes
Bicycle spaces: Resident – 15.6 spaces (@one space/ five units) Visitor – 7.8 spaces (@one space/ ten units) Total = (15.6+7.8) = 23.4	15 8 = 23	Yes

The proposed development is generally consistent with the relevant car parking and requirements in CDCP 2012. Where necessary, conditions have been modified to reflect the revised car and bicycle parking requirements.

Council's Traffic Engineer has also reviewed the application and the applicant's Traffic and Parking Assessment and raises no objections to the proposal. It is also noted that the RMS did not raise any objections to the DA 528/2014, imposing a range of standardized conditions.

Part 6.9 - Waste Management

The development application was referred to Council's Waste Services Coordinator who was satisfied with the Waste Management Statement and Waste Management Plan submitted by the applicant, subject to the relevant conditions being modified to ensure compliance with Part 6.9 of CDCP 2012.

- **Canterbury Development Contributions Plan 2013**

The proposed development which involves 37 x one bedroom units and 41 x two bedroom units on the site which attracts a contribution of \$833,324.29. This contribution is subject to indexing.

The provisions of any planning agreement

This Section requires the consent authority to consider any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F of the EP&A Act, 1979.

The applicant has advised of their intention to enter into a Voluntary Planning Agreement (VPA) with Council within the meaning of Section 93F of the EP&A Act 1979. The offer proposes to replace the approved driveway along the rear boundary with a 9m wide public laneway. The laneway will provide both vehicular and pedestrian access between Scahill Street and Bexley Road, linking with the adjoining development at 424-426 Canterbury Road (DA-576/2014). The offer by the applicant of a new public laneway is in lieu of additional floor space in the building.

Section 93F(1) requires that a VPA, apart from being voluntary, involve either the dedication of land free of cost or payment of a monetary contribution, or provide any other material public benefit (or a combination of them) to be used for, or applied towards, a public purpose. In this regard, the provision of a new public road and footpath is for a public purpose and accordingly, Clause 93F is satisfied.

Council engaged BEM Property Consultants and Valuers to review the draft VPA and provide advice on the potential value of the road in lieu of the additional floor space. The advice states that the applicant's offer of a public road in return for additional floor space to be "*fair and reasonable*", having regard to the current baseline valuation of the additional floor space and the estimated cost of constructing the laneway and maintaining it in perpetuity. A copy of the advice from BEM Property Consultants and Valuers is attached on file.

Unlike Section 94 Developer Contributions Plans, which must demonstrate the nexus between the contributions levied and the purpose for which the funds are put to, a VPA does not have a prescribed mechanism for quantifying or comparing the nature of the proposal against the public benefit derived by the land or money offered by an applicant. Accordingly, a VPA must be assessed on its merits and in contemplation of the following questions:

- **What is the Planning Purpose of the VPA?**

In accordance with section 93F (2) of the Act, the VPA has the following public purpose:

- the provision of (or the recoupment of the cost of providing) public amenities or public services; and
- the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land.

The provisions of the VPA provide a reasonable means of achieving the public purposes set out above. This is because it will ensure that the Developer makes appropriate contributions towards the provision of infrastructure, facilities and services referred to in clause 6.6(e) of the CLEP2012.

- **How does the VPA Promote the Public Interest?**

The VPA promotes the public interest by ensuring that an appropriate contribution is made towards the provision of infrastructure, facilities and services to satisfy needs that arise from development of the Site.

- **How does the VPA Promote the Objects of the EP&A Act, 1979?**

The VPA promotes the objects of the EP&A Act, 1979 by:

- encouraging the promotion and co-ordination of the orderly and economic use and development of land; and
- requiring the applicant to make a contribution towards the provision of infrastructure, facilities and services referred to in clause 6.6(e) of the CLEP2012.

The applicant's offer to contribute towards the provision of a new public laneway will have a positive public impact as land will be provided by the applicant to facilitate the provision of infrastructure, facilities and services referred to in clause 6.6(e) of the CLEP2012.

As noted above, Council engaged BEM Property Consultants and Valuers to advise whether the potential value of the road was in line with the value of the additional floor space, i.e. whether the potential public benefit matched the monetary value of the developer's loss or gain through the lost site area and additional floor space. Having regard to the advice from BEM Property Consultants and Valuers and the above planning merits, it is considered that the applicant's offer will result in a material public benefit, without unduly favouring or disadvantaging either party.

Other Considerations

- **The Regulations**

Section 115 of the Regulations detail the requirements for an application for modification of a development consent. The proposed modifications are consistent with the requirements of this clause.

- **Any Coastal Zone Management Plan**

The Site is not located within the Coastal Zone and there is no applicable Coastal Zone Management Plan.

- **The Likely Impacts**

The potential impacts of the original development were duly considered by Council in its assessment of the original development application. The likely impacts of the proposed amendments have been addressed throughout this assessment report and are considered to be acceptable.

- **The Suitability of the Site**

The assessment of the proposed modifications has demonstrated in detail that the Site remains suitable for the proposed development. In summary, suitability is achieved given:

- The development, as amended, is permissible and will be consistent with the relevant zone objectives.
- The amended development will respect the existing and desired future character of the immediate locality.
- Considerable compliance is achieved with the relevant non-statutory controls and in those cases of non-compliance, the relevant objectives are satisfied.
- Likely impacts from the proposal are reasonable and are not inconsistent with Council's original findings.
- The identified constraints have been suitably mitigated to the point that they will not prevent the reasonable development of the site.
- The site is ideally located adjacent to a range of public and private services.

- **The Public Interest**

Approval of the modification application is not contrary to the public's interest given:

- The proposed modifications do not conflict with the desired future character for the area or with Council's expectations for the redevelopment of land within the Canterbury Road Corridor.
- The development, as modified, will provide residential and commercial development in an accessible location in accordance with the desired future character of the area as a B5 Business Development zone.
- The local supply and choice of housing form will be supplemented by the proposal.
- The amended scheme is substantially the same as the approved scheme.
- The environmental impacts of the proposal, as modified, remain reasonable and within anticipated limits.

- **National Construction Code**

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

Referrals

- **Roads & Maritime Services**

As stated previously in the report, as per the provisions of SEPP 2007, the application was referred to the Roads and Maritime Services (RMS). The RMS has advised that it raises no objection to the proposed development subject to conditions being imposed on any development consent issued.

- **Ausgrid**

While the matter was not formally referred to Ausgrid, Council did receive a formal submission in the capacity of the owner of the adjacent electrical substation. Ausgrid made a formal submission on the original DA requesting certain conditions be imposed on any consent issued to ensure the safety and compatibility of both the development and Ausgrid's assets.

These have been included in the recommended conditions of consent. The comments from Ausgrid do not object to the proposed modifications, subject to amendment of the requested conditions where relevant.

Notification

The Section 96(2) Application was publicly notified for a period of 59 days between 15 December 2015 and 12 February 2016, with surrounding properties notified and advertisements placed in local newspapers in accordance with Part 7 – Notification of Development Applications of Canterbury Development Control Plan 2012. Council received seven submissions objecting to the proposed modifications. The application was re-notified with amended plans to neighbouring properties between 18 April 2016 and 3 May 2016. Two further submissions were received.

The application was notified and exhibited concurrently with the Section 96(2) application to amend DA-576/2014 over 424-426 Canterbury Road. Accordingly, the submissions received relate to both applications and for both notification periods with the issues raised being discussed below:

- **The proposed development will be occupied by rental tenants who will take up the on-street parking, block resident's driveways, be responsible for increased crime levels, reduced personal safety levels and antisocial behaviour, and will result in additional strangers in the local streets.**

Comment

There is absolutely no justification or basis to any of the issues raised in such a statement. There is no evidence to demonstrate that people who rent properties are any more responsible for antisocial behaviour, increased crime or parking problems than owner-occupiers. There is also no evidence to support the claim that people who live in residential apartments are more likely to commit crime or display or induce anti-social behaviours than those who live in detached dwelling houses.

The Section 96(2) application does not raise any additional issues identified in Council's original assessment. The approved and proposed development satisfies Council's Crime Prevention Through Environmental Design controls, as outlined in the CDCP 2012.

- **Increased traffic volumes, lack of adequate signage, potential for conflict with nearby streets and lack of on-site parking to cater for both residents and visitors, will impact on the residents of Scahill Street and Bexley Road.**

Comment

The proposal provides a total of 129 car parking spaces for residents, commercial office employees and visitors, which exceed the requirements of CDCP 2012 and the RMS' Guide to Traffic Generating Development. Accordingly, it is not anticipated that there will be any loss of on-street parking as a consequence of the additional 16 units proposed in this application. It is also noted that Canterbury Road is well serviced by public transport, which further reduces reliance on cars and parking demands.

With respect to traffic generation, the level of traffic from the development is not excessive and is not likely to have an impact on the movement of traffic in the local road system. Both the RMS and Council's Traffic Engineer have reviewed the application and raise no objections to the proposal. Refusal of the application on parking or traffic grounds cannot be supported.

The proposal will result in a development that represents the desired future character along the Canterbury Road corridor in terms of bulk, scale, setbacks, design quality and built form that is contemplated by the new planning controls and on this basis, the proposal is a suitable development for the site.

With respect to traffic movements, it is acknowledged that a development of this scale will result in some increased traffic movements in the immediate locality.

- **Bexley Lane is full of taxis and cars from a nearby mechanic.**

Comment

The proposed amendments do not have any relationship with the taxi rank or mechanical workshop. The alleged illegal parking is an enforcement matter separate to the consideration of the subject Section 96(2) application.

- **The proposal will create additional noise from the additional number of people, which will include renters having parties and people making noise after 10pm. This will affect people's rest patterns and shift workers.**

Comment

It is acknowledged that there will be more people utilising the site in comparison to the existing development, although there is no evidence to prove that the additional units (or the development itself) by rental tenants, or that tenants make more noise than owner-occupiers. However, it is expected that any noise generated by the future residents or workers of the development will have minimal impact on the amenity of surrounding properties. Likewise, there is no evidence to suggest that the development, as modified will impact on people's rest patterns or the time they get out of bed in the morning.

- **Concern is raised that the proposed development will overshadow adjoining properties, particularly 2, 2A and 5 Scahill Street and 2 Bexley Road.**

Comment

Both the original development and the subject Section 96(2) application have been assessed in accordance with Part 6.2 of CDCP 2012, which requires at least two hours solar access to prescribed parts of adjoining properties.

The applicant has submitted shadow diagrams, which identify the shadow cast by the approved development, as well as the additional shadow cast as a consequence of the additional units. In summary, the proposed amendments will have the following degree of impacts in terms of overshadowing:

- 2 and 2A Scahill Street will not be affected by any approved or additional shadows between 9am and 3pm during midwinter

- 1 Scahill Street is within the shadows cast by the development as approved will not be further affected by the proposal
- 3 Scahill Street is also within the shadows cast by the development as approved with only relatively minor additional shadows over the part of the rear yard and outbuildings between approximately 11am and 2pm
- 5 Scahill Street - the dwelling will only be overshadowed after approximately 2pm and therefore will still achieve the requisite solar access to the private open space and major habitable rooms despite the modification to the approved building
- 7 Scahill Street will likewise only be overshadowed after approximately 2pm and therefore will still achieve the requisite solar access in the private open space and major habitable rooms despite the modification to the approved building
- 2 Bexley Road is within the shadows cast by the development as approved with only minor additional overshadowing between 11am and 12 noon
- 4 Bexley Road will only be affected by the additional shadows from 12pm onwards but will still be able to achieve the requisite solar access between 9am and 1pm.

Accordingly, the claims made by the objectors that their dwellings will be adversely impacted by the proposed modifications cannot be substantiated.

- **The proposal will block sunlight entering the house at 5 Scahill Street during winter afternoons, leading to mould and the occupants contracting respiratory diseases and block the favourable afternoon sunset views over the street.**

Comment

As demonstrated above, the proposal will only overshadow the dwelling at 5 Scahill Street after 2.30pm. The dwelling will not be affected by either the approved development or the proposed modifications before this time. The existing sunset views currently enjoyed from the rear of the dwelling will remain unaffected as this portion is free of shadows from 3pm onwards. There are a number of factors that contribute to the formation of mould in buildings (such as ventilation, age and condition of existing building fabric, length of time without any direct or indirect light etc) and overshadowing to the degree anticipated is unlikely to directly result in respiratory diseases.

With respect to loss of views during sunsets, the topography of the surrounding area does not lead to any significant or specific views, other than over the rear yards of the properties along the north-eastern side of Bexley Road. Neither the approved or proposed development will block the existing westerly views from the objector's residence.

- **The proposal will affect the view of the street from within the dwelling at 2A Scahill Street.**

Comment

No part of the approved or proposed development will compromise the views over the street or casual surveillance opportunities for residents inside 2A Scahill Street.

- **The proposal will prevent 2 Bexley Road from being redeveloped in the future due to overshadowing.**

Comment

Council is not currently in receipt of any development proposals for 2 Bexley Road. That being said, any future development would need to be based on a site analysis and designed to accommodate as much as possible, any identified constraints. It must also be acknowledged that the development potential of the objector's property at present is somewhat different to that of the subject site, given the differences in zoning and therefore permissible uses and densities. As demonstrated previously, the proposed modification application does not result in any significant loss of amenity due to overshadowing.

- **Concern was raised that the foundations of the proposal are too deep and the building too tall which is unprecedented along Canterbury Road.**

Comment

There are no known geotechnical or statutory restrictions on the depth of the proposed basement. Conditions were imposed on the original consent to ensure all adjoining properties and public spaces were protected during earthworks and construction activities. Certification of the design through the construction approval process is likewise already included in the existing consent conditions. In terms of the proposed height, the overall height and number of storeys was reduced to a maximum of seven storeys after this objection was received.

- **Concern was raised that the proposed development will have a detrimental impact on property values in the locality.**

Comment

There is no evidence to suggest that approval of the proposed amendments will result in any loss of property values. As such, this does not warrant refusal of the Section 96(2) application.

- **Concern was raised that as a result of the proposed development, surrounding roads will degrade more quickly due to heavy machinery and trucks accessing the site.**

Comment

This matter was raised and addressed in the assessment of the original development application. It is acknowledged that there will be increased demands on infrastructure as a result of the proposed development. The developer is required to pay Section 94 contributions prior to the issue of a Construction Certificate. A portion of these payments may be dedicated to the future upgrading of roads. The application was also referred to Council's traffic engineer and the RMS, who raised no objection to the proposal, subject to modification of the relevant conditions.

- **Concern was raised that the proposal will result in noise pollution during the construction phase.**

Comment

It is acknowledged that there will be some disturbances to the surrounding area during the construction phase of the development. However, these will only be temporary and conditions of consent were included in the original development consent, restricting the hours during which building works may take place. The existing conditions will ensure that the level of disturbance is not unreasonable.

- **Concern was raised that the proposed development will adversely impact on the privacy of adjoining residential properties.**

Comment

The proposed amendments do not alter Council's original conclusions with respect to privacy. The additional units will not result in any greater loss of amenity or, in the case of those which will overlook Scahill Street, result in overlooking of the private open spaces of the dwellings adjacent to the subject site. The proposal also does not prevent properties along Scahill Street from redeveloping with respect to the ability to provide an adequate level of privacy given the approved and proposed developments satisfy the separation distances specified in the ADG with respect to privacy.

Conditions were also imposed on the original consent requiring privacy louvers for a length of 2m to be installed on the balconies facing Scahill Street and the residential properties to the south.

- **Concern was raised that there is a loss of trees as a result of the proposed development.**

Comment

The proposed amendments do not result in any additional trees being removed.

- **The proposal will cause ibis birds which currently reside on the site to relocate to the yard of 2 Bexley Road, causing environmental damage and structural damage to the objector's house.**

Comment

There is no evidence that supports this claim.

- **The proposal is not a Section 96 (1A) or 96 (2) application as it is not of minor environmental impact, nor is it "substantially the same development" as originally approved by Council.**

Comment

As demonstrated above, Council is of the view that the proposal is not without some level of impact (and therefore not a Section 96(1A) application) but is within the scope of Section 96(2) of the EP&A Act 1979. The modifications sought represent substantially the same development as that originally granted in Development Consent DA-528/2014 for following reasons:

- The proposed amendments do not alter the approved use or definition as a mixed use building containing a residential flat building, commercial suites and basement car parking
- The proposed modifications sought are not anticipated to give rise to a significant adverse impact upon traffic and on-street car parking in the locality subject to proposed conditions of the modified development consent
- The proposed modifications will not have any additional amenity impacts on adjoining properties by way of overshadowing, loss of views, privacy or noise
- There will be no change to the size or description of the land to which the consent relates.

A substantial body of case law supports the view formed that the proposal satisfies the four “tests” required by Section 96(2), as previously identified. In terms of the perceived level of impact created by the proposed amendments, the assessment undertaken pursuant to Section 96(3) and 79C of the EP&A Act 1979 demonstrate that the amended proposal will not result in a significant adverse environmental impact.

- **The proposal is an overdevelopment of the site, providing too many dwellings while impacting on the streetscape and failing to provide an adequate transition to the residences adjoining the south of the development.**

Comment

The proposed development, in terms of bulk and scale, is different to existing development in the locality, nevertheless, it is consistent with Council’s adopted planning controls in the CLEP 2012 and the CDCP 2012. Although the site was not specifically included in the last LEP amendment, Council has demonstrated a clear intention to increase the height and development potential of buildings along the Canterbury Road corridor in order to see viable redevelopment occur. The proposal will result in a development that represents the desired future character along the Canterbury Road corridor in terms of bulk, scale, setbacks, design quality and built form that is contemplated by the new planning controls and on this basis, the proposal is a suitable development for the site.

As discussed above, the Draft LEP, which (amongst other things) sought to increase the maximum height of a number of properties within the Canterbury Road Corridor from 18m to 25m was gazetted in March 2015. Due to concerns raised by the RMS, Council excluded the proposed height limits on a number of properties in order to progress the other housekeeping amendments. This allowed Council and the RMS to work towards resolving the agency’s concerns regarding the traffic and road safety implications across the Regional Road Network as a result of increased dwelling yields and density within the Canterbury Road Corridor. It is also noted that despite the RMS expressing these concerns, Council is not automatically precluded from assessing the individual merits of a proposal.

With respect to the amended development creating an undesirable transition in building heights, it is noted that the development generally achieves the setbacks required by both the ADG and the CDCP 2012, notwithstanding the breach of the maximum building height. The architectural drawings demonstrate an appropriate transition from the upper levels down to level 4, with a setback of 9m proposed between the building and the south western boundary.

The proposed amendments do not alter the stepped appearance of the rear of the building or the approved separation distances to the boundary.

- **The proposal does not satisfy objective (b) of Clause 4.6 of the CLEP 2012 with respect to achieving a better outcome for and of the development.**

Comment

Clause 4.6 of the CLEP 2012 is not applicable to the application proposing to amend the existing development consent DA-528/2014. As previously demonstrated, a Clause 4.6 submission is not required to support this proposal. Clauses 4.6 (2), (3) and (4) of the CLEP 20012 specifically refer to the granting of a development consent, as distinct from the amendment of a consent.

This approach is also supported by relevant caselaw in the NSW Land and Environment Court. Originating with *North Sydney Council v Michael Standley & Associates Pty Ltd [1998] NSWSC 163*, the Court of Appeal held that Section 96 is a 'free-standing provision', meaning that "a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application". This principle was also upheld in the decision of *Gann v Sutherland Shire Council [2008]*.

Conclusion

The Section 96(2) application has been assessed pursuant to the provisions of Sections 96 and 79C of the Environmental Planning and Assessment Act 1979. The proposed development, as amended does not substantially alter Council's previous conclusions in respect of this development and will provide good amenity for future occupants of the subject dwellings, and acceptable impacts onto neighbouring residents. The design of the proposed development as modified remains compatible with the future and desired local character of the area and represents a quality development that will positively contribute to the Canterbury Road corridor. As such, it is recommended that the Section 96(2) application be approved subject to modification of the relevant conditions.

POLICY IMPACT

The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION

- A. The Draft Voluntary Planning Agreement between Canterbury City Council and Kolpos Pty Ltd be placed on public exhibition for 28 days and any public submissions be considered prior to Council moving to adopt the Voluntary Planning Agreement.
- B. Council approve the modification to Development Application DA-528/2014 for alterations and additions to an approved mixed use development, including the construction of an additional sixteen (16) units and an additional basement level, in the following manner:

Condition 5 be amended to read as follows:

5. The development being carried out in accordance with the following plans prepared for 418-422 Canterbury Road by CDA Architects, marked Job Number J15313, except where amended by the following specific conditions and the conditions contained in this Notice:

Drawing Number	Issue	Dated
DA000	G	1/04/2016
DA100	F	29/02/2016
DA101	F	29/02/2016
DA102	F	29/02/2016
DA103	F	29/02/2016
DA104	G	29/02/2016
DA105	G	29/02/2016
DA106	G	29/02/2016
DA107	G	29/02/2016
DA108	F	29/02/2016
DA109	F	29/02/2016
DA110	F	29/02/2016
DA111	B	29/02/2016
DA112	B	29/2/2016
DA200	G	29/2/2015
DA201	F	29/2/2016
DA202	E	29/2/2016
DA203	D	29/2/2016
DA300	F	29/2/2016
DA310	F	29/2/2016
DA400	F	29/2/2016
DA401	C	26/03/2015
DA402	C	26/03/2015
DA500	C	26/03/2015
DA501	C	26/03/2015
DA502	C	26/03/2015
DA503	C	26/03/2015
DA504	C	26/03/2015
DA600	F	29/2/2016
DA601	F	29/2/2016
DA602	F	29/2/2016
DA603	F	29/2/2016
DA604	F	29/2/2016
DA605	F	29/2/2016
DA606	A	1/04/2016
DA700	F	29/2/2016
DA701	F	29/2/2016
DA702	C	26/03/2015
DA800	C	26/03/2015
DA802	B	30/03/2016

Condition 5.1 being amended to read as follows:

5.1. The waste bin storage areas must be designed in accordance with Part 6.9 of CDCP 2012. Specifically:

- The areas must be within 15m from the kerb requirement for wheel out/wheel back service.
- The areas must be of sufficient in size to accommodate all allocated bins
- A bulky waste area of a minimum of 4m² must be provided.
- Unobstructed and unrestricted access must be provided to the waste presentation area on collection days from 5.00am. The bins must not be presented on the road.

Condition 6 to be amended to read as follows:

6. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The amount of the contribution (as at the date of this consent) has been assessed as \$833,324.29. The amount payable is based on the following components:

Contribution Element	Contribution
• Community Facilities	\$75,374.16
• Open Space and Recreation	\$736,749.93
• Plan Administration	\$21,200.20

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.

Condition 7 be amended to read as follows:

7. A minimum of one hundred and thirty (130) off-street car spaces must be provided. This shall comprise:

- 101 residential spaces
- 16 residential visitor spaces
- 1 car wash bay
- 12 commercial spaces

Eight (8) residential car parking spaces, one (1) visitor space and one (1) commercial car parking spaces are to be for people with mobility impairment, in accordance with AS 2890.1. The car spaces must be allocated and marked according to this requirement.

The carpark layout must respect the above allocation. Details and plans of the car parking arrangement must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate.

Condition 42 being amended to read as follows:

42. The design of the vehicular access and off street parking facilities must be amended to address the relevant provisions of Australian Standard AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking and AS/NZS 2890.6: 2009 Off-street car parking for people with disabilities. The following specific issues must be addressed in the design:

- a) Redesign the basement level 1 parking to achieve separation of commercial and residential visitor parking.

- b) The intersection area between circulation driveways and a parking aisle at the base of the ramp in Basement level 1 is designed to be used by one vehicle at a time. The intersection must be redesigned to enable two vehicles to pass one another, provide adequate intersection sight distance, and the approach roadways are wide enough to accommodate turning vehicles.
- c) The intersection areas of other circulation driveways and parking aisles throughout the parking facility have been designed for the use of one vehicle at a time. The measures to prioritise vehicular movements at each of these locations, including waiting areas, must be provided.
- d) Minimum headroom of 2200mm must be provided throughout the access and parking facilities. Minimum headroom of 2500mm must be provided above any disabled parking space(s). Note that the headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, ducts, etc, and at any open garage door.
- e) Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of AS/NZS 2890.1:2004.
- f) The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
- g) The Engineer must certify that the access and parking complies with current Australian Standards including AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking, AS 2890.2-2002 Parking Facilities - Off-Street commercial vehicles facilities, AS/NZS 2890.6-2009 Off-street parking for people with disabilities and AS 2890.3-1993 Parking Facilities - Bicycle parking facilities.

The amended 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.

Condition 43 be amended to read as follows:

43. The on-site detention facility has been relocated and redesigned. The stormwater drainage concept plan received in Council on 30th November 2015 Drawing Numbers D00 issue C, D01 issue C, D02 issue C, D03 issue D, D04 issue D, D05 issue C, D06 issue D, and D010 issue C, prepared by Australian Consulting Engineers does not comply with Part 6.4 of Canterbury Councils DCP 2012 and must be amended to address the following issues:
- a) The maximum discharge from the on-site detention facility is to be adjusted to comply with Council's DCP 2012. To be 150L/s/ha.
 - b) The diameter of the flow control orifice of the on-site detention facility must be amended to comply with Council's DCP 2012.
 - c) The storage volume is too low and must be increased to contain runoff from the 100 year Average Recurrence Interval (ARI) storm.
 - d) The stormwater drainage design, incorporating on-site detention, must be supported by submitted calculations.
 - e) The vehicular access driveway is located at a trapped low point. This will result in flooding of the basement levels during heavy rainfall. The level of the driveway must be increased to 150 mm above the 100 year ARI ponded water level in the proposed laneway.
 - f) The design must accommodate runoff from uphill properties. This runoff must be collected and conveyed to the public drainage system. Note that this may impact on the design of the on-site detention facility and drainage system of the proposed rear laneway.

- g) The drainage concept for the proposed laneway provides a system that is prone to blockage, has an unacceptably low freeboard, does not have sufficient inlet capacity, and consequently will flood. The drainage system for the proposed laneway must be redesigned to comply with current standards such as Australian Rainfall and Runoff, Parts 5, 5A, and 5B *Drainage*, of *Austrroads Guide to Road Design*, AS/NZS 3500.3: 2015, and AS/NZS 3725.
- h) An overland flow path must be provided to convey stormwater from the proposed rear lane and uphill lands in excess of the drainage system capacity to Canterbury Road. Note that this requirement may be achieved jointly with the development in 424-426 Canterbury Road Campsie.
- i) 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.
- j) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

The amended plans must be prepared by a practicing Civil Engineer and include levels reduced to Australian Height Datum and full details of the hydraulic evaluation of the entire stormwater drainage system. This must include a hydraulic grade line analysis if the site stormwater system is connected to Councils gully pit.

The amended plans and calculations must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The design plans and calculations must accompany the instrument for maintenance and work-as-executed plan(s) of the drainage and on-site detention facility when submitted for Councils signature.

Insertion of the following additional condition:

- 43A. An easement for a right of carriage way in favour of Canterbury City Council must be created pursuant to Section 88A of the Conveyancing Act 1919 over the nine metre wide lane shown on drawing number J15313 DA103 Rev F. received in Council on 29th February 2016, at no cost to Council.

Documents relative to the creation of the easement are to be lodged with the Land and Property Information NSW and include a requirement that the easement created shall not be released, varied or modified without Council's consent. Registration of the easement is to be effected prior to the issue of an Occupation Certificate. All costs associated with the design and construction of the right of carriage way and creation of easements are to be paid by the applicant.

Condition 44 being amended to read as follows:

44. The proposed nine metre wide lane shown on drawing number J15313 DA103 Rev F. received in Council on 29th February 2016 must be designed and constructed to comply with the following standards:
- a) 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.
 - b) The laneway must be designed in accordance with *Austrroads Guide To Road Design*.
 - c) Lighting is required and must comply with AS/NZS 1158.0: 2005, AS/NZS 1158.3.1: 2005 and AS/NZS 1158.1.1: 2005.
 - d) Pedestrian footway on the north western side of the lane must be a minimum 1800 mm wide.

- e) Pedestrian footway on the south eastern side of the lane must be a minimum 600 mm wide and a maximum 1200 mm wide.
 - f) The laneway is to comprise of two travel lanes and must limit traffic movement to one directional flow from Bexley Road to Scahill Street.
 - g) There is to be no parking in the laneway area.
 - h) Appropriate signage is to be provided to achieve the above.
- The laneway design, satisfying the above requirements, must be submitted by a practicing Civil Engineer to the Principal Certifying Authority prior to the issue of a Construction Certificate.

Condition 45 being amended to read as follows:

45. A positive covenant must be created under Section 88B or 88E of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to ensure the ongoing maintenance of the roadway and right of carriageway through the site.
- The terms of the 88B or 88E instrument with positive covenant must include, but not be limited to, the following:
- a) The proprietor of the property shall be responsible for maintaining and keeping clear the footways and carriageway.
 - b) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all components or structures in or upon the said land which comprise the roadway; and recover the costs of any such works from the proprietor.
 - c) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the roadway, or failure to clean, maintain and repair the roadway.

Condition 49 being amended to read as follows:

49. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in with NER registration with the Institution of Engineers. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.

Condition 50 being amended to read as follows:

50. A positive covenant must be created under Section 88B or 88E of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to ensure the ongoing maintenance of the overland flowpath through the site.
- Council requires the preparation of covenant under Section 88B or 88E of the *Conveyancing Act 1919* to. The terms of the 88B or 88E instrument with positive covenant shall include, but not limited to the following:
- The terms of the 88B or 88E instrument with positive covenant must include, but not be limited to, the following:
- a) The proprietor of the property shall be responsible for maintaining and keeping clear the overland flowpath.
 - b) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in

good working order all components or structures in or upon the said land which comprise the overland flowpath; and recover the costs of any such works from the proprietor.

- c) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the overland flowpath, or failure to clean, maintain and repair the overland flowpath.

Insertion of the following additional condition:

- 50A. This consent requires the re-design of the stormwater drainage system, overland flowpath, and on-site detention facility for the development. These will be subject to a positive covenant, covering their operation and maintenance. The covenants are required to be finalised prior to the issue of an Occupation Certificate as the submitted stormwater design will compromise the safety and use of the building. Canterbury Council will not accept legal instruments over stormwater facilities that do not comply with its DCP 2012 and relevant standards. As a result non-compliant stormwater facilities will prevent the issue of an Occupation Certificate. You are advised to verify the acceptability of the design with Canterbury Council at a stage where design amendments can be made without undue cost and inconvenience.

ATTACHMENTS

[Click here for attachments](#)

- A. Locality Map
- B. Ground Floor Plan
- C. Elevations

Planning Matters - 14 June 2016

ITEM 5.11	424-426 Canterbury Road, Campsie - Modification to Approved Six Storey Mixed Use Development Comprising Additional Basement Level, Alteration to Dwelling Layouts, Additional Two Levels of Residential Apartments and VPA Offer for Provision of a Laneway
FILE	DA-576/2014/B
ZONING	B5 Business Development under Canterbury Local Environmental Plan
DATE OF LODGEMENT	23 November 2015 (Additional information received 30 November 2015, 29 February 2016 and 12 April 2016)
APPLICANT	CD Architects
OWNERS	Kolpos Pty Ltd
AUTHOR	City Development

ISSUE

- Council has received a Section 96 (2) Application to amend Development Application DA-576/2014, seeking consent to make alterations and additions to an approved mixed use development. The alterations and additions consist of an additional two residential levels (levels 6 and 7) resulting in additional nine units, private rooftop terraces, minor reconfiguring of the basement car parking and a range of alterations to the internal layout of the approved units. The applicant also proposes to widen the rear access way to create a public laneway as part of a Voluntary Planning Agreement. The laneway will not be dedicated to Council as a public road but will contain provisions for an easement and rights of way allowing public use of the lane.
- Council engaged the services of an independent town planning consultant (Willana Associates Pty Ltd) to assess and prepare a report in respect of the application. The contents of this report have been prepared by the independent consultant.
- The approved development application (DA) currently consists of 50 residential units, four commercial units and three levels of basement providing parking for 84 vehicles including one car wash bay. The approved unit mix consists of six x studios, 16 x one bedroom units, 26 x two bedroom units and two x three bedroom units.
- DA-576/2015 was considered by the Independent Hearing and Assessment Panel (IHAP). The DA was subsequently approved on 11 June 2015.

- The site is known as 424-426 Canterbury Road and is zoned B5 Business Development under Canterbury Local Environmental Plan 2012 (CLEP 2012). The site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal retains the approved ground floor commercial uses and as such, satisfies the definition of a mixed use development. This use is permissible in the subject zone.
- This Section 96 application has been assessed against the provisions contained in State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Canterbury Local Environmental Plan (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The proposal is found to generally be in compliance with the requirements of these policies.
- In approving the original development application, Council also permitted a relatively minor variation of the building height development standard, pursuant to a Clause 4.6 submission submitted by the applicant. The proposal now seeks to provide an additional two levels, (levels 6 and 7), resulting in an increased building height. The bulk of the additional units is located in the southwest corner of the Site.
- The Section 96(2) application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of the CDCP 2012 between 15 December 2015 and 12 February 2016. Council received seven submissions objecting to the proposed modifications. Amended plans submitted by the applicant were also subject to public notification with surrounding properties notified and advertisements placed in local newspapers. A response is provided to each of the issues raised in the submissions in the body of this report.
- The independent external consultant is also concurrently assessing a Section 96 (2) application seeking to amend DA-528/2014, for a virtually identical proposal on the adjoining properties of 418-422 Canterbury Road, Campsie. While the two applications represent separate developments, it is intended that the buildings will appear as a single development, which will provide a new public lane through the proposed VPA. The basement car parks will also be connected and have a reciprocal right of way over it to allow access from the adjoining building.
- Notwithstanding the variation sought to building height standard, the Section 96 application is recommended for approval subject to modification of the appropriate conditions.

BACKGROUND

- **Original Development Application - DA-576/2014**
Council approved DA-576/2014 for the demolition of the existing site structures and construction a six storey mixed use development comprising four commercial units, 50 residential units and associated basement car parking on 22 June 2015, subject to conditions. In detail, the approved development included the following:
 - Demolition of the existing site structures and excavation for basement car parking
 - Construction of three levels of basement parking containing 84 car spaces and 16 bicycle spaces, with access via a new laneway along the southern boundary of the property
 - Four ground floor level commercial units

- 50 residential units (six x studios, 16 x one bedroom units, 26 x two bedroom units and two x three bedroom units).
- **Section 96(1A) Application to Modify DA-576/2014**
A Section 96 (1A) application to amend DA-576/2014 was received by Council to modify the subject development consent. The modification involves minor changes to the scope of the approved works. The proposed changes largely involved a reduction to the amount of window glazing on shop front windows at ground level as well as the replacement of louvers with perforated privacy screens on the levels above. The location of some windows was altered slightly. Changes to the southern and south-east elevations largely involved substituting privacy panels with perforated screens and changes to the amount of rendered paint finish. The application was approved on 13 January 2016.
- **Amendment to CLEP 2012 – Building Heights**
Council resolved at its meeting on 31 October 2013 to endorse an amendment to the CLEP 2012, which included adoption of the draft Canterbury Residential Development Strategy. The LEP amendment also included a proposal to increase the building height limits at particular sites within the Canterbury Road corridor. The subject site was not one of those properties.

While the Residential Development Strategy originally recommended increasing the building height limit for a number of properties within the Canterbury Road Corridor up to 25m. The Amendment to the CLEP 2012 was subsequently placed on public exhibition and at an Extraordinary Meeting of Council on 2 October 2014, Council resolved to adopt the exhibited planning proposal. The Planning Proposal was then sent to the NSW Department of Planning and Environment for a Gateway Determination.

During this process, the RMS raised concerns at the unknown traffic and road safety implications across the Regional Road Network as a result of increased dwelling yields and density on a number of identified sites. In relation to the subject site, the RMS made the following comments:

“Roads and Maritime notes that the planning proposal to increase permissible building height of the subject site has the potential to generate a significant volume of additional traffic. Roads and Maritime will support the proposed rezoning subject to the potential traffic impacts of the maximum developable yield of the site being considered and assessed. Traffic impacts on Canterbury Road and the junction of Elizabeth Street and Canterbury Road should be assessed. Roads and Maritime is likely to require access to be provided from the adjoining local road network for any future development or subdivision of the subject site.”

Consequently, Council determined to omit various specific properties from the Planning Proposal to allow resolution of the issues separately, while proceeding with a range of other important amendments to the CLEP 2012. The CLEP 2012 was formally amended in March 2015.

Site Details

The site is located on the southern side of Canterbury Road to the east of its intersection with Beamish Street, in Campsie. The site is irregular in shape, with a primary frontage to Canterbury Road of 26.632m, a secondary frontage to Bexley Lane of 20.765m, an eastern boundary of 42.68m and an overall site area of 1,424.8m².

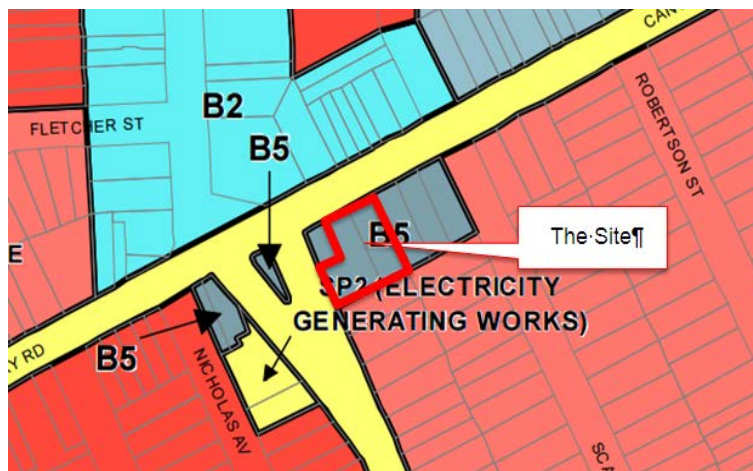
The site comprises two allotments. The development existing on 424 Canterbury Road is a single storey, brick dwelling and a brick garage to the rear of the site. On 426 Canterbury Road is a single storey, brick factory and a metal shed to the rear. To the east and south of the site are single storey dwellings. There is currently a development application to demolish the properties 418-422 Canterbury Road to construct a mixed use development similar to the subject application. Directly to the west of the site is an electricity substation. The streetscape of this portion of Canterbury Road is characterised by a mix of low to high density residential, commercial and industrial development as shown in photos below.



Aerial photograph of locality



Aerial photograph of site



Zoning Map Extract showing the Subject Site

Proposal

The application proposes to construct an additional nine units over two additional residential levels, private rooftop terraces, minor reconfiguration of the basement car parking and undertake a range of alterations to the layout of the approved units. The applicant also proposes to widen the rear access way to create a public laneway as part of a Voluntary Planning Agreement.

The proposed amendments to each level are detailed in Table 1 below:

Table 1. Proposed Amendments	
Level	Proposed Amendments
Roof	New roof terrace layout
Level 7	New floor layout with an additional six units
Level 6	New floor layout with an additional six units
Level 5	Alterations to the layout of units 42, 44 and 45
Level 4	Alterations to the layout of units 37 and 38
Level 3	Alterations to the layout of units 24 and 28 and window added to study nook in unit 23
Level 2	Alterations to the layout of units 15 and 18 and window added to study nook in unit 14
Level 1	Alterations to the layout of units 06 and 09 and window added to study in unit 5
Ground	Alterations to the configuration of unit 01, 02 and 03 and additional bedroom to unit 04, reconfiguration of garbage room and new residential entry from rear lane.

Table 1. Proposed Amendments	
Level	Proposed Amendments
Basement 1	Amended car park layout and garbage room
Basement 2	Amended car park layout
Basement 3	Amended car park layout

The approved and proposed unit mix is also detailed in the Table 2, below:

Table 2. Comparison Between Approved and Proposed Unit Mix		
Unit Configuration	Approved	Proposed
Studio	6	8
1 bedroom	16	16
2 bedroom	26	33
3 bedroom	2	2
Total	50	59

The applicant's offer to enter into a VPA includes the following salient features:

- Construction of a 9m wide laneway including a 1.5m wide pedestrian pathway, 6m wide roadway allowing two-way traffic and a 1.5m wide landscaping strip along the southern Site boundary
- Granting a 9m wide easement over the laneway in gross for the public for the right to use of a laneway as shown on Drawing DA710 Issue B through a Section 88B Instrument
- Imposition of an obligation on the proposed Owners Corporation to maintain the Site and retention of ownership of the site by the Owners Corporation which is to be established upon creation of the Strata Scheme.

Statutory Considerations

When determining this application, the relevant matters listed in Sections 96(2) and 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans (DCPs), codes and policies are relevant:

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

REPORT

Assessment

Section 96(2) of the Environmental Planning and Assessment Act 1979 imposes four tests for an application seeking consent to modify a development consent, which are detailed below.

1. Is the proposal substantially the same development as originally approved?

Section 96(2)(a) of the *Environmental Planning and Assessment Act 1979* (EP & A Act, 1979) provides that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

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

There is a considerable body of case law surrounding the “substantially the same” test, including *Marana Developments Pty Limited v Botany City Council [2011]*. In this case, the original approval was for the construction of five residential flat buildings (with basement car parking) comprising a total of 76 units. The modification application sought ‘significant changes to the external appearance and layout of the buildings’ including an increase in unit numbers from 76 up to 102, and an additional level of basement car parking. This also involved a changed unit mix. Despite significant internal changes, the Court held that the minimal change to the external floorplates and layout was of great significance and the test was satisfied.

In *Sydney City Council v Ilenace Pty Ltd [1984]* the Court judgment found that a proposal can only be regarded as a modification if it involves “alteration without radical transformation”. In *Vacik Pty Ltd v Penrith City Council [1992]* the Court judgment found that “substantially the same” meant “essentially or materially having the same essence”.

Furthermore, in *Moto Projects (No 2) Pty Ltd v North Sydney Council [1999]* the Court judgment found that when undertaking the “substantially the same” test a comparison is required to be made between the consent as originally granted and the proposed modification and a consideration of the quantitative and qualitative elements of the proposal must be made with an appreciation of the proper context.

Likewise, in *Schroders Australia Property Management Ltd v Shoalhaven City Council and Anor [1999]*, the Court acknowledged the amendment concerned would result in additional floor space and that while some of the changes to the consent sought may have been significant, they did not change the essence of the development.

As can be seen by these examples, the addition and deletion of storeys within a development is not so different or radical as to require a new DA and are considered to have the same essence of elements as what was originally granted consent by the consent authority. Accordingly, it is considered that the proposal, albeit one that proposes additional elements to the approved building, is still substantially the same development as that originally approved by Council.

In the opinion of Willana Associates, the modifications sought with the subject Section 96(2) Application represent substantially the same development as that originally granted Development Consent DA-576/2014 for following reasons:

- The proposed amendments do not alter the approved use or definition as a mixed use building containing a residential flat building, commercial suites and basement car parking
- The proposed modifications sought are not anticipated to give rise to a significant adverse impact upon traffic and on-street car parking in the locality subject to proposed conditions of the modified development consent
- The proposed modifications will not have any additional amenity impacts on adjoining properties by way of overshadowing, loss of views, privacy or noise

- There will be no change to the size or description of the land to which the consent relates.

Furthermore, consideration of the quantitative and qualitative elements of the proposal has been made with an appreciation of the elements proper context and are considered to satisfy the “substantially the same” test of Section 96(2)(a) of the EP&A Act 1979. As such, the modifications sought as part of this Application are considered to be consistent with the provisions of Section 96(2)(a) of the Act.

The applicant has also provided legal advice to support their case that the proposal can be considered pursuant to Section 96(2) of the EP&A Act 1979.

2. Has the relevant Minister been consulted?

Section 96(2)(b) of the Environmental Planning and Assessment Act 1979 requires the Consent Authority to consult any government agencies who were involved in the original determination of the application, as follows:

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

Council consulted with the Roads and Maritime Services (RMS) with respect to DA-576/2014 and accordingly, the Section 96 application has again been referred to the RMS for comment. The RMS has advised that they raise no objections to the amendments, subject to the modification of several conditions on the consent.

3. Has the Application been notified in accordance with the Regulations or a DCP?

Section 96(2)(c) of the EP&A Act 1979 requires the Consent Authority to undertake public notification before determining a Section 96(2) application, as follows:

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

The Section 96(2) Application has been notified in accordance with Part 7 of CDGP 2012. Amended plans which were also received during the course of the assessment of this application were also publicly exhibited.

4. Have any submissions received concerning the modifications been considered?

Section 96(2) (d) of the EP&A Act 1979 provides that:

- (d) It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan.*

The Section 96(2) application was publicly notified for a period of 59 days between 15 December 2015 and 12 February 2016, with surrounding properties notified and advertisements placed in local newspapers. Council received seven submissions objecting to the proposed modifications.

The matters raised in the submissions have been considered and are addressed within this report.

In determining an application for modification of a consent, Section 96 (3) of the EP&A Act 1979, requires the consent authority to consider matters of Section 79C (1) that are of relevance.

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

SEPP 65 applies to the amended scheme. Clause 115 of the Environmental Planning and Assessment Regulation 2000 outlines the mandatory information to accompany a Section 96 application, including a statement by a qualified designer, as follows:

(3A) *The statement by the qualified designer must:*

- (a) *verify that he or she designed, or directed the design of, the modification of the development and, if applicable, the development for which the development consent was granted, and*
- (b) *provide an explanation of how:*
 - (i) *the design quality principles are addressed in the development, and*
 - (ii) *in terms of the Apartment Design Guide, the objectives of that guide have been achieved in the development, and*
- (c) *verify that the modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was granted.*

A revised Design Verification Statement has been submitted by the applicant. An assessment of the Statement against the provisions of Section 96(3A) has been undertaken. The Statement demonstrates that the proposed amendments (and the development in itself) satisfy the relevant Design Criteria and Design Guidelines.

In terms of compliance with the Apartment Design Guide (ADG) Design Criteria, the only controls that have relevance to the modifications proposed are identified in Table 3 below. The remaining controls are unaffected by the proposed modifications or are only guidelines and accordingly, are not displayed in the table below.

ADG Design Criteria Compliance

Criteria	ADG	Proposal (amendments only)	Complies
Communal open space	Communal Open Space equivalent to 25% of the Site Area	Combined communal open space areas total 478m ² , or 33.5% of the total site area.	Yes
	Minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9 am and 3 pm on 21 June (mid-winter).	100% of the roof terrace communal area achieves at least two hours sunlight in mid-winter.	Yes

Criteria	ADG	Proposal (amendments only)	Complies
Visual Privacy	Minimum Separation Distances are to be: 5 to 8 storeys/ up to 25m: <ul style="list-style-type: none"> 9m for habitable rooms/ balconies 4.5m for non-habitable rooms 	No change to approved layout and distances with additional units essentially replicating the approved floor plate of the levels below.	Yes
Bicycle and Car Parking	Off-street parking is to be provided in accordance with the RMS' Guide to Traffic Generating Development	A total of 87.4 car parking spaces and 18 bicycle spaces are required. The amended proposal provides 91 car parking spaces and 19 bicycle spaces.	Yes
Solar Access	>2 hours to living areas and private open space of 70% dwellings (54) between 9:00am – 3:00pm on 21 June	The amendments will result in 42 (71.1 %) units with the required solar access.	Yes
	No more than 15% of units have no solar access between 9:00am – 3:00pm on 21 June	27.1% of units (16) do not achieve any direct sunlight. This criterion was not contained in the former Residential Flat Design Code (RFDC) that the original development was approved under. The original development was approved with 24% (12) of the units not having any direct solar access.	No however the proposal has sufficient merit to warrant approval.
Natural Ventilation	60% of the units are naturally cross-ventilated	59.3 % (35) units are cross ventilated.	No however the proposal has sufficient merit to warrant approval.
	Overall unit depth of a cross over or cross through unit is not greater than 18m	No unit exceeds 18m. The floor plate of the proposed level essentially replicates the levels below.	Yes
Ceiling Heights	Habitable rooms – 2.7m Non-habitable – 2.4m	Habitable rooms – 2.7m Non-habitable – 2.4m	Yes
Apartment Size and Layout	Studio > 35m ² One bed > 50m ² Two bed > 70m ² Three bed > 90m ²	All units achieve or exceed the minimum respective sizes	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.	All habitable rooms achieve or exceed the minimum glazing area.	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	All habitable room depths achieve the required standard. The floor plan and layout of the additional units essentially replicate those already approved.	Yes

Criteria	ADG	Proposal (amendments only)	Complies
	Maximum habitable room depth of open plan layouts is 8m from a window.	All habitable room depths achieve the required standard. The floor plan and layout of the additional units essentially replicate those already approved.	Yes
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space) Bedrooms have a minimum dimension of 3m (excluding wardrobe space) Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and one bedroom apartments • 4m for two and three bedroom apartments The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	All bedrooms and living rooms achieve the required standard. The floor plan and layout of the additional units essentially replicate those already approved.	Yes
Private Open Space	Studios – 4m ² One bed – 8m ² Two bed – 10m ² Three bed – 12m ² Minimum depth of 2m for all units except studios	All private open spaces achieve the required depth and area. Additional private terraces on the rooftop are proposed for several units. The floor plan and balcony sizes of the additional units essentially replicate those already approved.	Yes
Common Circulation and Spaces	Maximum of eight units off a single circulation core per level.	The approved development provides two lift cores and two stair wells, serving a maximum of six units per level. This will be extended to the new levels.	Yes
Storage	6m ³ per One bed unit 8m ³ per Two bed unit At least 50% of the storage volume is to be within the apartment.	The proposed development, as amended, will achieve the required storage volumes and locations.	Yes

Context

The site is located on Canterbury Road which is expected to undergo change into the future having regard to the new planning controls that now apply and properties on Canterbury Road more generally. As such, the proposed development, as amended, while contemporary in design, is expected to complement and positively contribute with existing and likely future development in the locality.

Scale

The scale of the proposed development is determined by the height controls contained within the CLEP 2012 and the building envelope controls contained within CDCP 2012. Further, Council's policy intentions for development within the Canterbury Road corridor are clearly stated in Council's resolution dated 9 October 2014.

The proposal satisfies the underlying objectives of the height, building setback and separation controls applying to the land, despite the numerical non-compliance with the maximum building height as it currently stands. This numerical non-compliance is not necessarily fatal to the application. Notwithstanding this, the development is consistent with the scale of development identified for the future character of the locality.

Built Form

The proposal achieves the built form objectives as it contributes positively to the streetscape and generally provides good amenity for residents. All dwellings are reasonable in dimension and have balconies and/or courtyards that provide reasonably good amenity and are accessible from living areas.

Density

As noted above, the scale of the proposed development is clearly determined by the height controls contained within the CLEP 2012 and the building envelope controls contained within the CDCP 2012, as well as the ADG. No specific floor space ratio or density controls apply to the subject development. The form and scale of the proposed development is consistent with the type of development contemplated by the CDCP 2012 controls in a locality that is expected to undergo transition into the future.

Resource, Energy and Water Efficiency

The proposal has been assessed against BASIX and adequately meets all required categories of water, thermal comfort and energy.

Landscape

The proposed development provides a number of good quality and functional private and communal open space areas including courtyards and roof terraces, in excess of the minimum requirements of the CDCP 2012 and the ADG. Landscape treatments for the site will add to the general amenity offered to future residents and satisfy the requirements of Part 6.6 of CDCP 2012. It is also noted that the development provides good amenity for future occupants with each unit being provided with adequate and functional balcony/ terrace spaces.

Amenity

The proposed amendments will provide good levels of amenity for future occupants of the development, with good solar access, natural ventilation and privacy. In this regard, the amended proposal is generally consistent with the requirements of the ADG. The proposed units contain reasonable living spaces with direct access to areas of private open space in the form of courtyards or balconies.

Safety and Security

Satisfactory provision for security and resident/ public safety is provided. The proposal does not alter the previous findings for DA-576/2014 with respect to safety and security.

Social Dimensions and Housing Affordability

The amended proposal does not alter the previous findings for DA-576/2014 with respect to the potential social impacts, housing mix or affordability. The proposal (as amended) will provide a variety of apartment layouts and an appropriate housing mix to complement the housing available within the locality and meet the anticipated future demands.

- **State Environmental Planning Policy (Building Sustainability Index) BASIX 2004**
The original proposal was accompanied by A BASIX Certificate, which listed a variety of commitments that are to be incorporated into the overall design of the project. An amended BASIX Certificate accompanies the application and also lists the commitments to be incorporated into the overall project. The necessary commitments have been included on the architectural drawings where required, meet the water, energy and thermal comfort targets and satisfy the requirements of the SEPP.
- **State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)**
Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Council previously considered that the site held a low risk of contamination in its assessment of DA 528/2014. The proposed development does not alter the conclusions previously reached in respect of the SEPP.
- **State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)**
State Environmental Planning Policy (Infrastructure) 2007 aims to facilitate the effective delivery of infrastructure, including providing appropriate consultation with relevant public authorities about certain development during the assessment process.

The proposed amendments do not alter the previous conclusions made in respect to upgrading existing utility services such as water, gas or telecommunications.

The subject site is located on Canterbury Road which is a classified road for the purposes of the SEPP. Clause 102 of the SEPP states that a consent authority must consider likely impacts from road noise and vibration for development adjacent to certain road corridors. In particular, the SEPP requires, for the purposes of a residential use, that the consent authority must not grant consent to the development unless it is satisfied appropriate measures will be taken to ensure the following LAeq levels are not exceeded:

- (a) in any bedroom in the building — 35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) — 40 dB(A) at any time.

DA-576/2014 was accompanied by an Acoustic Assessment which details various measures that were incorporated in the original conditions of development consent. These measures are to be incorporated into the construction of the building to ensure compliance with the above requirements and safeguard the amenity of future occupants of the development. An appropriate condition is included in the recommendation requiring the development to be constructed in accordance with this report.

In accordance with Clause 104 of the State Environmental Planning Policy (Infrastructure) 2007, the proposed development falls under the requirements of Schedule 3 of the SEPP and requires referral to Roads and Maritime Services (RMS). The application was referred to the RMS who subsequently advised that they raised no objections to the proposal, subject to the relevant conditions of consent being modified as appropriate.

The proposed development therefore meets the requirements of State Environmental Planning Policy (Infrastructure) 2007.

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

The site is zoned B5 Business Development under Canterbury Local Environmental Plan 2012. This site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal involves retaining the approved commercial uses with an additional two levels of residential apartments and modifications to the residential units on other levels, thus maintaining the approved mixed use definition and use. A mixed use development is permissible in the subject zone.

The proposed amendments compare to the relevant provisions within CLEP 2012 as follows:

Standard	Requirement	Proposal	Complies
Zoning	B5 Business Development	The proposed development is permissible with development consent	Yes
Floor Space Ratio (FSR)	No FSR applies	No FSR controls apply to the B5 zone under CLEP 2012.	N/A
Building Height	18m in Zone B5.	Approved at RL 49.60 (19.3m) to the roof level and RL 53.40 (23.1m) to the top of the lift overrun. The application seeks to increase to RL 56.1 (25.8m) to the roof level and RL 57.9 (27.6m) to the top of the lift overrun.	No – Refer to comment [1] below
Heritage	No adverse impact	No change to previous conclusions	Yes

[1] Building Height

In approving DA-576/2014, Council also approved a variation of between 1.9m (roof) and 5.1m (lift overrun) to the maximum building height, pursuant to the provisions of Clause 4.6 of the CLEP 2012. Council was satisfied that the proposal and its supporting documentation had satisfied the requirements of Clauses 4.6(3) and (4) of the CLEP 2012.

The application now before Council seeks to make alterations and additions to the approved building, which will result in a larger breach of the maximum building height standard. The maximum permitted building height is 18m, while the application seeks up to 27.6m for the lift overrun and 25.8m to the roof level, as demonstrated in the submitted plans. The lift overrun is located centrally in the southwestern corner element. A Clause 4.6 submission is not required to support this proposal on the basis that Clauses 4.6 (2), (3) and (4) of the CLEP 2012 specifically refer to the granting of a development consent, as distinct from the amendment of a consent.

This approach is also supported by relevant caselaw in the NSW Land and Environment Court. Originating with *North Sydney Council v Michael Standley & Associates Pty Ltd [1998] NSWSC 163*, the Court of Appeal held that Section 96 is a 'free-standing provision', meaning that "a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application". This principle was also upheld in the decision of *Gann v Sutherland Shire Council [2008]*.

The decision of the Court does not necessarily lead to the complete abandonment of the development standard (in this case, the height standard). The Court stated:

"Section 96(3) still requires the consent authority to take into consideration the matters referred to in section 79C, which in turn include the provision of any environmental planning instrument. That is, any development standard in an environmental planning instrument must be taken into consideration by the consent authority, but the absolute prohibition against the carrying out of development otherwise than in accordance with the instrument in s 76A(1) does not apply."

The applicant has argued that the additional levels are a consequence of trade off for the public roadway along the rear (southern) boundary of the Site. The applicant has also submitted that the additional units will not have any significant additional adverse impact on adjoining properties by way of loss of privacy or solar access.

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

An assessment of the proposal against the relevant requirements of Part 3 Business Centres of Canterbury Development Control Plan 2012 (CDCP), as they relate to the proposed amendments is detailed below.

Standard	Requirement	Proposed	Complies
Isolation of sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed	No isolation of neighbouring properties.	Yes
Building Height	18 m (shown on CLEP 2012 Map)	Refer to Assessment against CLEP 2012.	No – refer to comments under CLEP 2012 [1].
	Floor to ceiling heights – all levels	Floor to ceiling heights remain unchanged and replicated from lower levels in accordance with the ADG.	Yes
Building Depth	Commercial component 10-24 metres	N/A	N/A
	In general, an apartment building depth of 10-18 metres is appropriate	All apartments have a depth of less than 18m	Yes
Building Setbacks	1 to 4 storeys Minimum setback of 3 m from front street boundary <ul style="list-style-type: none"> No controls for secondary frontages 	N/A	N/A
	Buildings greater than five storeys requires an additional 5m setback (i.e. 3m +5m)	The proposed levels 6 and 7 maintains the approved setbacks, which are already stepped in.	Yes

Standard	Requirement	Proposed	Complies
		Notwithstanding the additional breach of the building height plane, additional setbacks would only lead to an undesirable ziggurat form. The additional breach of the building height plane does not lead to any significant additional amenity impacts. Refer to the assessment of the overshadowing impacts in response to the objections received in Section 79C (1) (d) – Submissions of this report, below.	
Building Separation (as per SEPP 65)	6m up to three storeys 12m 4 th storey 18m 5 th storey	Refer to SEPP 65 assessment. Separation distances remain unchanged with the proposed levels essentially replicating the levels below.	Yes
Building Configuration	At ground floor level viable shop fronts for business activities are to be created	N/A	N/A
Design Controls	Clearly identifiable entries, Provide main common entry.	N/A	N/A
	Habitable room window to face communal areas	Habitable windows face communal areas and the perimeter of the development, in replication of the remainder of the approved floor plan.	Yes
	No obstruction to views from street to development and vice versa	Sufficient natural surveillance to areas surrounding building	Yes
Facades – New 3-5 storey buildings	To be in accordance with articulation controls of this DCP	The proposed modifications continue the façade treatments previously approved.	Yes
Shop front	Shop premises to present a suitable streetscape appearance and allowing adequate security	N/A	N/A
Cantilevered Awning along Canterbury Road frontage	Height of between 3.2m and 4.2m from natural ground/footpath	N/A	N/A
	Width of 3 metres	N/A	N/A
Articulation	Buildings should generally have a base and upper elements	Building has base and upper levels	Yes
	The design of the facade, including the quality and durability of its materials, should be emphasised.	The façade of the additional units will continue the approved detailing, articulation, materials and finishes.	Yes
	The ‘facade’ should have a strong sense of verticality, emphasised on the ground	Vertical emphasis is provided with appropriate modulation through the use of varying	Yes

Standard	Requirement	Proposed	Complies
	floor by modulation at intervals of 6-8 m with some variation. Modulation above the ground floor may take the form of party walls, small bays, as well as variations in materials and colours.	materials and external finishes. The proposed modifications continue the approved façade treatment.	
	A visual finish using expressed eaves, cornice or parapet elements with shadow lines is desirable.	Shadow lines to be created through the use of building design elements. Recessed balconies create shadow and visual depth.	Yes
	No blank walls are to face the public realm	No blank walls face Canterbury Road	Yes
	Balconies should be used in moderation and be integrated into the overall composition of the facade. They should not be implemented in a monotonous or repetitive configuration. This applies to both recessed and cantilevered balconies. Balconies may have masonry or metal balustrades. The latter should generally have a separation of the grilles and a handrail.	Balconies are integrated into the overall design of the façade. There is adequate variety in the balconies configuration between the lower and upper levels of the development.	Yes
	The majority of windows shall be vertically rectangular	Additional windows are the same as those previously approved.	Yes
Roof Design	Relate roof design to the desired built form and or context	Roof design is consistent with the desired built form and context of the area. The roof design essentially replicates that which was previously approved.	Yes
	Design roofs to respond to the orientation of the site, for example, by using eaves and skillion roofs to respond to solar access.	A flat roof is proposed.	Yes
Service and Utility Areas	Integrated into the design of development and are not visually obtrusive	Service and utility areas integrated into the design adequately	Yes
	Unscreened appliances not to be visible from the street, communal area of driveway on the site. Air con units behind balustrades, screened recesses for water heaters, meters in service cabinets.	Appliances not visible from public areas	Yes
	Communal rooftop antenna to be provided	Antenna can be conditioned	Yes
	Screen clothes drying areas from public view, storage space	Adequately screened	Yes

Standard	Requirement	Proposed	Complies
	screened and integrated into design		
	Discretely locate mailboxes in front of property	N/A	N/A
Performance Controls			
Visual Privacy	Locate and orientate new developments to maximise visual privacy between buildings	Design has adequately addressed visual privacy issue through window placements and sufficient setbacks with the adjoining property. Floor layouts from approved units below have generally been adopted.	Yes
Private Open Space, Balconies, terraces & Courtyards	Combined private open space area should be a minimum of 10% of dwelling floor space	Combined private open space area exceeds the minimum 10% of dwelling floor space.	Yes
	Primary 8sqm balconies for 1 bedroom dwellings and 12sqm for two and three bedroom dwellings with minimum depth of 2m	Balconies provide the minimum private open space requirements with adequate depth.	Yes
	Full length balconies without articulation are not permitted	Articulation and building design elements incorporated to provide relief to balconies.	Yes
	Primary balconies to be located adjacent to main living areas.	All primary balconies are accessible directly off living room.	Yes
	Primary balconies to have minimum depth of 2 m and be functional in dimensions	Minimum depth of 2m and functional in design.	Yes
	Design and detail balconies in response to local climate	Proposed balconies have been designed where achievable to have northern orientation to maximise solar access.	Yes
	Storage: 6m ³ / one bedroom unit 8m ³ / two bedroom unit 10m ³ / three bedroom unit	Complies. Refer to SEPP 65 Assessment.	Yes
	Communal Area: Min. 10% of site area as communal open space (Required 142.4m ²)	No change to ground floor areas. Rooftop communal area essentially duplicated from DA 576/2014.	Yes
Internal Dwelling Space and Design	Dimensions and design of interiors to accommodate furniture typical for purpose of room	Typical furniture layout on plans	Yes
	Living room min 3.5m dimension	Minimum 3.5m	Yes
Housing Choice	10% minimum of each bedroom configuration	Satisfies the requirements of SEPP 65. The approved number of 3 bedroom dwellings remains unchanged.	Yes
	10% of dwellings are adaptable	Satisfies the requirements of SEPP 65	Yes

Part 6.1 - Access and Mobility

The nature of the proposal is such that it does not raise any issues not already foreseen by Council in its original assessment of the building.

Part 6.2 - Climate and Resource Efficiency

Mixed Use Development

Part 6.2.6 and 6.2.7 provide requirements governing solar access and natural ventilation. These standards are generally higher than those contained within SEPP 65. The proposal satisfies the requirements for solar access and natural ventilation and given that the SEPP overrides the DCP control, the proposal is considered acceptable in this instance.

Part 6.3 - Crime Prevention Through Environmental Design

The additional units and basement level will not contribute to creating opportunities for additional criminal activity and is consistent with the objectives and principles in Part 6.3 of CDCP 2012 relating to natural surveillance, access control and ownership. The applicant outlines the following features in the design of the proposed development that address the CPTED principles:

Residential Development

- The upper levels of the approved mixed use development contain residential units that address the street
- The parking area does not dominate the development as it is provided at basement level
- The proposal provides clearly delineated access points
- Secure basement access and access to the dwellings is proposed
- The communal open spaces provide different features in terms of use and landscaping to give a sense of ownership
- The access arrangement is appropriate to service the number of units within the building.

Part 6.4 - Development Engineering, Flood and Stormwater

The proposal will connect into the approved stormwater infrastructure proposed and approved under DA 576/2014. No objections have been raised by Council's Development Engineer, subject to conditions being amended as required.

Part 6.6 - Landscaping and Part 6.7 - Preservation of Trees or Vegetation

The landscaping proposal for the subject development has been reviewed by Council's Landscape Architect who has advised that no objection is raised from a landscaping perspective, subject to appropriate conditions, being modified.

Part 6.8 - Vehicle Access and Parking

The proposal compares to the relevant requirements of Part 6.8 of CDCP 2012 as follows:

Requirement	Proposal	Complies
Residential Units: 24 x Studio & one BR (@1 space/ unit) 39.6 x two BR (@1.2 spaces/ unit each) four x three BR (@ 2 spaces/ unit) = (24+39.6+4) = 67.6 spaces	24 43 = 4 = 71	Yes
Commercial Suites: Seven spaces @ one space per 40m ² GFA	= 7	Yes
Residential Visitor: 11.8 (@one one space / five units)	= 12	Yes
One car wash bay	One Car Wash bay	Yes
Bicycle spaces: Resident – 12 spaces (@one space/ five units) Visitor – six spaces (@one space/ ten units) Total = (12+6) = 18	12 7 = 19	Yes

The proposed development is generally consistent with the relevant car parking and requirements in CDCP 2012. Where necessary, conditions have been modified to reflect the revised car and bicycle parking requirements.

Council's Traffic Engineer has also reviewed the application and the applicant's Traffic and Parking Assessment and raises no objections to the proposal. It is also noted that in the RMS did not raise any objections to the DA 528/2014, imposing a range of standardized conditions.

Part 6.9 - Waste Management

The development application was referred to Council's Waste Services Coordinator who was satisfied with the Waste Management Statement and Waste Management Plan submitted by the applicant, subject to the relevant conditions being modified to ensure compliance with Part 6.9 of CDCP 2012.

- **Canterbury Development Contributions Plan 2013**

The proposed development which involves eight studio units, 16 x one bedroom units, 33 x two bedroom units and two x three bedroom units on the site which attracts a contribution of \$684,501.48. This contribution is subject to indexing.

The provisions of any planning agreement

This Section requires the consent authority to consider any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F of the EP&A Act, 1979.

The applicant has advised of their intention to enter into a Voluntary Planning Agreement (VPA) with Council within the meaning of Section 93F of the EP& A Act 1979. The offer proposes to replace the approved driveway along the rear boundary with a 9m wide public laneway. The laneway will provide both vehicular and pedestrian access between Scahill Street and Bexley Road, linking with the adjoining development at 424-426 Canterbury Road (DA-576/2014). The offer by the applicant of a new public laneway is in lieu of additional floor space in the building.

Section 93F(1) requires that a VPA, apart from being voluntary, involve either the dedication of land free of cost or payment of a monetary contribution, or provide any other material public benefit (or a combination of them) to be used for, or applied towards, a public purpose. In this regard, the provision of a new public road and footpath is for a public purpose and accordingly, Clause 93F is satisfied.

Council engaged BEM Property Consultants and Valuers to review the draft VPA and provide advice on the potential value of the road in lieu of the additional floor space. The advice states that the applicant's offer of a public road in return for additional floor space to be "*fair and reasonable*", having regard to the current baseline valuation of the additional floor space and the estimated cost of constructing the laneway and maintaining it in perpetuity. A copy of the advice from BEM Property Consultants and Valuers is attached on file.

Unlike Section 94 Developer Contributions Plans, which must demonstrate the nexus between the contributions levied and the purpose for which the funds are put to, a VPA does not have a prescribed mechanism for quantifying or comparing the nature of the proposal against the public benefit derived by the land or money offered by an applicant. Accordingly, a VPA must be assessed on its merits and in contemplation of the following questions:

- **What is the Planning Purpose of the VPA?**

In accordance with section 93F (2) of the Act, the VPA has the following public purpose:

- the provision of (or the recoupment of the cost of providing) public amenities or public services
- the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land.

The provisions of the VPA provide a reasonable means of achieving the public purposes set out above. This is because it will ensure that the Developer makes appropriate contributions towards the provision of infrastructure, facilities and services referred to in clause 6.6(e) of the CLEP 2012.

- **How does the VPA Promote the Public Interest?**

The VPA promotes the public interest by ensuring that an appropriate contribution is made towards the provision of infrastructure, facilities and services to satisfy needs that arise from development of the Site.

- **How does the VPA Promote the Objects of the EP&A Act, 1979?**

The VPA promotes the objects of the EP&A Act, 1979 by:

- encouraging the promotion and co-ordination of the orderly and economic use and development of land
- requiring the applicant to make a contribution towards the provision of infrastructure, facilities and services referred to in clause 6.6(e) of the CLEP2012.

The applicant's offer to contribute towards the provision of a new public laneway will have a positive public impact as land will be provided by the applicant to facilitate the provision of infrastructure, facilities and services referred to in clause 6.6(e) of the CLEP 2012.

As noted above, Council engaged BEM Property Consultants and Valuers to advise whether the potential value of the road was in line with the value of the additional floor space, i.e. whether the potential public benefit matched the monetary value of the developer's loss or gain through the lost site area and additional floor space. Having regard to the advice from BEM Property Consultants and Valuers and the above planning merits, it is considered that the applicant's offer will result in a material public benefit, without unduly favouring or disadvantaging either party.

Other Considerations

- **The Regulations**

Section 115 of the Regulations detail the requirements for an application for modification of a development consent. The proposed modifications are consistent with the requirements of this clause.

- **Any Coastal Zone Management Plan**

The Site is not located within the Coastal Zone and there is no applicable Coastal Zone Management Plan.

- **The Likely Impacts**

The potential impacts of the original development were duly considered by Council in its assessment of the original development application. The likely impacts of the proposed amendments have been addressed throughout this assessment report and are considered to be acceptable.

- **The Suitability of the Site**

The assessment of the proposed modifications has demonstrated in detail that the Site remains suitable for the proposed development. In summary, suitability is achieved given:

- The development, as amended, is permissible and will be consistent with the relevant zone objectives.
- The amended development will respect the existing and desired future character of the immediate locality.
- Considerable compliance is achieved with the relevant non-statutory controls and in those cases of non-compliance, the relevant objectives are satisfied.
- Likely impacts from the proposal are reasonable and are not inconsistent with Council's original findings.
- The identified constraints have been suitably mitigated to the point that they will not prevent the reasonable development of the Site.
- The Site is ideally located adjacent to a range of public and private services.

- **The Public Interest**

Approval of the modification application is not contrary to the public's interest given:

- The proposed modifications do not conflict with the desired future character for the area or with Council's expectations for the redevelopment of land within the Canterbury Road Corridor;
- The development, as modified, will provide residential and commercial development in an accessible location in accordance with the desired future character of the area as a B5 Business Development zone.
- The local supply and choice of housing form will be supplemented by the proposal.

- The amended scheme is substantially the same as the approved scheme.
- The environmental impacts of the proposal, as modified, remain reasonable and within anticipated limits.

- **National Construction Code**

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

Referrals

- **Roads & Maritime Services**

As stated previously in the report, as per the provisions of SEPP 2007, the application was referred to the Roads and Maritime Services (RMS). The RMS has advised that it raises no objection to the proposed development subject to conditions being imposed on any development consent issued.

- **Ausgrid**

While the matter was not formally referred to Ausgrid, Council did receive a formal submission in the capacity of the owner of the adjacent electrical substation. Ausgrid made a formal submission on the original DA requesting certain conditions be imposed on any consent issued to ensure the safety and compatibility of both the development and Ausgrid's assets. These have been included in the recommended conditions of consent. The comments from Ausgrid do not object to the proposed modifications, subject to amendment of the requested conditions where relevant

Notification

The Section 96(2) Application was publicly notified for a period of 59 days between 15 December 2015 and 12 February 2016, with surrounding properties notified and advertisements placed in local newspapers in accordance with Part 7 – Notification of Development Applications of Canterbury Development Control Plan 2012. Council received seven submissions objecting to the proposed modifications. The application was re-notified with amended plans to neighbouring properties between 28 April 2016. One additional submission was received.

The application was notified and exhibited concurrently with the Section 96(2) application to amend DA-528/2014 over 418-424 Canterbury Road. Accordingly, the submissions received relate to both applications with the issues raised being discussed below:

- **The proposed development will be occupied by rental tenants who will take up the on-street parking, block resident's driveways, be responsible for increased crime levels, reduced personal safety levels and antisocial behaviour, and will result in additional strangers in the local streets.**

Comment

There is absolutely no justification or basis to any of the issues raised in such a statement. There is no evidence to demonstrate that people who rent properties are any more responsible for antisocial behaviour, increased crime or parking problems than owner-occupiers. There is also no evidence to support the claim that people who live in residential apartments are more likely to commit crime or display or induce anti-social behaviours than those who live in detached dwelling houses.

The Section 96(2) application does not raise any additional issues identified in Council's original assessment. The approved and proposed development satisfies Council's Crime Prevention Through Environmental Design controls, as outlined in the CDCP 2012.

- **Increased traffic volumes, lack of adequate signage, potential for conflict with nearby streets and lack of on-site parking to cater for both residents and visitors, will impact on the residents of Scahill Street and Bexley Road.**

Comment

The proposal provides a total of 91 car parking spaces for residents, commercial office employees and visitors, which exceed the requirements of CDCP 2012 and the RMS' Guide to Traffic Generating Development. Accordingly, it is not anticipated that there will be any loss of on-street parking as a consequence of the additional nine (9) units proposed in this application. It is also noted that Canterbury Road is well serviced by public transport, which further reduces reliance on cars and parking demands.

With respect to traffic generation, the level of traffic from the development is not excessive and is not likely to have an impact on the movement of traffic in the local road system. Both the RMS and Council's Traffic Engineer have reviewed the application and raise no objections to the proposal. Refusal of the application on parking or traffic grounds cannot be supported.

The proposal will result in a development that represents the desired future character along the Canterbury Road corridor in terms of bulk, scale, setbacks, design quality and built form that is contemplated by the new planning controls and on this basis, the proposal is a suitable development for the site.

With respect to traffic movements, it is acknowledged that a development of this scale will result in some increased traffic movements in the immediate locality.

- **Bexley Lane is full of taxis and cars from a nearby mechanic.**

Comment

The proposed amendments do not have any relationship with the taxi rank or mechanical workshop. The alleged illegal parking is an enforcement matter separate to the consideration of the subject Section 96(2) application.

- **The proposal will create additional noise from the additional number of people, which will include renters having parties and people making noise after 10pm. This will affect people's rest patterns and shift workers.**

Comment

It is acknowledged that there will be more people utilising the site in comparison to the existing development, although there is no evidence to prove that the additional units (or the development itself) by rental tenants, or that tenants make more noise than owner-occupiers. However, it is expected that any noise generated by the future residents or workers of the development will have minimal impact on the amenity of surrounding properties. Likewise, there is no evidence to suggest that the development, as modified will impact on people's rest patterns or the time they get out of bed in the morning.

- **Concern is raised that the proposed development will overshadow adjoining properties, particularly 2, 2A and 5 Scahill Street and 2 Bexley Road.**

Comment

Both the original development and the subject Section 96(2) application have been assessed in accordance with Part 6.2 of CDCP 2012, which requires at least two hours solar access to prescribed parts of adjoining properties.

The applicant has submitted shadow diagrams, which identify the shadow cast by the approved development, as well as the additional shadow cast as a consequence of the additional units. In summary, the proposed amendments will have the following degree of impacts in terms of overshadowing:

- 2 and 2A Scahill Street will not be affected by any approved or additional shadows between 9am and 3pm during midwinter
- 1 Scahill Street is within the shadows cast by the development as approved will not be further affected by the proposal
- 3 Scahill Street is also within the shadows cast by the development as approved with only relatively minor additional shadows over the part of the rear yard and outbuildings from 2pm onwards
- 5 Scahill Street - the dwelling is within the shadows cast by the development as approved from approximately 2.30pm onwards. The additional levels to the building will not have any significant impact on the requisite solar access to the private open space and major habitable rooms
- 7 Scahill Street will likewise only be overshadowed after approximately 3pm and therefore will still achieve the requisite solar access in the private open space and major habitable rooms despite the modification to the approved building
- No. 2 Bexley Road is within the shadows cast by the development as approved with only minor additional overshadowing between 11am and 12 noon
- No. 4 Bexley Road will only be affected by the additional shadows from 1pm onwards but will still be able to achieve the requisite solar access between 9am and 1pm.

Accordingly, the claims made by the objectors that their dwellings will be adversely impacted by the proposed modifications cannot be substantiated.

- **The proposal will block sunlight entering the house at 5 Scahill Street during winter afternoons, leading to mould and the occupants contracting respiratory diseases and block the favourable afternoon sunset views over the street.**

Comment

As demonstrated above, the additional levels will only overshadow the dwelling at 5 Scahill Street after 2.30pm. The dwelling will not be affected by either the approved development or the proposed modifications before this time. The existing sunset views currently enjoyed from the rear of the dwelling will remain unaffected as this portion is free of shadows from approximately 4.30pm onwards. There are a number of factors that contribute to the formation of mould in buildings (such as ventilation, age and condition of existing building fabric, length of time without any direct or indirect light etc) and overshadowing to the degree anticipated is unlikely to directly result in respiratory diseases.

With respect to loss of views during sunsets, the topography of the surrounding area does not lead to any significant or specific views, other than over the rear yards of the properties along the north-eastern side of Bexley Road. Neither the approved or proposed development will block the existing westerly views from the objector's residence.

- **The proposal will affect the view of the street from within the dwelling at 2A Scahill Street.**

Comment

No part of the approved or proposed development will compromise the views over the street or casual surveillance opportunities for residents inside 2A Scahill Street.

- **The proposal will prevent 2 Bexley Road from being redeveloped in the future due to overshadowing.**

Comment

Council is not currently in receipt of any development proposals for 2 Bexley Road. That being said, any future development would need to be based on a site analysis and designed to accommodate as much as possible, any identified constraints. It must also be acknowledged that the development potential of the objector's property at present is somewhat different to that of the subject site, given the differences in zoning and therefore permissible uses and densities. As demonstrated previously, the proposed modification application does not result in any significant loss of amenity due to overshadowing.

- **Concern was raised that the foundations of the proposal are too deep and the building too tall which is unprecedented along Canterbury Road.**

Comment

There are no known geotechnical or statutory restrictions on the depth of the proposed basement. Conditions were imposed on the original consent to ensure all adjoining properties and public spaces were protected during earthworks and construction activities. Certification of the design through the construction approval process is likewise already included in the existing consent conditions. In terms of the proposed height, the overall height and number of storeys was reduced to a maximum of seven storeys after this objection was received.

- **Concern was raised that the proposed development will have a detrimental impact on property values in the locality.**

Comment

There is no evidence to suggest that approval of the proposed amendments will result in any loss of property values. As such, this does not warrant refusal of the Section 96(2) application.

- **Concern was raised that as a result of the proposed development, surrounding roads will degrade more quickly due to heavy machinery and trucks accessing the site.**

Comment

This matter was raised and addressed in the assessment of the original development application. It is acknowledged that there will be increased demands on infrastructure as a result of the proposed development. The developer is required to pay Section 94 contributions prior to the issue of a Construction Certificate. A portion of these payments may be dedicated to the future upgrading of roads. The application was also referred to Council's traffic engineer and the RMS, who raised no objection to the proposal, subject to modification of the relevant conditions.

- **Concern was raised that the proposal will result in noise pollution during the construction phase.**

Comment

It is acknowledged that there will be some disturbances to the surrounding area during the construction phase of the development. However, these will only be temporary and conditions of consent were included in the original development consent, restricting the hours during which building works may take place. The existing conditions will ensure that the level of disturbance is not unreasonable.

- **Concern was raised that the proposed development will adversely impact on the privacy of adjoining residential properties.**

Comment

The proposed amendments do not alter Council's original conclusions with respect to privacy. The additional units will not result in any greater loss of amenity or, in the case of those which will overlook Bexley Lane, result in overlooking of the private open spaces of the dwellings adjacent to the subject site. The proposal also does not prevent properties along either Bexley Road or Scahill Street from redeveloping with respect to the ability to provide an adequate level of privacy given the approved and proposed developments satisfy the separation distances specified in the ADG with respect to privacy.

Conditions were also imposed on the original consent requiring privacy louvers for a length of 2m to be installed on the balconies facing Scahill Street and the residential properties to the south.

- **Concern was raised that there is a loss of trees as a result of the proposed development.**

Comment

The proposed amendments do not result in any additional trees being removed.

- **The proposal will cause ibis birds which currently reside on the site to relocate to the yard of 2 Bexley Road, causing environmental damage and structural damage to the objector's house.**

Comment

There is no evidence that supports this claim.

- **The proposal is not a Section 96 (1A) or 96 (2) application as it is not of minor environmental impact, nor is it "substantially the same development" as originally approved by Council.**

Comment

As demonstrated above, Council is of the view that the proposal is not without some level of impact (and therefore not a Section 96(1A) application) but is within the scope of Section 96(2) of the EP&A Act 1979. The modifications sought represent substantially the same development as that originally granted in Development Consent DA-528/2014 for following reasons:

- The proposed amendments do not alter the approved use or definition as a mixed use building containing a residential flat building, commercial suites and basement car parking
- The proposed modifications sought are not anticipated to give rise to a significant adverse impact upon traffic and on-street car parking in the locality subject to proposed conditions of the modified development consent
- The proposed modifications will not have any additional amenity impacts on adjoining properties by way of overshadowing, loss of views, privacy or noise
- There will be no change to the size or description of the land to which the consent relates.

A substantial body of caselaw supports the view formed that the proposal satisfies the four "tests" required by Section 96(2), as previously identified. In terms of the perceived level of impact created by the proposed amendments, the assessment undertaken pursuant to Section 96(3) and 79C of the EP&A Act 1979 demonstrate that the amended proposal will not result in a significant adverse environmental impact.

- **The proposal is an overdevelopment of the Site, providing too many dwellings while impacting on the streetscape and failing to provide an adequate transition to the residences adjoining the south of the development.**

Comment

The proposed development, in terms of bulk and scale, is different to existing development in the locality, nevertheless, it is consistent with Council's adopted planning controls in the CLEP 2012 and the CDCP 2012. Although the site was not specifically included in the last LEP amendment, Council has demonstrated a clear intention to increase the height and development potential of buildings along the Canterbury Road corridor in order to see viable redevelopment occur. The proposal will result in a development that represents the desired future character along the Canterbury Road corridor in terms of bulk, scale, setbacks, design quality and built form that is contemplated by the new planning controls and on this basis, the proposal is a suitable development for the site.

As discussed above, the Draft LEP, which (amongst other things) sought to increase the maximum height of a number of properties within the Canterbury Road corridor from 18m to 25m was gazetted in March 2015. Due to concerns raised by the RMS, Council excluded the proposed height limits on a number of properties in order to progress the other housekeeping amendments. This allowed Council and the RMS to work towards resolving the agency's concerns regarding the traffic and road safety implications across the Regional Road Network as a result of increased dwelling yields and density within the Canterbury Road Corridor. It is also noted that despite the RMS expressing these concerns, Council is not automatically precluded from assessing the individual merits of a proposal.

With respect to the amended development creating an undesirable transition in building heights, it is noted that the development generally achieves the setbacks required by both the ADG and the CDCP 2012, notwithstanding the breach of the maximum building height. The architectural drawings demonstrate an appropriate transition from the upper levels down to level 4, with a setback of 9m proposed between the building and the south western boundary. The proposed amendments do not alter the stepped appearance of the rear of the building or the approved separation distances to the boundary.

- **The proposal does not satisfy objective (b) of Clause 4.6 of the CLEP 2012 with respect to achieving a better outcome for and of the development.**

Comment

Clause 4.6 of the CLEP 2012 is not applicable to the application proposing to amend the existing development consent DA-528/2014. As previously demonstrated, a Clause 4.6 submission is not required to support this proposal. Clauses 4.6 (2), (3) and (4) of the CLEP 20012 specifically refer to the granting of a development consent, as distinct from the amendment of a consent.

This approach is also supported by relevant caselaw in the NSW Land and Environment Court. Originating with *North Sydney Council v Michael Standley & Associates Pty Ltd [1998] NSWSC 163*, the Court of Appeal held that Section 96 is a 'free-standing provision', meaning that "a modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application". This principle was also upheld in the decision of *Gann v Sutherland Shire Council [2008]*.

Conclusion

The Section 96(2) application has been assessed pursuant to the provisions of Sections 96 and 79C of the Environmental Planning and Assessment Act 1979. The proposed development, as amended does not substantially alter Council's previous conclusions in respect of this development and will provide good amenity for future occupants of the subject dwellings, and acceptable impacts onto neighbouring residents. The design of the proposed development as modified remains compatible with the future and desired local character of the area and represents a quality development that will positively contribute to the Canterbury Road corridor. As such, it is recommended that the Section 96(2) application be approved subject to modification of the relevant conditions.

POLICY IMPACT

The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION

- A. The Draft Voluntary Planning Agreement between Canterbury City Council and Kolpos Pty Ltd be placed on public exhibition for 28 days and any public submissions be considered prior to Council moving to adopt the Voluntary Planning Agreement.
- B. Council approve the modification to the Deferred Commencement Consent for Development Application DA-576/2014 for alterations and additions to an approved mixed use development, including the construction of additional units, in the following manner:

Condition 6 be amended to read as follows:

- 6. The development being carried out in accordance with the following plans prepared for 424-426 Canterbury Road by CDA Architects, marked Job Number J15314, except where amended by the following specific conditions and the conditions contained in this Notice:

Drawing Number	Issue	Dated
DA000	H	1/04/2016
DA001	D	29/02/2016
DA002	D	29/02/2016
DA003	D	29/02/2016
DA100	G	29/02/2016
DA101	G	29/02/2016
DA102	G	29/02/2016
DA103	G	29/02/2016
DA104	I	29/02/2016
DA105	H	29/02/2016
DA106	H	29/02/2016
DA107	H	29/02/2016
DA108	H	29/02/2016
DA109	H	29/02/2016
DA110	H	29/02/2016
DA111	B	29/02/2016
DA112	D	29/2/2016
DA200	H	29/2/2015
DA201	H	29/2/2016
DA202	H	29/2/2016
DA203	G	29/2/2016
DA300	G	29/2/2016
DA310	G	29/2/2016

DA400	D	29/2/2016
DA401	D	29/02/2016
DA402	D	29/02/2016
DA403	D	29/02/2016
DA500	E	29/02/2016
DA600	A	1/04/2016
DA601	E	29/02/2016
DA602	E	29/02/2016
DA700	G	29/02/2016
DA701	F	29/02/2016
DA702	C	29/02/2016
DA703	C	29/02/2016
DA704	C	29/02/2016
DA710	B	30/03/2016

Condition 6.1 being amended to read as follows:

6.1. The waste bin storage areas must be designed in accordance with Part 6.9 of CDCP 2012. Specifically:

- The areas must be within 15m from the kerb requirement for wheel out/wheel back service.
- The areas must be of sufficient in size to accommodate all allocated bins
- A bulky waste area of a minimum of 4m² must be provided.
- Unobstructed and unrestricted access must be provided to the waste presentation area on collection days from 5.00am. The bins must not be presented on the road.

Condition 6.2 being amended to read as follows:

6.2. Sixteen (18) bicycle spaces must be provided in accordance with the relevant Australian Standards.

Condition 7 to be amended to read as follows:

7. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The amount of the contribution (as at the date of this consent) has been assessed as \$684501.48. The amount payable is based on the following components:

Contribution Element	Contribution
• Community Facilities	\$61,913.55
• Open Space and Recreation	\$605,171.76
• Plan Administration	\$17,416.17

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.

Condition 8 be amended to read as follows:

8. A minimum of eighty eight (88) off-street car spaces must be provided. This shall comprise:

- 67 residential spaces
- 12 residential visitor spaces
- 1 car wash bay
- 7 commercial spaces

Eight (8) residential car parking spaces, one (1) visitor space and one (1) commercial car parking spaces are to be for people with mobility impairment, in accordance with AS 2890.1. The car spaces must be allocated and marked according to this requirement.

The carpark layout must respect the above allocation. Details and plans of the car parking arrangement must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate.

Condition 16 be amended to read as follows:

16. An amended landscape plan shall be submitted to Council prior to the issue of the Construction Certificate to address the following issues:
- The upper level of the Roof Terrace adjacent to the Platform Lift is to be connected to the lower level by stairs to facilitate pedestrian access.
 - The Roof Terrace is to be provided with barbecues and two (2) additional small tables plus the associated chairs to ensure residents have access to adequate recreational facilities and furniture.

Condition 38 being amended to read as follows:

38. The on-site detention facility has been relocated and redesigned. The stormwater drainage concept plan received in Council on 30th November 2015 Drawing Numbers D00 issue B, D01 issue C, D02 issue C, D03 issue C, D04 issue C, D05 issue C, D06 issue C, and D07 issue B, prepared by Australian Consulting Engineers does not comply with Part 6.4 of Canterbury Councils DCP 2012 and must be amended to address the following issues:
- a) The maximum discharge from the on-site detention facility is to be adjusted to comply with Council's DCP 2012. To be 150L/s/ha.
 - b) The diameter of the flow control orifice of the on-site detention facility must be amended to comply with Council's DCP 2012.
 - c) The storage volume is too low and must be increased to contain runoff from the 100 year Average Recurrence Interval (ARI) storm.
 - d) The stormwater drainage design, incorporating on-site detention, must be supported by submitted calculations.
 - e) The invert of the boundary sediment pit (29.9 m AHD) to which the on-site detention facility is intended to be drained is higher than the top water level of the on-site detention facility (29.85 m AHD). That is, the on-site detention facility will not function.
 - f) The shared vehicular access driveway is located at a trapped low point. This will result in flooding of the basement levels during heavy rainfall. The level of the driveway must be increased to 150 mm above the 100 year ARI ponded water level in the proposed laneway.
 - g) The design must accommodate runoff from uphill properties. This runoff must be collected and conveyed to the public drainage system. Note that this may impact on the design of the on-site detention facility and drainage system of the proposed rear laneway.
 - h) The drainage concept for the proposed laneway provides a system that is prone to blockage, has an unacceptably low freeboard, does not have sufficient inlet capacity, and consequently will flood. The drainage system for the proposed laneway must be redesigned to comply with current standards

such as Australian Rainfall and Runoff, Parts 5, 5A, and 5B Drainage, of Austroads *Guide to Road Design*, AS/NZS 3500.3: 2015, and AS/NZS 3725.

- i) An overland flow path must be provided to convey stormwater from the proposed rear lane and uphill lands in excess of the drainage system capacity to Canterbury Road. Note that this requirement may be achieved jointly with the development in 424-426 Canterbury Road Campsie.
- j) The on-site detention facility is hydraulically controlled by the receiving stormwater system. A hydraulic grade line analysis is required to demonstrate that the on-site detention facility is not under the control of flow in Council's stormwater system for all flows up to the 100 year Average Recurrence Interval (ARI) event. The hydraulic grade line must commence at the 10 year ARI water level in the receiving gully pit. The hydraulic grade line analysis must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.
- k) Units 1 and 2, including their courtyards, are at risk of backflow flooding if the flow control orifice becomes blocked. An overflow with a 100 year Average Recurrence Interval capacity must be provided to ensure that overflows are directed to Council's stormwater system. The level of overflowing/surcharging stormwater must be designed to provide freeboards of at least 300 mm to habitable floor levels and 150 mm to non-habitable floor levels.
- l) The courtyard areas in the site form trapped low points. The stormwater drainage system serving these areas must be designed for a 100 year ARI event assuming 80% blockage of the inlet(s) and 50% blockage of the conduits.
- m) If the stormwater pipe from the site to Council's gully pit is intended to convey overflows from the on-site detention facility it must be designed to convey flows from the 100 year ARI event.
- n) 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.
- o) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

The amended plans must be prepared by a practicing Civil Engineer and include levels reduced to Australian Height Datum and full details of the hydraulic evaluation of the entire stormwater drainage system. This must include a hydraulic grade line analysis if the site stormwater system is connected to Council's gully pit.

The amended plans and calculations must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The design plans and calculations must accompany the legal instrument for maintenance and work-as-executed plan(s) of the drainage and on-site detention facility when submitted for Council's signature.

Condition 39 be amended to read as follows:

39. A positive covenant must be created under Section 88B or 88E of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to ensure the ongoing maintenance of the overland flowpath through the site.

Council requires the preparation of covenant under Section 88B or 88E of the *Conveyancing Act 1919* to. The terms of the 88B or 88E instrument with positive covenant shall include, but not limited to the following:

The terms of the 88B or 88E instrument with positive covenant must include, but not be limited to, the following:

- a) The proprietor of the property shall be responsible for maintaining and keeping clear the overland flowpath.
- b) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all components or structures in or upon the said land which comprise the overland flowpath; and recover the costs of any such works from the proprietor.
- c) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the overland flowpath, or failure to clean, maintain and repair the overland flowpath.

Condition 49 be amended to read as follows:

49. The design of the vehicular access and off street parking facilities must be amended to address the relevant provisions of Australian Standard AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking and AS/NZS 2890.6: 2009 Off-street car parking for people with disabilities. The following specific issues must be addressed in the design:

- a) The intersection areas of circulation driveways and parking aisles throughout the parking facility have been designed for the use of one vehicle at a time. The measures to prioritise vehicular movements at each of these locations, including waiting areas, must be provided.
- b) The parking aisle adjacent to parallel parking spaces V13, R30, and R63 must be widened in accordance with Clause 2.4.4 (a) of AS/NZS 2890.1: 2004.
- c) The disabled parallel parking spaces R29, R30, R62, and R 63 do not comply with the dimensional requirements and shared area requirements of Clause 2.2.2 of AS/NZS 2890.6: 2009 and must be amended to achieve compliance.
- d) Parking spaces V13, R29, R31, R62 and R64 do not comply with the length requirements for parallel parking with an obstructed end space shown in Figure 2.5 of AS/NZS 2890.1: 2004 and must be amended to achieve compliance.
- e) Parking spaces R30 and R63 do not comply with the length requirements shown in Figure 2.5 of AS/NZS 2890.1: 2004 and must be amended to achieve compliance.
- f) Minimum headroom of 2200mm must be provided throughout the access and parking facilities. Minimum headroom of 2500mm must be provided above any disabled parking space(s). Note that the headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, ducts, etc, and at any open garage door.
- g) The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".

The amended 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.

Insertion of the following additional Condition:

49A. An easement for a right of carriage way in favour of Canterbury City Council must be created pursuant to Section 88A of the Conveyancing Act 1919, at no cost to Council over the nine metre wide lane shown on drawing number J15314 DA103 RevG, received by Council on 29 February 2016.

Documents relative to the creation of the easement are to be lodged with the Land and Property Information NSW and include a requirement that the easement created shall not be released, varied or modified without Council's consent. Registration of

the easement is to be effected prior to the issue of an Occupation Certificate. All costs associated with the design and construction of the right of carriage way and creation of easements are to be paid by the applicant.

Insertion of the following Condition after Condition 49A:

49B. The proposed nine metre wide lane shown on drawing number J15314 DA103 Rev G. received in Council on 29th February 2016 must be designed and constructed to comply with the following standards:

- a) 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.
- b) Lighting is required and must comply with AS/NZS 1158.0: 2005, AS/NZS 1158.3.1: 2005 and AS/NZS 1158.1.1: 2005.
- c) Pedestrian footway on the north western side of the lane must be a minimum 1800 mm wide.
- d) Pedestrian footway on the south eastern side of the lane must be a minimum 600 mm wide and a maximum 1200 mm wide.
- e) The laneway is to comprise of two travel lanes and must limit traffic movement to one directional flow from Bexley Road to Scahill Street.
- f) There is to be no parking in the laneway area.
- g) Appropriate signage is to be provided to achieve the above.

Insertion of the following additional Condition:

49C. A positive covenant must be created under Section 88B or 88E of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to ensure the ongoing maintenance of the roadway and right of carriageway through the site.

Council requires the preparation of covenant under Section 88B or 88E of the *Conveyancing Act 1919* to. The terms of the 88B or 88E instrument with positive covenant shall include, but not limited to the following:

The terms of the 88B or 88E instrument with positive covenant must include, but not be limited to, the following:

- a) The proprietor of the property shall be responsible for maintaining and keeping clear the footways and carriageway.
- b) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all components or structures in or upon the said land which comprise the roadway; and recover the costs of any such works from the proprietor.
- c) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the roadway, or failure to clean, maintain and repair the roadway.

Insertion of the following additional condition:

49D. This consent requires the re-design of the stormwater drainage system, overland flowpath, and on-site detention facility for the development. These will be subject to positive covenants, covering their operation and maintenance. These covenants are required to be registered prior to the issue of an Occupation Certificate. Canterbury Council will not accept designs that do not comply with its DCP 2012 and relevant standards. You are advised to verify the acceptability of the design with Canterbury Council at a stage where design amendments can be made without undue cost and inconvenience.

ATTACHMENTS

[Click here for attachment](#)

- A. Locality Map
- B. Site Plan
- C. Elevations
- D. Elevations

Planning Matters - 14 June 2016

ITEM 5.12	46 Prince Edward Avenue, Earlwood - Modification Relating to Wall Height for a Single Dwelling
FILE	DA-37/2015/A (S96(1A))
ZONING	R2 Low Density Residential under Canterbury Local Environmental Plan 2012
DATE OF LODGEMENT	9 March 2016
APPLICANT	Mr Vasilios Bill Moisidis
OWNERS	Mr Vasilios Bill Moisidis Mrs Joanne Konstantine Moisidis
AUTHOR	City Development

ISSUE

- On 13 July, 2015, approval was granted under delegation for demolition of existing structures and construction of new dwelling, cabana and inground swimming pool.
- The applicant now seeks approval for an amendment to a condition approved as part of DA-37/2015 in relation to the maximum wall height (slight increase in wall height to northern facade).
- The Section 96(1A) application is referred to the City Development Committee for determination due to the variation in wall height of the building which exceeds our delegation.
- The site is zoned R2 Low Density Residential under the provisions of Canterbury Local Environmental Plan 2012 (CLEP 2012), and is permissible with Council consent.
- The application has been assessed against the relevant environmental planning instruments and development control plan. The proposed development involves a non-compliance with the Development Control Plan in relation to the wall height. The merits of such proposal is discussed in more detail in the body of the report.
- The development application was notified in accordance with Part 7 of Canterbury Development Control Plan 2012 (CDCP 2012) and two submissions were received.
- It is recommended the application be approved subject to conditions.

BACKGROUND

Council approved a development application for the demolition of existing structures and construction of new dwelling, cabana and inground swimming pool on 13 July 2015 including the following minor variation to the wall height, maximum floor area and site coverage requirements under delegation:

- **Wall height**

The proposed wall height of 8.5 metres exceeds the maximum height control of 7 metres required by CDCP 2012 in particular the front section of the building as viewed from front elevation that is non-compliant. This occurs as a result of the ceiling heights, construction allowances and the architectural style.

The consent has been conditioned to require a height amendment to a less than 10% variation of the DCP maximum height.

- **Maximum Floor Area and Site Coverage**

The proposed total floor area of the buildings on the site, excluding the cabana and the basement, exceeds the maximum of 380m² by 35m², equating to a 9.2% variation.

Following discussion with the applicant in relation to amending a condition regarding possible change to the height, a Section 96 modification application was lodged on 9 March 2016 to seek amendment to Condition 1.6 in relation to the maximum wall height.

Site Details

The site is located on the southern side of Prince Edward Avenue and slopes up towards the rear of the site with a cross fall to the left front corner of the Lot.

The site is occupied by a two storey dwelling and an attached garage and adjoins similar aged dwellings of single and two storey constructions. An inspection of the vicinity revealed other redevelopments in the street that are similar in style and bulk to the proposal.



Aerial view of site

Proposal

Council has received an application pursuant to the provisions of Section 96(1A) of the Environmental Planning and Assessment Act, 1979 to amend Condition 1.6 by amending the maximum wall height from 7.69m to 8.36m detailed below:

- The applicant seeks approval for the modification of development consent to increase the approved wall height up to 8.36m. The change to the overall height up to 8.36m maximum at any point on the dwelling is 1.36m or a 19.4% variation to the maximum wall height.

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:

- Section 96 Environmental Planning and Assessment Act
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)

REPORT

Assessment

- **Section 96 Environmental Planning and Assessment Act**

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 application involves minor alteration and additions to the dwellings which will result in no additional increase in the gross floor area and the modifications proposed will 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 involves minor modification to the building height to the proposed dwelling as modified relates is substantially the same development.
- c) *it has notified the Section 96 application (if required under Council's DCP 32 – Notification Policy) and has considered any submissions concerning the proposed modification*
Two submissions were received in relation to the notification as discussed later in the report.

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

This site is zoned R2 Medium Density Residential under CLEP 2012. The controls applicable to this application are:

Standard	Requirement	Proposal	Complies
Building height	8.5m	8.36m	Yes

The proposal complies with the standards found in LEP 2012.

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

The proposed development complies with the requirements of our Development Control Plan 2012, with the exception of the external wall height. This issue is discussed as follows:

External wall height

Under CDCP 2012 the maximum height for external walls is 7.0 metres and the proposed wall height of up to 8.36m exceeds the permissible height by 1.36m (19.4% variation). It is noted that the approved wall height is 8.5m.

The proposed roof parapet level is now with RL26.30. Compared to the approved roof parapet level of RL26.45, there is a reduction in overall height of 150mm. The first floor and ground floor ceiling height is 2.6m which has been lowered as much as is reasonably practical having regard to the approved design and as demonstrated by the accompanying engineering and architectural details with this application.

The proposal falls within the maximum building height of 8.5m and the non-compliance is mainly due to the steep gradient of the site.

This property adjoins the site where the height of the building on the map is 9.5m where the maximum external wall height permitted is up to 8m. If we consider the maximum external wall height allowed is 8m, the variation in wall height is only 0.36m i.e. a 4.5% variation. As such the bulk, scale and height are consistent with the dwelling on the adjoining properties.

The applicant has submitted additional shadow diagrams, which demonstrate the shadow impact of a building having a height of 8.36m as proposed, is consistent with that of a building having a height of 7.69m. As such, the impact of overshadowing and amenity to the adjoining neighbours complies with the requirements of CDCP 2012.

It is also noted the proposal is for a flat roof design, compliant with the LEP control and consistent with the character of the area, particularly more contemporary dwellings which will have high levels of amenity for its occupants.

The proposal does not alter the existing privacy measures in any meaningful way, noting that the increase in height is minor and that the internal configuration already approved remains. As such, the objectives for limiting the scale and bulk of the building, improving landscaped/open space and improving the streetscape are met.

Other Considerations

- **The Likely Impacts of the development**

The proposal will have negligible environmental impacts in terms of solar access and visual impacts

- **The Suitability of the Site for the Development**

The zoning of the site permits the proposed modifications to Development Consent DA-17/2015, and the proposed modifications can be adequately accommodated on the site. In this regard, it is considered that the site is suitable for the proposed development.

- **The Public Interest**

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

Notification

The proposed development was notified for a period of 14 days in accordance with CDCP 2012. Two submissions were received in response which raised the following issues:

- **Building Height and negative visual impact**

Concern is raised to the overall height of the building and the negative visual impact on neighbours, due to the visual bulk of the proposed building

Comment

- The overall height does not exceed the 8.5m maximum building height established in the LEP height control and is adjacent to a site where the height of buildings on the map is 9.5m.
- The non-compliance is mainly due to the steep gradient of the site. The bulk, scale and height are consistent with the dwelling on the adjoining properties.
- The proposal is for a flat roof design, compliant with the LEP control and consistent with the character of the area, particularly more contemporary dwellings.
- The applicant has amended the plan to lower the overall height by 100mm. The first floor and ground floor ceiling height is 2.6m which is as much as is reasonably practical having regard to the approved design and as demonstrated by the accompanying engineering and architectural details with this modification application. Further reduction in height is impractical and would have minor difference to the impact to the adjoining properties.
- The landscape and deep soil area requirements comply with our requirements which assist in softening the appearance of the dwelling when viewed from the street.

As such, the increase in wall height does not negatively impact on the streetscape.

- **Solar Access**

Concerns are raised in relation to the overshadowing impact of the proposed development on the adjoining outdoor living areas and habitable rooms.

Comment

The applicant has submitted shadow diagrams for 21 June between 9a.m. and 3p.m. indicating that there will be no overshadowing onto adjoining properties which is consistent with that of the previously submitted shadow diagram approved under DA-37/2015 and the impact of overshadowing and amenity to the adjoining neighbours complies with the requirements of Part 6.2.6 of CDCP 2012.

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 proposed development is generally in keeping with the applicable controls of the Canterbury Development Control Plan 2012 and Canterbury Local Environmental Plan 2012 with the exception of external wall height. The proposed non-compliance with the external wall height is mainly for the parapet wall in the front and is considered to be acceptable given the characteristics of the subject site and it meets the objectives of the controls. The application is recommended for approval.

POLICY IMPACT

The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION

Development Consent DA-37/2015 be **MODIFIED** by deleting of Condition 1.6 and replacing with the following conditions and replacing other conditions as follows;

1.6 Maximum External Wall Height

Prior to the approval and issue of any construction certificate the proposal must be amended to provide a maximum external wall height of 8.36 metres at any point on the dwelling.

GENERAL

3. The development being carried out in accordance with the plans, specifications and details prepared by Studio BD, dated 11/7/14, marked Drawing Plan No. DA1.01, DA1.04, DA4.01, DA4.02, DA5.01, DA5.02 and DA6.01, as received by Council on 9 March 2016 and DA0.01, DA1.00, DA1.02-DA1.03, DA7.01-DA10.01, as received by Council on 26 June 2015.

WE ALSO ADVISE:

1. 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.
2. If you are not satisfied with this determination, you may:
 - 2.1. Apply for a review of an Application to Modify a Development Consent which may be sought under Section 96AB of the Environmental Planning and Assessment Act 1979 but only within 28 days of the modification determination; or
 - 2.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97AA of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

[Click here for attachments](#)

- A. Locality Map
- B. Roof Plan
- C. Elevations
- D. Elevations

Planning Matters - 14 June 2016

ITEM 5.13	120-122 Karne Street North, Roselands - Demolition, Construction of Affordable Housing Development with Basement Parking and Associated Strata Title Subdivision
FILE	DA-460/2015
ZONING	R3 Medium Density Residential under Canterbury Local Environmental Plan 2012
DATE OF LODGEMENT	2 October 2015 (Additional information received 12 January 2016 and 18 March 2016).
APPLICANT	Michael Kitmiridis Architect
OWNERS	Tepira Investments Pty Ltd
AUTHOR	City Development

ISSUE

- The applicant seeks approval for the demolition of existing structures and the construction of an in-fill affordable housing development containing twelve multi-unit dwellings with basement car parking and associated strata subdivision.
- The proposal is referred to the City Development Committee as it seeks a departure from the Canterbury Development Control Plan 2012 controls, beyond the delegation of our officers. Despite these departures, the proposal has merit and is worthy of support.
- The subject site is zoned R3 Medium Density Residential under the provisions of the Canterbury Local Environmental Plan 2012, where the proposed development is permissible with our development consent.
- The development application has been assessed against State Environmental Planning Policy (Affordable Rental Housing) 2009, Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policies. The development generally complies with the requirements of these policies with the exception of front and side setback controls, building separation controls and minimum private open space area controls of Canterbury Development Control Plan 2012. These non-compliances are 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 during the public notification period. The submission raised concern regarding potential privacy impacts and this matter is discussed within the body of the report.
- The development application is recommended for approval subject to conditions.

BACKGROUND

Site Details

The subject site, is located on the western side of Karne Street North at 120-122 Karne Street North, Roselands. The site currently comprises two lots, being Lot A in DP 364560 and Lot 28 in DP 13382, resulting in a total site area of 1,821.9sqm. The site falls approximately 1.6m west along the southern boundary, approximately 2.22m west along the northern boundary and 0.3m south along the Karne Street frontage.

The site is an L-shaped parcel of land with northern boundaries of 18.29m to 126 Karne Street North and 47.325m to 124 Karne Street North, an eastern boundary to 124 Karne Street North of 12.19m, a combined frontage to Karne Street North of 24.38m, a southern boundary to 118 Karne Street North of 65.615m and a rear boundary (western boundary) of 36.57m.

Currently on the site are two single storey detached dwellings and associated structures such as garage shed towards the rear of each lot and associated landscaping. A pool is also located at the rear of 120 Karne Street North.

In terms of surrounding development, a two storey detached residential dwelling adjoins the site to the north. Directly adjoining the southern boundary is an approved in-fill affordable housing development containing ten multi-unit dwellings, which is yet to commence construction. A mix of single and two storey detached dwellings are located to the east and west of the site.



Aerial view of site



Existing dwellings on site to be demolished



Existing single storey house to the north of the subject site



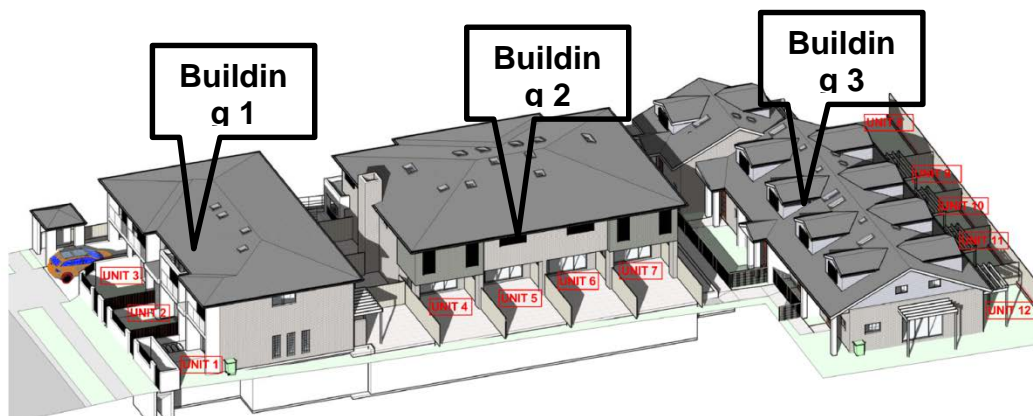
Existing single storey house to the south of the subject site (including DA-99/2014 under construction)



Existing single storey house to the east of the subject site, on the opposite side of Karne Street North

Proposal

The proposal involves the demolition of existing structures and the construction of an in-fill affordable housing development containing twelve multi-unit dwellings (in the form of townhouses) located above one level of basement car parking for 21 vehicles and associated strata title subdivision. The twelve multi-unit dwellings are divided between three buildings on the site, being Building 1 located along the Karne Street North frontage, Building 2 located in the centre of the site and Building 3 located at the rear of the site (refer to figure below).



Proposed Site Plan

A detailed breakdown of each building is provided below.

- Building 1
 - Building 1 consists of three multi-unit dwellings, being one x two bedroom, one x three bedroom and one x four bedroom developments; and
 - Each townhouse is two storey in appearance.
- Building 2
 - Building 2 consists of four x three bedroom multi-unit dwellings; and
 - Each townhouse is two storey in appearance.
- Building 3
 - Building 3 consists of five x two bedroom multi-unit dwellings; and
 - Each townhouse is single storey with an attic element and dormer windows.

The proposal has been lodged for consideration under the infill affordable rental housing development provisions contained in State Environmental Planning Policy (Affordable Rental Housing) 2009. It is proposed that three dwellings within the development (Dwellings 9, 10 and 11) will be allocated as 'affordable' housing in the proposed development for a period of ten years in accordance with the ARH SEPP.

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 2009 (Affordable Rental Housing) (ARH SEPP)
- 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

REPORT

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 2009 (Affordable Rental Housing) (ARH SEPP)**

This application is for an in-fill affordable housing development lodged pursuant to the provisions of the ARH SEPP. The ARH SEPP aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, the policy provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and minimum development standards. The proposed development compares to the relevant provisions of the ARH SEPP as follows:

Part 2, Division 1 – In-fill Affordable Housing

Clause 10 of the ARH SEPP states that this Division applies if the development concerned is permitted with consent under an environmental planning instrument, and is within an accessible area of within 800m of a railway station or 400m of a bus stop. The proposed development is permissible with development consent under Canterbury Local Environmental Plan 2012 and is located within an accessible area, being approximately 210m from a bus stop.

Clause 13(2)(b)(i) of the ARH SEPP states that the maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus (if the existing maximum floor space ratio is 2.5:1 or less), additional FSR calculated in accordance with the percentage of gross floor area that is used for affordable housing.

It is proposed that 23.7% of the gross floor area of the development will be used for affordable housing (315m² of the total 1,330m² proposed gross floor area). On this basis, an additional 0.23:1 is permitted at the site (total FSR of 0.73:1). The proposed development comprises an FSR of 0.73:1 and therefore complies with the maximum FSR provision permitted for the site.

Clause 14 prescribes minimum standards which cannot be used to refuse consent. The following table is an assessment of the proposal against the ARH SEPP standards:

Control	Requirement	Proposal	Complies
Site Area	Min 450m ²	1,821.9m ²	Yes
Landscaped Area	Min 30% of the site area	556m ² (30.5%)	Yes
Deep Soil Zones	15% of the site area. Deep soil zone has a minimum dimension of 3m. If practical, at least two-thirds of the deep soil zone is to be located at the rear of the site.	403m ² (22.1%)	Yes
Solar Access	Living rooms and private open space area for a min 70% of the dwellings are to receive minimum of three hours sunlight between 9am and 3pm in mid-winter	Living rooms and private open space areas for 83% (ten out of twelve dwellings) receive minimum three hours of sunlight between 9am and 3pm in mid-winter	Yes
Car Parking	At least one parking spaces provided for each of the six x two bedroom dwellings, and 1.5 spaces for each of the six x three and four bedroom dwellings. Total: 15 spaces	Basement carpark provides for a total of 21 car parking spaces.	Yes
Dwelling Size	Min Gross Floor Area: 2 bdrm = 70m ² 3 bdrm+ = 95m ²	All apartments are sized according to the minimum required areas.	Yes

Clause 15 of the ARH SEPP states that we must not consent to a development unless it has taken into considerations the provisions of the 'Seniors Living Policy: Urban Design Guidelines for Infill Development'. The policy aims to promote a balance between the need for greater housing choice and the need to safeguard the character of residential neighbourhoods. The policy is divided into five sections, namely:

- Responding to Context
- Site Planning and Design
- Impacts on the Streetscape
- Impacts on Neighbours
- Internal Site Amenity

An assessment has been undertaken and the issues emerging from consideration of the specific sections of the guidelines are discussed below:

- **Responding to Context**

The aim of this consideration is to indicate specific areas which need to be considered in order to effectively respond to local context. The guidelines note that residential neighbourhoods are often consistent in terms of built form and that new development as far as possible should follow these patterns. The guidelines also note that our own planning or policy controls may describe character or identify key elements that contribute to this character.

The subject site is located within a street generally characterised by low density residential development. Existing development surrounding the site consists mainly of single and two storey dwellings and two storey dual occupancy developments, with two approved townhouse developments (DA-99/2014 and DA-446/2014) adjoining the site to the south at 112-114 Karnes Street North and 116-118 Karne Street North respectively. One application is currently under construction (DA-99/2014) and the other is yet to be constructed (DA-446/2014).

The development proposed has been designed to step with the slight fall in topography of the subject site. The proposed built form is aligned with immediately adjoining setbacks and prevailing setbacks of new developments within the locality.

- **Site Planning and Design**

The aim of this consideration is to promote design that optimises internal amenity and minimises impacts to neighbours. The guidelines state that the bulk of development should be located towards the front of the site to maximise the number of dwellings with a frontage to a public street. Parts of the development towards the rear of the site should be more modest in scale to limit the impacts on adjoining properties.

The proposed development includes seven x two storey dwellings towards the front 65% part of the site, and five dwellings with attics at the rear 35% part of the site. The development has been designed in this manner to minimise impacts on neighbours, whilst taking advantage of the vast depth of the site.

- **Impacts on Streetscape**

The aim of this consideration is to ensure new development does not adversely impact on the existing streetscape and enhance its desirable characteristics. The proposed development is in keeping with the character of existing development within the streetscape as it comprises a maximum of a two storey development and the built form is aligned with the setbacks of immediately adjoining setbacks.

The proposed development is similar in nature to the already approved townhouse developments (DA-99/2014 and DA-446/2014) located to the south of the site. On this basis, the proposed development will maintain and contribute to the character of the locality.

- **Impacts on Neighbours**

The aim of this consideration is for development to respond to desired streetscape character through sympathetic design which is compatible with existing streetscape patterns, including siting, height, separation, driveway locations, pedestrian entries and the provision of a front setback that relates to adjoining development.

The guidelines nominate that the relationship between buildings and open space should be consistent with the existing patterns in the block. The guide also states that the second storey should be designed to reduce overlooking into neighbouring properties, for example, by incorporating them within the roof space and providing dormer windows, and off-setting opening from existing neighbours' windows or doors so they do not directly overlook into the rear private open space of adjoining properties.

The proposed development incorporates adequate side setbacks along the front and rear parts of the site. Dwelling 8, is located within close proximity to the southern side boundary, however no windows are incorporated into the southern elevation of this property to improve privacy impacts for the subject dwelling as well as existing dwellings to the south. First floor windows associated with the two storey multi-unit dwellings at the front part of the site (that overlook side boundaries) are all either high sill windows or partly screened windows to reduce any overlooking opportunities onto adjoining neighbours. Further, the five single storey dwellings with attic space at the rear part of the site have dormer windows which also reduce overlooking opportunities.

- **Internal Site Amenity**

The aim of this consideration is to ensure that development provides an optimum amenity within the site for future occupants. The guideline provides that development should maximise solar access to living areas and private open space and designing entries that are clear and definable from the street and distinctly separate from vehicular entries.

The proposed development provides reasonable amenity to future occupants of the development with all dwellings receiving adequate solar access to their living areas and private open space areas. Further, the private open space areas provided for each dwelling are designed so that they are directly accessed from internal living areas and are of size and dimensions that ensures maximum use by residents.

Overall, the proposed development addresses the objectives of the Urban Design Guidelines for In-fill Development contained within the 'Seniors Living Policy' required by Clause 15 of the ARH SEPP.

- **Character Test**

Clause 16A of the ARH SEPP states that a consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area. The current planning controls applying to the land allow for a range of development types, including single and two storey dwellings, dual occupancy and multi dwelling development. The proposed development is similar in scale and height (when viewed from the street frontage) to permissible developments envisaged by the existing planning controls.

The subject site is located within a street generally characterised by low density residential development. Existing development consists mainly of single and two storey dwellings and two storey dual occupancy developments, with similar multi-dwelling developments (DA-99/2014 and DA-446/2015) to adjoin the site to the south.

The proposed building form and scale is consistent with surrounding development in the vicinity, with the design adopted responding to relevant planning controls and the need to protect the amenity of neighbouring residents.

Clause 17 of the ARH SEPP states that the affordable housing dwellings within the development will be used for affordable housing for a period of ten years, managed by a registered community housing provider. Relevant conditions can be imposed to ensure that the proposed development satisfies this clause.

Clause 18 of the ARH SEPP states that such development may be subdivided with development consent. The subject application seeks strata subdivision of the site into twelve lots.

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

The application is accompanied by a BASIX Certificate No. 664963M dated 14 September 2015 which indicates a series of commitments for the DA including the provision for a 2000L rainwater tank for each dwelling, low water use vegetation, a 5 star instantaneous gas water system, insulation and cooling and heating commitments. The project scores a pass for water, energy and thermal comfort commitments. As such, the design of the proposed development is consistent with the commitments made in the submitted BASIX Certificate. In this regard, the proposed development satisfies the requirements of BASIX.

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

Clause 7 of SEPP 55 requires us to consider whether the land is contaminated prior to granting consent to the carrying out of development on that land. Given the previous history of the site (residential) and existing surrounding development (residential dwellings), it is highly unlikely that the site is contaminated to a level that is not appropriate for the continued use of the site for residential purposes.

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

The subject site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012 (CLEP 2012). The proposal compares to the relevant provisions of CLEP 2012 as follows:

Standard	Requirement	Proposal	Complies
Zoning	R3- Medium Density Residential	Multi dwelling housing is permissible in the R3 Zone with our development consent.	Yes
Floor Space Ratio	0.5:1	0.73:1	No – See comment [1] below
Building Height	8.5m	Max 8.5m	Yes

[1] Floor Space Ratio

As noted in the table above, the proposed FSR of 0.73:1 does not comply with the requirements of CLEP 2012. However, as the current proposal falls under the provisions of the ARH SEPP, a bonus FSR of 0.23:1 is applicable, taking the permissible FSR on site to 0.73:1. The proposed development incorporates an FSR of 0.73:1 and therefore complies with Clause 13 of the ARH SEPP and is acceptable on that basis.

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

The proposed development is compared to the relevant provision of CDCP 2012 below.

Criteria	Development Control	Proposed	Complies
Avoid isolating undeveloped sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed	The proposed development will not result in the isolation of adjoining allotments. The existing residential property to the north (124 Karne Street) could be redeveloped in conjunction with a number of properties to the north.	Yes
Minimum street frontage	Min 20m	24.38m	Yes
Basement sub-floor	Basement carpark for multi-dwelling housing in R3 zone not suitable – but may be considered where site constraints warrant and it is demonstrated that there will be no adverse impacts on amenity or streetscape	Basement carpark proposed is acceptable having regard to the design of the development and its general compliance with out setbacks, building separation and deep soil area controls. Further, the proposed basement and design of the development is consistent with other recently approved multi-dwelling developments along Karne Street. The basement carpark will not adversely impact on amenity of neighbouring residents or the Karne Street North streetscape.	Yes

Criteria	Development Control	Proposed	Complies
Height	Max one storey where building is located >20m (or distance of 65% of total length of lot)+ street setback from front boundary	Dwellings 8, 9, 10, 11 and 12 are single storey (with attic), in rear 35% of the site	Yes
	Max two storeys otherwise	Front seven dwellings are two storeys	Yes
	Max 3.8m external wall height for one storey portion	<3.8m external wall height for one storey portion	Yes
	Max 7m external wall height for two storey portion	Max 7m external wall height for two storey portion	Yes
Depth/ footprint	20m depth for buildings	<20m depth of buildings	Yes
Front setback	Min 6m	6m at main building line. The proposed first floor balconies for dwellings 1 to 3 are setback approximately 5m from the front boundary.	No – refer to comment [1] below
Side setbacks	Min 1.5m for the front part of the development, and min 2.5m for the rear part of the development	Min 1.5m for the front and min 3m for the middle and rear parts of the development, with the exception of Dwelling 8 at the rear of the site which is setback 1.2m from the southern side boundary. The fire stairs along the southern boundary encroach the setback by 1m, which is acceptable in accordance with Part 2.1.7(x) of CDCP 2012.	No – refer to comment [1] below
Rear setback	Min 5m where attic is proposed	Min 5m to main building line.	Yes
Building Separation	Min 5m between buildings on one site	Min 5m separation provided, with the exception of Dwelling 8.	No – refer to comment [2] below
Deep soil	Min 3 to 5m width deep soil along front and rear boundaries	Min 5m width deep soil along front and rear boundaries provided (except driveway, paved entry path and paved dining area)	Yes
	Min 1m deep soil along both side boundaries	Min 1m deep soil alongside boundaries (except driveway and paved entry path)	Yes
Car Parking Provision	Two Bedroom: One space per dwelling plus 0.2 as common property (7.2 required). Three + Bedrooms: Two spaces per dwelling (Twelve spaces required). One car wash bay to be provided. Visitor: One space per five dwellings (2.4 spaces required). Bicycle spaces: For residents, min One space per five dwellings. For visitors, min one space per ten	The parking provisions of the ARH SEPP prevail our parking generation rates outlined within CDCP 2012. The proposal complies with the number of parking spaces stipulated within the ARH SEPP. The proposal comprises five bicycle spaces.	Yes

Criteria	Development Control	Proposed	Complies
	dwelling (4.5 spaces required). Total required: 21.6 car parking spaces and 4.5 bicycle parking spaces.		
Basement Parking	Setback at least 1m behind the outermost alignment of external walls.	The basement entry is setback 6m from the front façade which is in line with the main building setback. However, the roller door is setback a further 2m (total of 8m from front setback) and therefore the car park entry is suitably recessed from the main front building façade.	Yes
General design requirements	At least one habitable room towards street	Dwellings 1, 2 and 3 include habitable rooms facing the street.	Yes
	Design entries to residential buildings so they are clearly identifiable.	Separated entrances to dwellings 1 to 3 are provided along the Karne Street North frontage and are clearly identifiable through the use of appropriate landscaping and entrance gates. The main pedestrian entrance to the remaining dwellings located to the rear of the site is provided at the south-east corner of the site and is clearly identifiable through the inclusion of different materials and mail boxes.	Yes
	Do not obstruct sight lines to the street or internal spaces, from habitable rooms or entrances.	No obstruction to sight lines through the inclusion of appropriate fences and landscaping.	Yes
	Modulate façades with a scale and rhythm that reflects the intended use of the building, and the desired context as expressed on the building envelope diagrams.	Façades adequately modulated through the use of different materials and finishes.	Yes
	Use a harmonious range of high quality materials, finishes and detailing with contrasting elements to avoid identical facades.	Contrasting elements on front façade.	Yes
Multi Dwelling Housing	Courtyards located within front setback should be setback at least 1m from the street boundary to accommodate a landscape strip.	The private courtyards for dwellings 1 to 3 are setback 1m from the front street boundary.	Yes
	Combined width of front fencing is not to occupy more than 50% of the frontage of the site.	The combined frontage of fencing is less than 50% of the site frontage as the fencing comprises 50% transparency.	Yes

Criteria	Development Control	Proposed	Complies
	Dwellings that face the street should have private entrances direct from the street path.	Private entrances to Dwellings 1 to 3 direct from Karne Street North are provided.	Yes
Windows	Locate and proportion windows to minimise scale and bulk of new building. The majority of windows should be rectangular.	Proportion of windows acceptable. The majority of windows are rectangular.	Yes
	Dormer windows on buildings in the residential zone should not appear as an additional storey. Max width 1.5m Min 2.5m separation between dormers Dormers should not extend above the ridgeline of the building.	Dormer windows do not present a second storey 1.5m in width >2.5m separation Dormers do not extent above ridge line	Yes Yes Yes Yes
Roof design	Use a simple pitched roof, with appropriate pitch, that accentuates the shape of exterior walls, and minimises bulk and scale.	Appropriate roof design. The proposed development comprises a simple pitched roof which is in keeping with the character of the roofs on adjoining properties.	Yes
	Use minor gables only to emphasise rooms or balconies that project from the body of a building	Gables used adequately	Yes
Fences	Street fencing to have max height of 1.2m, screens with 50% transparency may be up to 1.8m	A condition is to be imposed requiring the front fencing to be solid up to 1.2m in height, with 50% transparency up to 1.8m.	Yes
Visual privacy	New development to maximise visual privacy between buildings	Visual privacy is maximized through the inclusion of appropriate separation between buildings, use of high sill windows and use of screening where appropriate.	Yes
	Provide adequate building separation and setbacks	Adequate building setbacks and separation is provided.	Yes
	Orient windows of new living areas, and balconies or terraces, towards the street and rear of the lot	Living areas orientated towards the street and rear courtyards where possible. Windows of new living areas and balconies that are orientated towards the side boundaries are significantly setback from such boundaries (ranging between 4.5m to 8m on the ground level). Appropriate screening to windows and/or higher window sill heights have been applied to the windows on the first floor of these dwellings.	Yes

Criteria	Development Control	Proposed	Complies
Open space	Min private open space of 40m ²	All dwellings have courtyards areas of more than 40m ² with the exception of dwellings 9, 10 and 11.	No – see comment [3] below.
	Min dimensions of 5m	Proposed private open space area for each dwelling comprising a min dimension of 5m.	Yes
Internal Dwelling Space and Design	Living room and main bedroom min 3.5m dimension, Secondary bedrooms to have minimum 3m width	Living rooms and main bedrooms have a min 3.5m dimension and secondary bedrooms have a minimum 3m dimension.	Yes
	6m ³ per one bedroom dwelling 8m ³ per two bedroom dwelling 10m ³ per three+ bedroom dwelling	Condition to be imposed requiring the provision of adequate storage areas for each dwelling.	Yes
Housing Choice	10% accessible / adaptable units to suit residents with special needs	Dwellings 6 and 7 are provided as an adaptable dwelling (16.7%)	Yes
Crime Prevention	Design entrances to allow users to see in before entering. Avoid landscaping that obstructs natural surveillance. Install quality locks on external windows.	Porches visible from street. Design satisfies CPTED principles and objectives.	Yes
Climate and Energy			
Site Layout and Building Orientation	Design and orientate the building to maximise solar access and natural lighting, without unduly increasing the building's heat load.	The site has an east west orientation and the development has been designed to orientate as many dwellings as possible, north (6 of 12 dwellings). The proposed development complies with the solar access requirements stipulated within the ARH SEPP.	Yes
	Design and site the building to avoid casting shadows onto neighbouring buildings, outdoor space and solar cells on the site and on adjoining land.	Building has been designed to minimise shadow impact on adjoining properties through the stepped façade at the rear. The proposal satisfies our solar access controls.	Yes
	Coordinate design for natural ventilation with passive solar design techniques.	The design allows for natural ventilation and incorporates solar design techniques.	Yes
	Provide adequate external clothes drying areas for all residents in the building.	External clothes drying areas have been incorporated into the private open space area for each dwelling.	Yes
Internal layout	Configure the building to maximise solar access to rooms that are occupied during the day. Locate service areas to the south	The building is configured to maximise solar access. Services areas and driveway are located within the basement and to the	Yes

Criteria	Development Control	Proposed	Complies
	and west of the building.	south of the building, where possible.	
Windows and Glazing	Place more windows on the northern side than other sides of the building, so that there are more windows gaining heat than there are losing heat in winter months and sun penetration is reduced in summer.	Placement of windows on the northern side has been incorporated into the design. The southern elevation comprises smaller windows to reduce potential heat loss.	Yes
Insulation and thermal mass	Use of insulation in the roof, ceiling, walls and floors to deflect heat and prevent the building from heating up in summer, and to contain heat and prevent the building from cooling down in winter	This has been addressed in the BASIX certificate.	Yes
Daylight and Sun Access	<p>At least two hours sunlight between 9am and 3pm should be received daily:</p> <ul style="list-style-type: none"> To indoor living areas and principle open space of at least 75% of dwellings. Limit the number of single aspect apartments with a southerly aspect to a max 10% of the total apartments proposed. 	As indicated on the DA plans, all twelve dwellings will receive at least two hours of sunlight between 9am and 3pm on 21 June.	Yes
		All apartments have more than one aspect.	Yes
Daylight and Sun Access to adjoining properties	At least two hours of sunlight between 9am and 3pm on 21 June shall be retained for existing indoor living areas and at least 50% of the principal portion of the principal open space.	The overshadowing diagrams provided outline that at least two hours of solar access will be retained to the existing principal living areas of the existing dwellings to the south, particularly in regard to the existing dwellings located within proximity to the northern boundary that have multi orientation and will therefore continue to receive light from the west and east, when the windows along the northern elevation are in shadow from the proposed development. In addition, at least 50% of the principal open space of the approved dwellings to the south of the site will receive at least two hours of solar access. The private open space area of the existing properties to the west will continue to receive at least two hours of solar access to 50% of the principal open space. The dwelling on the	Yes

Criteria	Development Control	Proposed	Complies
		properties to the west are substantially separated from the subject site and therefore will not lose any additional solar access as a result of the proposal.	
Ventilation	Incorporate features to facilitate natural ventilation and convective currents – such as opening windows, high vents and grills, high level ventilation (ridge and roof vents) in conjunction with low-level air intake (windows or vents).	Satisfactory design features have been included to facilitate natural ventilation.	Yes
Crime Prevention			
Site and Building Layout	Some dwellings are to address the street	The building and dwellings 1 to 3 are orientated towards the street.	Yes
	Habitable rooms with windows at front of dwellings	Dwellings have been orientated to ensure windows of habitable rooms of dwellings 1 to 3 address Karne Street North.	Yes
	Avoid blind corners in pathways, stairwells, hallways and car parks	The building layout avoids blind corners.	Yes
Access Control	Access to the individual units be clearly marked and apparent to visitors	The individual entry points to dwellings 1 to 3 as well as the main entry point in the south-west corner is to be clearly numbered.	Yes
	Install intercom, code or card clocks or similar to main entries to buildings, including car parks.	Controlled access measures to be installed at each building entry point, including basement car park.	Yes – via condition of consent.
Ownership	Dwellings and communal areas to provide a sense of ownership	Entry points to each dwelling are demarcated through the use of appropriate landscaping. A sense of ownership is provided through the inclusion of appropriate fencing and gate keeping devices to each dwelling.	Yes

As demonstrated above, the proposed development generally complies with the provisions of CDCP 2012, with the exception of setback, building separation and private open space controls. These matters are discussed in detail below:

[1] Front and Side Setback

Clause 2.1.7 xxv of CDCP 2012 requires multi dwelling housing to have a minimum front setback of 6m. The main building line is setback 6m from the front boundary (Karne Street North), however the first floor balconies for dwellings 1 to 3 are setback 5m from the front boundary which represents a 17% variation.

Clause 2.1.7(xxvii) of CDCP 2012 requires dwellings located to the rear of the site to comprise side setback of 2.5m. All rear dwellings comply with the side setback controls with the exception of dwelling 8 which is setback 1.2m from the southern boundary (representing a 60% variation).

The objectives of our setback controls are as follows:

- Establish the desired spatial proportions of the street and define the street edge
- Limit the scale and bulk of new building, appropriate to the location and use, by retaining landscaped open space around
- Contribute to the green landscape by retaining adequate space for new trees and conserving any existing trees that are visually prominent
- Provide sufficient separation between buildings and adjacent land to limit the visual, environmental and likely impacts of new development
- Minimise stormwater run-off by retaining deep soil that allows rainwater infiltration.

Despite the reduced front setback at the upper level of the three dwellings and the reduced side setback for dwelling 8, the proposed development contributes to the green landscape by complying with the minimum deep soil area requirements for all setbacks. Further, it is imperative to note that the design of dwelling 8 was required to be revised in order to retain the existing tree located within the rear private open space of the dwelling. The revised design therefore results in a non-compliance with the side setback.

The reduced front and side setback will not result in any significant adverse privacy impacts for future occupants within the site as well as existing residents in adjoining properties, given the following:

- The scale of the proposed development (maximum two storey development) is suitable
- A solid wall is proposed on the northern and southern elevations of the balconies for dwellings 1 to 3 on the first floor to minimise any potential privacy impacts
- The variation to the side setback results from the revised design required to retain the existing tree in the rear private open space area. No windows or other openings are proposed along the southern elevation of dwelling 8 and therefore the variation to the side setback will not result in any additional privacy impacts
- The variation to the front setback is solely for balcony structures and will not result in the building aligning with any existing windows or private open space areas of the adjoining properties
- The proposed reduced front and side setback will not impact on the potential for an open detention system to be provided on the site.

In addition, the bulk and scale of the proposed multi-unit development complies with the maximum height, FSR and open space requirements specified within ARH SEPP, CLEP 2012 and CDCP 2012. Further, the scale and bulk of the new building is consistent with existing similar development along Karne Street North (particularly the approved development that directly adjoins the site to the south) and will retain an appropriate

level of solar access to the adjoining dwellings to the south (118 Karne Street North). Overshadowing impacts are discussed further, later within this report.

The proposed development is in keeping with the objectives of our front and setback controls and is therefore the proposed variation is supported in this instance.

[2] Building Separation

Part 2.1.9 of CDCP 2012 specifies that a minimum 5m separation distance is to be provided between buildings on one site. Dwellings 9 and 10 are separated from dwelling 7 by approximately 6.5m. However dwelling 8 is separated 3.965m from dwelling 7 and therefore a 20.7% variation to the 5m requirement is sought. The objective of the building separation control is to ensure reasonable sunlight and privacy is provided to residents in new buildings.

As part of our assessment of the application, the applicant was required to revise the location of dwelling 8 within the site in order to retain the existing tree located within the rear private open space area. The revised design required a further setback from the rear boundary which subsequently reduced the building separation distance between dwelling 8 and dwelling 7. The variation does not reduce the level of privacy provided to each dwelling given the principal living areas are located towards the rear of each dwelling and no windows align with each other. Further, each dwelling receives greater than two hours to the principal living area and open space between 9am and 3pm on 21 June.

The proposed variation does not compromise the level of solar access or privacy experienced by future occupants of dwellings 7 and 8 and is therefore supported.

[3] Private Open Space

Part 2.3.4 of CDCP 2012 requires a minimum area of 40m² of private open space to be provided to each dwelling of a multi dwelling development. In accordance Part 2.3.4 of CDCP 2012, principal open space areas are to be located adjacent to the main living, dining room or kitchen to extend the living space of the dwelling. The principal private open space area located adjacent to the main living areas of dwellings 9 to 11 are between 30 to 32m² in size and therefore seek a 20 to 25% variation to the minimum 40m² control. It is noted that these three dwellings will be affordable housing.

The objectives of our open space controls are as follows:

- All residents have access to private and functional open space on their land, such as private yards, courtyards and balconies or roof top terraces
- All residents in multiple dwelling buildings have access to consolidated, semi-private and functional communal open space on their land.
- Private open space is:
 - Tailored to the type of dwelling or dwellings and provides residents and other uses with active and passive recreation opportunities
 - Designed to take advantage of environmental circumstances such as solar access, views and prevailing breezes
 - Designed to promote the enjoyment of outdoor living;
 - Located and landscaped to provide a pleasant outlook and contribute to the attractiveness of a property
 - Located so that there is passive surveillance from residences.

The proposed private open space areas associated with dwellings 9 to 11 comply with the minimum required dimension of 5m, are directly accessible from their associated indoor living areas and have the area to be able to accommodate outdoor seating. Each dwelling also comprises semi-private landscaped area adjacent to the entry door.

The area of the principal private open space areas at the rear of dwellings 9 to 11 are acceptable given the size of the overall open areas provided, width and westerly orientation, particularly in the context of this application being made for affordable housing and the bonus provisions outlined in the ARH SEPP.

Part 6.4 - Development Engineering, Flood and Stormwater

The stormwater proposal submitted with the application has been assessed by our Development Engineer and is in accordance with our stormwater disposal requirements. No objection is raised subject to conditions of consent being attached to any consent granted.

Part 6.6 - Landscaping and Part 6.7 Preservation of Trees or Vegetation

The landscape proposal submitted with the application has been assessed by our Landscape Architect who raised no objection to the proposed development subject to conditions of consent being attached to any consent granted.

Part 6.8 - Vehicle Access and Parking

The minimum requirements for car parking spaces contained in Clause 14(2)(a)(ii) of the ARH SEPP override our controls for the residential component of the development.

Under the ARH SEPP, the development is required to provide a minimum of one space per two bedroom dwelling and 1.5 spaces per three (and plus) bedroom dwelling, requiring a total of twelve spaces. A total of 21 spaces, including two visitor spaces are provided in the proposal. A car wash bay and five bicycle parking spaces are also provided as required under Part 6.8.

It is noted that a condition should be imposed requiring car spaces in the two stacked arrangements be allocated to the same dwelling to avoid any conflict of use.

Part 6.9 - Waste Management

The development application was referred to our Waste Contracts Co-ordinator who raised no objection in principle to the proposed development on waste management grounds subject to the imposition of conditions on any consent issued.

- **Canterbury Development Contributions Plan 2013**

The proposed development which involves six x two bedroom dwellings and four x three bedroom dwellings attracts a development contribution of \$157,890.80 under the Canterbury Development Contributions Plan 2013. A credit of the existing two large dwellings on the site is incorporated in the calculations. The contribution fee is subject to indexing.

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. Standard conditions regarding demolition are included to the development consent.

- **National Construction Code**

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

- **Proposed excavation works**

The proposed development involves excavation and construction works in close proximity to neighbouring residential properties. It has been recommended that a condition be imposed that requires the submission of a report by an accredited engineer detailing the structural adequacy of the adjoining properties at 118 and 124 Karne Street North, Roselands to withstand the excavation works proposed.

Further an additional condition requiring the applicant to provide a dilapidation report for the adjoining properties, prior to the issue of the Construction Certificate is also recommended. Should any damage to adjoining properties result from the proposed excavation works at the subject site, the applicant will be required to rectify all damages.

- **Sediment and Erosion Control**

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

- **Likely Impacts of the Development**

The proposed multi dwelling development is permissible within the R3 Medium Density Residential zone. The proposal will not result in any significant environmental, social, amenity or economic adverse impacts on the locality given the following:

- The proposed development complies with the maximum building height controls stipulated within CLEP 2012 and the maximum floor space ratio provision stipulated within the ARH SEPP.
- The original design submitted to Council complied with the side setback controls. The overshadowing diagrams submitted identified that dwelling 10 on the adjoining property to the south received greater solar access throughout the day, particularly during the morning period than that received by the proposed revised design. The revised design comprising the non-compliant side setback of dwelling 8 at the rear of the site results in a reduction of solar access during the morning period on 21 June 2016.

- Despite the proposed variations to the front and side setback controls and building separation controls within CDCP 2012, the proposed revised design will provide at least three hours of solar access to the 83% of proposed dwellings and private open space areas within the site and at least two hours of solar access to the existing properties located to the south and west of the site. It is noted that the level of solar access to the proposed dwellings on site (three hours to 83%) did not alter between the two designs received by Council. This level of solar access complies with the minimum solar access requirements stipulated within the ARH SEPP and Part 6.2.6 of CDCP 2012.
 - Appropriate window treatments and privacy screens have been incorporated within the design to ensure an appropriate level of privacy is provided to future residents of the site, as well as existing adjoining residential properties. Therefore, the proposed development will not result in any significant privacy impacts.
 - The proposed development comprises sufficient parking to satisfy the relevant provisions of the ARH SEPP.
 - The proposed design incorporates two adaptable dwellings and three dwellings for affordable housing which will provide for a variety of social mix within the development.
- **Suitability of Site for the development**
The site is zoned R3 Medium Density Residential under CLEP 2012. The proposed multi dwelling housing development is permissible in the subject site's current zoning. The proposal has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act 1979, and as demonstrated throughout the body of this report, the proposal generally complies our controls. The proposed variations, regarding controls relating to front and side setbacks, building separation controls and minimum private open space area has been assessed on their merit and are acceptable for the reasons outlined within the body of the report.
 - **The Public Interest**
The proposed multi dwelling development replaces two existing single dwellings and therefore better utilises existing underutilised sites by providing greater housing opportunities for the locality. The building consists of two accessible dwellings and three affordable rental housing dwellings which provides for additional and affordable residential accommodation opportunities.

The design provides a positive contribution to the locality in terms of design quality and amenity for future occupants without creating an adverse impact on adjoining land uses. The proposed development is therefore considered to be in the public interest.

Notification

The adjoining land owners were notified of the proposed development between 26 October and 25 November 2015 in accordance with Part 7 of Development Control Plan 2012. One submission was received during the notification period. The concern raised within the submission is discussed in detail below:

- **Hardwearing privacy louvers (preferably aluminum rather than timber) should be applied to the first floor windows facing the side boundaries of units 4 to 7 to ensure an appropriate level of privacy is maintained to adjoining neighbours.**

Comment

The first floor windows of dwellings 4 to 7 are setback at least 4.98m from the northern boundary and at least 3.58m from the southern boundary. The proposed setback complies with the minimum 2.5m setback required in accordance with Part 2.1.7(xxviii) of Canterbury Development Control Plan 2012 (CDCP 2012). In addition to the proposed setback, the upper storey windows comprise fixed timber louvres or windows with a high sill (1.5m sill). These measures comply with the recommendations of Part 2.3.1(ii) of CDCP 2012 and subsequently, an appropriate level of privacy will be provided to the future occupants of the development as well as maintained for existing residents located to the north and south of the site.

Conclusion

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

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

POLICY IMPACT

The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION

Development Application DA-460/2015 be **APPROVED** subject to the following conditions:
PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
 - 1.1. Details of:
 - Structural Engineering Plan including method of shoring during excavation
 - Building Specifications
 - Fire Safety Schedule
 - Landscape Plan
 - Hydraulic Plan

- Firewall Separation
 - Soil and Waste Management Plan
 - BASIX Certification
 - Ventilation of basement in accordance with AS 1668.2
- 1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
- 1.3. Payment to Council of:
- | | |
|--------------------------------|--------------|
| Kerb and Gutter Damage Deposit | \$2,723.00 |
| Section 94 Contributions | \$157,890.80 |
| Certificate Registration Fee | \$36.00 |
| Long Service Levy | \$12,036.15 |
- 1.4. If you appoint Council as your Principal Certifying Authority, the following fees are payable:
- | | |
|--|-------------|
| Construction Certificate Application Fee | \$11,480.00 |
| Inspection Fee | \$2,895.00 |
| Occupation Certificate Fee | \$904.00 |

Note 1: Long Service Leave Levy payment; (Long Service Leave is payable where the value is \$25,000 or more under Part 5 Section 36 of the Building and Construction Industry Long Service Payments Act 1986). Note 2: If you appoint a Principal Certifying Authority other than Council, the fees shown in this item do not apply, however other fees will apply.

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

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

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

BEFORE COMMENCING THE DEVELOPMENT

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

INSURANCE

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

insurance requirements is available from the Department of Fair Trading (NSW Consumer Protection Agency) on 1800 802 055.

SITE SIGNAGE

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

DEMOLITION

5. Demolition must be carried out in accordance with the following:
 - a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
 - b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.
 - c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
 - d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
 - e) Demolition of buildings is only permitted during the following hours:
7.00 a.m. – 5.00 p.m. Mondays to Fridays
7.00 a.m. – 12.00 noon Saturdays
No demolition is to be carried out on Sundays or Public Holidays.
 - f) Burning of demolished building materials is prohibited.
 - g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
 - h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
 - i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
 - j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
 - k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
 - l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).

- m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
- n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 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.
- 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
DA100	Cover Page/Drawings List/Site Calculation/Windows and Doors Schedule	Mka Architect	18 March 2016
DA101	Specification/BASIX Report	Mka Architect	2 October 2015
DA103	Basement	Mka Architect	12 January 2016
DA104	Ground Level	Mka Architect	18 March 2016
DA105	First Level	Mka Architect	18 March 2016
DA106	South, North, East Elevations/Streetscape	Mka Architect	18 March 2016
DA107	East & West Elevations/Section AA/Vehicle Ramp Section B-B	Mka Architect	18 March 2016
DA108	Room Height Calculation on Typical Attic Level	Mka Architect	2 October 2015
DA109	Shadow Diagrams on recent DA approved 446/2016/Schedule of External Colour and Materials	Mka Architect	2 October 2015
DA110	Demolition Plan/Privacy Plan	Mka Architect	2 October 2015
L-01	Landscape Plan	Ray Fuggle Associates Landscape Architects	18 March 2016

- 6.1 The front fencing at the front of dwellings 1, 2 and 3 is to be of solid material and no higher than 1.2 metres with additional 600mm being of materials that is 50% transparent (totaling maximum height of 1.8m).
- 6.2 Storage area of at least 8m³ per two bedroom dwelling and 10m³ per three or more bedroom dwellings is to be provided in the development.
- 6.3 Prior to the issuing of a Construction Certificate, a revised roof plan is to be submitted to the Principal Certifying Authority to reflect the revised building

footprint of Dwelling 8 required to retain the tree within the rear private open space area.

- 6.4 At least two apartments are to be accessible apartments in accordance with the stamped plans.
7. The layout of the proposed car parking areas associated within the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1 – 2004.
8. Resident and visitor car parking shall be clearly signposted at the entry to the car parking area.
9. Signage being erected for visitor car spaces to notify and allow people to use the designated spaces.
10. The four (4) car parking spaces provided in a stacked arrangement (R4 and R3) are to be allocated to the same dwelling (i.e two (2) dwellings to be allocated two (2) spaces each). One stacked parking arrangement is to be allocated to the four (4) bedroom dwelling (dwelling 3) and the other is to be allocated to a three bedroom dwelling.
11. All bicycle spaces are to be provided in accordance with AS2890.3.
12. All access points to the building (this would include street level pedestrian access, lifts and stairwells) shall be restricted to residents only through a security system. Visitors to the residential complex shall be provided with access via the intercom.
13. The bathroom and ensuite window(s) being translucent glass.
14. 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.
15. 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 \$157,890.80. The amount payable is based on the following components:

Contribution Element	Contribution
• Community Facilities	\$14,281.67
• Open Space and Recreation	\$139,590.32
• Plan Administration	\$4,018.81

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.

16. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
17. 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.

18. All building construction work must comply with the National Construction Code.
19. 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.
20. Provide a Surveyor's Certificate to the Principal Certifying Authority indicating the finished floor levels and roof to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
21. 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."
22. 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.
23. 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.
24. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
25. 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.
26. 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.
27. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
28. 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.
29. 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.
30. 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.

STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

31. In accordance with Clause 17(1) (a) of State Environmental Planning Policy (Affordable Rental Housing) 2009, a minimum of 23.7% of the floor space within the approved development (identified on the development application plans as dwellings 9, 10 and 11) must be used for the purpose of affordable housing for a tenure of 10 years from the date of the issue of the occupation certificate. All affordable rental housing at the site must be managed by a registered community housing provider.
32. A restriction being registered against the title of the property on which development is to be carried out, in accordance with section 88E of the [Conveyancing Act 1919](#), prior to the issue of the occupation certificate requiring that a minimum of 23.7% of the floor space (identified on the development application plans as dwellings 9, 10 and 11) within the approved development to be used for the purposes of affordable housing for 10 years from the date of issue of the occupation certificate in accordance with Clause 17(1) (b) of State Environmental Planning Policy (Affordable Rental Housing) 2009. In this regard, the restriction shall specifically nominate those units to be allocated as affordable housing.

DILAPIDATION AND EXCAVATION

33. 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.
34. The applicant shall prepare a Dilapidation Report/photographic survey prepared by an appropriately qualified consultant for adjoining properties, 118 and 124 Karne Street North, Roselands 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.
35. 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.

CRIME PREVENTION

36. The basement car park shall be painted the colour 'white'. This measure will increase lux levels and light reflection.
37. The site shall be treated with anti-graffiti paint to deter graffiti offenders targeting the building and its perimeter. This will preserve the building and increase a sense of maintenance and ownership of the site.
38. The storage units located in the vicinity of the car spaces shall be fully enclosed and non-visible. This measure will deter potential offenders from breaking in as they are unable to see what contents (reward) is inside the storage unit.

39. Directional signage shall be provided throughout the development. The signage should be clear, legible and useful, to aid people in finding their way throughout the area.

WASTE

40. The waste bin storage areas are to be designed and constructed in accordance with clause 6.9.4.1 and 6.9.4.2 of the Canterbury Development Control Plan 2012
41. Unobstructed and unrestricted access must be provided to the bin holding area on collection days from 5.00am.

ENGINEERING

Prior to the Issuing of a Construction Certificate

42. Plans and specification to be prepared of the stormwater system and be designed and constructed in general, in accordance with the plans, specifications and details received by Council on 2nd October 2015; Project number 1621 sheet number S1 of 6 Revision C, S2/6 revision C, S3-6 revision C, S4/6 Revision C, S5/6 revision C S6/6 revision C 11/09/2015 dated 10/04/2010 prepared by John Romanous and Associates (Civil/Structural).
43. Stormwater management plans to be amended and coordinated with amended architectural plans in particular to the amended plan, project number 010915-DA104 revision C by MKa dated March 2016
44. All downpipes, pits and drainage pipes shall be designed and installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's Stormwater Management Manual - Specification 9 "A Guide for Stormwater Drainage Design".
45. OSD storage is required; three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority PCA and Canterbury City Council, if Council is not the PCA.
46. The plans must be prepared by an appropriately qualified and practising 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.
- a) 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.
 - b) All external surfaces to be graded to facilitate excess surface waters to the overland flow path(s).
 - c) 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.
 - d) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage
 - e) All pits to be minimum 450 x 450 with childproof lockable grated lids.
 - f) Grated trench drain to be min 200mm wide.
 - g) 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".

- h) Pump-out drainage system is to be designed and certified to comply with Council's DCP 2012, Part 6.4.11. All waters pumped from the site must be those generated by rainfall and seepage. If a groundwater table is present, the basement and pit must be tanked and structurally designed to cater for hydrostatic forces and to prevent the ingress of water from the ground table. Pumped waters from the pit are to be directed to the Silt arrestor pit prior to connection to the legal point of discharge.
47. An appropriately qualified and practising Civil Engineer is to be registered on the NER of Engineers Australia or be appropriately qualified to be on the register and be experienced in the design of stormwater drainage.
48. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
49. Provision to be made for the collection of overland flow from the rear of the site and conveyed to Karne Street.
50. A maintenance plan including maintenance schedule and inspection check list must be produced for the on-site detention facility. The maintenance plan must be submitted to the Principal Certifying Authority prior to the issue of a construction Certificate.
51. A full width **heavy** duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 5 metres at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
52. 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.
53. 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.
54. 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 Sub base; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.
55. 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) Sight triangles for pedestrian safety must be provided in accordance with Figure 3.3 of the Standard.
- b) The ramp only permits one way traffic movement at a time. A traffic management system must be provided to prioritise traffic movement and ensure that no vehicles reverse onto Karne Street North. Note that any queuing area must be located entirely within the site.
56. The applicant shall consult Energy Australia to determine the need for an electricity substation prior to the submission of a Construction Certificate and, if a site is required, it being situated adjacent to the street alignment with the size, location and area being in accordance with the requirements of Council and Energy Australia. The

land required being dedicated without cost as a public roadway to enable Energy Australia to establish the substation.

57. 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.
58. 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 Sub base; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.
59. 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.
60. The sealed pit in Karne Street North must be substituted with a gully pit and 1800 mm extended kerb inlet located on the gutter of Karne Street North. The gully pit must be according to Canterbury Council's Standard Drawing SD 100, a copy of which may be obtained by phoning Councils City Works Group.
61. A plan and long section of the proposed gully pit and pipeline to be laid in Karne Street North must be prepared by a practising Civil Engineer and include a detailed public utilities check. All existing services crossed by the proposed pipeline must be located and identified on the plan. Three (3) copies of plans and calculations, with levels reduced to Australian Height Datum (AHD) must be submitted and approved by Council prior to the issue of a Construction Certificate to determine compatibility with the Councils existing stormwater drainage system in Karne Street North.
62. An appropriately qualified and practising Civil Engineer shall design the pavements and certify that all driveways, parking and service areas have been designed and constructed in accordance with the approved specifications. Design to be carried out in accordance with AUS-SPEC #1 Specification D2-Pavement Design. Construction is to be carried out in accordance with 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.
63. A driveway long section scaled at 1:20 (both vertical & horizontal) is to be submitted indicating the appropriate grades, lengths, transitions and height clearances above the driveway. The existing street levels are to be included in the design of the driveway (The existing street levels include kerb & gutter, footpath and boundary line levels which cannot be altered). The driveway widths, grades, lengths and transitions shall be in accordance with Australian Standard AS 2890.1 - 2004 "Off-street Parking Part 1 - Carparking Facilities".
64. Development Consent does NOT give approval to undertake any works on Council property. An application must be made to Council for a Road Opening Permit under Section 138 of the Roads Act 1993 for approval to undertake works on council roads.
 - a) The Road Opening Permit must be provided prior to the issue of a Construction Certificate.
 - b) These works must be constructed in accordance with the conditions of the

Road Opening Permit and be completed prior to the issue of an Occupation Certificate.

- c) Note: The cost of adjustment or relocation of any public utility service shall be borne by the owner/applicant. Where the finished levels of the new works will result in changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant.
- 65. The filled area shall be compacted, stabilised and grassed. The work is to be carried out in accordance with AUS-SPEC #1 Specifications C213-Earthworks and C273-Landscaping.
- 66. 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".
- 67. The construction of the kerb and gutter along all areas of the site fronting **Karne Street** 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".
- 68. The reconstruction of the road shoulder along all areas of the site fronting **Karne Street** 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 AUS-SPEC #1 Specification C242-Flexible Pavements and C245-Asphaltic Concrete.
- 69. The reconstruction of any cracked or damaged sections of the concrete footpath paving and associated works along all areas of the site fronting **Karne Street** is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
- 70. Removal of the full width footpath paving and reconstruction with 1.4 metres wide concrete footpath and turfing by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with the following: Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter"; AUS-SPEC #1 Specification C273-Landscaping.
- 71. 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.
- 72. Retaining walls greater than 1000 mm high or retaining more than 600 mm of cut or fill proposed to be located within one metre of a boundary are to be designed by a Structural Engineer and must have subsoil drainage connected to the site stormwater system. Design plans prepared by an appropriately qualified and practising structural engineer must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.
 - a) All components of any retaining walls, including subsoil drainage, must be located entirely within the property boundary. The subsoil drainage lines of the retaining walls must be shown on the stormwater drainage plan.

73. The basement excavation works provide an option that potentially utilises neighbouring properties and the roadway for support. The legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged with Canterbury City Council prior to the issue of a Construction Certificate.
- a) Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent.
 - b) Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.
 - c) Permanent rock anchors are not permitted in Karne Street North.
 - d) Where temporary anchors are proposed to be used in Karne Street North an Application must be made to Canterbury City Council for approval under Section 138 of the Roads Act 1993, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:
 - e) Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.
 - f) Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
74. The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
75. The amended plans must be certified by an appropriately qualified and practising Civil Engineer and be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.
76. 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.

Prior to the Issuing of an Occupation Certificate

77. The stormwater drainage works are to be inspected during construction by the Principal Certifying Authority at the following stages:
- (a) Prior to backfilling of trenches
 - (b) Prior to pouring concrete in OSD areas
 - (c) On completion of drainage works
78. Private contractors/applicants shall submit an application and pay an inspection fee to Council seven days prior to commencement of any works on the footpath or roadway. No work shall be carried out without Council approval.
79. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system.
80. The plan shall be prepared by a registered surveyor. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards.

81. Certification from an appropriately qualified and practising Civil Engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
82. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in appendix 7.5 of Council's Stormwater Management Manual – Specification 9.
83. The applicant shall provide an as-built drawing to Councils City Works Division detailing the public drainage system. The plan shall be prepared by a registered surveyor.
 - a) The plan shall record all the relevant existing, proposed and actual levels and dimensions relative to the constructed drainage system.
 - b) The required certification must be issued by an appropriately qualified and practising Civil Engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
84. A sign shall be installed over every tap connected to the proposed rainwater stating "This water is not for drinking. This water is for landscaping purposes only".
 - a) A sign adjacent to and clearly visible at the OSD facility is to be placed permanently notifying the location of OSD tank, and its filling with stormwater after storms.
 - b) The OSD tank must comply with relevant work cover codes and confined space legislation.
85. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the [on site detention / on-site retention/re-use] facilities. The Plan must set out the following at a minimum:
 - a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
 - b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.
 - c) The Plan must be prepared by a an appropriately qualified and practising Civil Engineer and provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.
 - d) The maintenance plan produced for the Occupation certificate must be kept in a visible place on-site at all times.

LANDSCAPE

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

87. Tree 2 (*Eucalyptus microcorys*) as identified in the Arboricultural Assessment report (prepared by TALC Tree and Landscape Consultants and submitted to council 6th October 2015) and located in the south-western corner of the property is to be retained and protected. A tree protection zone (TPZ) of 9.6m radius minimum and a structural root zone (SRZ) of 3.5m radius minimum (measured from the edge of the tree trunks) must be observed. A tree protection barrier is to be erected around the perimeter of the TPZ prior to the commencement of any site works. This barrier must be a minimum 1800mm high chain link fabric (with standard 50mm pitch) on 2400mm star pickets driven 600mm into the ground so that the fencing cannot be breached. A 600mm x 450mm prohibition sign complying with AS1319, and stating 'TREE PROTECTION ZONE – KEEP OUT' must be attached to the barrier. The barrier is to be well maintained during construction.
- No building material storage shall be allowed to encroach within this TPZ. No form of construction work or related activity such as mixing of concrete, cutting grinding, generator storage or cleaning of tools is to be permitted within this TPZ. No activity which will cause additional soil compaction within the TPZ. All drainage run off, sediment, concrete and mortar slurry, paints and washings, toilet effluent, petroleum products and any other waste products must be prevented from entering the protection zone.
- Any required excavation work that fall within the TPZ of the trees must use methods which allow the root system of the tree to remain preserved and intact such as hand digging methods.
88. All other existing property trees may be removed to accommodate construction. This is conditional on their replacement with plantings of 12 minimum x 75ltr Australian native canopy trees (75Ltr pot size).
89. The construction of Unit 8 and Unit 9 is to be designed in consultation with the Consulting Arborist to provide for the retention and protection of the tree 2. Construction details and methods and confirmation that the consulting Arborist has approved these construction details and methods are to be submitted to Council or the certifier prior to the issue of the Construction Certificate
90. Confirmation that the consulting Arborist has approved the Stormwater Design in relation to the trees to be retained is to be submitted to Council or the certifier prior to the issue of the Construction Certificate.
91. A Tree Management Plan is to be prepared by an AQF Level 5 Registered Consulting Arborist with a minimum 5 years industry experience and submitted to Council or the certifier prior to the issue of the Construction Certificate. At minimum this is to include the following:
- a) A Tree Protection Schedule.
 - b) Appointing of an AQF Level 5 Registered Project Arborist to monitor and advise in regard to all issues relating to the existing trees to be retained for all phases of demolition and construction, and to carry out the following;
 - Establishment of the tree protection zone and erection of fencing and signage as per the above mentioned requirements.
 - Provision of a tree protection plan to applicant and all site personnel to ensure that the plan is on site prior to any works commencing.
 - Attendance on site regularly in accordance with section 5.4.1 of AS 4970 -2009. Particularly, during the construction of Units 8 and 9.
 - Any roots greater than 25mm in diameter that is exposed within 1m of the TPZ must be cleanly cut and kept moist.

- Any remedial works that might be required for the tree, should these conditions and the tree protection plan have not be complied with.
 - Provide a final assessment of the tree condition, details of any works conducted to the tree and provision of certification that the tree protection works have been carried out in accordance with the requirements listed above at minimum as set out in Section 5.5.2 of AS 4970-2009. This certification is to be provided to the principle certifying authority and council at practical completion.
92. An AQF Level 5 Registered Arborist must be engaged as a project arborist to carry out all aspects of the Tree Management Plan and tree protection. Contact details of this project arborist are to be forwarded to council and the consenting authority prior to the issue of Construction Certificate.
93. The proposed planting to all podium levels shall comply with the following as required in the CDCP 2012 Part 6.6: Landscape:
- Raised planters:
- a) Use masonry or concrete construction;
 - b) Provide drainage for each planter box, and coordinate drainage details with hydraulics plan; and
 - c) Provide waterproofing to each planter box.
- Minimum soil depth:
- a) 100-300mm for turf
 - b) 300-450mm for groundcovers;
 - c) 500-600mm for small shrubs;
 - d) 600-750mm for medium shrubs;
 - e) 750-900mm for small trees with approximate soil area of 3.5m x 3.5m;
 - f) 1000mm for medium trees with approximate soil area of 6m x 6m; and
 - g) 1300mm depth for large trees with approximate soil area of 10m x 10m.
94. The landscaping must be completed according to the submitted landscape plan (drawn by RFA Landscape Architects, drawing no. 3849c L-01issue C, submitted to council on 18th March 2016) except where amended by the conditions of consent.
95. 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).
96. All scheduled plant stock shall be **pre-ordered**, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
97. An automatic watering system is to be installed in common areas at the applicant's cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer's specification and current Sydney Water guidelines.
98. 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;
- a) Provide a Maintenance Schedule including:
 - replacement strategy for failures in plant materials and built works,
 - maintenance schedule for watering, weeding and fertilizing during the establishment period

- A maintenance period of 12 months is to be specified for this application. During this maintenance period, the landscaping must be maintained in accordance with the details specified on the submitted landscape plan.
- b) All canopy trees are to be a minimum 75litre pot size.
- c) Provide replacement plantings of 12 minimum x 75ltr Australian native canopy trees (75Lt pot size) within the design.

SYDNEY WATER REQUIREMENTS

99. 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 , 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.

STREET ADDRESSING

100. Allocation of street numbers has been based on the Rural and Urban Addressing Standard AS/NZS 4819:2011.
101. Future Street Addressing for the proposed Strata Subdivision within DA-460/2015, is advised as follows: 120 Karne Street North, Roselands NSW 2196.
102. All sub-property addressing must be unique, and advised as follows:
- 1/120 Karne Street North, Roselands NSW 2196;
 - 2/120 Karne Street North, Roselands NSW 2196;
 - 3/120 Karne Street North, Roselands NSW 2196;
 - 4/120 Karne Street North, Roselands NSW 2196;
 - 5/120 Karne Street North, Roselands NSW 2196;
 - 6/120 Karne Street North, Roselands NSW 2196;
 - 7/120 Karne Street North, Roselands NSW 2196;
 - 8/120 Karne Street North, Roselands NSW 2196;
 - 9/120 Karne Street North, Roselands NSW 2196;
 - 10/120 Karne Street North, Roselands NSW 2196;
 - 11/120 Karne Street North, Roselands NSW 2196, and;
 - 12/120 Karne Street North, Roselands NSW 2196.

STRATA SUBDIVISION

103. The draft strata subdivision plans are to reflect the approved development application plans and are to be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.
104. The submission of one final plan of strata subdivision and five copies.
105. The car space allotments on any strata plan being made a part of the relevant dwelling section allotment and the visitor/common parking spaces remaining as common property.
106. Registration of the strata subdivision under Development Consent No. 460/2015 must be undertaken at the completion of the development with the Land and Property Information NSW.

CRITICAL INSPECTIONS

107. The following critical stage inspections must be carried out by the Principal Certifying Authority (either Council or the Accredited Certifier):
- Class 2, 3 or 4 Buildings

- 107.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 107.2. prior to covering any stormwater drainage connections, and
- 107.3. 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

- 107.4. prior to covering any stormwater drainage connections, and
- 107.5. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
- 108. 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

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

WE ALSO ADVISE:

- 110. This application has been assessed in accordance with the National Construction Code.
- 111. 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.
- 112. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
 - Structural engineering work
 - Air handling systems
 - Final fire safety certificate
 - Glazing
 - Waterproofing
 - BASIX completion
- 113. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
- 114. 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.
- 115. 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.
- 116. 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.
- 117. 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.
- 118. If you are not satisfied with this determination, you may:

- 118.1. 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
- 118.2. 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.

ATTACHMENTS

[Click here for attachments](#)

- A. Locality Map
- B. Elevations

Planning Matters - 14 June 2016

ITEM 5.14	36 Weston Avenue, Narwee - Demolition, Construction of Affordable Housing Development, Parking and Strata Subdivision
FILE	DA-45/2016
ZONING	R3 Medium Density Residential under Canterbury Local Environmental Plan 2012
DATE OF LODGEMENT	10 February 2016 (additional information received 7 March 2016, 10 March 2016 and 6 April 2016).
APPLICANT	Ridge Designs Pty Ltd
OWNERS	Horizon Sky View
AUTHOR	City Development

ISSUE

- The applicant seeks approval for the demolition of existing structures and the construction of an in-fill affordable housing development containing five multi-unit dwellings with associated parking and strata subdivision.
- The proposal is referred to the City Development Committee as it seeks a departure from our controls for side and rear setbacks, garage doors width, dormer window separation distances and minimum private open space, that are beyond the delegation of our officers. Despite these departures, the proposal has merit and is worthy of support.
- The subject site is zoned R3 Medium Density Residential under the provisions of the Canterbury Local Environmental Plan 2012, where the proposed development is permissible with our development consent.
- The development application has been assessed against State Environmental Planning Policy (Affordable Rental Housing) 2009, Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and other relevant codes and policies. The non-compliances from our controls are 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. Six submissions and one petition were received during the public notification period. The key concerns raised within the submissions relate to potential privacy impacts, parking, garbage bin allocation, front setbacks, tree removal, increased traffic resulting from insufficient parking on site, damage to adjoining properties and structures during construction, noise and use of the right of way during construction. These matters are discussed within the body of the report.

- The application is recommended for approval subject to conditions.

BACKGROUND

Site Details

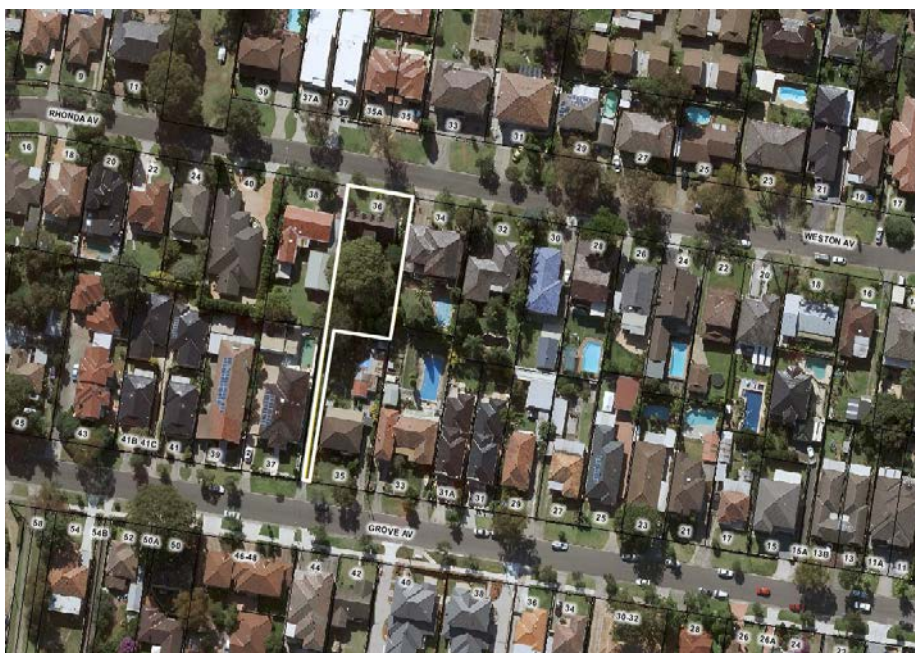
The subject site is located on the southern side of Weston Avenue at 36 Weston Avenue, Narwee. The site currently consists of one lot being Lot 122 in DP 92628 having a total site area of 950.1m² and comprises a two storey detached dwelling with associated structures. The site area includes half of the right of way at the rear of the site (an access handle) that provides vehicle access to Grove Avenue (approximately 83.26m²). The right of way is included in the title of the land and therefore the assessment of the application has been based on the total site area of 950.1m². Notwithstanding this, for the purposes of this assessment, the development calculations excluding the 83.26 m² right of way are:

- Site area: 866.84m²
- FSR: 0.623:1
- Landscape Area: 22.18% of the total site area
- Deep Soil Area: 24.2% of the total site area.

The abovementioned figures comply with the minimum requirements stipulated within the State Environmental Planning Policy (Affordable Rental Housing) 2009.

The site is irregular in shape with a northern boundary of 20.12m to Weston Avenue, a southern boundary to 35 Grove Avenue of 18.29 and a 1.83m boundary to Grove Avenue.

In terms of surrounding development, single storey detached residential dwelling adjoins the site to the west and a two storey detached residential dwelling adjoins the site to the east. Weston Avenue is characterised by a mix of single and two storey detached dwellings as well as two storey dual occupancy developments. A single storey detached dwelling adjoins the site's southern boundary with Grove Avenue located beyond. Grove Avenue is characterised by a mix of detached dwellings, dual occupancy developments as well as multi-unit developments.



Aerial Location Map



Existing two storey dwelling on subject site



Existing single storey dwelling directly adjoining the western boundary of the subject site



Existing two storey dwelling directly adjoining the eastern boundary of the subject site



Existing two storey dwellings located to the north-east of the site on the opposite side of Weston Avenue



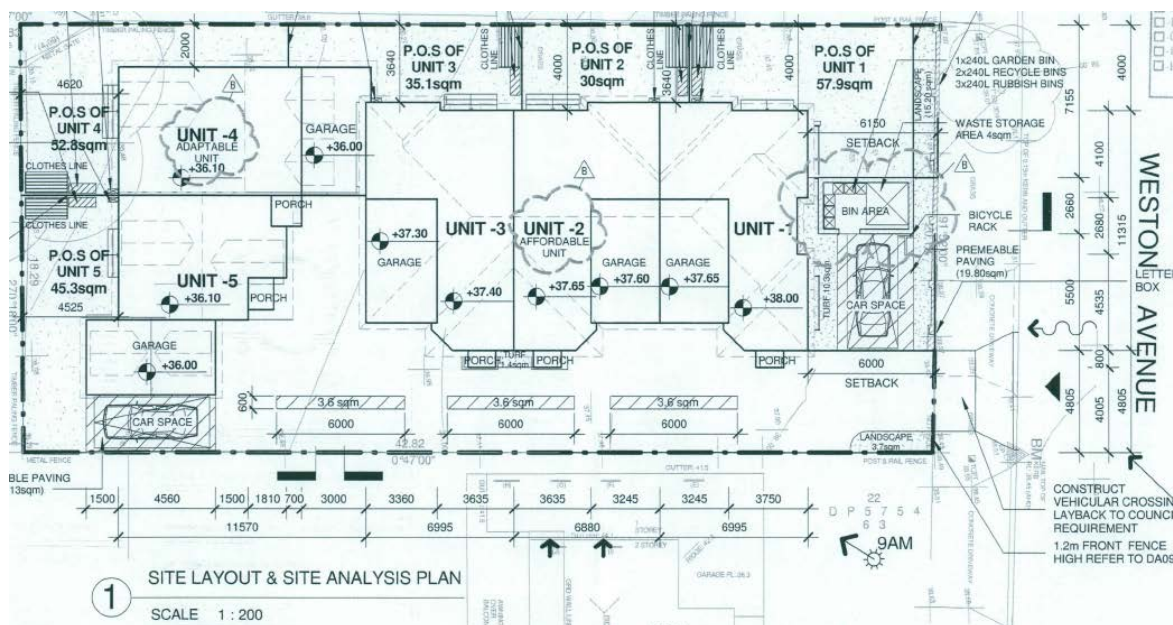
Existing two storey dwellings located to the north-west of the site on the opposite side of Weston Avenue



Existing right of way at the rear of the site providing vehicle access to Grove Avenue

Proposal

The proposal involves the removal of three trees, demolition of existing structures and the construction of an in-fill affordable housing development containing five townhouses with at-grade parking and associated strata subdivision into five lots. The five townhouses are divided between two buildings on the site, being Building 1 located along the Weston Avenue frontage (comprising dwellings 1, 2 and 3) and Building 2 located at the rear of the site (comprising dwellings 4 and 5).



Proposed Site Plan

A detailed breakdown of each building is provided below.

- **Building 1**
 - Building 1 consists of three townhouses, being three bedroom developments with single garage
 - Each townhouse is two storey in appearance
 - The ground floor of each dwelling comprises a garage, dining, kitchen and living area and laundry/powder room
 - The first floor of each dwelling comprises three bedrooms (main with ensuite and walk-in-robe) and separate bathroom.
- **Building 2**
 - Building 2 consists of two bedroom townhouses with single garage
 - Each townhouse is single storey with an attic element and dormer windows
 - The ground floor of each dwelling comprises a garage, dining, kitchen and living area and laundry/powder room
 - The first floor of each dwelling comprises two bedrooms and separate bathroom.

The proposal has been lodged for consideration under the infill affordable rental housing development provisions contained in State Environmental Planning Policy (Affordable Rental Housing) 2009. It is proposed that one dwelling within the development (Dwelling 2) will be allocated as 'affordable' housing in the proposed development.

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 (Affordable Rental Housing) 2009 (ARH SEPP)
- 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

REPORT

Assessment

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

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

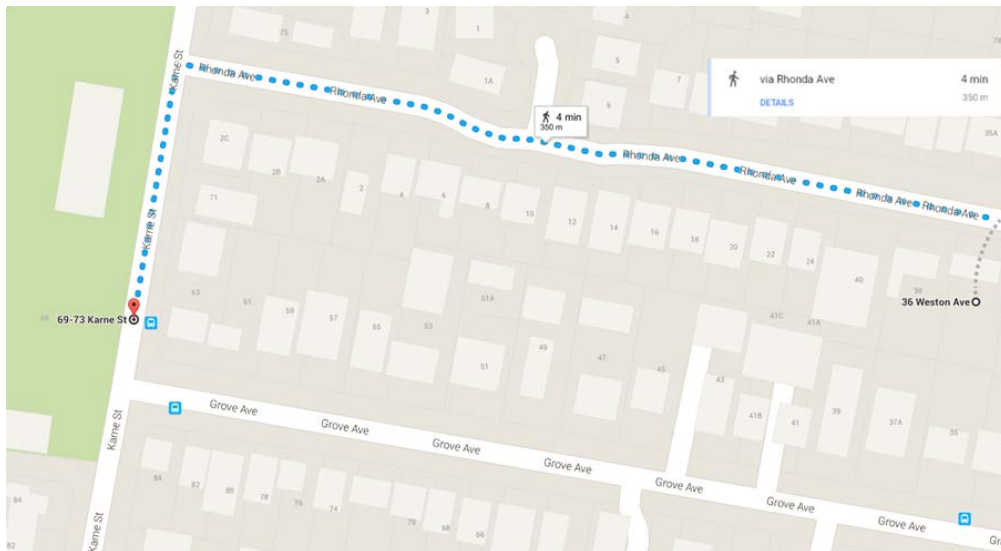
The application is accompanied by a BASIX Certificate No. 697612M dated 20 January 2016 which indicates a series of commitments for the DA including the provision for a 1000L (min) rainwater tank for each dwelling, low water use vegetation, a 3 star instantaneous gas water system, insulation and cooling and heating commitments. The project scores a pass for water, energy and thermal comfort commitments. As such, the design of the proposed development is consistent with the commitments made in the submitted BASIX Certificate. In this regard, the proposed development satisfies the requirements of BASIX.

- **State Environmental Planning Policy 2009 (Affordable Rental Housing) (ARH SEPP)**

This application is for an in-fill affordable housing development lodged pursuant to the provisions of the ARH SEPP. The ARH SEPP aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, the policy provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and minimum development standards. The proposed development compares to the relevant provisions of the ARH SEPP as follows:

Part 2, Division 1 – In-fill Affordable Housing

Clause 10 of the ARH SEPP states that this Division applies if the development concerned is permitted with consent under environmental planning instrument, and is within an accessible area of within 800m of a railway station or 400m of a bus stop. The proposed development is permissible with development consent under Canterbury Local Environmental Plan 2012 (CLEP 2012) and is located within an accessible area, being approximately 350m from a bus service located along Karne Street (Route 641) to the east of the site.



Bus Stop Location Map

Clause 13(2) (b) (i) of the ARH SEPP states that the maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus (if the existing maximum floor space ratio is 2.5:1 or less), additional FSR calculated in accordance with the percentage of gross floor area that is used for affordable housing.

It is proposed that 22.7% of the gross floor area of the development will be used for affordable housing (122.35m² of the total 539.9m² proposed gross floor area). On this basis, an additional 0.227:1 is permitted at the site (total FSR of 0.727:1). The proposed development comprises an FSR of 0.568:1 and complies with the maximum FSR provision permitted for the site.

Clause 14 prescribes minimum standards which cannot be used to refuse consent. The following table is an assessment of the proposal against the ARH SEPP standards:

Control	Requirement	Proposal	Complies
Site Area	Min 450m ²	950.1m ²	Yes
Landscaped Area	Min 30% of the site area (285.03m ²)	298.43m ² (31.4%)	Yes
Deep Soil Zones	15% of the site area (142.5m ²)	220.6m ² (23%)	Yes

Solar Access	Living rooms and private open space area for a min 70% of the dwellings are to receive minimum of three hours sunlight between 9am and 3pm in mid-winter	The site has a north-south orientation. Four of the five dwellings (80% of dwellings) comprise windows to living rooms along the western elevation. These windows will receive solar access between 12pm-3pm (three hours). The private open space area of the four dwellings will also receive solar access between 12pm-3pm (three hours). The living room and private open space for dwelling 5 will be in shadow for majority of the day on 21 June. A condition of consent will be imposed, to ensure a skylight is included above the main living room to facilitate some sunlight penetration.	Yes
Car Parking	<ul style="list-style-type: none"> one space per two bedroom dwelling (two spaces). 1.5 space per three bedroom dwellings (4.5 spaces) Total: 6.5 spaces	A total of seven at grade parking spaces are provided on site (including five x garages and two x car spaces).	Yes
Dwelling Size	Min Gross Floor Area: two bdrm = 70m ² three bdrm+ = 95m ²	Dwellings 1 to 3 (three bedroom) are 119m ² -122.35 m ² in size. Dwellings 4 to 5 (two bedroom) are 85.19 m ² -90.9 m ² in size.	Yes Yes

Clause 15 of the ARH SEPP states that we must not consent to a development unless we have taken into consideration the provisions of the 'Seniors Living Policy: Urban Design Guidelines for Infill Development'. The policy aims to promote a balance between the need for greater housing choice and the need to safeguard the character of residential neighbourhoods. The policy is divided into five sections, namely:

- Responding to Context
- Site Planning and Design
- Impacts on the Streetscape
- Impacts on Neighbours
- Internal Site Amenity.

An assessment has been undertaken and the issues emerging from consideration of the specific sections of the guidelines are discussed below:

- **Responding to Context**

The aim of this consideration is to indicate specific areas which need to be taken into account in order to effectively respond to local context. The guidelines note that residential neighbourhoods are often consistent in terms of built form and that new development as far as possible should follow these patterns. The guidelines also note that our own planning or policy controls may describe character or identify key elements that contribute to this character.

The subject site is located within a street generally characterised by low density residential development. Existing development surrounding the site consists mainly of single and two storey dwellings and two storey dual occupancy developments as well as some multi-dwelling developments located along Grove Avenue to the south of the site.

The development provides a comparable building footprint to other multi-dwelling developments within the locality. The setbacks of the building and the overall bulk and scale as viewed from the street are also comparable to existing built form in the street.

- **Site Planning and Design**

The aim of this consideration is to promote design that optimises internal amenity and minimises impacts to neighbours. The guidelines state that the bulk of development should be located towards the front of the site to maximise the number of dwellings with a frontage to a public street. Parts of the development towards the rear of the site should be more modest in scale to limit the impacts on adjoining properties.

The proposed development includes three x two storey dwellings towards the front 65% part of the site, and two dwellings with attic at the rear 35% part of the site.

The development has been designed in this manner to minimise impacts on neighbours, whilst taking advantage of the vast depth of the site.

- **Impacts on Streetscape**

The aim of this consideration is to ensure new development does not adversely impact on the existing streetscape and enhance its desirable characteristics. The proposed development is in keeping with the character of existing development within the streetscape as it comprises a maximum of a two storey development and the built form is generally aligned with the setbacks of immediately adjoining buildings.

The proposed development is similar in nature to the already approved multi-dwelling developments (most recent being DA-370/2013) in the locality, primarily within Grove Avenue to the south of the site. The proposed development, when viewed from the streetscape, presents as a two storey dwelling and is generally aligned with the setback of residential dwellings on adjoining sites. On this basis, the proposed development will maintain and contribute to the character of the locality.

- **Impacts on Neighbours**

The aim of this consideration is for development to respond to desired streetscape character through sympathetic design which is compatible with existing streetscape patterns, including siting, height, separation, driveway locations, pedestrian entries and the provision of a front setback that relates to adjoining development.

The guidelines nominate that the relationship between buildings and open space should be consistent with the existing patterns in the block. The guide also states that the second storey should be designed to reduce overlooking into neighbouring properties, for example, by incorporating them within the roof space and providing dormer windows, and off-setting openings from existing neighbours' windows or doors so they do not directly overlook into the rear private open space of adjoining properties.

The proposed development incorporates adequate side setbacks along the front and rear parts of the site. Dwelling 4, is located within 2m of the western side boundary, however, the windows incorporated along the western elevation on the attic level are highlight windows and therefore will not result in any significant privacy impacts for the subject dwelling as well the existing dwelling on the adjoining site. Given the orientation of the site, the reduced setback of Dwelling 4 will not result in any significant additional overshadowing impacts on the adjoining property to the west.

First floor windows associated with the two storey multi-unit dwellings at the front part of the site (that overlook side boundaries) are significantly setback from side boundaries (at least 3.6m). Further, a condition of consent will be imposed, should the application be supported, to ensure all the windows on the first floor along the western elevation of Dwellings 1-3 have a minimum sill height of 1.5m. Further, the two single storey dwellings with attic space at the rear part of the site have dormer windows which also reduce overlooking opportunities.

- **Internal Site Amenity**

The aim of this consideration is to ensure that development provides an optimum amenity within the site for future occupants. The guideline provides that development should maximise solar access to living areas and private open space and designing entries that are clear and definable from the street and distinctly separate from vehicular entries.

The proposed development provides reasonable amenity for future occupants of the development with the dwellings receiving adequate solar access to their living areas and private open space areas. Further, the private open space areas provided for each dwelling are designed so that they are directly accessed from internal living areas and are of a size and dimensions that ensures maximum use by residents.

Overall, the proposed development addresses the objectives of the Urban Design Guidelines for In-fill Development contained within the 'Seniors Living Policy' required by Clause 15 of the ARH SEPP.

Clause 16A of the ARH SEPP states that a consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area. The current planning controls applying to the land allow for a range of development types, including single and two storey dwellings, dual occupancy and multi dwelling development. The proposed development is similar in scale and height (when viewed from the street frontage) to permissible developments envisaged by the existing planning controls.

The subject site is located within a street generally characterised by low density residential development. Existing development consists mainly of single and two storey dwellings and two storey dual occupancy developments, with a similar multi-dwelling development located to the south-east of the site (DA-370/2013).

The proposed building form and scale is consistent with surrounding development in the vicinity, with the design adopted responding to relevant planning controls and the need to protect the amenity of neighbouring residents.

Clause 17 of the ARH SEPP states that the affordable housing dwellings within the development will be used for affordable housing for a period of ten years, managed by a registered community housing provider. Relevant conditions can be imposed to ensure that the proposed development satisfies this clause.

Clause 18 of the ARH SEPP states that such development may be subdivided with development consent. The subject application seeks strata subdivision of the site into five lots.

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

The subject site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012 (CLEP 2012). The proposal compares to the relevant provisions of CLEP 2012 as follows:

Standard	Requirement	Proposal	Complies
Zoning	R3- Medium Density Residential	Multi dwelling housing is permissible in the R3 Zone with our development consent.	Yes
Floor Space Ratio	0.5:1	0.568:1	No – See comment [1] below
Building Height	8.5m	Max 8.5m	Yes

[1] Floor Space Ratio

As noted in the table above, the proposed FSR of 0.568:1 does not comply with the requirements of CLEP 2012. However, as the current proposal falls under the provisions of the ARH SEPP, a bonus FSR of 0.227:1 is applicable, taking the permissible FSR on site to 0.727:1. The proposed development incorporates an FSR of 0.568:1 and therefore complies with Clause 13 of the ARH SEPP and is acceptable on that basis.

- **Canterbury Development Control Plan 2012**

The proposed development is compared to the relevant provisions of CDCP 2012 below.

Criteria	Development Control	Proposed	Complies
Residential Neighbourhoods			
Avoid isolating undeveloped sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed	The proposed development will not result in the isolation of adjoining allotments. The existing residential properties to the east and west could be redeveloped in conjunction with a number of properties to the east and west.	Yes
Minimum street frontage	Min 20m	20.12m.	Yes
Cut and Fill	Cut: Max 1m Fill: Max 600mm	No cut or fill is proposed. The development will be built on existing natural ground level.	N/A

Criteria	Development Control	Proposed	Complies
Height	Max one storey where building is located >20m (or distance of 65% of total length of lot)+ street setback from front boundary	Dwellings 4 and 5 are single storey (with attic), in rear 35% of the site.	Yes
	Max two storeys otherwise	Front three dwellings are two storeys.	Yes
	Max 3.8m external wall height for one storey portion	Max 3.8m external wall height for one storey portion.	Yes
	Max 7m external wall height for two storey portion	Max 7m external wall height for two storey portion	Yes
Depth/ footprint	20m depth for buildings	The depth of building 1 ranges between approx. 20.4-21m. The depth of building 2 is <20m.	No – refer to comment [1] below Yes
Front setback	Min 6m	6m at main building line. The proposed first floor Juliet balcony for dwellings 1 encroaches into the 6m setback by 600mm which is permitted in accordance with Part 2.1.8(x).	Yes
Side setbacks	Min 1.5m for the front part of the development, and min 2.5m for the rear part of the development	Front: Min 4m Middle: Min 3.6m Rear: 2m to western boundary and 2.705m to eastern boundary	Yes Yes No – refer to comment [2] below
Rear setback	Min 3m where single storey is proposed. Min 5m where attic is proposed	The single storey portion of dwellings 4 and 5 are located at least 3m from the rear. The attic portion of dwellings 4 and 5 are located at least 5m from the rear boundary with the exception of the dormer window associated with bedroom 2 within dwelling 5, which is located 3.46m from the rear boundary.	Yes No – refer to comment [2] below
Building Separation	Min 5m between buildings on one site	Dwellings are attached.	N/A
Deep soil	Min 3-5m width deep soil along front and rear boundaries	Min 5m width deep soil area within front setback (except paved areas) and min 3m within rear setback.	Yes
	Min 1m deep soil along both side boundaries	Min 1m deep soil alongside boundaries (except driveway and paved entry path)	Yes

Criteria	Development Control	Proposed	Complies
	Locate and proportion windows to minimise scale and bulk of new building. The majority of windows should be rectangular.	Proportion of windows acceptable. The majority of windows are rectangular.	Yes
Roof design	Dormer windows on buildings in the residential zone should not appear as an additional storey. Max width 1.5m Min 2.5m separation between dormers Dormers should not extend above the ridgeline of the building.	The dormer windows visible from adjoining properties do not present a second storey. <1.5m in width >2.5m separation with the exception of the north facing dormers for dwelling 4 which are separated by approximately 800mm. Dormers do not extent above ridge line.	Yes Yes No - Refer to comment [4] below Yes
	Use a simple pitched roof, with appropriate pitch, that accentuates the shape of exterior walls, and minimises bulk and scale.	Appropriate roof design. The proposed development comprises a simple pitched roof which is in keeping with the character of the roofs on adjoining properties.	Yes
Fences	Use minor gables only to emphasise rooms or balconies that project from the body of a building	Gables used adequately	Yes
	Street fencing to have max height of 1.2m, screens with 50% transparency may be up to 1.8m	A condition is to be imposed requiring the front fencing to be solid up to 1.2m in height, with 50% transparency up to 1.8m.	Yes
Visual privacy	New development to maximise visual privacy between buildings	Visual privacy is maximised through the inclusion of appropriate separation between buildings and use of high sill windows where appropriate.	Yes
Deep soil	Provide adequate building separation and setbacks	Adequate building setbacks and separation is provided.	Yes
	Orient windows of new living areas, and balconies or terraces, towards the street and rear of the lot	Living areas orientated towards the street and rear courtyards where possible. Windows of new living areas and balconies that are orientated towards the side boundaries are significantly setback from such boundaries (ranging between 2m-4.8m on the ground level). Higher window sill heights have been applied to the windows on the first floor of these dwellings located within the required setback area.	Yes

Criteria	Development Control	Proposed	Complies
	Min 3-5m width deep soil along front and rear boundaries	Min 5m width deep soil area within front setback (except paved areas) and min 3m within rear setback.	Yes
Open space	Min private open space of 40m ²	Dwelling 1: 57.9sqm Dwelling 2: 30sqm Dwelling 3: 35.1sqm Dwelling 4: 52.8sqm Dwelling 5: 45.3sqm	Yes No No Yes Yes Refer to comment [5] below
	Min dimensions of 5m	Proposed private open space area for each dwelling comprising a min dimension of 5m in at least one direction.	Yes
Internal Dwelling Space and Design	Living room and main bedroom min 3.5m dimension, Secondary bedrooms to have minimum 3m width	Living rooms and main bedrooms have a min 3.5m dimension and secondary bedrooms have a minimum 3m dimension.	Yes
	6m ³ per one bedroom dwelling 8m ³ per two bedroom dwelling 10m ³ per three+ bedroom dwelling	Condition to be imposed requiring the provision of adequate storage areas for each dwelling.	Yes
Housing Choice	10% accessible / adaptable units to suit residents with special needs	Dwelling 4 (20% of total dwellings) is an adaptable dwelling.	Yes
Crime Prevention	Design entrances to allow users to see in before entering. Avoid landscaping that obstructs natural surveillance. Install quality locks on external windows.	Porches visible from street. Design satisfies CPTED principles and objectives.	Yes
Climate and Energy			
Site Layout and Building Orientation	Design and orientate the building to maximise solar access and natural lighting, without unduly increasing the building's heat load.	The site has a north-south orientation and the development has been designed to ensure each dwelling has dual orientation, (at the minimum). The proposed development complies with the solar access requirements stipulated within the ARH SEPP.	Yes
	Design and site the building to avoid casting shadows onto neighbouring buildings, outdoor space and solar cells on the site and on adjoining land.	Building has been designed to minimise shadow impact on adjoining properties through the stepped façade at the rear. The proposal satisfies our solar access controls as discussed later within this report.	Yes

Criteria	Development Control	Proposed	Complies
	Coordinate design for natural ventilation with passive solar design techniques.	The design allows for natural ventilation and incorporates solar design techniques.	Yes
	Provide adequate external clothes drying areas for all residents in the building.	External clothes drying areas have been incorporated into the private open space area for each dwelling.	Yes
Internal layout	Configure the building to maximise solar access to rooms that are occupied during the day. Locate service areas to the south and west of the building.	The building is configured to maximise solar access. Services areas and driveway are located within the basement and to the south of the building, where possible.	Yes
Windows and Glazing	Place more windows on the northern side than other sides of the building, so that there are more windows gaining heat than there are losing heat in winter months and sun penetration is reduced in summer.	Placement of windows on the northern side has been incorporated into the design. The southern elevation comprises smaller windows to reduce potential heat loss.	Yes
Insulation and thermal mass	Use of insulation in the roof, ceiling, walls and floors to deflect heat and prevent the building from heating up in summer, and to contain heat and prevent the building from cooling down in winter	This has been addressed in the BASIX certificate.	Yes
Daylight and Sun Access	At least two hours sunlight between 9am and 3pm should be received daily: <ul style="list-style-type: none"> To indoor living areas and principle open space of at least 75% of dwellings. Limit the number of single aspect apartments with a southerly aspect to a max 10% of the total apartments proposed. 	The solar access provisions of the ARH SEPP prevail over solar access provisions outlined within CDCP 2012. The proposal complies with the solar access provisions stipulated within the ARH SEPP.	Yes Yes Yes

Criteria	Development Control	Proposed	Complies
Daylight and Sun Access to adjoining properties	At least two hours of sunlight between 9am and 3pm on 21 June shall be retained for existing indoor living areas and at least 50% of the principal portion of the principal open space.	Given the site's north-south orientation, the properties to the east and west will continue to receive at least two hours of solar access to windows along the eastern/western elevations and at least 50% of the principal open space. The existing dwelling to the south (35 Grove Avenue) is substantially setback from the rear boundary and will not be impacted by the proposal. At least 50% of the rear private open space will receive solar access for at least two hours on 21 June.	Yes
Ventilation	Incorporate features to facilitate natural ventilation and convective currents – such as opening windows, high vents and grills, high level ventilation (ridge and roof vents) in conjunction with low-level air intake (windows or vents).	Satisfactory design features have been included to facilitate natural ventilation.	Yes
Crime Prevention			
Site and Building Layout	Some dwellings are to address the street	Dwelling 1 is orientated to address Weston Avenue.	Yes
	Habitable rooms with windows at front of dwellings	Dwellings have been orientated to ensure windows of habitable rooms of Dwelling 1 address Weston Avenue.	Yes
	Avoid blind corners in pathways, stairwells, hallways and car parks	The building layout avoids blind corners.	Yes
Access Control	Access to the individual units be clearly marked and apparent to visitors	The individual entry points to each dwelling is to be clearly numbered.	Yes – via condition of consent
	Install intercom, code or card clocks or similar to main entries to buildings, including car parks.	Controlled access measures to be installed at each building entry point.	Yes – via condition of consent.
Ownership	Dwellings and communal areas to provide a sense of ownership	Entry points to each dwelling are demarcated through the use of appropriate landscaping and porch. A sense of ownership is provided through the inclusion of appropriate fencing and gate keeping devices to each dwelling.	Yes

As demonstrated above, the proposed development generally complies with the provisions of CDCP 2012, with the exception of our building depth, side and rear setback, width of garage doors, dormer windows and private open space controls. These matters are discussed in detail below:

[1] Building Depth

Part 2.1.5 of CDCP 2012 requires multi-dwelling developments within the R3 zone to have a maximum building depth of 20m. The depth of Building 1 ranges from 20.4-21m which represents a 4.76% variation and can be dealt with under delegated authority. The objective of the building depth control is to promote improved levels of residential amenity and ensure that new buildings have a scale and mass which would be visually compatible with the residential zone's desired character.

The proposed development complies with the solar access provisions stipulated within the ARH SEPP and will retain at least 2 hours of solar access to windows and private open space of existing dwellings on adjoining sites. In terms of privacy, the proposed development generally complies with our setback controls, as discussed later within this report. In addition, high sill windows have been or will be incorporated into the design along the side elevations, through condition of consent, to ensure an appropriate level of privacy will be provided to future occupants of the site as well as existing residents in adjoining properties. The development presents as a two storey dwelling when viewed from the street and therefore the minor variation to the maximum building depth will not be perceived when viewed from Weston Avenue.

As discussed above, the minor variation to the 20m maximum building depth will not significantly reduce the level of amenity experienced by both occupants of the site and adjoining residents and will not contribute to additional building mass that would be visible from Weston Avenue. On this basis, the minor variation is supported on merit.

[2] Rear and Side Setback

Clause 2.1.7(xxvi) of CDCP 2012 requires dwellings with an attic to be setback 5m from the rear boundary. All rear dwellings comply with the rear setback controls with the exception of the dormer window associated with bedroom 2 of Dwelling 5 which is setback 3.46m from the rear boundary (representing a 30.8% variation).

Clause 2.1.7(xxvii) of CDCP 2012 requires dwellings located to the rear of the site to comprise side setback of 2.5m. All rear dwellings comply with the side setback controls with the exception of dwelling 4 which is setback 2m from the western boundary (representing a 20% variation).

The objectives of our setback controls are as follows:

- Establish the desired spatial proportions of the street and define the street edge
- Limit the scale and bulk of new building, appropriate to the location and use, by retaining landscaped open space around
- Contribute to the green landscape by retaining adequate space for new trees and conserving any existing trees that are visually prominent
- Provide sufficient separation between buildings and adjacent land to limit the visual, environmental and likely impacts of new development
- Minimise stormwater run-off by retaining deep soil that allows rainwater infiltration.

The reduced side and rear setback will not result in any significant adverse privacy impacts for future occupants within the site as well as existing residents in adjoining properties, given the following:

- The scale of the proposed development (single storey with attic development) is suitable.
- Despite the reduced side and rear setbacks, the proposal will continue to contribute to the green landscape by complying with the minimum deep soil area requirements.
- Should the application be supported, a condition of consent will be imposed to ensure the windows along the western elevation of dwelling 4 are to comprise a sill height of at least 1.5m to minimise any potential privacy impacts.
- The reduced setbacks will not significantly impact solar access to the adjoining properties. As discussed earlier within this report, given the orientation of the site, at least two hours of sunlight will continue to be provided to the windows along the eastern and western elevation of the properties located to the west and east respectively between 9am-3pm on 21 June. Further, at least 50% of the rear private open space of the properties located to the east, west and south will be retained between 9am-3pm on 21 June.
- The 5m rear setback of single dwellings with attics is an anomaly and will be deleted as part of the modifications to our current CDCP 2012. The current control is proposed to be revised to require a 3m rear setback for single storey dwellings with attic. On this basis, the proposed 3.46m setback would comply with the 3m requirement.

In addition, the bulk and scale of the proposed multi-unit development complies with the maximum height, FSR, landscaped area and deep soil requirements specified within ARH SEPP and CLEP 2012. Further, the scale and bulk of the new building is consistent with existing similar development within the locality (including 1 Grove Street).

The proposed development is in keeping with the objectives of our side setback controls and is therefore the proposed variation is supported in this instance.

[3] Garage Doors

Part 2.1.11(v) of CDCP 2012 requires that the percentage of the combined width of garage doors cannot occupy more than 30% of the overall width of any façade. The garage doors associated with dwellings 1 to 3 occupy 43% of the overall façade and therefore exceeds the maximum 30% requirement. The objective of this control is to ensure that parking is available for residents and their visitors on the site as well as ensure that parking structures do not detract from the appearance of green streetscapes and residential streets.

The proposed development provides seven parking spaces which complies with the parking requirements outlined within the ARH SEPP. Given the orientation and location of the garages within the site, they will not be visible from the street and subsequently will not detract from the appearance of the Weston Avenue streetscape. In this regard, the proposed variation to the garage width is acceptable and worthy of support.

[4] Dormer Windows

Part 2.2.3(xvii) of CDCP 2012 specifies that dormer windows are to be separated at least 2.5m. The two north facing dormer windows associated with Dwelling 4 are separated approximately 800mm, which represents a 68% variation to the control. The intent of this control is to ensure dormer windows on buildings in the residential zone do not appear as an additional storey.

Dwelling 4 is setback 27m from the front boundary and the proposed dormer windows are orientated north, towards Dwelling 3 within the site. The first floor southern elevation of Dwelling 3 does not comprise any openings and therefore privacy to this dwelling will not be compromised. Given the location and orientation of the dormer windows they will not be visible from Weston Avenue or adjoining properties and subsequently will not result in any privacy or visual impact. On this basis, the variation to our dormer window separation control is supported in this instance.

[5] Private Open Space

Part 2.3.4 of CDCP 2012 requires a minimum area of 40m² of private open space to be provided to each dwelling of a multi dwelling development. Further, areas of principal open space are to be located adjacent to the main living, dining room or kitchen to extend the living space of the dwelling. The principal private open space area located adjacent to the main living areas of dwellings 2 to 3 are between 30-35.1m² in size and therefore seek a 12.25% to 25% variation to the minimum 40m² control. It is noted that one of these dwellings will be affordable housing (dwelling 2).

The objectives of our open space controls are as follows:

- All residents have access to private and functional open space on their land, such as private yards, courtyards and balconies or roof top terraces
- All residents in multiple dwelling buildings have access to consolidated, semi-private and functional communal open space on their land
- Private open space is:
 - Tailored to the type of dwelling or dwellings and provides residents and other uses with active and passive recreation opportunities
 - Designed to take advantage of environmental circumstances such as solar access, views and prevailing breezes
 - Designed to promote the enjoyment of outdoor living
 - Located and landscaped to provide a pleasant outlook and contribute to the attractiveness of a property
 - Located so that there is passive surveillance from residences.

The proposed private open space areas associated with dwellings 2 to 3 comply with the minimum required dimension of 5m, are directly accessible from their associated indoor living areas and have the area to be able to accommodate outdoor seating.

The area of the principal private open space areas at the rear of dwellings 2 to 3 are acceptable given the width and westerly orientation, particularly in the context of this application being made for affordable housing and the bonus provisions outlined in the ARH SEPP.

Part 6.4 - Development Engineering, Flood and Stormwater

The stormwater proposal submitted with the application has been assessed by our Development Engineer and is in accordance with our stormwater disposal requirements. No objection is raised subject to conditions of consent being attached to any consent granted.

Part 6.6 - Landscaping and Part 6.7 Preservation of Trees or Vegetation

The landscape proposal submitted with the application has been assessed by our Landscape Architect who raised no objection to the proposed development subject to conditions of consent being attached to any consent granted.

Part 6.8 - Vehicle Access and Parking

The minimum requirements for car parking spaces contained in Clause 14(2)(a)(ii) of the ARH SEPP override our controls for the residential component of the development. As demonstrated earlier within this report, the proposed development complies with the car parking requirements specified within the ARH SEPP.

Part 6.9 - Waste Management

The development application was referred to our Waste Service section who raised no objection in principle to the proposed development on waste management grounds subject to the imposition of conditions on any consent issued.

- **Canterbury Development Contributions Plan 2013**

The proposed development which involves two x two bedroom dwellings and three x three bedroom dwellings attracts a monetary contribution of \$65,422.52 under the Canterbury Development Contributions Plan 2013. A credit of the existing large dwellings on the site is incorporated in the calculations. The contribution fee is subject to indexing.

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. Standard conditions regarding demolition are included to the development consent.

- **National Construction Code**

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

- **Sediment and Erosion Control**

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

- **Likely Impacts of the Development**

The proposed multi dwelling development is permissible within the R3 Medium Density Residential zone. The proposal will not result in any significant environmental, social, amenity or economic adverse impacts on the locality given the following:

- The proposed development complies with the maximum building height controls stipulated within CLEP 2012 and the maximum floor space ratio provision stipulated within the ARH SEPP.

- The proposed variation to the required 5m rear setback is an anomaly and is proposed to be removed as part of the revisions to our CDCP 2012. The proposal complies with the proposed 3m rear setback provision that will be incorporated into the revised DCP.
 - Dwelling 4 does not directly align with the existing dwelling located on the adjoining property (38 Weston Avenue) and therefore the minor variation (0.5m) to the side setback control will not result in reduced solar access to the principal indoor living area of that property.
 - Despite the proposed variations to the side setback control within CDCP 2012, the proposed design will provide at least three hours of solar access to 80% of the proposed dwellings and private open space areas within the site which exceeds the minimum 70% requirement specified within the ARH SEPP. Further, the proposed development will maintain at least two hours of solar access to the existing properties located to the south, west and east of the site which complies with the minimum requires specified within Part 6.2.6 of CDCP 2012.
 - Although the private open space for dwellings 2 to 3 do not comply with the minimum 40m² requirement specified within Part 2.3.4 of CDCP 2012, the areas comply with the minimum 5m dimension requirement, are directly accessible from their associated indoor living area, will receive ample solar access in the afternoon and are able to accommodate outdoor dining, if required.
 - Appropriate window treatments have been incorporated within the design to ensure an appropriate level of privacy is provided to future residents of the site, as well as existing adjoining residential properties. Therefore, the proposed development will not result in any significant privacy impacts.
 - The proposed development comprises sufficient parking to satisfy the relevant provisions of the ARH SEPP.
 - The proposed design incorporates one adaptable dwelling and one dwelling for affordable housing which will provide for a variety of social mix within the development.
- **Suitability of Site for the development**
The site is zoned R3 Medium Density Residential under CLEP 2012. The proposed multi dwelling housing development is permissible in the subject site's current zoning. The proposal has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act 1979, and as demonstrated throughout the body of this report, the proposal generally complies our controls. The proposed variations, regarding controls relating to rear and side setbacks, garage doors, dormer windows and private open space controls have been assessed on their merit and are acceptable for the reasons outlined within the body of the report.

The Public Interest

The proposed multi dwelling development replaces an existing single dwelling and therefore better utilises an existing underutilised site by providing greater housing opportunities for the locality. The building consists of one accessible dwelling and one affordable rental housing dwelling which provides for additional and affordable residential accommodation opportunities.

The design provides a positive contribution to the locality in terms of design quality and amenity for future occupants without creating an adverse impact on adjoining land uses. The proposed development is therefore considered to be in the public interest.

Notification

The adjoining land owners were notified of the proposed development between 22 February and 7 March 2016 in accordance with Part 7 of Development Control Plan 2012. We received six submissions and one petition from 30 residences objecting to the proposal. The submissions raised the following issues of concern, which are discussed below:

- **The proposal solely comprises single dwellings and therefore it cannot constitute as infill affordable housing**

Comment

In accordance with Clause 10 of the State Environmental Planning Policy (Affordable Rental Housing) 2009, development for in-fill affordable housing applies to multi-dwelling housing. The proposal is for a multi-dwelling development where by at least 20% of the proposed gross floor area will be allocated to affordable rental housing. On this basis, the proposed development complies with the requirements for in-fill affordable rental housing in accordance with State Environmental Planning Policy (Affordable Rental Housing) 2009.

- **The proposal does not comply with front setback requirements**

Comment

The proposed development is setback 6m from the front boundary which complies with the minimum front setback requirement stipulated within Part 2.1.7(xxv) of Canterbury Development Control Plan 2012.

- **The proximity and existing natural ground level of the dwellings 4 and 5 at the rear will result in adverse privacy impacts.**

Comment

Dwellings 4 and 5 at the rear of the site comply with the maximum building height and external wall height controls stipulated within Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012. All rear dwellings comply with the rear 5m setback control with the exception of the dormer window associated with bedroom 2 of Dwelling 5 which is setback 3.46m from the rear boundary.

The 5m rear setback of single dwellings with attics is an anomaly and will be deleted as part of the modifications to our current Canterbury Development Control Plan 2012. The current control is proposed to be revised to require a 3m rear setback for single storey dwellings with attic. Therefore, the proposed 3.46m setback would comply with the 3m requirement. On this basis, the proposed development is of an appropriate design that will maintain an appropriate level of privacy to future occupants of the site and existing adjoining properties.

- **The rear fencing will require replacing which should be at the cost of the developer.**

Comment

Should any existing shared structures (i.e. fencing) be damaged, removed or destroyed during construction of the proposed development, it will be required to be replaced at the cost of the developer. This requirement will be imposed via condition of consent, should the application be supported.

- **The narrow secondary access to Grove Avenue is not to be used as a construction access**

Comment

Should the application be supported, a condition of consent will be imposed to ensure that during construction, access to the site is to utilise the existing vehicle entry point off Weston Avenue and not the secondary vehicle access point from Grove Avenue.

- **The development comprises insufficient on-site parking and therefore will result in adverse impacts on existing street parking and additional traffic along Weston Avenue.**

Comment

The application comprises affordable rental housing and is therefore assessed against the parking provisions stipulated within the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP), which requires a total of 6.5 car parking spaces on site. A total of seven at grade parking spaces are provided on site (including five x garages and two x car spaces) and therefore complies with the parking requirements. In accordance with Clause 14(2) of the ARH, Council cannot refuse a development application if it complies with the parking generation rates, in which this case the development complies.

- **The number of garbage bins to be put out for collection would provide further access implications along Weston Avenue, which is an existing narrow street.**

Comment

The application has been reviewed by our Project Officer – Resource Management of Programs and recommends that should the application be supported, a condition of consent be imposed to ensure unobstructed and unrestricted access be provided to the waste bin presentation area on collection days from 5am and that the bins must not be presented on the road. This condition will be imposed, should the application be supported, to ensure the bins do not restrict access along Weston Avenue for vehicles and waste collection vehicles.

- **The development only comprises one garbage area**

Comment

The application has been reviewed by our Project Officer – Resource Management of Programs in accordance with our waste generation rates and no concern regarding the garbage bin area proposed was revised. Should the application be supported, a condition of consent will be imposed to ensure the waste bin storage and presentation areas are to be designed and constructed in accordance with Parts 6.9.4.1 and 6.9.4.2 of the Canterbury Development Control Plan 2012.

- **The proposed development leads to an increase in noise.**

Comment

The proposed development (multi-unit dwelling development) is permissible within the zone and is generally compliant with the relevant controls. This type of development is envisaged in this area. Amenity for future residents and neighbours is required and this development does not represent an unreasonable use of this site, such that it would significantly reduce the amenity of neighbours.

- **Proposed fencing for the private open space of Dwelling 1**

Comment

The proposal does not comprise replacement of the existing fence along the western boundary and therefore the existing fence will remain. A condition of consent will be imposed to ensure that should the existing fence be damaged or destroyed during construction works, it is to be replaced at the cost of the developer.

- **What is the proposed fencing for Dwelling 4 and is it on an angle to permit adjoining residents to access the right of way.**

Comment

The proposal does not comprise replacement of the existing fence along the western and southern boundary and therefore the existing fence will remain. A condition of consent will be imposed to ensure that the existing splayed metal fence in the south-western corner of the site remains to ensure access to the existing right of way is retained.

- **The first floor windows of Dwellings 1 to 3 will result in privacy impacts on adjoining properties.**

Comment

Dwellings 1 to 3 comply with the minimum setback requirements stipulated within Canterbury Development Control Plan 2012. Notwithstanding this given the orientation of dwellings 1 to 3 and their alignment with existing dwellings on adjoining properties, a condition of consent will be imposed to ensure the first floor windows along the western elevation of Dwellings 1 to 3 have a sill height of at least 1.5m to ensure an appropriate level of privacy is provided to future occupants of the site and existing adjoining residents.

- **The existing tree within the centre of the subject site is proposed to be cut down which currently contributes to shade and oxygen production.**

Comment

The application has been considered by our Landscape Architect who supports the removal of the existing trees located on the subject site on the basis that it is replaced with 8 x 75litre Australian Native species canopy trees with a minimum mature height of 7m. This requirement will be imposed via condition of consent.

Conclusion

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant development control plans, codes and policies and has been found to be satisfactory and worthy of support. The proposed variations to the design controls relating to building depth, side and rear setbacks, width of garage doors, dormer windows and private open space, will not result in any significant adverse impact on the amenity of future occupants of the site as well as existing residents on adjoining properties. The proposed development is well designed in providing good amenity for future occupants of the subject dwellings, and minimising impacts onto neighbouring residents. As such, it is recommended that the development application be approved subject to conditions.

POLICY IMPACT

The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION

Development Application DA-45/2016 be **APPROVED** subject to the following:
PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
 - 1.1. Details of:
 - Structural Engineering Plan Building Specifications
 - Landscape Plan
 - Hydraulic Plan
 - Firewall Separation
 - Soil and Waste Management Plan
 - BASIX Certification
 - 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	\$3,328.00
Section 94 Contributions	\$65,422.52
Certificate Registration Fee	\$36.00
Long Service Levy	\$3,181.15

- 1.4. If you appoint Council as your Principal Certifying Authority, the following fees are payable:

Construction Certificate Application Fee	\$3,890.00
Inspection Fee	\$1,230.00
Occupation Certificate Fee	\$286.00

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

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

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

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

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

BEFORE COMMENCING THE DEVELOPMENT

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

INSURANCE

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

SITE SIGNAGE

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

DEMOLITION

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

- a. Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
- b. The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.
- c. Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
- d. A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
- e. Demolition of buildings is only permitted during the following hours:
7.00 a.m. – 5.00 p.m. Mondays to Fridays
7.00 a.m. – 12.00 noon Saturdays
No demolition is to be carried out on Sundays or Public Holidays.
- f. Burning of demolished building materials is prohibited.
- g. Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
- h. Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
- i. Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
- j. The capacity and effectiveness of soil and water management devices must be maintained at all times.
- k. During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
- l. A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).
- m. Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
- n. Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 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.
- 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 identified in the table below, except where amended by the conditions specified in this Notice.

Drawing Number	Drawing Title	Revision	Prepared By	Received By Council
118315	Detail and Level Survey No. 36 Weston Avenue, Narwee	-	S.J Surveying Services Pty Ltd	10 February 2016
DA01	Site Layout & Site Analysis	B	Ridge Designs	6 April 2016
DA02	Demolition Plan	A	Ridge Designs	6 April 2016
DA03	Subdivision Plan	A	Ridge Designs	6 April 2016
DA04	Ground Floor Plan	B	Ridge Designs	6 April 2016
DA05	First Floor Plan	B	Ridge Designs	6 April 2016
DA5A	Pre and Post Adaptable Unit 4	B	Ridge Designs	6 April 2016
DA06	Elevation Sheet 1	B	Ridge Designs	6 April 2016
DA07	Elevation Sheet 2	B	Ridge Designs	6 April 2016
DA08	Sections	B	Ridge Designs	6 April 2016
DA09	Fence Details and Streetscape	A	Ridge Designs	6 April 2016
-	Finishes Schedule	-	Ridge Designs	10 February 2016
1 of 2	DA Landscape Concept	-	Monaco Designs Pty Limited	6 April 2016
2 of 2	Landscape Details	-	Monaco Designs Pty Limited	6 April 2016

- 6.1 The fencing associated with the private open space area of Dwelling 1 along the frontage of the site is to be of solid material and no higher than 1.2 metres with additional 600mm being of materials that is 50% transparent (totaling maximum height of 1.8m).
- 6.2 A skylight shall be installed above the kitchen/dining room of Dwelling 5 to comply with Part 6.2.6 of the Canterbury Development Control Plans 2012. The skylight must be a minimum of 1m². Revised plans illustrating this change are to be provided to the Principal Certifying Authority prior to the issuing of a Construction Certificate.
- 6.3 The front fencing along the frontage of the site is to be of solid material and no higher than 1.2 metres with additional 600mm being of materials that is 50% transparent (totaling maximum height of 1.8m).
- 6.4 Storage area of at least 8m³ per two bedroom dwelling and 10m³ per three or more bedroom dwellings is to be provided in the development.
- 6.5 At least one dwelling is to be adaptable in accordance with the stamped plans.
- 6.6 The first floor windows along the western elevation of dwellings 1-3 are to have a minimum sill height of 1.5m.
- 6.7 The individual entry points to each dwelling is to be clearly numbered.

- 6.8 An intercom is to be installed at the main entry point of each dwelling for access control.
- 6.9 The existing splayed metal fence in the south-western corner of the site is to remain or be replaced with a similar splayed fence to ensure access to the existing right of way is retained as per existing condition.
- 6.10 Any damage or removal to the existing boundary fencing must be replaced at the cost of the developer and in a timely manner, being to the satisfaction of the adjoining property owner.
- 7. The existing right of way access to Grove Avenue is not to be used during demolition and/or construction. All deliveries, machinery and vehicle access etc is to access the site via Weston Avenue.
- 8. The layout of the proposed car parking areas associated within the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1 – 2004.
- 9. Resident and visitor car parking shall be clearly signposted at the entry to the car parking area.
- 10. Signage being erected for visitor car spaces to notify and allow people to use the designated spaces.
- 11. All bicycle spaces are to be provided in accordance with AS2890.3.
- 12. The bathroom and ensuite window(s) being translucent glass.
- 13. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area. The amount of the contribution (as at the date of this consent) has been assessed as \$65,422.52. The amount payable is based on the following components:

Contribution Element	Contribution
• Community Facilities	\$5,917.65
• Open Space and Recreation	\$57,839.81
• Plan Administration	\$166.06

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.

- 14. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
- 15. 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.
- 16. All building construction work must comply with the National Construction Code.
- 17. 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.

18. Provide a Surveyor's Certificate to the Principal Certifying Authority indicating the finished floor levels and roof to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
 19. 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."
 20. 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.
 21. 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.
 22. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
 23. 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.
 24. 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.
 25. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
 26. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
The site must be provided with a vehicle washdown area at the exit point of the site. The area must drain to an approved silt trap prior to disposal to the stormwater drainage system in accordance with the requirements of Specification S2 of Council's Stormwater Management Manual. Vehicle tyres must be clean before leaving the site.
 27. 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.
- STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009
28. In accordance with Clause 17(1) (a) of State Environmental Planning Policy (Affordable Rental Housing) 2009, a minimum of 22.7% of the floor space within the approved development (identified on the development application plans as dwelling 2) must be used for the purpose of affordable housing for a tenure of 10 years from the date of

the issue of the occupation certificate. All affordable rental housing at the site must be managed by a registered community housing provider.

29. A restriction being registered against the title of the property on which development is to be carried out, in accordance with section 88E of the [Conveyancing Act 1919](#), prior to the issue of the occupation certificate requiring that a minimum of 22.7% of the floor space (identified on the development application plans as dwelling 2) within the approved development to be used for the purposes of affordable housing for 10 years from the date of issue of the occupation certificate in accordance with Clause 17(1) (b) of State Environmental Planning Policy (Affordable Rental Housing) 2009. In this regard, the restriction shall specifically nominate those units to be allocated as affordable housing.

ENGINEERING

Prior to Construction Certificate

30. 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 10th March 2016, project number 15-36WEST-H issue E page 101, prepared by Lomford Engineers Pty Ltd.
 - b) Stormwater system must be designed to accommodate subsurface stormwater runoff from subsoil, seepage, and soil retaining structures.
 - c) All stormwater pipes that are subject to vehicular loading must be designed to withstand traffic loads in accordance with AS3500.3.2003 Table 7.1.
 - d) All stormwater pits that are subject to traffic loading must be designed to withstand traffic loading in accordance with AS3500.3.2003.
 - e) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
 - f) 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**, to allow for 50mm cover.
31. The street alignment levels 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.
32. OSD is required; three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority PCA or Canterbury City Council, if Council is not the PCA. The plans must be prepared by a 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 DCP 2012, Part 6.4.
33. 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.
34. 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) The driveway grades shall be checked by a suitably qualified engineer to be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
- c) 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.

Prior to and During Construction

- 35. 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.
- 36. 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.
- 37. A full width light duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 4 metres at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
- 38. 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.

Prior to Occupational Certificate

- 39. 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.
- 40. 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.
- 41. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1st March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.
- 42. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that Operation and Management Plans has been prepared and implemented for the OSD. The Plan must set out the following at a minimum:

- a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
- b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

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

- 43. The Operation and Management Plan for the OSD approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

PUBLIC IMPROVEMENTS

- 44. 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".
- 45. The reconstruction of the kerb and gutter along all areas of the site fronting Weston 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".
- 46. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting Weston Street is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".

SUBDIVISION

- 47. 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.
- 48. All easements required for the subdivision being shown on and registered in conjunction with the subdivision plan. In this regard, consideration should be given for the following:
 - a) An easement for roof overhang.
 - b) An easement where a component of the drainage system of one lot discharges stormwater to the other lot.
 - c) A right of carriage way for vehicular access is to be created in favour of each property over the other, of the development fronting Weston Avenue. Documents relative to this easement are to be lodged with the Land and Property Information NSW with the subdivision certificate.
- 49. The submission of one final plan of subdivision / consolidation and five copies.
- 50. The satisfactory completion of all conditions of this development consent prior to the release of the final plan of subdivision.

LANDSCAPING

- 51. The existing street tree *Melaleuca quinquenervia* (common name Broad-leafed paperbark) is to be retained and protected during demolition and construction. A tree protection zone (TPZ) of 2.5 metre radius (measured from the edge of the tree trunk) must be observed. A tree protection barrier is to be erected around the perimeter of the TPZ prior to the commencement of any site works. This barrier must be a minimum 1800mm high chain link fabric (with standard 50mm pitch) on 2400mm star pickets driven 600mm into the ground so that the fencing cannot be breached. A 600mm x 450mm prohibition sign complying with AS1319, and stating 'TREE

PROTECTION ZONE – KEEP OUT’ must be attached to the barrier. The barrier is to be well maintained during construction. No building material storage or construction activity shall be allowed to encroach within this TPZ.

52. All existing property trees may be removed to accommodate construction. This is conditional on the replacement planting of 8 x 75ltr Australian Native species canopy trees (75 litre pot size) with a minimum mature height of 7metres as shown on the Landscape Plan
53. The Maintenance Schedule period shall be 12 months.
54. The landscaping must be completed according to the submitted landscape plan (drawn by Monaco Designs, drawing no.4382-1-2, submitted to council on 6th April 2016) except where amended by the conditions of consent.
55. 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).
56. All scheduled plant stock shall be **pre-ordered**, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council’s Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
57. An automatic watering system is to be installed in common areas at the applicant’s cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer’s specification and current Sydney Water guidelines.

WASTE

58. The waste bin storage and presentation areas are to be designed and constructed in accordance with clause 6.9.4.1 and 6.9.4.2 of the CDCP.
59. Unobstructed and unrestricted access must be provided to the waste bin presentation area on collection days from 5.00am. The bins must not be presented on the road.

STREET ADDRESSING

60. Allocation of street numbers has been based on the NSW Address Policy and Rural and Urban Addressing Standard AS/NZS 4819:2011.
61. Future Street Addressing for the proposed development within DA-45/2016 is advised as follows: 36 Weston Avenue, Narwee NSW 2209.
62. All sub-property numbering must be unique and advised as follows:
1/36 Weston Avenue, Narwee;
2/36 Weston Avenue, Narwee;
3/36 Weston Avenue, Narwee;
4/36 Weston Avenue, Narwee, and;
5/36 Weston Avenue, Narwee.
The applicant is advised to contact Mapping & GIS Services to confirm Street Addressing prior to the issue of an Occupation Certificate. I can be contacted on 9789 9506 or via email: michaelcz@canterbury.nsw.gov.au.

SYDNEY WATER REQUIREMENTS

63. 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 , 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.

CRITICAL INSPECTIONS

64. 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):

- 64.1. after excavation for, and prior to the placement of any footings, and
- 64.2. prior to paving any in-situ reinforced concrete building element, and
- 64.3. prior to covering of the framework for any floor, wall, roof or other building element, and
- 64.4. prior to covering waterproofing in any wet areas, and
- 64.5. prior to covering any stormwater drainage connections, and
- 64.6. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

65. 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

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

WE ALSO ADVISE:

67. This application has been assessed in accordance with the National Construction Code.
68. 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.
69. 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
 - Smoke alarms
 - Glazing
 - Waterproofing
 - BASIX completion
70. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
71. 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.
72. 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.
73. 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.

74. 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.
75. If you are not satisfied with this determination, you may:
 - 75.1. 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
 - 75.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

[Click here for attachments](#)

- A. Locality Map
- B. Elevations

Planning Matters - 14 June 2016

ITEM 5.15	23 Willeroo Street, Lakemba - Demolition and Construction of Multi Dwelling Development with Basement Parking
FILE	DA-107/2015
ZONING	R4 High Density Residential
DATE OF LODGEMENT	13 March 2015
APPLICANT	Hamec Pty Ltd
OWNERS	Talal El Badar
AUTHOR	City Development

ISSUE

- This Development Application seeks consent to demolish the existing structures on site and construct a two-storey multi-dwelling housing development comprising five x two bedroom dwellings over a single basement level car park.
- In August 2015 the applicant filed an appeal to the NSW Land and Environment Court on the basis of a deemed refusal, before we had an opportunity to complete an assessment of the proposal.
- The matter has been to a Section 34 Conciliation Conference and amended plans were lodged with us on four separate occasions, however none addressing our Contentions. Rather than proceeding to a Hearing it has been our preference to accept a fifth set of Without Prejudice plans, which are the subject of this report.
- The amended plans were renotified which attracted no submissions.
- The amended plans retain some non-compliances to our controls, namely with respect to site width, building depth and setbacks, deep soil zones and car parking. However, these non-compliances are “point encroachments” which do not represent an overdevelopment or cumulatively impact unreasonably on the local amenity.
- It is recommended council request that the Court awards us costs to cover our legal and consultant fees in defending the appeal and review of the amended plans.
- As council is not the determining authority for this matter (the Land and Environment Court is) it is recommended that the proposal be supported, subject to our recommended conditions of consent, for the Court to determine.

BACKGROUND

- On 13 March 2015, DA-107/2015 was lodged for the demolition of existing structures on site and the construction of a two-storey multi-dwelling housing development comprising five dwellings over a single basement level for car parking.

- On 15 July 2015, after carrying out a preliminary assessment, we requested amended plans. Issues raised included non-compliance with Canterbury Development Control Plan 2012 including the number of storeys, building depth, setbacks, private open space, landscaping, car parking, internal dwelling design, housing choice, privacy, vehicular access, waste and stormwater.
- On 18 August 2015, the applicant appealed to the Land and Environment Court against the deemed refusal of this development application.
- A conciliation conference under Section 34 of Land and Environment Act was held on 4 November 2015.
- On 25 November 2015 amended plans were received but did not satisfy our contentions, primarily in relation to unacceptable bulk, setbacks, private open space, landscaping, car parking, vehicular access, waste and stormwater.
- On 7 December 2015 amended plans were received but did not satisfy our contentions.
- On 5 January 2016 a Without Prejudice meeting took place where we advised the development should comply with our height and landscape controls, and setbacks should be improved (particularly the side boundary) to allow better compliance with landscaping controls.
- On 12 January 2016 amended plans were received but did not address our concerns and we requested the application be further amended.
- On 8 February 2016 amended plans were received and were the subject of a Without Prejudice meeting on 10 February 2016, where we advised the amendments did not adequately address our concerns and that further changes were required to reduce the northern pergola to unit 5 from a heavy masonry construction to a light weight structure.
- On 7 March 2016 amended plans and additional information were received which are the subject of this report. The amendments satisfactorily address the contentions of the court proceedings and allow us to recommend to the court that we now support the proposal.

Site Details

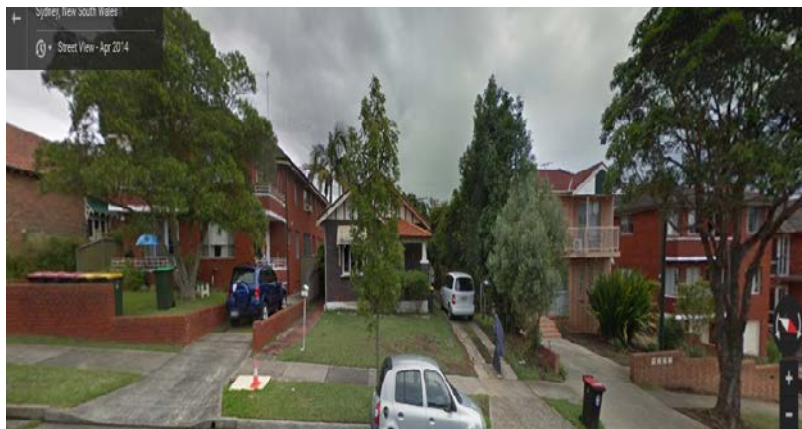
The site at 23 Willeroo Street is located on the western side of Willeroo Street between Canterbury Road and Myee Street, Lakemba. The R4 High Density Residential zoned property has a frontage to Willeroo Street of 15.24m and an overall site area 650.3m². The site is rectangular in shape with a depth of 42.67m.

The site has a cross fall of 600mm from the south-western corner to the north-eastern corner at the site's frontage to Willeroo Street. Currently on the site is a single storey brick dwelling and two detached outbuildings, which are proposed to be demolished to accommodate the multi-dwelling housing.

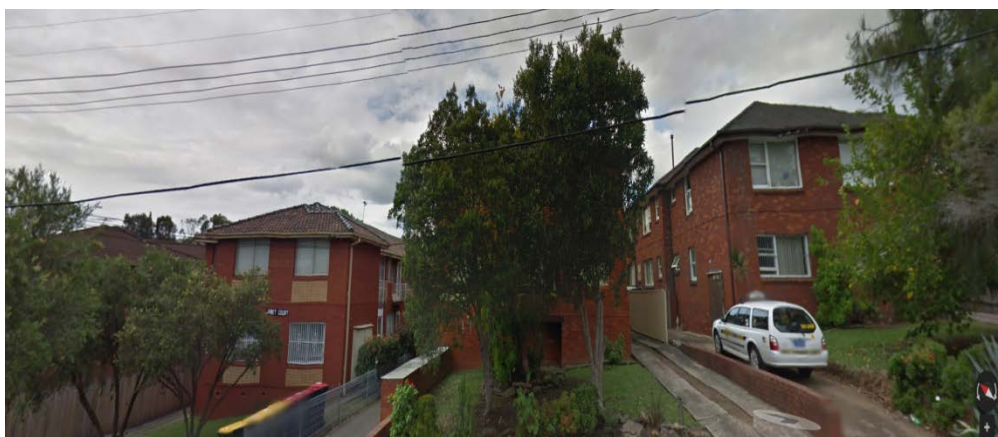


Aerial view of site

The property to the north comprises a two storey town house and the property to the south comprises a two storey residential flat building (RFB). Opposite the site are two storey older style RFBs. To the west comprises a residential flat building.



Site, view from street showing existing dwelling to be demolished
Adjoining townhouse at 21 Willeroo to the right, RFB at 25 Willeroo Street to the left



Street view of development opposite the site

Proposal

The amended proposal seeks consent to carry out the following works:

- Demolish all existing buildings on the site but retain significant trees at the rear and along the northern boundary of the site and a single street tree;

- Construct a two storey multi-dwelling housing development comprising five x two bedroom dwellings with basement car parking for six vehicles.

The following images depict the proposed south-eastern elevation facing Willeroo Street (left image) and the north-west elevation as viewed from the rear (right image). Both images show the development as currently proposed.



A more detailed breakdown of the proposal is provided in the following table:

Level	Proposed
Basement	<ul style="list-style-type: none"> • Car parking for six vehicles • Bicycle parking rack • Residential storage area for each unit • Bins storage area
Ground floor and first floor level	<ul style="list-style-type: none"> • Five x two bedroom dwellings, each comprising a master bedroom with ensuite bathroom, a study nook and a bathroom on the first floor. Open plan living, dining and kitchen, and a combined laundry and bathroom are located on the ground floor. • Pedestrian and vehicular access • Communal bin enclosure • Landscaping

Statutory Considerations

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

- State Environmental Planning Policy 55 - Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013

REPORT

Assessment

The development application has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act, 1979 as follows:

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

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

Given the history of the use of the land for non-contaminating activities, namely residential purposes, it is unlikely that the subject site would be contaminated and as such, no further investigations are required to be undertaken. It is considered that the subject premises are suitable for the proposed end use.

- **State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)**

This policy aims to facilitate the effective delivery of infrastructure, including providing appropriate consultation with relevant public authorities about certain development during the assessment process.

Willeroo Street is not a classified road and therefore does not require assessment under clause 102 of the SEPP. The subject site does not contain more than 75 dwellings and does not constitute 'traffic generating development' under Clause 104 of the SEPP.

Further, the proposal is not located adjacent to any easement for electricity purposes, does not include a pool, the placement of power lines underground or the penetration of ground within 2 metres of an underground electricity power line or an electricity distribution pole, or 10 metres from any part of an electricity tower, and does not trigger any of the requirements under this SEPP.

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

BASIX Certificate No. 600308M_02 dated 18 February 2016 accompanies this application. The Certificate makes a number of energy and resource commitments in regard to landscaping, provision of a central hot water heating system, natural lighting and thermal comfort. These commitments have been shown on the DA plans and satisfy the requirements of the SEPP.

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

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

Standard	Requirement	Proposal	Complies
Zoning	R4 High Density	Multiple dwelling development permissible with consent	Yes
FSR	0.75:1	0.69:1	Yes
Building height	8.5m	7.1m	Yes

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

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

Standard	Requirement	Proposal	Complies
Residential Neighbourhoods			
Isolation of Sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed	Neighbouring properties will not be isolated and are capable of being reasonably developed	Yes
Minimum Frontage	20m	15.24m	No – see comment [1] below
Height	Any parts of a basement or sub-floor area that project more than 1m above ground level comprise a storey	No part of the basement projects more than 1m above existing ground level	Yes
	Basement parking suitability	Basement permitted for multi dwelling housing in R4 zone	Yes
	8.5m	7.1m	Yes
	7.2m	6.01m	Yes
Depth/ Footprint	25m (max)	32.2m	No – see comment [2] below
Setbacks	Front: 6m	6m	Yes
	Side: 4m	1.1m/2m ground floor south 5.9m ground floor north 4.15m first floor	No – see comment [3] below Yes Yes
	2m - side boundaries 5m - front & rear boundaries.	Southern (side) 1m Western (rear) 4.48m Northern (side) 2.24m Western (front) 6.1m	No – see comment [4] below Yes Yes
Building separation	5m separation between buildings that are on one site	Building occupies one footprint	N/A
Deep soil	<ul style="list-style-type: none"> - Maximises deep soil for canopy planting; - Gives ground floor dwellings access to ground level courtyards; - Allows ground floor dwellings to address the street. 	<ul style="list-style-type: none"> - Maximises the amount of deep soil for canopy planting; - Gives ground floor dwellings access to ground level courtyards; - Allows front ground floor dwelling to address the street. 	Yes
Design controls			
Street Address	Clearly identifiable entries	Clear entries	Yes
	Easily identify the main entrance	Main common and alternate entries to ground floor where appropriate	Yes
	Living room windows should face the street	Windows facing street	Yes
	Provide slight lines between the site and the public domain.	No obstruction to views to the street	Yes

Standard	Requirement	Proposal	Complies
Façade Design and Articulation	Avoid long flat walls; indentations minimum 1m to “break up” the building; use appropriate external finishes.	Indentations are 0.9m south 1.3m north Suitable external finishes are used.	No – see comment [5] below Yes Yes
Roof Design	No steep pitched roofs. Emphasise building articulation with shape and alignment of roof.	Shallow roof pitch proposed, roof design articulated by north and south facing smaller hipped sections	Yes
Roof form	Roof design should reflect the street address and orientation	Roof design relates to building and site orientation	Yes
Fences	Side fences 1.8m Fences forward of building line 1.2m. Screen walls around private open space may be up to 1.8m provided screens are 50% transparent.	1.8m side, rear fence 1.8m front fence for courtyard of Unit 1. Condition to comply with 50% transparency.	Yes Yes – subject to condition
Service and Utility Areas	Integrated into the design of development and are not visually obtrusive. Unscreened appliances not to be visible from the street, communal area or driveway on the site (air con. units behind balustrades, screened recesses for water heaters, meters in service cabinets).	Service and utility areas integrated into the design of the development (i.e. air con, hot water units adequately screened), garbage bins screened. A condition of consent to enforce this requirement.	Yes
Clothes Drying	Provide suitable clothes drying facilities	Clothes drying facilities provided and screened	Yes
Mailboxes	Locate mailboxes in an appropriate but easily accessible location	Mailboxes discretely located at the front of the property	Yes
Performance controls			
Visual Privacy	Locate and orientate new developments to maximise visual privacy between buildings – if preferred orientations are not achievable use high sill windows or <600mm wide	Privacy mitigation measures have been incorporated into the design or by locating window sills to 1.6m above floor level. South-facing windows serving stairways are elongated vertically but do not create privacy issues by virtue of wall indentations and transitory use of these internal stairs	Yes
Open Space	40m ² per dwelling	All units achieve a private open space of least 40m ²	Yes
Internal Dwelling Space and Design	Primary living areas and principal bedrooms minimum width 3.5m	All main bedrooms are 3.5m wide	Yes
	Secondary bedrooms minimum width 3m	All secondary bedrooms are 3m wide	
	Minimum 8m ³ storage per dwelling	11m ³ storage per dwelling provided in basement	Yes

Standard	Requirement	Proposal	Complies
Housing Choice	10% of dwellings to be provided as accessible or adaptable units to suit residents with special needs	One dwelling provided as accessible. Impose as a condition of consent.	Yes
Climate and Resource Efficiency			
Daylight and sun access	At least two hours of sunlight between 9.00am and 3.00pm on 21 June should be received daily by indoor living areas and at least half of the principal area to each dwelling's private open space.	All dwellings enjoy northern elevation living room windows that permit suitable solar penetration	Yes
	At least two hours sunlight between 9.00am and 3.00pm on 21 June shall be retained for existing indoor living areas and at least 50% of the principal portion of existing private open space on adjoining property	All dwellings enjoy north facing private open space	Yes
Ventilation	Natural cross ventilation to 60% dwellings	100%	Yes
	Natural ventilation to 25% of kitchens	100%	Yes
Crime Prevention			
Avoid blind corners	Avoid blind corners in pathways, stairwells, hallways and car parks.	Blind corners avoided, unit 4 discrepancy identified	No – see comment [6] below
Entry Points	Provide clearly visible entries	Entries clearly visible	Yes
Fencing	Fencing to be open in design to maximise natural surveillance	Front fence is open style and will be conditioned to reinforce	Yes
Lighting	Entrances and pathways to be well-lit after dark	To be imposed as conditions of consent	Yes
Parking and Vehicle Access			
Resident Parking	1.2 spaces per 2 bed unit (six spaces total required including one to be common property)	Five spaces provided	No – see comment [7] below
Visitor Parking	One space per five dwellings	One space provided	Yes
Bicycle Parking	Residents: One space per five dwellings (one space required) Visitors: one space per ten dwellings (one space required)	Adequate space within the basement has been allocated to accommodate two bicycle parking spaces	Yes

As demonstrated in the table above, the proposal generally complies with the relevant controls in CDCP 2012 with the following exceptions that are discussed below.

[1] Minimum Frontage

The site has a frontage of 15.24m as opposed to the minimum requirement of 20m, which represents a 23.8% departure. This site is deemed to be isolated due to it being “sandwiched” between a two storey Residential Flat Building and a two storey multi-unit development and cannot be consolidated with either adjoining property to achieve the site width required by our DCP.

The objectives of this control are to ensure there is adequate garden area around dwellings and adequate vehicle access and parking. The proposal achieves the minimum requirements for private open space per dwelling, and satisfies the requirements for access and provides a high level of amenity for future occupants without unreasonable loss of amenity (such as from overlooking or overshadowing) to neighbours.

The proposal constitutes a reasonable response to the site with no detrimental impacts to adjoining properties or the streetscape.

[2] Depth/ Footprint

The proposal has a depth of 32.2m where a maximum 25m control applies. The objectives for depth/footprint are to promote improved levels of residential amenity and preserve sunlight, privacy and general amenity, and to ensure that new buildings have a scale and mass that is visually compatible with the desired character of the zone. It is noted that a depth of 35m would be permissible if 6m x 6m deep soil courtyards were provided along the side boundaries, which is not achieved by this development.

The dwellings comprise good residential amenity achieved by generous floor to ceiling heights at ground floor level, dual frontages to enhance solar access and cross-flow ventilation, and privacy is achieved using high sill level windows. The proposal also suitably preserves sunlight to adjoining properties. The scale and mass of the proposal is visually compatible with the surrounding built environment, and is easily absorbed into the existing urban fabric.

[3] Setbacks

The building is setback between 1.1m and 2m on the ground floor, and 2m to 2.4m on the first floor from the southern boundary, representing a departure of 40% to 72.5%. On the north side of the development the setbacks vary from 4.6m on the ground floor to 4.2m on the first floor, which comply. The objectives for setbacks seek to contribute to the green landscape by retaining adequate space for new trees and conserving any existing trees that are visually prominent, and to provide sufficient separation between buildings to limit the visual, environmental and the likely impacts of new development.

Although the setback of the building from the southern side boundary does not comply numerically, the objectives are achieved in that new planting (including Lilli Pillis obtaining a height of 6m) are to be established along this side boundary.

The setback of the proposal results in shadows being cast on the lower level of the adjoining property between 12pm and 3pm in mid-winter. However, the submitted shadow diagrams show a minimum three hours of sunlight is received to the north-facing windows on this property in mid-winter and comply with our solar access controls. In visual terms, the appearance of bulk of the proposal when viewed from the south is satisfactorily reduced by modulating the façade, and using fenestration to 'break up' the spanse of wall. The setback of the proposal satisfies the objectives of our setback controls.

[4] Deep Soil

The southern (side) and western (rear) basement setbacks do not achieve the minimum required deep soil zones. A 1m south side setback represents a 50% departure to the control, and the 4.48m western setback represents a 10.4% departure. At the rear of the property adequate landscaping is being retained so as to achieve a reasonable dominance of landscaping, and the new planting along the southern boundary also achieves reasonable provision of deep soil for Lilli Pillis to achieve a mature height of 6m. This landscaping will soften the appearance of the building and satisfies our controls for deep soil.

[5] Façade Design and Articulation

The proposed indentations along the north boundary comply at 1.3m, however are limited to 0.9m along the southern wall. Despite being less than the 1m guideline, the 0.9m indentation successfully modulates the façade vertically and produces a roofline variation which further modulates the form. The indentation is located centrally to the building which increases the visual effectiveness of this architectural measure, and overall successfully reduces the appearance of bulk.

[6] Avoid blind corners

The pedestrian entry from ground level to the basement accessed from the southern side of the building protrudes 0.6m from the main footprint of the building and provides a blind spot within the site where an intruder may hide and surprise an occupant arriving home. As the indentation is necessary for the purposes of architecturally modulating the building, a condition of consent is included to require a convex mirror within the landscape adjoining the front door of unit 4 so as to eliminate the blind corner.

[7] Resident Parking

The development provides basement parking for up to six cars – five resident parking spaces, (one space per dwelling) and one visitor space. The DCP requires six resident parking spaces (1.2 spaces per two bedroom dwelling) and one visitor car space. On this basis resident parking provisions are deficient by 16% by not providing an additional car space that would be allocated to common property for shared use by all residents.

Although it would be preferable that the proposal provides all six spaces, each dwelling would have one space which is considered a suitable quantum of parking for this small development. The site is within walking distance of public transport, being 1km from the train station (14 minutes walk) and some 200 metres from buses on Canterbury Road.

While it remains open to us to stay opposed to this development based on this non-compliance with our DCP, our successful defence on this ground alone is considered difficult.

Part 6.4 – Development Engineering Flood and Stormwater

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

Part 6.6 – Landscaping

The application has been reviewed by our Landscape Architect and was found to satisfy the requirements of Part 6.6 of the CDCP 2012. Conditions relating to landscaping have been recommended.

Part 6.7 – Preservation of trees and vegetation

Our Landscape Architect has assessed the proposal in relation to all trees to be retained (trees numbered 7 to 10 and 12 to 16 along the northern boundary and rear of the site respectively), and the street tree, and has placed conditions regarding their protection during the course of construction.

Part 6.8 – Vehicle Access and Parking

The quantum of parking on site has been addressed in the Residential Neighbourhoods section of this report and is considered to be satisfactory.

Part 6.9 – Waste Management

The application has been reviewed by our Waste Services Coordinator and was found to satisfy the requirements of Part 6.9 of the CDCP 2012.

- **Canterbury Development Contributions Plan 2013**

The proposal seeks consent to demolish a dwelling house and erect five two bedroom units. These new dwellings attract a development contribution of \$49,847.13. A condition of consent will apply for these fees to be paid.

Other Considerations

- **National Construction Code**

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

- **Proposed Excavation Works**

The proposed development involves excavation of approximately 4m and construction works in close proximity to the neighbouring property to the south. It is recommended that a condition be imposed that requires the submission of a report by an accredited engineer detailing the structural adequacy of the adjoining property at 25 Willeroo Street to withstand the excavation works proposed.

An additional condition requiring the applicant to provide a dilapidation report for the adjoining properties (21 Willeroo Street and 25 Willeroo Street) prior to the issue of the Construction Certificate is also recommended. Should any damage to adjoining properties result from the proposed excavation works at the subject site, the applicant will be required to rectify all damages.

- **Sediment and Erosion Control**

Standard conditions are included regarding the installation and maintenance of the sediment and erosion control measures as part of the pre and during construction phase of the development.

- **Likely Impacts from the Development**

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

Despite these non-compliances the building is designed in such a way that the shadow it casts onto the southern adjoining property still allows the neighbour to enjoy good access to mid-winter sun. The first floor is occupied by bedrooms, which are not considered to be habitable rooms, and there are no balconies that overlook the neighbours property.

Given the overall treatment of the building its impact, despite some non-compliance from our DCP, is reasonable.

- **Suitability of the site for this development**

The site is located within a high density residential zone. The proposed development is permissible in the subject site's current zoning. The proposal has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act, 1979 and, as demonstrated throughout this report, despite some departures from our DCP, does not represent an unreasonable loss of amenity to neighbours. The application has been assessed by our officers and the issues the original design posed have now been satisfied by way of amended plans to the extent that the proposal is now worthy of support. Despite the narrow site width and minor non-compliances with some of our controls, the overall design response is suitable for this site.

- **The Public Interest**

The public interest was taken into consideration whilst assessing this development application. It is considered that the current proposal, subject to conditions, will not have a negative impact on the residential amenity of the neighbourhood and is therefore considered to be acceptable.

Notification

The development application was notified to all adjoining land owners and occupiers in accordance with Part 7 of the Canterbury Development Control Plan 2012 and no submissions were received. Following the appeal being lodged with Land and Environment Court and the submission to us of this current version of amended plans, the amended development was renotified. During this renotification period 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 codes and policies.

The development application has been "deemed refused" by the applicant and is the subject of an appeal to the Land and Environment Court. We have engaged in a Conciliation Conference as part of the appeal and the applicant has provided amended "without prejudice" plans, which are the subject of this report.

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

While it remains open to us to stay opposed to this development based on its minor departures from our Development Control Plan, our successful defense of the appeal on these grounds would be difficult.

It is recommended that we support the current design and resolve to enter into a S34 Agreement with the applicant permitting the Court to issue a consent subject to the following conditions.

POLICY IMPACT

The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION

- A. Council request the Land and Environment Court to award us costs.
- B. Council enter into a S34 Agreement with the applicant and the Court be advised that the following conditions of consent are to be imposed should development application DA-107/2015 be approved:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- 1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
 - 1.1. Details of:
 - Structural Engineering Plan
 - Building Specifications
 - Fire Safety Schedule
 - Landscape Plan
 - Hydraulic Plan
 - Firewall Separation
 - Soil and Waste Management Plan
 - BASIX Certification
 - Ventilation of basement in accordance with AS 1668.2
 - One dwelling being made adaptable
 - 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	\$3,328.00
Section 94 Contributions	\$49,847.13
Certificate Registration Fee	\$36.00
Long Service Levy	\$4503.45

- 1.4. If you appoint Council as your Principal Certifying Authority, the following fees are payable:

Construction Certificate Application Fee	\$5,024.00
Inspection Fee	\$1,785.00
Occupation Certificate Fee	\$492.00

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.

BEFORE COMMENCING THE DEVELOPMENT

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

INSURANCE

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

SITE SIGNAGE

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

DEMOLITION

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

- (a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
- (b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.
- (c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
- (d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
- (e) Demolition of buildings is only permitted during the following hours:
 7.00 a.m. – 5.00 p.m. Mondays to Fridays
 7.00 a.m. – 12.00 noon Saturdays
 No demolition is to be carried out on Sundays or Public Holidays.
- (f) Burning of demolished building materials is prohibited.
- (g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
- (h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
- (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
- (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
- (k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
- (l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).
- (m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
- (n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 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.
- (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 following plans, specifications and details except where amended by the conditions specified in this Notice.

Drawing No.	Revision No.	Prepared By	Dated	Date Received
14-131 Sheet No 01	F	Hamec	February 2016	7 March 2016
14-131 Sheet No 02	F	Hamec	February 2016	7 March 2016
14-131 Sheet No 03	F	Hamec	February 2016	7 March 2016
14-131 Sheet No 11	F	Hamec	February 2016	7 March 2016
14-131 Sheet No 12	F	Hamec	February 2016	7 March 2016
C01-A	C	Leading Engineers	25 February 2016	7 March 2016
C02-A	C	Leading Engineers	25 February 2016	7 March 2016
C03-A	C	Leading Engineers	25 February 2016	7 March 2016
LD 01	C	Kerrie Allsop	February 2016	7 March 2016

- 6.1. The northern pergolas must be a light weight (eg: timber) structure and not masonry. Details must be shown on the Construction Certificate plans.
- 6.2. Fences within the front boundary must not exceed 1.2 metres, except the screen wall for the courtyard for Unit 1 which may be up to 1.8 metre high provided it incorporates screens with 50% transparency.
7. 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.
8. 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 \$49,847.13. The amount payable is based on the following components:

Contribution Element	Contribution
• Community Facilities	\$4,508.85
• Open Space and Recreation	\$44,068.57
• Plan Administration	\$1,269.71

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.

9. Six (6) off-street car spaces and two (2) bicycle parking spaces being provided in accordance with the submitted plans. This will comprise:

- 9.1. Five (5) residential car parking spaces
- 9.2. One (1) visitor car parking space
- The car spaces being allocated and marked according to this requirement. The carpark layout must respect the above allocation.
10. Signage being erected for visitor car spaces to notify and allow people to use the designated spaces.
11. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
12. 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.
13. All building construction work must comply with the National Construction Code.
14. 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.
15. Provide a Surveyor's Certificate to the Principal Certifying Authority indicating the finished floor level and roof to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
16. 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."
17. 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.
18. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
19. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
20. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.
21. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
22. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
23. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.

24. 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.
25. A single entry/exit point must be provided to the site which will be constructed of a minimum of 40mm aggregate of blue metal or recycled concrete. The depth of the entry/exit point must be 150mm. The length will be no less than 15m and the width no less than 3m. Water from the area above the entry/exit point shall be diverted to an approved sediment filter or trap by a bund or drain located above.

DILAPIDATION AND EXCAVATION

26. A report prepared by an accredited engineer including the method of shoring during excavation and detailing the structural adequacy of No. 25 Willeroo Street to withstand the excavation works shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.
27. 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.
28. The applicant shall prepare a Dilapidation Report/photographic survey prepared by an appropriately qualified consultant for adjoining properties, 21 and 25 Willeroo Street, Lakemba detailing the physical condition of the property, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items and 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.
29. 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.

CRIME PREVENTION

30. Convex mirrors are to be provided to eliminate the blind corner leading to the front door of unit 4.
31. The basement car park shall be painted the colour 'white'. This measure will increase lux levels and light reflection.
32. The site shall be treated with anti-graffiti paint to deter graffiti offenders targeting the building and its perimeter. This will preserve the building and increase a sense of maintenance and ownership of the site.
33. The storage units located in the vicinity of the car spaces shall be fully enclosed and non-visible. This measure will deter potential offenders from breaking in as they are unable to see what contents (reward) is inside the storage unit.

34. Directional signage shall be provided throughout the development. The signage should be clear, legible and useful, to aid people in finding their way throughout the area.

WASTE

35. The waste bin storage area is to be designed and constructed in accordance with clause 6.9.4.1 and 6.9.4.2 of Canterbury Development Control Plan 2012.
36. Unobstructed and unrestricted access must be provided to the waste bin storage area on collection days from 5.00am. The bins must not be presented on the road.

ENGINEERING

37. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The submitted design must be amended to make provision for the following:
- 37.1. The design must be generally in accordance with the plans, specifications and details received by Council on 7 March 2016; project number 1441 drawing number C03-A and C02-A revision C, prepared by Leading Engineers.
 - 37.2. The Onsite Detention System volume must be increased by 10%, and the Orifice plate opening must not exceed 75mm Diameter.
 - 37.3. Stormwater system must be designed to accommodate subsurface stormwater runoff from subsoil, seepage, and soil retaining structures.
 - 37.4. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
 - 37.5. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
 - 37.6. 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.
38. OSD is required; three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority PCA and Canterbury City Council, if Council is not the PCA. The plans must be prepared by a 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 DCP 2012, Part 6.4.
39. 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.
40. The street alignment levels 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.
41. The submitted layout plans provide an option that potentially utilises neighbouring properties and the roadway for support. The legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged Canterbury City Council prior to the issue of a Construction Certificate. Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent.

Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.

Where temporary anchors are proposed to be used in Willeroo Street an Application must be made to Canterbury City Council for approval under Section 138 of the Roads Act 1993, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- 41.1. Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.
- 41.2. Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
- 41.3. The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
42. Where rock anchors or other temporary retaining measures are to encroach on adjoining properties, including the roadway, the Principal Certifying Authority must ensure that the permission of the relevant landowner has been obtained. In this regard a copy of the owner's consent for private property and Section 138 Approval pursuant to the Roads Act for roads must be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.
43. 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:
 - 43.1. 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.
 - 43.2. The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
 - 43.3. 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.
 - 43.4. All gates if any must be inward opening within its own boundary, and must not obstruct the pedestrian pathway.
 - 43.5. A longitudinal section along the worst case outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
 - 43.6. The maximum gradient of the associated access driveway across a property line shall be 1:20 (5%) for at least 6m as per Australian Standard AS 2890.1 - 2004 Section 3.3(a). Note: the proposed driveway entry must maintain the existing boundary level.
 - 43.7. The Engineer must certify that the access and parking complies with current Australian Standards including AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking, AS 2890.2-2002 Parking Facilities - Off-Street commercial vehicles facilities, AS/NZS 2890.6-2009 Off-street parking for people with disabilities and AS 2890.3-1993 Parking Facilities - Bicycle parking facilities.

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.

ENGINEERING - PRIOR TO AND DURING CONSTRUCTION

44. 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.
45. If Groundwater is encountered, it must not be captured by the drainage system of the basement. In this regard the basement must be tanked to at least 1000 mm above measured groundwater levels.
46. 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.
47. A full width heavy duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 3.7metres at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
48. 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.

ENGINEERING - PRIOR TO OCCUPATIONAL CERTIFICATE

49. 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.
50. 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.
51. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1st March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.
52. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that Operation and Management Plans has been prepared and implemented for the OSD and basement pump out facilities. The Plan must set out the following at a minimum:
 - 52.1. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
 - 52.2. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

The Plan must be prepared by a suitably qualified professional and provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.
53. The Operation and Management Plan for the OSD and basement pump out facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

PUBLIC IMPROVEMENTS

54. 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".
- 54.1. The reconstruction of the kerb and gutter along all areas of the site fronting Willeroo Street 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".
- 54.2. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting Willeroo Street is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".

LANDSCAPING

55. The landscaping must be completed according to the submitted landscape plan (drawn by Kerrie Allsop Landscape Design, drawing no. HA/14 LD01 issue C, submitted to council on 7 March 2016) except where amended by the conditions of consent.
56. 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).
57. All scheduled plant stock shall be **pre-ordered**, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
58. An automatic watering system is to be installed in common areas at the applicant's cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer's specification and current Sydney Water guidelines.
59. The existing street tree is to be retained and protected during demolition and construction. A tree protection zone (TPZ) of 2 metre radius (measured from the edge of the tree trunk) must be observed. A tree protection barrier is to be erected around the perimeter of the TPZ prior to the commencement of any site works. This barrier must be a minimum 1800mm high chain link fabric (with standard 50mm pitch) on 2400mm star pickets driven 600mm into the ground so that the fencing cannot be breached. A 600mm x 450mm prohibition sign complying with AS1319, and stating 'TREE PROTECTION ZONE – KEEP OUT' must be attached to the barrier. The barrier is to be well maintained during construction. No building material storage or construction activity shall be allowed to encroach within this TPZ.
60. Existing property trees 7 – 10 and 12 - 16 as notated on the Landscape Plan are to be retained and protected during construction. A suitable 1 metre radius 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.
61. All other existing property trees may be removed to accommodate construction.

62. The proposed planting to all podium levels should comply with the following as required in the CDCP 2012 Part 6.6: Landscape: Raised planters:
- Use masonry or concrete construction;
 - Provide drainage for each planter box, and coordinate drainage details with hydraulics plan; and
 - Provide waterproofing to each planter box.

Minimum soil depth:

- 100-300mm for turf
 - 300-450mm for groundcovers;
 - 500-600mm for small shrubs;
 - 600-750mm for medium shrubs;
 - 750-900mm for small trees with approximate soil area of 3.5m x 3.5m;
 - 1000mm for medium trees with approximate soil area of 6m x 6m; and
 - 1300mm depth for large trees with approximate soil area of 10m x 10m.
63. An amended landscape plan to address the issues outlined below is to be submitted to Council or the certifier prior to the issue of the Construction Certificate:
- 63.1. Amend the plan so that all new canopy trees are a minimum 75litre pot size and are planted in garden beds rather than turfed areas.
- 63.2. The landscape plan is to include adequate soil depths to all on podium beds and raised planter boxes and provide this information on the plan.
- Provide a Construction Details including:
- 63.3. Standard constructions and details drawings (eg. Sections through mass planting beds, tree planting and mulching details, paths, steps and retaining walls and planting on podium)
- 63.4. Detailing and location of edge treatments (e.g. Concrete, brick, timber).
- Provide a Maintenance Schedule including:
- 63.5. replacement strategy for failures in plant materials and built works,
- 63.6. maintenance schedule for watering, weeding and fertilizing during the establishment period
- 63.7. A maintenance period of 12 months is to be specified for this application. During this maintenance period, the landscaping must be maintained in accordance with the details specified on the submitted landscape plan.

SYDNEY WATER REQUIREMENTS

64. 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, 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.

CRITICAL INSPECTIONS

65. Class 2, 3 or 4 Buildings
- 65.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 65.2. prior to covering any stormwater drainage connections, and

65.3. 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

65.4. prior to covering any stormwater drainage connections, and

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

66. 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

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

WE ALSO ADVISE:

68. This consent does not permit the subdivision of the property, as it was not proposed as part of the Development Application. The subdivision of the development must be the subject of a fresh Development Application.
69. This application has been assessed in accordance with the National Construction Code.
70. 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.
71. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
 - Air handling systems
 - Final fire safety certificate
 - Glazing
 - Waterproofing
 - BASIX completion
72. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
73. 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.
74. 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.
75. 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.
76. 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.

ATTACHMENTS

[Click here for attachments](#)

- A. Locality Plan
- B. Elevations

Planning Matters - 14 June 2016

ITEM 5.16

**Independent Hearing and Assessment Panel Report - 2
May 2016**

AUTHOR

City Development

ISSUE

The adoption of the Independent Hearing and Assessment Panel (IHAP) report and recommendations of 2nd May 2016.

REPORT

**Report of the Independent Hearing & Assessment Panel meeting, held in the Function Room,
137 Beamish Street, Campsie on 2 May 2016**

Present

Mr Anthony Hudson (Law) - Chairperson
Mr Lloyd Graham (Town Planning)
Ms Stacey Miers (Social Science)
Dr Ian Garrard (Environmental Science)
Mr Roger Hedstrom (Urban Design/Architecture)

Staff in Attendance

Ms Chauntelle Mitchell (Administration Officer - IHAP)
Mr Brad McPherson (Group Manager Governance, not present for the closed session)
Mr Andrew Hargreaves (Team Leader - Development Assessment Operations, not present for the closed session)

The meeting opened at 6.00 p.m.

Introduction

The Chairperson welcomed all those present and explained the functions of IHAP and that the recommendations made at this meeting would be referred to the City Development Committee for determination.

Declarations of Interest

The Chairperson asked the Panel if any member needed to declare a pecuniary interest in any of the items on the agenda. There were no declarations of interest.

1 75-83 SECOND AVENUE, CAMPSIE: DEMOLITION AND CONSTRUCTION OF A PART THREE/PART FOUR STOREY RESIDENTIAL FLAT BUILDING WITH BASEMENT

IHAP Recommendation

THAT Development Application DA-239/2015 be **APPROVED** in accordance with the recommendation of the Director City Planning, subject to the following changes to the proposed conditions:

1. Insert new condition as follows:
“6.4 The pedestrian entry to units G08 and Unit 11 (the two ground floor units in the south western corner) be reconfigured to open directly to Second Avenue.”
2. Amend condition 22 by replacing the words from “adjacent to the northern property” to “Second Avenue, Campsie,” in first sentence with the following words:
“at 85 Second Avenue, Campsie, adjacent to the northern boundary of the subject site and the units at 69-73 Second Avenue, Campsie, adjacent to the southern boundary of the subject site,”
3. Amend condition 26 by inserting the words “in Condition 25” after the words “E22-23 as listed above” in the first sentence.
4. Amend condition 28 by inserting the following dot points after the first dot point:
 - “● Establishment of the clear identification of the trees to be removed prior to any tree removal,
 - Attendance on site during all tree removal work to oversee the protection of the trees to be retained,”
5. Amend condition 29 by replacing the words from “, is conditional on their replacement with 34 (minimum) trees” in the first sentence to the end of the final sentence with the following words:
“in Condition 25, is conditional on their replacement with 20 (minimum) canopy trees as per the Landscape Plan (drawn by BioDesign, drawing no. SA-LP02 revision A sheets 1-3, submitted to Council on 19 February 2016).
 - Establishment of the clear identification of the trees to be removed must be carried out on site by the Project Arborist prior to any tree removal.
 - The Project Arborist must be in attendance on site during all tree removal work to oversee the protection of the trees to be retained.
 - The tree removal work shall be carried out by an experienced tree surgeon in accordance with the NSW WorkCover Code of Practice for the Amenity Tree Industry (1998).
 - All care shall be taken to cause no damage to other trees during the felling operation.”

Vote: 5 – 0 in favour

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Public Addresses

Mr Gabriel Cheung (objector)	<ul style="list-style-type: none">• Represents the six owners of townhouses adjacent to the northern boundary of the subject development.• Has concerns regarding noise resulting from the proposed development as their complex has young families. Is of the view acoustic privacy and deep soil controls should be adhered to.• Notes the proposed development does not comply with FSR, noting it exceeds the control by 14%.• Notes the building does not comply with the building height control, noting the permissible height is 11.5m and the proposed building height is 12m. Does not believe the proposed building is in keeping with the streetscape in terms of height or materiality.• Requests a dilapidation report for their property is carried out prior to and following construction of the proposed development.• Concerned that proposed trees for the development cross the northern boundary.• Responded to questions from the Panel in relation to:<ul style="list-style-type: none">- Previous structural issues relating to their property;- Concerns regarding FSR non-compliance: He advised the residents he represent are concerned the proposed development will result in an increase in noise, especially from balconies facing their complex;- Use of Council reserve: He noted the reserve is not open to the public.
Mr Farah Georges (Architect representing applicant)	<ul style="list-style-type: none">• Applicant's representative replied to issues raised by objectors as follows:<ul style="list-style-type: none">- Privacy: Notes proposed development complies with Apartment Design Guide setbacks and was redesigned to retain significant trees. The proposed building was designed to minimise impact on adjoining neighbours and provide good amenity for residents, including orientation of living areas, recessed living areas and highlight windows. Is of the view the design offers a reasonable response to the environment.- Bulk: Is of the view the building has an appropriate aesthetic quality and materiality, noting materials selected result in less waste and low maintenance. Articulation of building elements breaks down the scale of the building.- Noise: Refer to privacy commentary.- FSR: Notes the design retains significant trees and is of the view the increased FSR does not result in additional impacts.

	<ul style="list-style-type: none"> • Responded to questions from the Panel in relation to: <ul style="list-style-type: none"> - Number of trees retained in initial design; - Bulk; - Materiality; - Possible retention of tree E21, applicant's representative advised to save the tree correctly would affect three units, requested if the tree is retained the units are replaced, possibly on the western elevation. In which case requested a deferred commencement approval is considered; - Clarification of canopy of tree E21 as the canopy extent marked on the site plan and landscape plan differ. • Raised no objection to Panels proposed conditions in relation to the following: <ul style="list-style-type: none"> - Reconfigure Unit 11 and G08 so that the pedestrian entry opens to Second Avenue; - Replacement trees planted in Council reserve.
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Panel Assessment

The Panel agrees with the recommendations of the report. One matter of concern to the Panel was the number of mature trees on the site which the Panel notes was also a consideration in the Council Officer's report. Of particular concern was tree 21 and whether this tree could be retained.

There was discussion with the applicant who indicated it may be possible to consider the retention of this tree subject to redesign which would involve alterations to units and redistributing the floor area to the front of the site with an increase to the number of levels. Further consideration by the Panel indicated that it would be necessary to carry out significant changes to the carpark (especially if the root zone of the tree was larger than what is shown on the landscape plan).

Importantly the Panel noted the Council's landscaper's comments from the file and the additional conditions that have been imposed to pick up the offer of the applicant for an increased planting of up to twenty (minimum) canopy trees (see condition 29) primarily at the rear of the site. This is part of the suite of additional landscaping conditions that have been recommended by the landscaper in conditions 25-36 (as amended) and this is supported by the Panel.

There were two other suggested changes first to the pedestrian entryway to the southern units G08 and Unit 11 which the applicant's Architect agreed could be a condition of consent and secondly a dilapidation report for the units immediately to the south of the subject site at 69-73 Second Avenue, Campsie.

2 135-141 PENSHURST ROAD, NARWEE: DEMOLITION AND CONSTRUCTION OF SHOPTOP HOUSING DEVELOPMENT CONTAINING BASEMENT PARKING, COMMERCIAL TENANCIES AND RESIDENTIAL APARTMENTS

IHAP Recommendation

THAT Development Application DA-200/2015 be **APPROVED** in accordance with the recommendation of the Director City Planning, subject to the following changes to the proposed conditions:

Add additional conditions as follows:

1. "5.8 That part of the southern wall of the retail area, from the eastern edge and 6 metres to the west is to be converted to a glazed area."
2. Amend condition 39, insert additional points as follows:
 - "(c) Additional details for the rooftop communal open space area to include communal facilities, canopy areas and planting areas.
 - (d) All the paving shown in the landscaping plan is to be shown as "new" paving."
3. Add additional condition as follows:

"40A Prior to the issue of the Occupation Certificate a works as executed plan and appropriate certification from an appropriately qualified landscaper to be submitted to the certifying authority showing that the landscaping works have been carried out in accordance with the landscaping plans and requirements of this consent."

Vote: 5 – 0 in favour

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Public Addresses

David Benson (Applicant/ Architect) and Mr Gerard Turrisi (Town Planner)	<ul style="list-style-type: none">• Responded to questions from the Panel in relation to:<ul style="list-style-type: none">- Cost of landscaping in pedestrian lane (Wyatt Parade) to be borne by developer and replacement of street paving, opportunities for street trees, knowledge of future proposals to the south of the development, materiality of screening elements and treatment of blank walls exposed to view from the public domain.• Raised no objection to Panels proposed conditions in relation to the following:<ul style="list-style-type: none">- Incorporation of glazing to part of the southern wall of the retail area;- Including details of rooftop communal areas in drawings.
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Panel Assessment

The Panel agrees with the recommendations of the report with a few minor changes. In particular the Panel recommends changes to the conditions to incorporate:

- a) providing a window or glass area to part of the retail area near the entranceway;

- b) provide additional details to the rooftop area and a condition making it clear that all the landscaping including the landscaping on the laneway is to be carried out and finalised prior to the occupation certificate.

The meeting closed at 7.46 p.m.

RECOMMENDATION

That -

1. The recommendation of the Independent Hearing and Assessment Panel Report – 2 May 2016 in relation to Development Application DA-239/2015 be adopted and Development Application DA-239/2015 be approved subject to the conditions included in Attachment A.
2. The recommendation of the Independent Hearing and Assessment Panel Report – 2 May 2016 in relation to Development Application DA-200/2015 be adopted and Development Application DA-200/2015 be approved as a DEFERRED COMMENCEMENT consent subject to the conditions included in Attachment B.

ATTACHMENTS

[Click here for attachments](#)

- A. IHAP Recommendation - 75-83 Second Avenue, Campsie
- B. IHAP Recommendation - 135-141 Penshurst Road, Narwee

6 REPORT OF THE GENERAL MANAGER

The following items are submitted for consideration -

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Report of the General Manager - 14 June 2016

ITEM 6.1 **Stronger Communities Fund & New Council Implementation Fund**

AUTHOR **Office of the General Manager**

ISSUE

The purpose of this report is to:

- Outline the NSW Governments allocation of funding to Canterbury- Bankstown Council under the Stronger Communities Fund and New Council Implementation Fund;
- Provide some broad background/understanding on how the funds may be utilised; and
- Outline a suggested way forward regarding the matter.

RECOMMENDATION That -

1. Council note the information and allocation of funding under the NSW Government's Stronger Communities Fund and New Council Implementation Fund, as outlined in the report.
2. Further reports be provided to Council regarding the implementation and utilisation of the funds for its consideration, as required.

BACKGROUND

The NSW Government has established two funding streams to support newly established councils throughout NSW.

The two funds are the:

- *Stronger Communities Fund* – funding provided to councils to assist in delivering certain projects that improve community infrastructure and services;and
- *New Council Implementation Fund* – funding provided to councils to cover the up-front costs of implementing the new council.

This report provides an overview on how the funds may be used and suggested way forward regarding the matter.

REPORT

Stronger Communities Fund

The NSW Government has allocated \$10M to Canterbury-Bankstown Council under the Stronger Communities Fund (the “SCF”).

The SCF must be allocated through two programs, being:

- *Community Grant Program* – An allocation of up to \$1M in Grants for individual projects up to \$50K targeted at incorporated not-for-profit community groups for projects that build more vibrant, sustainable and inclusive local communities; and
- *Major Projects Program* – Remaining funding is allocated to large scale priority infrastructure and services projects that deliver long-term economic and social benefits to communities.

The NSW Government has established certain criteria that councils will need to adhere to, including consulting with our community and local stakeholders as to how best the funds should be allocated.

The criteria requires councils to:

- set a project management framework that supports the consultation, assessment, delivery and acquittal of projects to be funded;
- by December 2016, councils are to notify the Office of Local Government (the “OLG”) of their three (3) year plan for allocating the SCF. The notification is to include information on councils governance arrangements, consultation, prioritisation process, and a list of the projects to be funded, including costings, timeframes and expected benefits;
- provide detailed reporting to the OLG on projects selected for funding, delivery progress and expenditure; and
- Council is required to either spend or commit the SCF by 30 June 2019, with all funding being acquitted before 31 December 2019. Any uncommitted funds by 30 June 2019 must be returned to the OLG by 30 March 2020.

It is proposed that Council’s Local Representation Committee will also provide relevant advice to the Administrator regarding the establishment and preparation of Council’s three (3) year plan for allocating the fund.

New Council Implementation Fund

Separately, the NSW Government has also allocated \$10M to Canterbury-Bankstown Council under the New Council Implementation Fund (the “NCIF”).

The NCIF has been established by the Government to cover the up-front costs of implementing the new council, and therefore enabling councils to invest savings directly into community benefits at the earliest opportunity.

The NCIF may be utilised for activities such as:

- Provision of expert implementation advice;
- Upgrading and/or integrating systems to support the operation of the new council, including developing the new councils website;
- Implementing new signage throughout the new local government area; and
- Change management programs or staff to support implementation.

Councils are required to develop an implementation plan to guide the establishment of the new council for the period up to the local government elections.

The NSW Government has similarly established certain criteria that councils will need to adhere to, particularly to ensure appropriate accountability and the timely use of the funds

The criteria requires councils to:

- By September 2016, councils are to notify the OLG of their plan for allocating the NCIF, including information on councils governance arrangements and the projects or activities to be funded, including key milestones, expected benefits and relevant budget;
- Provide regular reporting to Council and the OLG on the progress of the plan and expenditure of the NCIF;
- Establish a clear financial management structure to manage the use of the funds; and
- Any unspent or uncommitted funding by 31 December 2018 must be incorporated into the Council's SCF.

Whilst having completed all its more pressing and essential transitional requirements (i.e. relevant ATO, ASIC, banking requirements and elements stipulated by the proclamation), Canterbury-Bankstown has also prepared its detailed implementation plan which will guide Council both through to the local government election and beyond.

Similarly, Council will be establishing an Implementation Advisory Group, which assist the Administrator and General Manager regarding the use of the NCIF.

Determination and Use of Funds

Having regard to the guidelines, Council will be preparing the relevant framework and plans to guide Council in utilising the funds. As indicated, Council will engage with its two relevant Committees in formulating its approach.

Given the above and relevant timeframes, it is proposed that separate reports be prepared and submitted to Council for its consideration regarding the matter, as required.

POLICY IMPACT

Funds provided to Council under the SCF and NCIF will greatly assist in addressing both key community and operational priorities for our local government area, particularly community projects which councils were unable to fund from their existing rate/income base.

Council will be consulting/engaging with its community to ensure that the SCF be allocated in accordance with the community's expectations.

FINANCIAL IMPACT OF RECOMMENDATIONS

Council have been allocated a total of \$10M under each of the NSW's SCF and NCIF funding programs. Funds will be restricted and managed in accordance with the Government guidelines, including regular reporting to Council regarding the matter.

RECOMMENDATION That -

1. Council note the information and allocation of funding under the NSW Government's Stronger Communities Fund and New Council Implementation Fund, as outlined in the report.
2. Further reports be provided to Council regarding the implementation and utilisation of the funds for its consideration, as required.

ATTACHMENTS

Nil

Report of the General Manager - 14 June 2016

ITEM 6.2 Financial Management Report- Proclamation Issues

AUTHOR Corporate Services

ISSUE

The purpose of the report is to provide:

- A summary of the former council's financial performance and position as at the day of proclamation;
- In accordance with clause 24 of the Local Government (Council Amalgamations) Proclamation 2016 (the "proclamation"), and clause 211 of the Local Government (General) Regulation 2015 (the "Regulation"), seek endorsement to approve expenditure and vote money for the interim financial period, being 13 May 2016 to 30 June 2016; and
- Assurance that Council is maintaining appropriate accounting records and a system for budgetary control for the new council, as required under the Local Government Act 1993 and associated Regulation, following the merger.

RECOMMENDATION That -

1. The financial information pertaining to the former Canterbury and Bankstown Councils as at the date of proclamation be noted.
2. In accordance with the Local Government (Council Amalgamations) Proclamation 2016 – Clause 24, and Local Government (General) Regulation 2015 – Clause 211, Council approves expenditure and vote money for the interim financial period, being 13 May 2016 till 30 June 2016, as outlined in this report.
3. Council note that Council's financial management systems and controls satisfy the relevant provisions of the Local Government Act 1993 and associated Regulations, as outlined in the report.

BACKGROUND

The NSW Government's 12 May 2016 proclamation (clause 24) requires Council to approve expenditure and voting money from the date of proclamation until the adoption of Council's 2016/17 Operational Plan.

Council's 2016/17 Operational Plan is currently being exhibited and in turn will be presented for further consideration and adoption at the 28 June 2016 Ordinary Meeting.

That said, it's also important to provide an understanding of Council's current financial performance and position at this point and assure our community that our financial systems and controls continue to be sound, following the merger.

This report provides an overview of the following:

- Council's financial performance and position as at the day of proclamation, including a summary of its capital works programs, cash restrictions and investments and employee resources;
- A summary of required financial resources to manage the period 13 May 2016 till 30 June 2016; and
- Assurance that Council is maintaining appropriate accounting records and a system for budgetary control for the new council, as required under the Local Government Act 1993 and Regulation (clause 202 and 207).

REPORT

Financial Performance and Cash Position – As at Proclamation

As is the case for most organisations, council's financial reporting cycle is from 1 July to 30 June each year. By virtue of the proclamation, the former Canterbury and Bankstown Council's financial year officially ended on 12 May 2016, some seven (7) weeks earlier than would normally be the case.

Given this, the proclamation has separately indicated that Canterbury-Bankstown Council's forthcoming financial year, for reporting purposes, will be 13 May 2016 till 30 June 2017 (ie. 13.5 months).

Given that the joint financial performance and position of the former councils form the starting point for the new council, it is important to understand the broader financial information and/or details as at 12 May 2016.

Whilst the former Council's year-end financial results will be subject to Audit and detailed analysis in due course, the following provides a broad overview/snap-shot of relevant financial information regarding the former Council's results:

Financial Performance (Operating Result) – Table 1
Former Canterbury Council
Financial Period – 01 July 2015 till 12 May 2016

	Budget December Review \$,000	Actual 12/5/16 \$,000	Actual / Budget %
Rates & Annual Charges	81,964	71,900	88
Fees & Charges	10,361	9,290	90
Interest & Investments	1,760	2,829	161
Grants – Operating	11,947	10,659	89
Other	3,656	4,744	130
Profit on Sale of Assets	797	1,599	201
Total Revenue	110,485	101,021	91
Employee Costs	49,932	44,239	89
Borrowing Costs	327	400	122
Materials & Contracts	34,151	26,377	77
Depreciation	11,000	12,395	113
Other	15,109	11,726	78
Total Expenses	110,519	95,137	86
Net Operating Result	(34)	5,884	
Grants / Contrib - Capital	12,635	20,255	160
Operating Result	12,601	26,139	

Financial Performance (Operating Result) – Table 2
Former Bankstown Council
Financial Period – 01 July 2015 till 12 May 2016

	Budget December Review \$,000	Actual 12/5/16 \$,000	Actual / Budget %
Rates & Annual Charges	115,412	100,001	87
Fees & Charges	11,401	10,182	89
Interest & Investments	4,360	3,808	87
Grants – Operating	12,643	11,709	93
Other	11,517	9,976	87
Profit on Sale of Assets	-	227	-
Total Revenue	155,333	135,903	87
Employee Costs	67,603	57,914	86
Borrowing Costs	283	243	86
Materials & Contracts	26,300	20,314	77
Depreciation	34,457	29,595	86
Other	35,854	27,832	78
Total Expenses	164,497	135,898	83
Net Operating Result	(9,164)	5	
Grants / Contrib - Capital	7,766	7,383	95
Operating Result	(1,398)	7,388	

Capital Works – Table 3
As at 12 May 2016

	Budget December Review \$,000	Actual 12/5/16 \$,000	Actual / Budget %
Canterbury Council	20,221	11,912	59
Bankstown Council	50,523	22,906	45
Total	70,744	34,818	49

Liquidity (Unrestricted Cash) – Table 4
As at 12 May 2016

	CCC Budget December Review \$,000	CCC Actual 12/5/16 \$,000	BCC Budget December Review \$,000	BCC Actual 12/5/16 \$,000	Total Actual 12/5/16 \$,000
Cash and Investments	90,645	112,813	82,106	106,136	218,949
Less: Internal Restrictions	63,413	35,480	55,657	65,039	100,519
Less: External Restrictions	20,677	69,696	21,488	36,394	106,090
Unrestricted Cash	6,555	7,637	4,961	4,703	12,340

Separately, attached (Annexure A) is a summary of the former Council's cash investments as at 12 May 2016.

Employee Summary (Total Structure) – Table 5

	Total FTE No:
Canterbury Council	581
Bankstown Council	769
Total Structure	1,350

Broadly, the following provides some commentary on the information, as outlined above:

- It should be noted that given the timing of the proclamation, neither Council was able to finalise its March 2016 quarterly budget review process, and therefore address some of the variations between its projections and actual figures.
- That said, both the former Canterbury and Bankstown Councils financial performance as at proclamation date is considered sound. Council's actual income and expenditure generally compares well against its planned forecast and broader budget expectations for the 2015/16 financial year.
- Whilst a large number of capital projects have commenced and/or are in their detailed design phase, the level of expenditure as at 12 May 2016 was quite low. A comprehensive review of both programs will be carried out over the coming weeks to determine the timing of their completion/delivery and the proposed projects to be carried forward for completion into the 2016/17 financial year.

- Both Councils level of liquidity is considered quite sound and stable. Both Councils held large levels of reserves for specific purposes, both those specified by legislation and/or determined by Council. All surplus funds are being invested in various institutions, which accord with the Ministers Order and the former Councils investment policies.
- Councils combined organisational structure is set at 1,350 full time equivalent staff. Adequate resources and systems are in place to fund council's employee costs and management of their entitlements.

A more comprehensive assessment of the former Council's financial performance and results will be provided as part of Councils year-end external audit process, which is expected to be carried out over the coming months.

Authorisation of Expenditure Pending Operational Plan

Proposed Approach

As indicated earlier, Council proposes to adopt its 2016/17 Operational Plan, which includes its 2016/17 Budget, to commence on 1 July 2016.

That said, Council is required (clause 24 of the proclamation and clause 211 of the Regulation) to formally approve expenditure and vote money for the period from the date of proclamation till the adoption of its operational plan, being a period of seven (7) weeks. This is required given that the former Councils 2015/16 budget ceases to exist and no longer apply to the new council.

In addressing the requirement, it is proposed that:

- the remaining 2015/16 budget/funds from the former councils be re-voted to the new council for the purposes of estimating Council's income and expenditure (both opex and capex) for the seven (7) week period till the adoption of the operational plan;
- separately, the proposed budget variations, previously identified by the former councils as part of their March 2016 Quarterly Budget Review process, be incorporated as part of this process; and
- in accordance with clause 211 of the Regulation, relevant unspent funds - as at 30 June 2016, be carried over and incorporated in Council's 2016/17 Budget, as required.

Proposed Budget for Period 13 May 2016 till 30 June 2016

Based on the above approach, Council's proposed budget for the period 13 May 2016 till 30 June 2016 is estimated as follows:

Proposed Budget – Table 6
Canterbury-Bankstown Council
Financial Performance
Financial Period – 13/05/16 – 30/06/16

	Proposed 7 week Budget CCC \$,000	Proposed 7 week Budget BCC \$,000	Proposed 7 Weeks Budget Total \$,000
Rates & Annual Charges	10,064	15,411	25,475
Fees & Charges	1,221	1,219	2,440
Interest & Investments	186	553	739
Grants – Operating	1,508	994	2,502
Other	132	1,541	1,673
Profit on Sale of Assets	26	-	26
Total Revenue	13,137	19,718	32,855
Employee Costs	6,343	9,321	15,664
Borrowing Costs	4	39	43
Materials & Contracts	7,914	5,660	13,574
Depreciation	1,605	4,862	6,467
Other	2,953	8,862	11,815
Total Expenses	18,819	28,744	47,563
Net Operating Result	(5,682)	(9,026)	(14,708)
Grants/Contrib – Capital	1,075	699	1,774
Operating Result	(4,607)	(8,327)	(12,934)

Capital Works – Table 7
Canterbury-Bankstown Council
Capital Works
Financial Period – 13/05/16 – 30/06/16

	Remaining 2015/16 Budget \$,000	Proposed Variations Total \$,000	Budget 7 Weeks Total \$,000
Canterbury Council	8,309	2,697	11,005
Bankstown Council	27,617	1,688	29,305
	35,926	4,385	40,311

Broadly, the following provides some commentary on the information, as outlined above:

- Whilst the 2015/16 Budgets for both former Council's no longer applies to the new Council, it can rely on the financial information and details to both vote money and authorise expenditure for the interim financial period, being from 13 May 2016 till 30 June 2016.

- A review of both former Council's approach to managing their budgets suggests that the financial information can reliably be used as a basis to both vote money and authorise expenditure for the interim financial period, being from 13 May 2016 till 30 June 2016.
- Whilst the information presented above is reflected from a corporate perspective, the information is derived and/or based on a reliable system of budgetary control at a detailed level, which ensures the appropriate management of funds and accountability across the organisation.
- Table 6 reflects the former councils estimated remaining 2015/16 operational budget and proposed budget variations to be voted for the interim financial period, being from 13 May 2016 till 30 June 2016.
- Similarly, Table 7 outlines the former council's estimated remaining 2015/16 capital budget and proposed budget variations to be voted for the interim financial period, being from 13 May 2016 till 30 June 2016.
- It should be noted that the proposed budget variations of the former councils, which were intended to form part of their March 2016 Quarterly Budget Review and/or Council decisions not previously reflected in their respective budgets have been incorporated in the above tables.

Based on the above, it is recommended that Council endorse the voting of money and authorising expenditure, as outlined above.

Estimated Financial Performance for 2015/16 – Combined Result

As indicated earlier, councils financial performance is generally based on a twelve (12) month reporting cycle.

That said, in order to gauge and/or establish its overall financial result, it's worthy to combine the former councils financial performance for the period 1 July 2015 till the date of proclamation (12 May 2016), and aggregate it with Council's proposed budget for the seven (7) week period.

This calculation provides a more meaningful and/or better understanding of Council's overall financial result and/or performance over a standard twelve (12) month reporting cycle.

A summary of this is as follows:

	Former Council's Combined Actual 12/5/16 \$,000	Proposed 7 week Budget Total \$,000	Estimate Total Result 2015/16 \$,000
Total Revenue	236,924	32,855	269,779
Total Expenses	231,035	47,563	278,598
Net Operating Result	5,889	(14,708)	(8,819)
Grants / Contrib - Capital	27,638	1,774	29,412
Operating Result	33,527	(12,934)	20,593

Based on a combined assessment, Council's overall Operating Result for the 2015/16 financial year is expected to be \$20.5M. A further report regarding Council's financial result will again be provided following the audit of its accounts over the coming months.

Assurance regarding accounting records and system of budgetary control

As noted above, Council is required to ensure that it maintains appropriate accounting records and a system for budgetary control - Local Government (General) Regulation 2005 (clause 202 and 207).

Broadly, Council's transition plan provides for both former Council's to continue to maintain their current financial management systems in the interim, given that they are both effectively delivering on the required internal controls and detailed budget management requirements as required under the Act and Regulation.

Whilst future financial reporting will provide a consolidated view of the new Council, it will also ensure that it appropriately reports on all relevant matters regarding Council's 2016/17 Operational Plan.

That said, Council is preparing a detailed work plan which will guide the required realignment, harmonisation of its processes and setting the necessary financial policies and reporting requirements over the coming financial year, including its approach to managing its cash reserves, surplus cash investments, as well as determine its longer-term system solution for our new Council. Further reports will be provided to Council on these issues, as required.

Having regard to the above, I am satisfied that Council's current systems and practices provide the necessary controls and requirements specified under the Local Government Act and Regulation.

POLICY IMPACT

This report addresses relevant elements required of Council, as stipulated in the proclamation. Separately it provides Council and the community assurance that it is continuing to effectively manage its financial management obligations, as required under the Local Government Act 1993 and associated Regulation.

FINANCIAL IMPACT OF RECOMMENDATIONS

In accordance with the requirements outlined in the proclamation and Regulation, this report recommends the voting of money and authorisation of expenditure for the interim financial period, being 13 May 2016 to 30 June 2016.

RECOMMENDATION That -

1. The financial information pertaining to the former Canterbury and Bankstown Councils as at the date of proclamation be noted.

2. In accordance with the Local Government (Council Amalgamations) Proclamation 2016 – Clause 24, and Local Government (General) Regulation 2015 – Clause 211, Council approves expenditure and vote money for the interim financial period, being 13 May 2016 till 30 June 2016, as outlined in this report.
3. Council note that Council’s financial management systems and controls satisfy the relevant provisions of the Local Government Act 1993 and associated Regulations, as outlined in the report.

ATTACHMENTS

[Click here for attachments](#)

- A. Annexure A - Cash Investments as at 12 May 16

Report of the General Manager - 14 June 2016

ITEM 6.3 **Common Seal**

AUTHOR **Corporate Services**

ISSUE

To adopt a new Common Seal for Canterbury-Bankstown Council.

RECOMMENDATION

That the proposed Canterbury-Bankstown Council Common Seal be adopted.

BACKGROUND

On 12 May 2016, Canterbury-Bankstown Council was proclaimed by the Governor of New South Wales. Following the proclamation, Canterbury-Bankstown Council is required to adopt a new Common Seal to reflect the new entity.

REPORT

Clause 400 of the Local Government (General) Regulation 2005 pertains to the Council Seal. The Regulation states:

- 1) The seal of a council must be kept by the Mayor or General Manager, as the council determines.*

To reflect the legal status of the seal, the Regulation also requires a Council resolution before the seal is affixed to documents relating to the business of Council, with the resolution specifically referring to the document to be sealed.

The new seal will reflect a traditional design with the words: Canterbury-Bankstown Council Common Seal.

POLICY IMPACT

The proposal to adopt a Common Seal for Canterbury-Bankstown Council is in accordance with the requirements of the Local Government (General) Regulation 2005 and the Office of Local Government's Meetings Practice Note.

FINANCIAL IMPACT OF RECOMMENDATIONS

Funds for the purchase of the new Common Seal have been made available through Council's adopted budget for 2015/16.

RECOMMENDATION

That the proposed Canterbury-Bankstown Council Common Seal be adopted.

ATTACHMENTS

A. Attachment under separate cover

Report of the General Manager - 14 June 2016

ITEM 6.4 Public Interest Disclosures Policy

AUTHOR Corporate Services

ISSUE

To adopt the revised Public Interest Disclosures Policy.

RECOMMENDATION

That the Public Interest Disclosures Policy as attached be adopted.

BACKGROUND

On 12 May 2016, Canterbury-Bankstown Council was proclaimed by the Governor of New South Wales.

Pursuant to the proclamation, the revision of the Public Interest Disclosures Policy (PID Policy) reflects the realignment of Council's organisational structure.

REPORT

In accordance with the statutory requirements of the *Public Interest Disclosures Act 1994* (PID Act), Council is required to have in place an effective and appropriate policy which is aimed at supporting public officials who wish to make disclosures of corrupt conduct, maladministration and serious and substantial waste in the public sector, including councils.

The former Bankstown and Canterbury Councils had adopted a PID Policy as part of its governance framework and a review of these documents has since been undertaken to align reporting processes and procedures.

The attached Canterbury-Bankstown Council PID Policy, which supports the reporting of wrongdoing and the protection of those who make disclosures, provides the required framework to manage the reporting of public interest disclosures.

As determined by the proclamation of Canterbury-Bankstown Council, minor administrative changes to the appointment of the Public Interest Disclosures Coordinator, Alternative Public Interest Disclosures Coordinator, and the Public Interest Disclosures Officers, have also been implemented in the revised PID Policy to reflect the recent realignment of Council's organisational structure.

POLICY IMPACT

The adoption of this Policy is in line with legislative requirements under the Public Interest Disclosures Act 1994 and guidelines issued by the NSW Ombudsman.

FINANCIAL IMPACT OF RECOMMENDATIONS

There are no financial impacts to Council in implementing the revised policy.

RECOMMENDATION

That the Public Interest Disclosures Policy as attached be adopted.

ATTACHMENTS

[Click here for attachment](#)

- A. Public Interest Disclosures Policy

Report of the General Manager - 14 June 2016

ITEM 6.5 Establishment of Council Advisory Committees & Sub-Committees

AUTHOR Corporate Services

ISSUE

To establish a number of Committees and Sub-Committees and to seek Council's endorsement of the proposed Rules and Guidelines for the administration of Canterbury-Bankstown Council's Advisory Committees.

RECOMMENDATION That -

1. Council adopt the draft Advisory Committee Rules and Guidelines.
2. Council adopt the draft Advisory Committee Charter Template.
3. Council establish the Canterbury-Bankstown Council Implementation Advisory Group and the Canterbury-Bankstown Council Local Representation Committee and endorse their terms of reference as attached to this report.
4. Council establish the advisory sub-committees listed in this report and endorse their terms of reference as attached.
5. Membership of the committees established by resolution 3 and 4 above be determined by the Administrator, following receipt of expressions of interest from former Councillors.

BACKGROUND

At the 24 May 2016 Extraordinary Meeting of Council, it was resolved that in light of the Proclamation of Canterbury-Bankstown Council, Council review and reassess its representation on relevant Advisory Committees.

Consequently, it was resolved that a further report be prepared outlining the appropriate Committee structure, governance framework and nomination process for community representation to assist Council in effectively exercising its statutory obligations, as outlined in this report.

This report establishes five Committees, with membership to be determined by the Administrator following expressions of interest from former Councillors. It should be noted that a further report will be brought to Council confirming membership of all other Council committees, as required.

REPORT

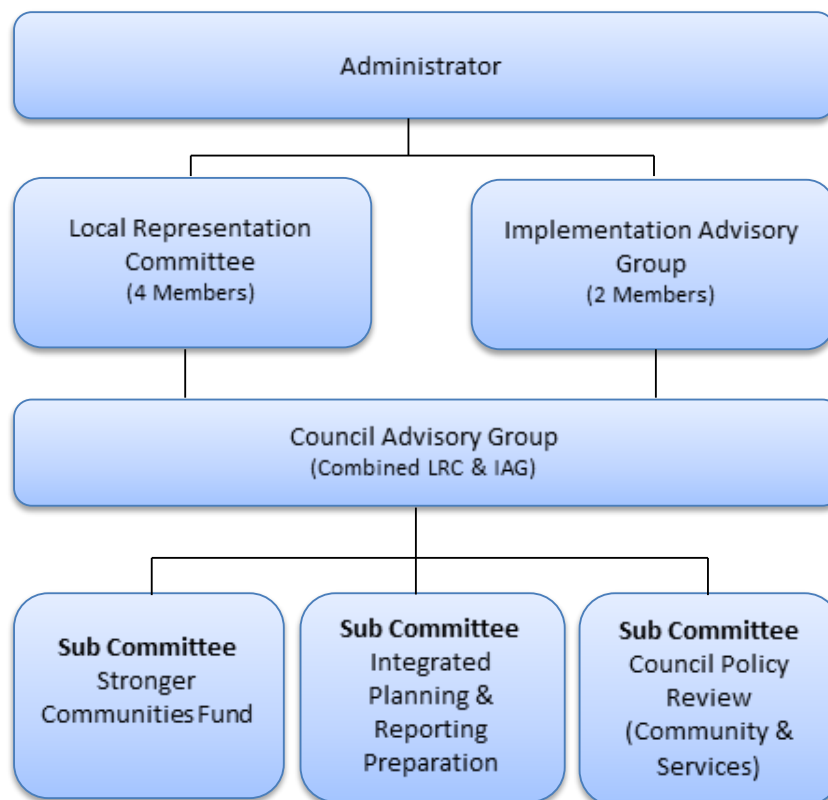
In brief, an Advisory Committee is a committee established by a resolution of Council to facilitate participation by Councillors and members of the community in the development and effective delivery of Council's services, policies and programs in relation to specific Terms of Reference (Charter).

Importantly, advisory Committees only have power to make recommendations but not to make decisions. Council has established consistent guidelines and rules to assist and provide information for the Committee Chairs, Councillors and community members in relation to the appointment and role of committee members, the management of and conduct at meetings, attendance requirements, voting entitlements and confidentiality.

Consultative Advisory Committee Structure

The Department of Premier and Cabinet has issued guidance requiring Councils to establish both an 'Implementation Advisory Group' and a 'Local Representation Committee'. These Committees are designed to ensure that the communities view continues to be represented in Council decision making.

To support these Committees, three sub-committees will also be established to ensure that important public matters have a dedicated forum for discussion and community input. These sub-committees are chaired by a current member of the Local Representation Committee or Implementation Advisory Group, with all reporting provided to the combined Council Advisory Group. Accordingly, the structure is as follows:



Membership of all Committees will be determined by the Administrator following a consultative process with former Councillors of both Bankstown and Canterbury Councils.

Importantly, each Committee will be governed by its own Terms of Reference, and in all cases be overseen by the Rules and Guidelines attached to this report. Amendments to these Rules or Guidelines will be reported to Council as appropriate. Failure to adhere to either is grounds for the removal of a committee member from his or her position on a Committee.

POLICY IMPACT

The proposed rules and guidelines for Council's Advisory Committees reflect the requirements as outlined in the Office of Local Government's Meeting Practice Notes 2009, and are prepared pursuant to guidance received from the Department of Premier and Cabinet.

FINANCIAL IMPACT OF RECOMMENDATIONS

The Terms of Reference provided as attachments to this report each set out the specific financial implications of their establishment. Council's standard expense policies apply to all Committees, as appropriate.

RECOMMENDATION That -

1. Council adopt the draft Advisory Committee Rules and Guidelines.
2. Council adopt the draft Advisory Committee Charter Template.
3. Council establish the Canterbury-Bankstown Council Implementation Advisory Group and the Canterbury-Bankstown Council Local Representation Committee and endorse their terms of reference as attached to this report.
4. Council establish the advisory sub-committees listed in this report and endorse their terms of reference as attached.
5. Membership of the committees established by resolution 3 and 4 above be determined by the Administrator, following receipt of expressions of interest from former Councillors.

ATTACHMENTS [Click here for attachments](#)

- A. Advisory Committee Charter Template
- B. Advisory Committee Guidelines
- C. Advisory Committee Rules
- D. Local Representation Committee Charter
- E. Implementation Advisory Group Charter
- F. Policy Review Sub Committee Charter
- G. Stronger Communities Fund Sub Committee Charter
- H. Integrated Planning Sub Committee Charter
- I. CBLRC Expression of Interest Form

Report of the General Manager - 14 June 2016

ITEM 6.6 **Australian Local Government Association - National General Assembly**

AUTHOR **Corporate Services**

ISSUE

To inform Council of the Australian Local Government Association's National General Assembly of Local Government being held in Canberra from 19-22 June 2016.

RECOMMENDATION

That the Administrator be nominated as Council's voting delegate for the conference.

BACKGROUND

The Australian Local Government Association's National General Assembly (NGA) of Local Government is being held in Canberra from 19-22 June 2016.

Resolutions from the NGA are considered by the ALGA Board when setting national local government policy directions and its advocacy efforts are focused accordingly.

Each council is entitled to one voting delegate in the debating session

REPORT

The theme for the 2016 NGA is *Partners in an Innovative and Prosperous Australia*. The program centres on the role that local government plays in boosting productivity and showcasing innovation and best-practice.

The former Bankstown Council had submitted motions pertaining to the following topics for consideration at the conference:

- Freight Movement
- Financial Assistance Grants
- Stronger Communities Program
- National Stronger Regions Fund

Advice has since been received from the Australian Local Government Association (ALGA) that motions submitted by councils that ceased to exist following the *Local Government (Council Amalgamations) Proclamation* on 12 May 2016 will be considered in the Reserve B section of the NGA Business Paper.

The ALGA Sub-Committee were of the view that while these were valid motions, they would need to be moved and seconded during the debate by a voting delegate at the conference as the submitting councils would not be in a position to move their motion.

Given this circumstance, and that the NGA is a forum for debate of policies on issues of national significance to local government, it is both important and appropriate that Canterbury-Bankstown Council is represented. It is therefore proposed that the Administrator and Interim General Manager represent Council on this occasion and that the Administrator be nominated as Council's voting delegate.

POLICY IMPACT

Council's participation in the National General Assembly provides an opportunity to advocate on issues affecting the community of Canterbury-Bankstown as well as seeking a policy response at the national level.

FINANCIAL IMPACT OF RECOMMENDATIONS

Council's Policy for the Payment of Expenses and Provision of Facilities to Councillors (and its application to the Administrator) allows for the reimbursement of costs associated with attendance at the conference, and will be met from the adopted 2015/16 budget.

RECOMMENDATION

That the Administrator be nominated as Council's voting delegate for the conference.

ATTACHMENTS

Nil

7 COMMITTEE REPORTS

There were no items submitted for this section at the time the Agenda was compiled.

8 NOTICE OF MOTIONS & QUESTIONS WITH NOTICE

There were no items submitted for this section at the time the Agenda was compiled.

9 MATTERS FOR INFORMATION

The following item is submitted for consideration -

- 9.1 Development Applications Determined by Council Officers Under Delegation
 (Former Canterbury Council) 447

Matters For Information - 14 June 2016

ITEM 9.1 Development Applications Determined by Council Officers Under Delegation (Former Canterbury Council)

AUTHOR City Development

ISSUE

The development applications listed in this report were determined by Council Officers, in accordance with the powers delegated to them under the Act. The report is submitted for the Committee's information.

RECOMMENDATION

That the report be noted.

REPORT

Applicant	Property	Ward	Development	Determination
Kingston Knight Pty Ltd	133-137 Brighton Avenue, Campsie.	Central	Modification of Consent DA-78/2013 for residential development involving drainage system.	APPROVED
W Alhaddad	5 Tusmore Street, Punchbowl.	West	Modification of Consent DA-174/2014/A for dual occupancy involving layout and design.	APPROVED
XM Property Group	59 Cooloongatta Road, Beverly Hills.	West	Demolition, construction of two storey attached dual occupancy and Torrens Tittle subdivision.	APPROVED
K Loffler	8 Hopetoun Street, Hurlstone Park.	East	Construction of covered deck, replacement of dwelling doors and windows.	APPROVED
Archivis Pty Ltd	62-62b Canarys Road, Roselands.	West	Construction of pergola at rear of cafe and use for outdoor dining.	APPROVED
N Karahalios	65 Wolli Avenue, Earlwood.	East	Alterations and first floor addition to dwelling.	APPROVED
J Sergio	87 Bedford Street, Earlwood.	East	Alterations/additions to rear of dwelling and construction of carport.	APPROVED
Devine Design Australia	50 Rawson Street, Wiley Park.	West	Conversion of outbuilding into recreational area with bathroom and kitchenette.	REFUSED

Applicant	Property	Ward	Development	Determination
Chanine Design Architects	211-215 Canterbury Road, Canterbury.	Central	Modification of Consent DA-420/2013/B for mixed commercial/residential development involving parking allocation.	REFUSED
M Sayid	27-31 Railway Parade, Lakemba.	Central	Modification of Consent DA-348/2013 for medical centre involving section 73 certificate.	REFUSED
M Hossain	52 Railway Parade, Lakemba.	Central	Addition of food processing area at rear of premises.	REFUSED
Ridge Designs	21 Troy Street, Campsie.	East	Modification of Consent DA-481/2011/A for dual occupancy involving layout and balcony.	APPROVED
I Trad	113 King Georges Road, Wiley Park.	West	Construction of two storey dwelling.	APPROVED
A Maaz & M Nasrallah	33 Karne Street South, Narwee.	West	Modification of Consent DA-293/2011/A for residential development involving layout.	APPROVED
P Suen	2 Josephine Street, Riverwood.	West	Modification of Consent DA-248/2013 for dual occupancy involving garage.	APPROVED
Anytime Fitness	191-193 Kingsgrove Road, Kingsgrove.	West	Fitout and use as gymnasium.	APPROVED
Dvyne Design & Construction	66 Leopold Street, Ashbury.	East	Alterations/additions to dwelling including second storey and outbuilding.	APPROVED
K Si	59 Park Street, Campsie.	Central	Construction of carport.	APPROVED
Clemton Park Development Pty Ltd	60 Charlotte Street, Campsie.	East	Modification of Consent DA-142/2014/A for mixed commercial/residential development involving unit mix, extending community centre, addition of manager's office and residential storage space.	APPROVED
Archivis Pty Ltd	246 Moorefields Road, Beverly Hills.	West	Use for car sales office.	APPROVED
S Anastasiou	21 Moncur Avenue, Belmore.	West	Alterations/additions to dwelling including carport, awning and shed.	APPROVED
H Kharroubi	138 Moorefields Road, Kingsgrove.	West	Modification of Consent DA-21/2014 for shop/ residence involving side boundary wall.	APPROVED
D-Studio Architects Pty Ltd	13-15 Anglo Road, Campsie.	Central	Modification of Consent DA-622/2011/F for mixed commercial/residential development involving street trees.	APPROVED
V Capovilla	27 Oatley Street, Kingsgrove.	West	Demolition of dwelling and outbuildings.	APPROVED
Cape Cod Aust Pty Ltd	35 Garrong Road, Lakemba.	Central	Alterations/additions to dwelling including second storey and awning.	APPROVED

Applicant	Property	Ward	Development	Determination
M Ibrahim	51 Broadway, Punchbowl.	West	Alterations and first floor addition to dwelling.	APPROVED
D & C Milanes	5 Leigh Avenue, Roselands.	West	Modification of Consent DA-406/2015 for dwelling involving layout.	APPROVED
In Vision Design	59 Burwood Road, Belfield.	Central	Alterations and first floor addition to dwelling.	APPROVED
Al Hasan Pty Ltd	151 Haldon Street, Lakemba.	Central	Modification of Consent DA-142/2015 for shop involving hours.	APPROVED
Design Studio 407	21 Woolcott Street, Earlwood.	East	Demolition, construction of dwelling, lap pool and front fence.	APPROVED
I Trad	15 Robinson Street North, Wiley Park.	West	Alterations and first floor addition to dwelling.	APPROVED
Technik Haus Pty Ltd	18 Omaha Street, Belfield.	Central	Demolition of structures	APPROVED
A Maksour	8 Tudor Street, Campsie.	Central	Modification of Consent DA-233/2014 for dual occupancy involving layout and design	APPROVED
G Bell	105 Armitree Street, Kingsgrove.	West	Alterations and additions to dwelling.	APPROVED

POLICY IMPACT

The assessment of the application and supports our Community Strategic Plan long term goal of Balanced Development.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION

That the report be noted.

ATTACHMENTS

Nil

10 QUESTIONS FOR NEXT MEETING

11 CONFIDENTIAL SESSION

11.1 Tender for Construction of Bioretention System - Forrester Reserve, Kingsgrove

General Manager's Statement

Confidentiality

Councillors and staff are reminded of their obligations in respect to the need for confidentiality and not disclose or otherwise misuse the information which is about to be discussed, failure to do so could result in a reference to the NSW Civil and Administrative Tribunal and/or result in a prosecution in accordance with Sec. 664 of the Act for which the maximum penalty is \$5,500.

CONFIDENTIAL SESSION

Section 10A(2) of the Local Government Act, 1993 provides that Council may, by resolution, close to the public so much of its meeting as comprises the receipt or discussion of matters as listed in that section, or for any matter that arises during the course of business during the meeting that should be treated as confidential in accordance with Section 10(2) of the Act.

Council's Agenda for this meeting contains reports that meet the criteria specified in Section 10A(2) of the Act. To consider these reports in confidential session, Council can adopt the following recommendation:

RECOMMENDATION

That, in accordance with Section 10A(2) of the Local Government Act, 1993, the Public and the Press be excluded from the meeting to enable Council to determine Item 11.1 in confidential session for the reasons indicated:

Item 11.1 Tender for Construction of Bioretention System - Forrester Reserve, Kingsgrove

This report is considered to be confidential in accordance with Section 10A(2)(d)(i) of the Local Government Act, 1993, as it relates to commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.