

The NEW City of
**CANTERBURY
BANKSTOWN**

Agenda for the

**Independent Hearing
And Assessment
Panel Meeting**

3 April 2017 – 6.00pm

Location:

**Council Chambers
137 Beamish Street, Campsie**

ORDER OF BUSINESS

- 1 29 ANDERSON STREET, BELMORE**

Demolition of existing dwelling house and construction of a two storey
boarding house consisting of 18 boarding rooms **3**

- 2 9-11 WEYLAND STREET, PUNCHBOWL**

Demolish existing structures, consolidation of both lots into one and
construction of a six-storey mixed use development comprising 42
apartments, two commercial tenancies, two level basement for parking and
associated landscaping.....**41**

Independent Hearing and Assessment Panel – 3 April 2017

ITEM 1	29 Anderson Street, Belmore
	Demolition of existing dwelling house and construction of a two storey boarding house consisting of 18 boarding rooms
FILE	DA-279/2015
ZONING	R3 Medium Density under Canterbury LEP 2012
DATE OF LODGEMENT	29 June 2015 (amended plans received 22 December 2015, 6 June 2016, 1 December 2016 and 7 March 2017)
APPLICANT	Mr R R Jenvey
OWNERS	Mr R R Jenvey
ESTIMATED VALUE	\$945,000
SITE AREA	1,011.7m²
AUTHOR	Planning

RECOMMENDATION

It is recommended that the application be approved as a deferred commencement subject to the attached conditions.

SUMMARY

The development application proposes to demolish the existing structures on site and construct a Boarding House with 18 rooms that can accommodate up to 34 lodgers.

The subject site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012. The proposed development, defined as a 'Boarding House' is permissible with development consent.

The proposed development has been assessed against the provisions of the relevant environmental planning instruments and development control plan. The proposed development involves non-compliances with building depth/footprint under Clause 2.1.5 of Canterbury Development Control Plan 2012 which is discussed in the body of the report.

The development application has been notified in accordance with the requirements of Part 7 of Canterbury Development Control Plan 2012. Five (5) submissions objecting to the application were received, including a petition containing 43 signatures and a submission from the former NSW State Member for Canterbury.

The number of objections received is the reason the development application is referred to the Independent Hearing and Assessment Panel for consideration and determination.

It recommended that the application be approved as a deferred commencement consent subject to conditions.

REPORT

This matter is reported to the Independent Hearing and Assessment Panel due to the number of submissions received.

This Development Application proposes to demolish the existing structures on site and construct a Boarding House with 18 rooms that can accommodate up to 34 lodgers (Note: this report recommends the proposal be reduced to 17 rooms and 32 lodgers as outlined in the body of the report).

The proposed development is arranged as a double-storey building containing a series of tandem boarding rooms, an open common access corridors providing access to each room, an undersized communal living room, staircase access that is detached from the main building, an industrial-type roof form that is partly slanted and partly flat and out-of-character with the traditional streetscape of pitched roofs, a waste storage compound and a car parking space located in what should be the landscaped setback.

The main concerning aspects of the proposed development are the roof form, the waste storage compound and the size of the living room. We consider that the development is otherwise satisfactory subject to these matters being addressed by the applicant through design solutions which can be achieved by conditions of a deferred commencement consent.

Accordingly, it is recommended that deferred conditions be included in any consent that may be issued requiring the roof to be redesigned as a traditional pitched roof, the waste storage compound to be relocated outside of the front setback, the surplus car parking space at the sites frontage to be deleted and replaced with landscaping and the communal living room to be enlarged.

Compliance with State Environmental Planning Policy (Affordable Rental Housing) 2017 and the Canterbury Development Control Plan 2012 is capable of being fully achieved by the proposal but only subject to compliance with the recommended conditions of consent.

The application was both advertised and notified for a period of twenty-one (21) days between 5 August 2015 and 26 August 2015 where five (5) submissions objecting to the application, including a petition containing 43 signatures and a submission from the former NSW State Member for Canterbury were received. The objections raised concerns regarding privacy, overshadowing, noise, parking, character, roof design, safety, occupants and overdevelopment.

The scheme was subsequently amended and some of these issues were addressed, for example, first floor balconies facing the adjoining property were deleted. The amended plans were not re-notified as the impact of the building was reduced as a result of the amendments. Other issues such as roof design and character are not fully satisfied but can be satisfied through conditions of a deferred commencement consent requiring these matters to be redesigned.

The proposal is acceptable and approval of the development is recommended subject to conditions of a deferred commencement consent.

POLICY IMPACT

There are no significant policy impacts as a result of this proposal subject to compliance with the conditions of consent, which aim to ensure the proposal achieves full compliance with State policy.

FINANCIAL IMPACT

This matter has no direct financial implication.

RECOMMENDATION

It is recommended that the application be approved as a deferred commencement consent subject to the attached conditions.

ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is located at 29 Anderson Street, Belmore and is legally known as Lot Z DP 418191.

The site is a rectangular shaped property with an area of 1011.7m² that has a frontage of 20.115 metres and a depth of 50.29 metres.

The site currently accommodates an existing dwelling, detached garage and pool. The site adjoins one and two storey dwellings to the north and a two storey residential flat building to the south. To the west the site adjoins a townhouse development and to the east, on the opposite side of Anderson Street, there is a mix of two and three storey residential flat buildings and one and two storey dwellings.



Subject Site



Subject site pictured to the right of the residential flat building

PROPOSED DEVELOPMENT

The current proposal is for the demolition of the existing structures on site and construction of a two storey boarding house with 18 rooms including a manager's room, associated facilities, car park which provides parking for 5 cars, 4 motorcycles and 4 bicycles as well as associated landscaping.

There are 16 double rooms and 2 single rooms that are proposed to accommodate a maximum of 34 lodgers. The ground floor contains 12 boarding rooms, including a manager's room (Studio 10) with each room containing a kitchen and bathroom and private courtyard. The first floor accommodates 6 double boarding rooms.

A waste storage compound is proposed to be located within the front landscaped setback of the site.

Note: this report recommends the proposal be reduced to 17 rooms, 32 lodgers and 4 car parking spaces, and also recommends that the waste storage compound be relocated out of the landscaped setback, as outlined in the body of the report.

BACKGROUND / HISTORY

The application was lodged with Council on 29 June 2015. Following assessment of the proposal, Council issued the applicant with a request for amendments and additional information on 4 November 2015, seeking to improve the development's compliance with State and Local policies and controls. This resulted in a number of amended plans being submitted to Council with the latest version of amendments being received on 7 March 2017 reducing the developments' floor space ratio to comply with the Canterbury Local Environmental Plan 2012. Accordingly, the application is now able to be determined.

SECTION 79C ASSESSMENT

The proposed development has been assessed pursuant to section 79C(1) of the *Environmental Planning and Assessment Act, 1979*.

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

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

A BASIX Certificate accompanies the application (Certificate No. 640617S) dated 19 June 2015 and includes commitments relating to water, thermal comfort and energy including the provision of a rainwater tank with a minimum capacity of 4,600L. The plans propose a total of 6,000L split between two x 3,000L rainwater tanks. The proposal is satisfactory with respect to BASIX.

State Environmental Planning Policy (Affordable Rental Housing) 2009

An assessment of the proposed development against the boarding house provisions outlined in Part 2, Division 3 of State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) is as follows:

Standard	Proposed	Complies
<p>If a boarding house has five or more boarding rooms, at least one communal living room must be provided.</p> <p>Communal living room means a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room.</p>	<p>The boarding house will accommodate 18 boarding rooms. One substandard sized communal room is provided with dimensions 7.34m x 2.8m and total area of 20.552m². The living room must be increased in size to provide a functional area. This is recommended as a condition of consent and requires the deletion of Studio 12.</p>	<p>Yes, subject to condition - See comment [1] below</p>
<p>No boarding room is to have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m².</p>	<p>Each boarding room has a gross floor area of less than 25m².</p>	<p>Yes</p>
<p>The site must be located within an 'accessible area', being less than 400m walking distance of a bus stop or 800m walking distance of a railway station.</p>	<p>The subject site is located within an 'accessible area' as the site is located 800m walking distance from Belmore Railway Station (see map below table). Also, the nearest major bus stop (Canterbury Road) is located less than 200m walking distance from the subject property. The bus stop serves several routes including 492 which connect to Campsie town centre. Route 492 has frequent services on weekdays and Saturdays running once every 20 to 30 minutes. On Sundays, the services are once every 30 to 40 minutes.</p>	<p>Yes</p>
<p>No boarding room is to be occupied by more than two adult lodgers.</p>	<p>Proposal involves no more than two lodgers per room. This can be confirmed by a condition of consent.</p>	<p>Yes</p>
<p>Adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger.</p>	<p>Adequate bathroom and kitchen facilities are provided for each lodger of the boarding house.</p>	<p>Yes</p>
<p>If the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on-site dwelling must be provided for a boarding house manager.</p>	<p>The boarding house is proposed to contain 18 rooms, with the ability to be double occupancies and therefore can accommodate a maximum potential of 34 lodgers. In light of this a boarding house manager is required and provision of this has been made onsite (Managers Room No. 10)</p>	<p>Yes</p>
<p>If the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street must be used for residential purposes unless another environmental planning instrument permits such a use.</p>	<p>The subject site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012 (CLEP 2012). The use of the site as a boarding house is a permissible use under CLEP 2012 and ARH SEPP.</p>	<p>Yes</p>

Standard	Proposed	Complies
<p>Parking spaces – at least 0.2 parking spaces for each boarding room. $18 \times 0.2 = 3.6$ (4) car spaces required.</p> <p>One space for each person employed in connection with the Boarding House.</p> <p>At least one parking space must be provided for a bicycle, and one for a motor cycle, for every five boarding rooms.</p>	<p>5 spaces are proposed which complies.</p> <p>One of the five spaces can be dedicated for the manager via a condition.</p> <p>Given 18 boarding rooms are proposed, 4 motorcycle spaces and 4 bicycle spaces are required to be provided on-site. These spaces have been provided at the front of the building next to the car parking area.</p> <p>Note: as discussed in comment [1] this report recommends the proposal be reduced to 17 rooms, 32 lodgers and four car parking spaces.</p>	<p>Yes, see comment [1] below</p> <p>Yes</p> <p>Yes</p>
<p>The maximum FSR as stipulated within Clause 29(1)(c)(i) of ARH SEPP permitted for the proposed development is 0.5:1.</p>	<p>Based on land area being 1,011.7m², maximum allowable FSR is 0.5:1 equivalent to 505.85m².</p> <p>The amended Revision H plans propose: 505.5m² or 0.5:1 and comply.</p>	<p>Yes</p>
<p>A consent authority must not refuse consent to the development if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located.</p>	<p>The proposed landscape treatment of the front setback area is generally compatible with the streetscape.</p> <p>However the waste bin compound is proposed to be located in the front landscaped setback and is contrary to Council's controls for new development since waste storage areas are not permitted to be located in the front setback. For this reason, it is recommended that the waste area be relocated behind the front setback, by way of a deferred commencement condition.</p>	<p>Yes, subject to condition - See comment [2] below</p>
<p>A consent authority must not refuse consent to the development if the development provides for one or more communal living rooms, at least one of those rooms must receive a minimum three hours of direct sunlight between 9am and 3pm in mid-winter.</p>	<p>As noted above, the proposal provides for one communal living room within the boarding house on the ground floor at the western rear of the building. The room receives a minimum of 3 hours of sunlight between 9am and 3pm on 21 June via provision of north facing "pop-up" highlight windows.</p>	<p>Yes</p>
<p>A consent authority must not refuse consent to the development if at least the following private open space areas are provided (other than the front setback area): One area of at least 20m² with a minimum dimension of 3 metres must be provided for the use of the lodgers.</p>	<p>A private open space area of at least 30.3m² with a minimum dimension of 3 metres is proposed at the rear of the site for the use by lodgers.</p> <p>Additionally, 12 of the 18 units have private open space areas either as ground floor courtyards or as a balcony.</p>	<p>Yes</p>

Standard	Proposed	Complies
A consent authority must not refuse consent to the development if at least the following private open space areas are provided (other than the front setback area): If accommodation is provided on-site for a boarding house manager – one area of at least 8m ² with a minimum dimension of 2.5m is provided adjacent to that accommodation.	The required manager accommodation includes private open space of 22.4m ² with dimension of 3m.	Yes
In the case of development in an ‘accessible area’ – at least 0.2 parking spaces are to be provided for each boarding room. <u>Note:</u> The subject site is located within an ‘accessible area’ as the railway station is located 800m walking distance from the site and the nearest bus stop on Canterbury Road is located less than 400m walking distance from the site.	As 18 boarding rooms are proposed to be provided, a total of 3.6 (4) car parking spaces must be provided on-site. The proposed development fulfils the car parking requirements of the Affordable Rental Housing SEPP as 5 car parking spaces are provided on-site. However Car Parking Space No. 3 would need to be designated as suitable for a ‘small car’ given it is manoeuvrability constraints and is incompatible with this streetscape as it is configured as parallel to the front boundary and is located in what should be the landscaped frontage. This space is recommended to be deleted and replaced with landscaping and can be done as a deferred commencement condition.	Yes, subject to condition - See comment [1] below
Each boarding room must have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: (i) 12m ² in the case of a boarding room intended to be used by a single lodger; or (ii) 16m ² in any other case.	Each proposed boarding room to have a minimum floor area of 12m ² for a single lodger room and 16m ² in any other case. All rooms exceed the 12m ² and 16m ² thresholds, ranging from 14m ² to 19.6m ² rooms, excluding kitchen or bathroom facilities.	Yes
A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in a boarding room.	All boarding rooms have private kitchen and bathroom facilities.	Yes

[1] Communal Living Room and Parking Consequence

The SEPP requires that boarding houses with five or more rooms provide a communal living room. Since the boarding house proposes 18 rooms, the proposal has also provided one communal living room. However, the room is of substandard size and dimensions being 7.34m in length x 2.8m in width and a total area of 20.552m².

The narrow 2.8m dimension together with the design of the space having four doorway entrances (1 from the common corridor and 3 into Studios 8, 9 and 12) make the room dysfunctional and unlikely to be used by all boarders, since it appears as the private space of the abovementioned studios, in addition to the restriction on furnishing as a result of the four doorways. The proposed space is effectively a corridor and not a useable living room.

The applicant has not provided a furniture layout to demonstrate how the space is able to accommodate 34 lodgers.

In this regard, it is considered that the living room must be increased in size to provide a functional area. This is recommended to be addressed as a condition of consent and requires the deletion of proposed Studio 12 so that it can be absorbed into the living room. Converting Studio 12 is the best and most reasonable outcome since the studio is located on the south side of the high-light window and will receive good solar access from the north, plus it provides a regular and wide space and would only result in the loss of one boarding room.

The implications of deleting Studio 12 include:

- Maximum number of boarders to be accommodated at the site is reduced to 32 since Studio 12 accommodated two boarders.
- Car parking requirement is reduced by one space, which means the problematic car space no. 3 which is only suitable for a small car and is located in what should be the landscaped frontage will become surplus and can now be deleted from the frontage and replaced with landscaping (see comment below).
- Private open space of Studio 12 is now redundant as a private courtyard and can now be absorbed into the communal open space, thereby increasing the overall provision of communal open space.
- Description of the development must be adjusted to reflect 17 rooms and 32 lodgers as outlined in the body of the report.
- Monetary amount required under Section 94 Development Contributions is reduced and based on 32 lodgers instead of 34.

The above changes as a result of the deletion of Studio 12 have been included in the conditions of consent.

With regard to the proposed car parking space no. 3, it is reiterated that the space is only suitable for a small car given its manoeuvrability constraints which would limit its useability. Considering that the space is inappropriately located within what should be a landscaped front setback and considering the configuration of the space parallel to the street, it is considered that the space and the excess hardstand area created for the space is incompatible with this streetscape, which has no other known examples of parking in this format. The site currently enjoys two driveways, as such no concern is raised with the driveway configuration, however, this specific excess and unsuitable space should be deleted and replaced with landscaping.

[2] Streetscape and Local Character

While the built form of the development is unusual, the design has incorporated features that enable the building to generally achieve an appropriate contextual fit, albeit with some shortfalls discussed in this section.

The development is arranged as a double-storey building containing a series of tandem boarding rooms, an undersized communal living room, an open common access corridors providing access to each room, a staircase access that is detached from the main building, an industrial-type roof form that is partly slanted and partly flat and out-of-character with the traditional streetscape of pitched roofs, a waste storage compound located in what should

be the landscaped setback, a horse-shoe driveway to facilitate manoeuvrability and car parking spaces within the frontage.

The concerning aspects of the development with respect to its contextual fit relate to the industrial and unusual roof form, the location of the waste storage compound and the location of car parking space no. 3. The concern with the parking space was discussed in comment [1] above and is recommended to be resolved by way of deferred commencement conditions. This section discusses the concern with the waste storage location and the roof form.

Roof Form

The surrounding locality is characterised by a mix of built forms including dwellings and residential flat buildings. However what they all share in common are traditional hipped and tiled roofs. As noted, this proposal presents a saw-tooth type roof with industrial appearance with partly slanted and partly flat roof form that is out-of-character with the traditional streetscape of pitched roofs. While the built form has other unusual features that are not typical in this streetscape such as the open common corridor and detached staircase, the roof form is the most visually dominant feature and should be redesigned to provide a better contextual fit. This matter is also able to be addressed as a deferred commencement condition.

Waste Bin Compound

The waste bin compound is proposed to be located in the front landscaped setback, reducing the overall area of landscaping and presenting an undesirable built form within the streetscape comprising of 1.8m high masonry walls surrounding the compound which is excessive considering that a standard bin is only 1.08m high and inappropriate for anything other than a side boundary fence.

The design of the compound is contrary to Council's controls for new development pursuant to Canterbury Development Control Plan (CDCP) 2012 which does not permit permanent waste storage areas in the front of a site where they would be visible from the public domain and also does not permit fencing higher than 1.2m in the frontage.

The applicant has suggested that the proposal is compatible with the streetscape, presumably as existing older residential flat buildings have similar compounds such as the flats at 31 and 40 Anderson Street. This is not acceptable or reasonable since the proposal is a new development and more importantly is designed in 2017 and is not a 1970s residential flat building. In this regard, the proposal should not be compared to 1970s flats built under superseded controls and should contribute to the desired character that is being achieved by all other new developments. If the development were to be approved in its current form, it would set a poor example and precedent for other new developments within this streetscape to also locate waste storage within their front setback. For this reason, it is recommended that the waste area be relocated out of the front setback, by way of a deferred commencement condition.

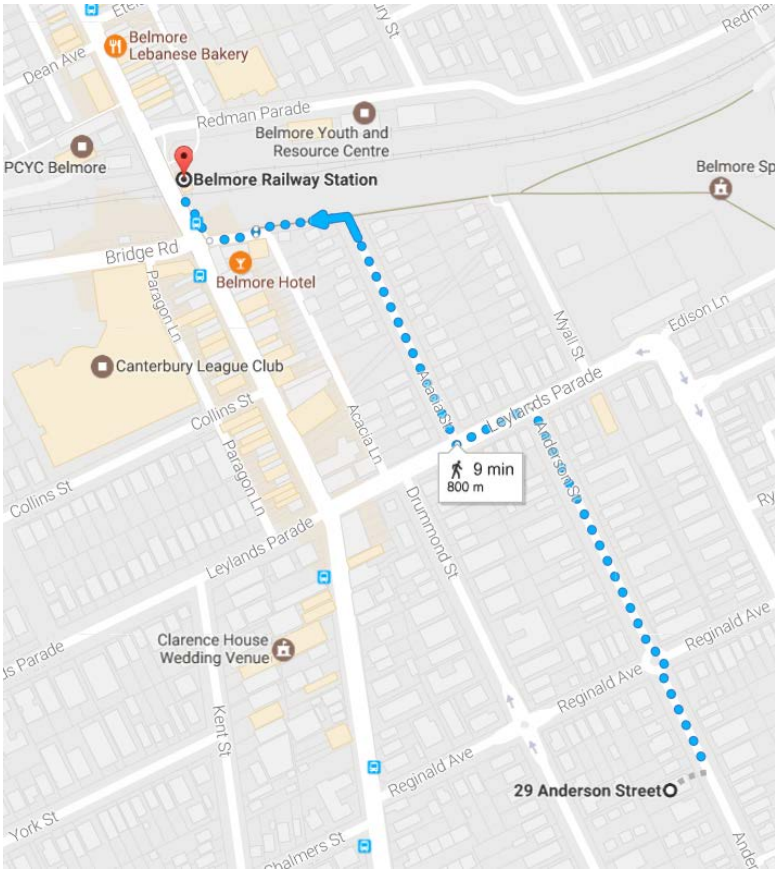
In summary, as demonstrated above, the proposed development is consistent or subject to conditions is capable of being consistent with the boarding house requirements in ARH SEPP. Further, Clause 30A states that a 'consent authority must not consent to development to

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 proposed boarding house provides adequate off street parking but this dominates the front setback by virtue of the dual driveway which allows vehicles to enter and leave the site in a forward direction. While the use of “in-out” driveways reduces the opportunity for landscaping and on street parking it does improve vehicular and pedestrian safety and is supported. The dominance of hard-paved areas will be reduced and improved by way of the recommended condition deleting car parking space no. 3 and converting the space to landscaping.

As discussed, while certain features of the proposal are inconsistent with the existing streetscape such as the waste storage location, car parking space location and roof form, the proposal is fully capable of being consistent with the streetscape, subject to design solutions being presented by the applicant to respond to these matters. **Subject to the matters raised in this report being imposed as deferred commencement conditions and appropriately resolved by the applicant, Council is satisfied that the proposal is capable of fitting in with the streetscape character** in terms of the consistent building height, setbacks, bulk, scale, landscaping and selection of materials to be used in the construction of the building. In this regard, the proposal will integrate appropriately into the locale and is considered unlikely to impact negatively on the streetscape.

Overall, it is demonstrated that the subject boarding house meets the relevant standards set out in ARH SEPP, and is therefore worthy of support.



Map showing 800m walking distance to Belmore Railway Station

Canterbury Local Environmental Plan 2012

The subject site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan (CLEP) 2012. The controls applicable to this development application are as follows:

Standard	Requirement	Proposal	Compliance
Zoning	R3 Medium Density Residential	The proposed development is defined as a 'boarding house' under CLEP 2012	The proposed development is permissible with consent under CLEP 2012
FSR	0.5:1 (505.85m ²) (CLEP 2012)	Based on land area being 1,011.7m ² , maximum allowable FSR is 0.5:1 equivalent to 505.85m ² . The architectural plans propose: 505.5m ² or 0.5:1 and comply.	Yes
Building Height	The subject site is identified as being within an area where a height limit of 8.5 metres applies	The development has a maximum height of 8.26 metres.	Yes

The proposal complies with the standards found in CLEP 2012. The proposed boarding house does not represent a departure from the maximum floor space ratio or maximum building height.

Further, Clause 27(2) of the ARH SEPP permits this development on land within Zone R3 Medium Density Residential or within a land use zone that is equivalent to that zone in the Sydney region provided that the land is within an accessible area. It has been demonstrated that the subject land is within an accessible area and therefore satisfies this requirement.

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

The following table provides a summary of the development application against the relevant controls contained in the Canterbury Development Control Plan 2012.

Canterbury Development Control Plan 2012

Part 2 – Residential Neighbourhoods

It should be noted that Part 2 of CDCP 2012 does not provide criteria for the assessment of Boarding House applications, as the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) is the relevant document in this regard. However the ARH SEPP does not contain controls with regard to built form and setback etc. With this in mind it is considered that the multi-dwelling controls contained within Part 2 of CDCP should be used as a guide.

The development compares to the relevant multi-dwelling housing provisions contained within the CDCP 2012 as follows:

Criteria	Development Control	Proposed	Complies
Minimum frontage	Min 20m	20.155m	Yes
Cut and fill	Max 1m cut, 600mm fill	<1m cut and 600m fill	Yes
Height	Max one storey where building is located >20m + required street setback (6m) from front boundary. 65%-32.6m	Front 65% or 32.5m, is 2 storey	Yes
	Max two storeys otherwise	Max two storeys at front	Yes
	Max 7m external wall height, where maximum height is 8.5m	Max 6.3m external wall height for 2 storey	Yes
	Max 3.8m for 1 storey	3.15m	Yes
Depth/ footprint	25m depth for buildings (Multi-dwelling control)	Ground floor 37m First floor 24m (complies)	No, see comment [1] below
Front setback	6m	10.2m	Yes
Side setbacks	Min 2.5m	2.5m-5.4m	Yes
Rear setback	3m-Single storey	3m	Yes
	5m-1st floor attic	18m from 2 nd floor component	Yes
Deep soil	Min 3m width deep soil along front and rear boundaries	3 m width deep soil along front and rear boundaries.	Yes
	Min 1m deep soil along both side boundaries	3m wide deep soil zone provided along whole length of southern side boundary and western rear half of northern side boundary.	Yes
General Design Requirements	At least 1 habitable room towards street	Habitable rooms from both ground and 1st floor level studios face towards street.	Yes
	Provide clearly visible entries	Clearly identifiable entries.	Yes
	Do not obstruct sight lines to the street or internal spaces, from habitable rooms or entrances.	No obstruction to sight lines.	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.	Façade adequately modulated and reflects the use being a residential use.	Yes
	Use a harmonious range of high quality materials, finishes and detailing with contrasting elements.	Contrasting elements on front façade include use of cement rendered brick walls combined with alucabond roof fascia, glazing and aluminium louvres for screening.	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. All windows are rectangular.	Yes

Criteria	Development Control	Proposed	Complies
Roof Design	Use a simple pitched roof, with appropriate pitch, that accentuates the shape of exterior walls, and minimises bulk and scale.	Proposed roof design is considered to be out of context and uses partly flat and partly slanted form as detailed in comment [2] under the assessment against SEPP ARH. As noted, the roof should be redesigned to provide a more appropriate contextual fit and this is recommended to be done via deferred commencement conditions.	Yes, subject to condition - See comment [2] above under SEPP ARH
Fences	Street fencing to have max height of 1.2m, screens with 50% transparency may be up to 1.8m	To be conditioned.	Yes
Visual Privacy	New development to maximise visual privacy between buildings	1 st floor balconies deleted so potential of overlooking adjoining properties to the north has been reduced. However living room windows still face north and a condition is required to raise living room window sill heights to 1.5 metres.	Yes, subject to condition
	Provide adequate building separation and setbacks	Adequate building separation is provided	Yes
	Orient windows of new living areas, and balconies or terraces, towards the street and rear of the lot	Balconies of front studios face towards the street.	Yes
Acoustic Privacy	Protect sensitive rooms from likely sources of noise	Proposal complies with minimum setback requirements and is protected from likely sources of noise.	Yes
Open space	ARH SEPP Control	Complies with the open space requirements of ARH SEPP	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.	The entry is visible from street. Design satisfies CPTED principles and objectives.	Yes

As demonstrated in the compliance table above, the application is generally consistent with CDCP 2012. However, justification to support the maximum depth provision is discussed below.

[1] Depth/footprint

The proposed ground floor depth/footprint of 37m is non-compliant with the depth/footprint control under CDCP 2012, which requires a maximum 25m depth of footprint. It is noted that the first floor depth/footprint being 24m is compliant with the CDCP. The current proposal is for a boarding house, for which CDCP 2012 has no specific controls. In light of this, it is worth discussing the objectives of the depth/footprint controls. The objective of this control is to ensure that residential amenity is improved in new and existing developments and ensure new buildings have a scale and mass visually compatible with the desired residential character of the zone.

The proposal will provide adequate solar access on all north facing windows of the adjoining two storey RFB located at 31 Anderson Street allowing the required three hours of solar access between 9am and 12 noon in mid-winter.

In terms of visual privacy impacts, the original proposed 1st floor balconies have been deleted and the potential for overlooking of the adjoining northern side boundary properties has been significantly reduced. However, a condition is recommended requiring that the 1st floor north facing windows sill heights be raised to 1.5 metres. On the southern façade, privacy is maintained as the proposal faces a driveway with bedrooms and translucent bathroom windows facing north towards the site. On this basis there is limited overlooking opportunities.

In terms of building massing and scale, the proposed development has been appropriately designed to achieve suitable building articulation. It is noted that the northern elevation is well articulated with a series of recessed elements which break the length of the wall. It is also consistent with the depth of the adjoining RFB to the immediate south and adjacent RFBs.

Whilst the proposed development exceeds the maximum depth/footprint permitted, the proposal achieves the objectives of the control. In particular, the proposal achieves an appropriate level of amenity for future occupants as well as maintaining amenity for existing residents of adjoining properties. The proposal preserves appropriate levels of sunlight, privacy and general amenity for the adjoining RFB to the south and detached dwellings to the north. On this basis the variation is supported noting that it be used as a guide only.

Part 6.1 – Access and Mobility

Conditions of consent have been imposed requiring the proposal to satisfy relevant access and mobility requirements of Part 6.1 of CDCP 2012 including a condition requiring the development to comply with the Disability (Access to Premises-Buildings) Standards 2010.

Part 6.2 – Climate and Resource Efficiency

The applicant has submitted shadow diagrams which demonstrate that the proposed development will ensure that the adjoining properties to the south-east will receive adequate solar access between 9am and 3pm on 21 June.

Part 6.3 – Crime Prevention Through Environmental Design

The development has been assessed against Clause 6.3 Canterbury Development Control Plan 2012 and it is considered that the proposal complies with the requirements of CDCP 2012 in terms of natural surveillance and access control.

Part 6.4 – Development Engineering Flood and Stormwater

The development has been reviewed by Council’s Development Engineer, who advises that the proposed stormwater disposal plans are inadequate but the issue can be resolved by way of the deferred commencement consent requiring detailed stormwater disposal plans be lodged and approved by Council before the consent can become active. Council’s engineer also noted that car parking space no. 3 is not suitable for standard vehicles and would need to be allocated for “small vehicles only”, however, this report recommends the deletion of the space.

Part 6.6 – Landscaping

The development has been reviewed by Councils Landscape Architect, who originally requested an amended landscape plan addressing the following matters:

- Retention of Street tree *Callistemon Viminalis*
- Retention of *Melaleuca* tree at front boundary of site
- Provision of additional landscaping along the southern boundary due to relocation of bin storage area.

An amended Landscape plan incorporating the above amendments has been submitted and Council’s Landscape Architect raised no objection to the proposal subject to conditions being imposed.

However, as noted earlier, the plan does not reflect the latest site layout and architectural plans but this can be addressed by conditions requiring amended landscape plans to this effect.

Part 6.9 – Waste Management

The development has been reviewed by Council’s Environmental Health Officer, who raised no objection to the proposal subject to conditions being imposed.

Canterbury Development Contributions Plan 2013

The provisions of Canterbury Development Contribution Plan 2013 apply to the proposed development in that it will provide residential dwellings in the form of boarding rooms on the subject site. The proposed development attracts a monetary contribution for open space and recreation, community facilities and plan administration. Having regard to the provisions of the Plan, the monetary contribution is required to be paid prior to the issue of a Construction Certificate. A condition to this effect is recommended to be included in any development consent issued.

Standards for Places of Shared Accommodation

The proposal is regulated by the Standards for Places of Shared Accommodation under the Local Government (General) Regulation 2005. These Standards refer to the Public Health (General) Regulation 2002 which requires that each room has a floor area of 5.5m² or more for each person sleeping in it (in the case of long-term sleeping accommodation) or 2m² or more for each person sleeping in it (in any other case). It is expected that two rooms be used by no more than one person and 16 rooms will be used by no more than two people (this

will be a condition of consent should approval be issued), and as such the proposal would comply with this standard as the room sizes range between 14m² to 19.6m² in area.

An appropriate condition would be placed on the consent requiring compliance with the Places of Shared Accommodation Standard which requires the premises to be kept in a clean and tidy state and for furniture and fittings to be maintained in good order.

To ensure compliance with the above standard, annual inspections are carried out by Council of all places of shared accommodation. Therefore, these premises would be subject to an annual inspection as required by the Local Government Regulation.

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

A planning agreement has not been entered into under section 93F.

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

The application has been assessed against relevant provisions of the EP&A Regulation 2000 and is acceptable.

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

With respect to the visual impact of the roof, waste storage compound and car parking in the frontage, these matters are considered able to be resolved via deferred commencement conditions such that there would be no adverse impact on the existing streetscape character. Other impacts of the development have been considered however there are unlikely to be any adverse impacts on the locality.

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

The site is located within a medium 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 is suitable for the proposed development.

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

The application was both advertised and notified for a period of twenty-one (21) days between 5 August 2015 and 26 August 2015 where five (5) submissions objecting to the application, including a petition containing 43 signatures and a submission from the former NSW State Member for Canterbury were received. The objections raised the following concerns:

- **Loss of privacy from the proposed first floor balconies and windows facing north and directly overlooking their rear private open space**

Comment: The applicant has agreed to delete the proposed first floor balconies from studio No's 14-18 that previously faced north over adjoining properties rear private open space areas. There is no longer any visual or acoustic privacy issues.

- **Overshadowing of adjoining properties**

Comment: The proposal will cast shadow onto the southern adjoining Residential Flat Building but the level of shadow will still allow adequate solar access into that building between 9am and 3pm in mid-winter.

- **Noise generation from rooms and adverse amenity impacts upon surrounding properties. In particular, concern was raised regarding proposed balconies directly facing nearby residences**

Comment: The first floor balconies from studios 14-18 that previously faced north over adjoining northern properties rear private open space areas have been deleted. This has limited the potential for adverse acoustic privacy impacts.

- **Inadequate on-site car parking provision coupled with an existing shortage of available on-street car parking**

Comment: The proposal does provide for five on-site car parking spaces which are recommended to be reduced to four spaces as a result of the deletion of Studio 12. The proposal remains compliant with Clause 29(2)(e)(i) of State Environmental Planning Policy (Affordable Rental Housing) 2009. On this basis car parking provision is not a reason that can be used to refuse the proposal. Council's Development Engineer has reviewed the proposal and advised that the amended car parking plan enables vehicles to manoeuvre satisfactorily on site.

- **Boarding house is an inappropriate development in a suburban street**

Comment: The surrounding area is characterised by a mixture of single and double storey dwellings, two and three storey residential flat buildings and multi dwelling housing. It is also noted that the site and surrounding area is zoned R3 Medium Density Residential which has an objective of providing a variety of housing types within a medium density residential environment which it is considered the proposal satisfies.

The development (subject to certain redesigns to the roof, waste storage and parking area) will be compatible with the character of the local area in terms of the consistent building height, setbacks, bulk, scale and landscaping. In this regard, the proposal will integrate sufficiently into the locale and is considered unlikely to impact negatively on the streetscape. On this basis, Council is satisfied that the design of the development is capable of being compatible with the character of the local area.

- **Flat roof design is out of character with surrounding homes and gives it an industrial appearance**

Comment: The proposed roof is of a flat metal design and it is understood that the design has been formulated around minimising potential overshadowing of the adjoining residential flat building to the immediate south of the site. However, it is agreed that the flat roof design is inconsistent with the current surrounding pitched roof streetscape as has been discussed in detail in the body of this report. As already noted, Council recommends that the applicant redesign the roof to provide a pitched roof compatible with the streetscape.

- **Surrounding landowners raised potential safety and security concerns given the transient nature of tenants**

Comment: There are no planning grounds to suggest that boarding house tenants represent a greater safety or security threat to local amenity than occupants of non-boarding houses.

- **Concern was raised regarding the number of people that will be permitted at the premises at any given time**

Comment: A condition of consent will be imposed restricting the total number of boarders to 32 (reduced from 34) in accordance with the Standards for Places of Shared Accommodation under the Local Government (General) Regulation 2005.

- **Concern was raised that too many studios were proposed and that the proposal is an overdevelopment**

Comment: There is no restriction on the number of boarding rooms permitted on the site provided the proposal complies with relevant requirements of the Affordable Housing SEPP, along with the 0.5:1 Floor Space Ratio development standard under Canterbury Local Environmental Plan 2012 and also relevant controls under Canterbury Development Control Plan 2012 including setbacks and height.

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

Having regard to the matters discussed above, the proposal is considered to be in the public interest as it will provide much needed affordable boarding accommodation in the locale and will drastically improve the current site, therefore is satisfactory and worthy of support.

CONCLUSION

The proposed development complies with the relevant requirements that apply to boarding houses. Despite a variation to the depth of the building under CDCP 2012 (which does not technically apply to the proposal and is used as a guide only), the proposed development is consistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009. Subject to operating within the recommended conditions of consent, the proposed boarding house and its communal living room should not result in either a significant or negative impact on the local residential amenity.

Beyond the proposal complying with the relevant boarding house controls, the proposed roof form, location of bins and parking within the front setback are considered unacceptable unless the applicant provides a satisfactory design solution to address the streetscape character concerns that these aspects of the proposal create. This is considered able to be achieved subject to compliance with the recommended deferred commencement conditions which require the waste storage compound to be relocated outside of the front setback, the roof form to be redesigned to provide a pitched form consistent with the established streetscape character, and the deletion of car parking space no. 3 and its replacement with landscaping.

Given these circumstances, the proposal is considered to be acceptable and is recommended to be approved as a deferred commencement consent.

ATTACHMENTS

- A. Conditions of Consent

DA-279/2015
CONDITIONS OF CONSENT

PART A – DEFERRED COMMENCEMENT CONSENT

- A. This consent is not to operate until the applicant has satisfied the following matters, within two (2) years of the date of this determination, otherwise the consent will lapse:**
1. The submitted stormwater plan is inadequate. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided. The submitted design must make provision for the following:
 - a) The stormwater plan must be in accordance with Canterbury Development Control Plan 2012.
 - 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 Anderson Street. Note: must discharge via gravity.
 - c) On-Site Detention is required. On-Site Detention calculations must be shown on the plans clearly showing the bypass areas, and pervious and impervious areas.
 - d) The design must include pit, pipe size, slope and capacity.
 - e) Surface, invert, pipe and top of water levels must be shown on plans for pits On-Site Detention system and pipes.
 - f) All stormwater must pass through a silt arrestor pit prior to discharge to kerb and gutter. Silt arrestor pit is to be sized in accordance with Canterbury Development Control Plan 2012. Sump depth is to be a minimum of 300mm deep.
 - g) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
 - h) 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.
 2. A full set of amended architectural plans must be provided showing the following changes and the impacts of the following changes:
 - a) The roof of the development must be redesigned to provide a pitched roof that is compatible with the existing streetscape, ensuring that there are no additional impacts as a result of the design, such as, but not limited to, increase in height, bulk, overshadowing etc. (Refer to Canterbury Development Control Plan 2012 for additional controls which must be complied with).
 - b) The waste storage compound located within the front landscaped setback must be relocated behind the building line. The compound should be located away from windows to reduce noise and odour nuisances. (Refer to Canterbury Development Control Plan 2012 for additional controls which must be complied with).

- c) Car Parking Space No. 3 located at the front of Studio 1 shall be deleted and the space entirely converted into a landscaped area. Details of the landscaping are to be shown on the amended landscape plans.
- d) Studio 12 deleted and the number of boarding rooms reduced from 18 to 17.
- e) The entire area of Studio 12 be absorbed by the main communal living room in order to increase the floor area designated to the communal living room. Accordingly, the amended plan shall provide one large communal living room space by deleting the solid wall separating Studio 12 from the communal living room.
- f) The Private Courtyard Area designated to Studio 12 must be absorbed by the open communal space located at the rear of the site and made fully accessible and available for use by all lodgers.
- g) The north-facing first floor living room windows of Rooms 13 to 18 must be raised to ensure the window sill heights are a minimum of 1.5 metres from the finished floor level of the first floor, as hand-marked in red on the Front and Side Elevations Plan A012. This is required to reduce opportunities for overlooking and loss of privacy.

PART B – CONDITIONS OF APPROVAL

B. The following conditions of consent will be included in the development consent issued by Council after the applicant provides information to satisfy Council in relation to the conditions of the deferred commencement consent:

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
- Amended Plan of Management to reflect the conditions of the subject Development Consent such as but not limited to the number of boarding rooms and maximum number of lodgers

1.2. Evidence of compliance with Condition 5.1.

1.3. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.

1.4. Payment to Council of:

Demolition Damage Deposit	\$3,395.00
Section 94 Development Contributions	\$168,342.50

Certificate Registration Fee	\$36.00
Long Service Levy	\$3,287.70
Long Service Levy Commission	\$19.80

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

Construction Certificate Application Fee	\$4,037.00
Inspection Fee	\$1,255.00
Occupation Certificate Fee	\$292.00

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 Bankstown Council, or an Accredited Certifier) and notify the Council of the appointment (see Attachment – Notice of Commencement copy), and
 - 2.3. you must give the Council at least 2 days’ notice of your intention to commence erection of the building (see Attachment – Notice of Commencement copy).

SITE SIGNAGE

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

DEMOLITION

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

- a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.
- b) Written notice is to be given to Canterbury Bankstown Council for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and license number of the demolisher. The following building inspections shall be undertaken by Canterbury Bankstown Council:
 - (i) A *pre-commencement* inspection shall be carried out by Council when all the site works required as part of this consent are installed on the site and prior to demolition commencing.
 - (ii) A *final* inspection shall be carried out by Council when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.We require 24 hours' notice to carry out inspections. Arrangements for inspections can be made by phoning **9707 9300**.
- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, license number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence or hoarding between the work site and any public place. Access to the site shall be restricted to Authorised Persons Only and the site shall be secured against unauthorised entry when the building work is not in progress or the site is otherwise unoccupied. Where demolition is to occur within 3m of a public place a Work Permit application for the construction of a Class A or Class B hoarding shall be submitted to Council for approval.
- e) The demolition plans must be submitted to the appropriate Sydney Water Office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the demolition plans will be stamped indicating that no further requirements are necessary.
- f) Demolition is to be carried out in accordance with the appropriate provisions of Australian Standard AS2601-2001.
- g) The hours of demolition work shall be limited to between 7.00am and 6.00pm on weekdays, 7.00am and 1.00pm on Saturdays and no work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- h) Where materials containing asbestos cement are to be removed, demolition is to be carried out by licensed contractors who have current Workcover Accreditation in asbestos removal.

- i) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment and Conservation.
- j) Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- k) During demolition, the public footway and public road shall be clear at all times and shall not be obstructed by any demolished material or vehicles. The public road and footway shall be swept (NOT hosed) clean of any material, including clay, soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.
- l) All vehicles leaving the site with demolition materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicles with demolished materials shall occur on site.
- m) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- n) Care shall be taken during demolition to ensure that existing services on the site (i.e. sewer, electricity, gas, and phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
- o) Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
- p) Prior to the demolition of any building constructed before 1970, a Work Plan shall be prepared and submitted to Council in accordance with Australian Standard AS2601-2001 by a person with suitable expertise and experience. The Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- q) At least two (2) working days (i.e. Monday to Friday exclusive of public holidays), the developer or demolition contractor must notify adjoining residents prior to the commencement of asbestos removal works. Notification is to include at a minimum:
- The date and time when asbestos removal works will commence;
 - The name, address and business hours contact number telephone number of the demolisher, contractor and or developer;
 - The full name and license number of the asbestos removalist; and
 - The telephone number of the WorkCover Hotline 13 10 50
- Warning signs must be placed so as to inform all people in the nearby vicinity that asbestos removal work is taking place in the area. Signs should be placed at all main entry points to the asbestos work area where asbestos is present. These signs should be weatherproof, constructed of light weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994.

Safety signs for the occupational environment for size, illumination, location and maintenance.

GENERAL

5. The development being carried out in accordance with the following plans except where amended by the conditions specified in this Notice and as approved by Council in the deferred commencement plans.

Drawing No.	Prepared by	Revision	Date
Amended Front View Perspective A01	Ergo Designs Pty Ltd	H	07/03/17
Amended Side View Perspective A02	Ergo Designs Pty Ltd	H	07/03/17
Notes & Schedules A03	Ergo Designs Pty Ltd	H	07/03/17
Calculations Plan A04	Ergo Designs Pty Ltd	H	07/03/17
Calculations Plan A05	Ergo Designs Pty Ltd	H	07/03/17
Site Analysis Plan A06	Ergo Designs Pty Ltd	H	07/03/17
Site Plan Ground Floor A07	Ergo Designs Pty Ltd	H	07/03/17
Site Plan First Floor A08	Ergo Designs Pty Ltd	H	07/03/17
Proposed Ground Floor Plan Front A09	Ergo Designs Pty Ltd	H	07/03/17
Proposed Ground Floor Plan Rear A010	Ergo Designs Pty Ltd	H	07/03/17
Proposed First Floor Plan A011	Ergo Designs Pty Ltd	H	07/03/17
Front and Side Elevations A012	Ergo Designs Pty Ltd	H	07/03/17
Rear and Side Elevations A013	Ergo Designs Pty Ltd	H	07/03/17
Sections A014	Ergo Designs Pty Ltd	H	07/03/17
Soil & Water Management Plan A016	Ergo Designs Pty Ltd	A	10/06/15
Soil & Water Management Notes A017	Ergo Designs Pty Ltd	A	10/06/15
Waste Storage Area Plan A030	Ergo Designs Pty Ltd	B	11/12/15
Landscape Plan Front L01	Topio Graphica	B	11/12/15
Landscape Plan Rear L02	Topio Graphica	B	11/12/15
Landscape Notes & Details L03	Topio Graphica	B	11/12/15

- 5.1. Amendment of the development plans to show the following changes, to the satisfaction of the Principal Certifying Authority prior to the issue of a Construction Certificate:
- a) Amended Landscape Plans reflecting the approved architectural layout.
6. Finishes and materials including the treatment of external walls, roofing, balcony balustrades, fences, windows and doors being in accordance with the approved drawings prepared by Ergo Designs Pty Ltd received 29 June 2015. The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the external appearance of the building without the approval of Council.
7. Fencing at the front boundary of the site must have a maximum height of 1.2m.
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 2015, 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 \$168,342.50. The amount payable is based on the following components:

Contribution Element	Contribution
2015	
• Community Facilities	\$15,235.03
• Open Space and Recreation	\$148,815.17
• Plan Administration	\$4,292.30

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. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
10. 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.
11. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00am - 5.00pm, 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.

BOARDING HOUSE REQUIREMENTS

24. The new building shall be used exclusively for the purposes of a boarding house within the meaning of State Environmental Planning Policy (Affordable Rental Housing) 2009 and must also comply with the following:

- 24.1. A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use from boarding house accommodation. The covenant is to be registered on the Title of the subject land prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.
- 24.2. The Boarding House is to be registered with the NSW Office of Fair Trading. Notification of the registration of the boarding house is to be provided to the Commissioner for Fair Trading in line with the requirements of the Boarding Houses Act 2012, Part 2, Division 2, prior to an Occupation Certificate being issued.
- 24.3. All lodgers must be subject to an Occupancy Agreement for a term of at least three months.
- 24.4. The boarding house must contain 17 rooms accommodating a maximum of 32 persons, with no more than two lodgers sleeping per room, in accordance with the approved floor layout plans.
- 24.5. Room No. 10 must be dedicated as the Manager's Room for the sole purpose of being occupied by the on-site boarding house manager.
25. The use of the building as a boarding house must at all times be operated in accordance with the approved Plan of Management (prepared by Chapman Planning Pty Ltd and dated 29 June 2014). The applicant/operator of the use shall, as part of the Plan of Management, provide Council and neighbouring properties in a 400m radius in Anderson Street with a 24-hour telephone contact number to be used for the registering of complaints. The applicant/operator of the use is to monitor the number and nature of complaints, shall formally register all complaints received and shall detail the action taken to rectify the problems that have arisen. This information shall be collated into a Complaints Log and be made readily available to Council at any time upon request.
26. A total of four (4) off-street car parking spaces being provided inclusive of one (1) accessible car parking space allocated to the adaptable dwellings and inclusive of one (1) car parking space dedicated and sign-marked for the sole use of the on-site manager.
27. A total of four (4) bicycle parking spaces being provided.
28. A total of four (4) motorcycle parking spaces being provided.
29. All car, bicycle and motorcycle parking spaces must be designed to comply with Australian Standards and must be sealed, linemarked and sign-marked to the satisfaction of the Principal Certifying Authority.

30. Access to the premises must be provided for people with disabilities and in accordance with the recommendations of the Access and Mobility Compliance Report and compliant with the Disability (Access to Premises-Buildings) Standards 2010.
31. Outfitting and operation of the use in accordance with Schedule 1 below, STANDARDS FOR PLACES OF SHARED ACCOMMODATION of the Local Government (General) Regulation 2005. Council's City Planning Division conducts routine annual inspections in order to ensure compliance with the requirements of the Schedule and a written report of the result of the inspection is issued by the Environmental Officer. A fee is payable for this service under Section 608 of the Local Government Act 1993

Local Government (General) Regulation, 2005

**Schedule 1 – Standards For Places Of
Shared Accommodation**

Maximum number of boarders and lodgers

1. (1) The number of occupants (not including children under the age of 5 years) must not exceed the maximum number of persons determined by the council to be accommodated in each bedroom or dormitory and in the whole premises.
- (2) The maximum number of persons accommodated in a bedroom, or in a cubicle of a dormitory, must not exceed the number determined by allowing a minimum floor area within the bedroom or cubicle of 5.5 square metres for each person.

Notices

2. (1) A sign indicating the permissible maximum length of time during which a person may board or lodge in the premises must be conspicuously displayed to public view outside the premises.
- (2) A schedule showing the numeral designating each bedroom and dormitory and the number of persons permitted to be accommodated in each must be conspicuously displayed on the premises.
- (3) Each bedroom must be numbered in accordance with the schedule and there must be displayed clearly on the door of or in each bedroom the maximum number of persons allowed to be accommodated in the bedroom.

Light and ventilation

3. (1) Adequate light and ventilation must be maintained in the premises.
- (2) All partitions forming cubicles in a dormitory must be adequately constructed and provide adequate ventilation.

Kitchen facilities

4. (1) Any kitchen facilities and utensils for the storage or preparation of food must be kept in a clean and healthy condition, in good repair, free from foul odours and, as far as practicable, free from dust, flies, insects and vermin.
- (2) The floor of any kitchen must have an approved impervious surface.

General cleanliness

5. (1) All parts of the premises and all appurtenances (including furniture, fittings, bedsteads, beds and bed linen) must be kept in a clean and healthy condition, and free from vermin.
- (2) Pans, receptacles or other waste storage devices must be kept covered and all waste must be deposited in appropriate pans, receptacles or other waste storage devices.

Furniture and fittings

6. Appropriate furniture and fittings must be provided and maintained in good repair.

Long term residences

7. If the place is one in which persons may board or lodge for 7 days or longer, an adequate number of beds (each provided with a mattress and pillow and an adequate supply of clean blankets or equivalent bed clothing), adequate storage space and blinds curtains or similar devices to screen bedroom and dormitory windows for privacy must be provided for the occupants.

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/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

33. Class 2, 3 or 4 Buildings
 - 33.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
 - 33.2. prior to covering any stormwater drainage connections, and
 - 33.3. 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.

ENGINEERING PRIOR TO CONSTRUCTION CERTIFICATE

36. On-Site Detention must be provided. Three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority and Canterbury Bankstown Council, if Council is not the Principal Certifying Authority. 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 Canterbury Development Control Plan 2012, Part 6.4.
37. 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 Development Control Plan 2012.
38. 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 Development Control Plan 2012.

ENGINEERING PRIOR TO AND DURING CONSTRUCTION

39. 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.

ENGINEERING PRIOR TO OCCUPATION CERTIFICATE

40. 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.
41. 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.
42. A Works-as-Executed plan must be submitted to Canterbury-Bankstown Council at the completion of the works, the plan must clearly illustrate dimensions and details of the site drainage and the On-Site Detention 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 On-Site Detention system as specified in Canterbury Development Control Plan 2012, Part 6.4.

43. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that Operation and Management Plans has been prepared and implemented for the On-Site Detention facility. 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 Principal Certifying Authority prior to the issue of an Occupation Certificate.
44. The Operation and Management Plan for the On-Site Detention facility, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

RETAINING WALLS PRIOR TO CONSTRUCTION CERTIFICATE

45. Retaining walls greater than 1000mm high or retaining more than 600mm 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 practicing structural engineer must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. All components of any retaining walls, including subsoil drainage, must be located entirely within the property boundary. The subsoil drainage lines of the retaining walls must be shown on the stormwater drainage concept plan.

RETAINING WALLS PRIOR TO OCCUPATION CERTIFICATE

46. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure retaining walls have been constructed in accordance with the design plans. If the retaining walls do not require structural design certification may be provided by the builder. If the retaining walls require structural design certification must be provided by a qualified structural engineer that the retaining walls have been built in accordance with the plans submitted with the Construction Certificate.

PARKING PRIOR TO CONSTRUCTION CERTIFICATE

47. The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities". A revised design and revised plans certified by a suitably qualified Civil Engineer with NER registration with the Institution of Engineers Australia must be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate, addressing the following matters to the satisfaction of the Principal Certifying Authority:
- 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) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of *AS/NZS 2890.1-2004*.
- d) Forward entry and exit to the site is required.
- e) Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of *AS/NZS 2890.1:2004*.
- f) 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.

PARKING PRIOR TO AND DURING CONSTRUCTION

- 48. A road opening Permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's City Works Department for details.
- 49. A full width light duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 3.0 metres each 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".
- 50. If the vehicle access is to be reconstructed the levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, carparks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
- 51. 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

- 52. 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”.

53. The reconstruction of the kerb and gutter along all areas of the site fronting Anderson 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 of concrete footpath paving and associated works along all areas of the site fronting Anderson 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”.
55. 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.

LANDSCAPING REQUIREMENTS

56. The landscaping must be completed according to the approved Landscape Plan prepared by Topio Graphica, drawing no’s. L01, L02 and L03, revision B, dated 11 December 2015 except where amended by conditions of consent.
57. The existing street tree, *Callistemon viminalis* (common name Weeping bottlebrush), must be retained and protected during construction. A tree protection zone (TPZ) of 2m 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.
58. The existing property tree, *Melaleuca sp.* (common name Tea Tree) located in the front yard of the property must be retained and protected during construction. A tree protection zone (TPZ) of 2m 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.

59. 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.
60. 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).
61. 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 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.

WASTE MANAGEMENT REQUIREMENTS

62. The waste bin storage areas must be designed and constructed in accordance with Section 6.9.4.1 and Section 6.9.4.2 of the Canterbury Development Control Plan 2012.
63. 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.

WE ALSO ADVISE:

1. This application has been assessed in accordance with the National Construction Code.
2. 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.
3. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
 - Structural engineering work
 - Protection from termites
 - Final fire safety certificate
 - BASIX completion
 - Glazing
 - Waterproofing
4. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
5. 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.

6. 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.
7. 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.
8. 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.
9. If you are not satisfied with this determination, you may:
 - 9.1. 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
 - 9.2. 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.

-END-

Independent Hearing and Assessment Panel – 3 April 2017

ITEM 2	9-11 Weyland Street, Punchbowl
	Demolish existing structures, consolidation of both lots into one and construction of a six-storey mixed use development comprising 42 apartments, two commercial tenancies, two level basement for parking and associated landscaping
FILE	DA-632/2015
ZONING	B5 Business Development under Canterbury LEP 2012
DATE OF LODGEMENT	21 December 2015 (amended plans received 20 December 2016)
APPLICANT	E Fox
OWNER	Gejo Pty Ltd
ESTIMATED VALUE	\$9,983,058
SITE AREA	1,040m²
AUTHOR	Planning

RECOMMENDATION

It is recommended that the application be approved subject to the attached conditions.

SUMMARY

This matter was referred to IHAP on 6 February 2017, where IHAP deferred this matter on the following basis:

Panel Assessment

The Panel does not agree with the recommendation that the application should be approved in its current form.

The Panel is of the opinion that the applicant should be given a further opportunity to consider amendments to the proposal to, in particular, address internal separation distances and height.

In relation to the separation issue, the Panel is of the opinion there should be increased separation distances between the two buildings to enhance the visual and acoustic privacy, and improve light and ventilation. The current non-compliance would result in unacceptable impacts to the internal amenity of the units. There is a 25% to some 40% non-compliance on some levels with the ADG requirements for separation. The Panel considers that this non-compliance has not been adequately justified and that the separation distance should be increased generally in accordance with the ADG requirements.

In relation to height, the height variation is excessive in the Panel's opinion at approximately 16.6% above the LEP standard. The proposed roof terrace is itself some 2.85 metres above the specified 18 metre height. The primary justification for the clause 4.6 variation relies primarily on the fact that variations have been given in the other approvals along the streets.

The Panel considers that this non-compliance has not been adequately justified in terms of Clause 4.6 (3)(a) and (b) which requires the relevant standard to be unreasonable or unnecessary in the circumstances and/or requires sufficient environmental planning grounds to justify the contravention. Subsequently the height should be reduced to a more acceptable variance and consideration given to relocating the rooftop community space.

The proposal also demonstrated a number of other lesser non-compliances including:

- *Lack of direct sunlight in mid-winter to the communal space at ground level*
- *Car parking provisions*
- *Lack of deep soil planting*
- *Size and thus functionality/viability of the front commercial area*

In the case of the final point, the Panel agrees with the Council's recommendation that the small commercial area at the front of the building should be increased and the rear unit deleted. The three metre wide commercial area, in the Panel's opinion, is not viable and needs to be increased to provide for appropriate commercial viability for street activation.

The Panel defers further consideration of this matter, until the applicant provides amended plans and additional information, or indicates that it requires the Panel to determine the matter on the basis of the documents that have already been provided.

In summary, the Panel is of the opinion that these matters could support a refusal of the application. However, the Panel believes the applicant should be given an opportunity to address the issues raised. The Panel looks forward to receiving the amended details in a timely matter.

IHAP Decision

*THAT Development Application DA-632/2015 be **DEFERRED** to allow the applicant to provide additional information.*

Vote: 4 – 0 in favour

On 10 February 2017, the applicant was advised in writing of IHAP's decision and on 15 February 2017 the applicant lodged an Appeal against the deemed refusal of the Development Application in the Land and Environment Court. The process of instructing Solicitors, preparation of the Statement of Basic Facts and Contentions and securing a consultant planner to defend the deemed refusal, has begun.

We maintain our position of support for the proposal and attach the previous report including conditions of consent for IHAP's consideration. If IHAP is of a mind to approve the application, a Notice of Discontinuance of the appeal would need to be supplied by the applicant for the development consent to be issued and this requirement should be incorporated into any conditions of consent.

The purpose of this report is to advise IHAP of the status of this application and provide IHAP with an opportunity to determine the application.

REPORT

This matter is reported to the Independent Hearing and Assessment Panel due to the nature of the development and the history of the site.

This Development Application proposes a six-storey mixed use development comprising forty-two apartments and two levels of basement parking. The ground floor comprises both commercial and residential use, which is permissible in the B5 Business Development zone.

The proposed development is arranged into two separate buildings (at front and rear of the site) to match recent approvals in Weyland Street.

A roof top terrace on the rear building exceeds the development standard for building height, a Clause 4.6 variation has been submitted and is well-founded and worthy of support.

The Canterbury Development Control Plan 2012 permits a zero front setback for four storeys in this area but the proposal incorporates a two metre setback at the third and fourth storeys to match recent approvals in Weyland Street.

The application was both advertised and notified for a period of twenty eight (28) days between 27 January and 24 February 2016 where three submissions were received about loss of amenity and traffic. Amended plans were notified between 9 August and 6 September 2016 (which introduced a rooftop terrace) and no submissions were received. The scheme then underwent some additional changes but essentially the difference between the current scheme and the notified plan is that the number of apartments has been reduced from 45 to 42, the third and fourth storeys have been set back 2m from the street to match recent

approvals in Weyland Street and the building height has been reduced. The combination of changes reduces the overall impact of the development on the streetscape and surrounding properties.

The proposal meets the objectives of the Canterbury controls and approval of the development is recommended subject to conditions.

POLICY IMPACT

While a minor breach is sought to the maximum permitted building height through this application, the proposed increase will not be highly discernible from the street and complements the scale and built form of recently approved development on Weyland Street. The footprint of the lift overrun, stair core, rooftop terrace balustrade and a steel and concrete roof over the rooftop terrace is relatively small with the increase in building height not detracting from the building form or the visual amenity of the locality. Additional overshadowing impacts caused by the additional height provided to the lift overrun are considered negligible. As such there are no significant policy impacts as a result of this proposal.

FINANCIAL IMPACT

This matter has no direct financial implication.

RECOMMENDATION

It is recommended that the application be approved subject to the attached conditions.

ASSESSMENT REPORT

9-11 WEYLAND STREET, PUNCHBOWL: DEMOLISH EXISTING STRUCTURES, CONSOLIDATION OF BOTH LOTS INTO ONE AND CONSTRUCTION OF A SIX-STOREY MIXED USE DEVELOPMENT COMPRISING 42 APARTMENTS, TWO COMMERCIAL TENANCIES, A TWO LEVEL BASEMENT FOR PARKING AND ASSOCIATED LANDSCAPING

FILE NO: 947/9D

REPORT BY: PLANNING

WARD: BANKSTOWN

D/A No:	DA-632/2015
Applicant:	E Fox
Owner:	Huu Tai Phan, Thi-Ngoc-Anh Nguyen, Van Chinh Phan, Lien Trieu
Zoning:	B5 Business Development under Canterbury LEP 2012
Application Date:	21 December 2015 (amended plans received 20 December 2016)

Summary:

- This matter is reported to Council's Independent Hearing and Assessment Panel as it is significant development.
- This Development Application proposes a six-storey mixed use development comprising 42 apartments, two commercial tenancies and two levels of basement parking. The ground floor comprises both commercial and residential use, which is permissible in the B5 Business Development zone.
- The development has a Capital Investment Value of \$9,983,058.
- The proposed development is arranged into two separate buildings (at front and rear of the site) to match recent approvals for other sites in Weyland Street.
- A roof top terrace on the rear building exceeds the development standard for building height, a Clause 4.6 variation has been submitted and is well-founded and worthy of support.
- The Canterbury Development Control Plan 2012 permits a zero front setback for four storeys in this area but the proposal incorporates a two metre setback at the third and fourth storeys to match recent approvals in Weyland Street.
- The application was advertised and notified for a period of 28 days between 27 January and 24 February 2016 and three submissions were received raising issues regarding loss of amenity and traffic. Amended plans were notified between 9 August and 6 September 2016 (which introduced a rooftop terrace) and no submissions were received. The scheme then underwent some additional changes but essentially the difference between the current scheme and the notified plan is that the number of apartments has been reduced from 45 to 42, the third and fourth storeys have been set back 2m from the street to match recent approvals in Weyland Street and the building height has been reduced. The combination of changes reduces the overall impact of the development on the streetscape and surrounding properties.

- While a minor breach is sought to the maximum permitted building height through this application, the proposed increase will not be highly discernible from the street and complements the scale and built form of recently approved development on Weyland Street. The building components that exceed the maximum building height, being the lift overrun, stair core, rooftop terrace balustrade and a steel and concrete roof over the rooftop terrace, are small with the increase in building height not detracting from the building form or the visual amenity of the locality. Additional overshadowing impacts caused by the additional height provided to the lift overrun are negligible. As such there are no significant policy impacts as a result of this proposal.
- The proposal meets the objectives of the Canterbury controls and approval of the development is recommended subject to conditions.

Financial Impact:

This matter has no direct financial implication.

Report:

Site Details

The subject site is legally described as Lots 334 and 335 in DP 13801. It is comprised of 9 and 11 Weyland Street in Punchbowl which both contain a single storey detached dwelling and outbuildings. The site is rectangular in shape and has a total area of 1,040.4m².

The site is zoned B5 Business Development under Canterbury LEP 2012. It is a relatively flat site. The immediate area is generally characterised by single and double storey detached dwellings and some commercial and industrial activities to the north, west and east. Development approval has been issued for a six-storey mixed use development on the adjoining site 13-15 Weyland Street as well as 17-19 Weyland Street and 23 Weyland Street. The subject site backs onto a site that fronts Canterbury Road.

There is a tree located at the rear of 9 Weyland Street and a large Camphor laurel tree located at the rear of the adjoining site at 7 Weyland Street in close proximity to proposed basement excavation. This tree has recently received Tree Preservation Order permission for removal.

An aerial photo of the site and its locale is provided below.



Proposal

The applicant is seeking approval to demolish all existing structures at 9 and 11 Weyland Street, consolidate both lots into one, excavate the site for a two level basement car park for 55 spaces, remove one tree from the rear of the site and construct a six storey mixed use development, across two buildings, with two commercial tenancies on the ground floor (25m² and 45m²) and 42 residential apartments (eight x studio, 21 x one bedroom and 13 x two bedrooms).

No specific use has been designated for the proposed commercial tenancies and separate applications are required if the application is approved. A detailed breakdown of the development level by level is provided as follows:

Basement lower	29 off-street car parking spaces, residential storage, pedestrian lift and stairway, 14 bike spaces.
Basement upper	26 off-street car parking spaces, bin storage retail and residential, pedestrian lift and stairway.
Ground floor	Two x commercial tenancies (25m ² and 45m ²), vehicle driveway, pedestrian lift and stairway, three x one bedroom apartments, two x two bedroom apartments.
First Floor	Two x one bedroom apartments, five x two bedroom apartments
Second Floor	Two x studio apartments, four x one bedroom apartments, two x two bedroom apartments.
Third Floor	Two x studio apartments, four x one bedroom apartments, two x two bedroom apartments.
Fourth Floor	Two x studio apartments, four x one bedroom apartments, one x two bedroom apartments.
Fifth Floor	Two x studio apartments, four x one bedroom apartments, one x two bedroom apartments.
Roof	Roof top terrace comprising communal open space (182.4m ²).

Background

Relevant background details are provided as follows:

21 December 2015

Development Application DA-632/2015 was lodged with Council seeking approval for the demolition of existing buildings occupying 9-11 Weyland Street and the construction of 45 residential apartments, two levels of basement parking and a narrow commercial element fronting Weyland Street. The application was advertised and notified for a period of 28 days between 27 January and 24 February 2016 where three submissions were received about loss of amenity and traffic. Amended plans were notified between 9 August and 6 September 2016 (which introduced a rooftop terrace) and no submissions were received.

16 June 2016

Council raised concerns with the applicant regarding an inadequate Clause 4.6 variation, SEPP 65, building design, traffic, stormwater and landscaping. Amended plans were received on 3 August 2016 which included a roof top terrace for communal open space. This scheme was notified between 9 August and 6 September 2016 and no submissions were received.

27 October 2016

Further amended plans were received which reduced the number of apartment from 45 to 43, converted a ground floor unit to a retail "atelier" where a retail space is connected to a residential apartment, introduced a 2m front setback to the third and fourth storeys and reduced the floor to floor height of the ground floor from 3.8m to 3m.

20 December 2016

Further amended plans were received which reduced the number of apartments from 43 to 42 and deleted the ground floor 'atelier' and replaced it with a separated residential apartment and commercial space which introduces additional commercial glazing fronting Weyland Street at ground floor level. Privacy screens were added to apartment windows that face each other within the development.

The following is a precis of approvals in the street:

- A six storey development was approved for the adjoining property at 13-15 Weyland Street (DA-263/2015) on 22 September 2016. This development approves 29 units in two detached buildings configured in the same manner as the subject application. In terms of front setbacks the first two levels (including ground level) are located at a nil setback, the next two levels (third and fourth storey) at a 2 metre setback and the next two at a 4m and 5m setback.
- A six storey development was approved at 17-19 Weyland Street (DA-550/2013/A) on 23 June 2016. This development approves 29 units in two detached buildings configured in the same manner as the subject application. In terms of front setbacks the first two levels (including ground level) are located at a nil front setback, the next two levels (third and fourth storey) at a 2m setback, and the next two at a 4m to 5m setback.
- A Development Application for a six storey mixed use development at 23 Weyland Street (DA-512/2013) was approved on 23 June 2014. This development observes similar front setbacks as those described above. A Modification Application has

subsequently been approved to extend the period of compliance of the deferred commencement consent.

- A Development Application for 1-3 Weyland Street (DA-295/2016) was refused on 30 September 2016 for a six storey building for many reasons including poor design response, inadequate communal open space and substandard internal residential amenity for future occupants.
- A Development Application for a six storey mixed use development at 1570-1580 Canterbury Road (DA-388/2015) which adjoins 23 Weyland Street and faces Canterbury Road, is currently being assessed by Council and has not yet been determined.

A summary of the approved heights of buildings on Weyland Street for which the maximum development standard is 18m, are provided as follows:

Address	DA number	Proposal	Height
13-15 Weyland Street	DA-263/2015	Demolition of existing dwellings and outbuildings, consolidation of both lots and construction of a six storey mixed use development consisting of 29 residential units, two commercial tenancies at ground floor, a two level basement with 44 spaces and associated landscaping.	18.21m front building 21m rear building (16.67%)
17-19 Weyland Street	DA-550/2013/A	Demolition of existing dwellings and other structures, consolidation of both lots and construction of a six storey mixed use development consisting of 29 residential units, 2 commercial units, a two level basement with 46 car spaces and associated landscaping.	18m
23 Weyland Street	DA-512/2013	Demolition of existing dwellings and other structures, and construction of a new mixed use development consisting of 22 residential units, 1 commercial unit, a three level basement with 37 car spaces and associated landscaping.	18.2m but conditioned to comply with 18m height limit

It should be noted there is a Development Application for 1570-1580 Canterbury Road (DA-388/2015) that seeks a six storey mixed use development. This application is still under assessment and remains undetermined.

Assessment

The proposed development has been assessed pursuant to section 79C(1) of the *Environmental Planning and Assessment Act, 1979*.

Environmental Planning Instruments [section 79C(1)(a)(i)]

- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Canterbury Local Environmental Plan 2012 (CLEP 2012)

- **State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)**

This policy applies to residential apartment development and is required to be considered when assessing this application. Residential apartment development is defined under SEPP 65 as development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component. The development must consist of the erection of a new building, the conversion of an existing building or the substantial redevelopment or refurbishment of an existing building. The building must also be at least three or more storeys and contain at least four or more dwellings.

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 nine design quality principles contained in SEPP 65 and demonstrates how the objectives in Parts 3 and 4 of the Apartment Design Guide have been achieved. These principles are discussed as follows:

Principle 1 – Context and Neighbourhood Character

The locality is predominantly occupied by a mixture of single and double storey detached dwellings, with the exception of some industrial and commercial uses nearby. However, this land is zoned B5 Business Development and, as evidenced by the approvals already issued, will ultimately be a row of six-storey developments along the northern side of Weyland Street. As mentioned in the background of this report six storey developments have been approved at 13-15 Weyland Street, 17-19 Weyland and 23 Weyland Street.

The approved development at 13-15 Weyland Street and 17-19 Weyland exhibit a similar arrangement of bulk and are configured as two separate buildings with the third and fourth storeys at a 2m front setback.

Weyland Street is under transition and the proposal is consistent with the desired future character.

Principle 2 – Built Form and Scale

The arrangement of bulk and the scale of the building are similar to other developments on the street and contributes satisfactorily to the future definition of the streetscape and character. It is noted that the proposed bulk is inconsistent with the existing low density nature typified by detached dwellings. However, the future redevelopment intentions along this side of Weyland Street in Punchbowl as well as to sites to the rear of this site along Canterbury Road will eventually be well integrated, by way of similarly scaled developments.

Principle 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.

Principle 4 – Sustainability

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.

Principle 5 – Landscape

The proposal incorporates a rooftop communal space, which will be landscaped with vegetation to provide amenity to the occupants. All of the proposed units have access to outdoor terraces and balconies.

Principle 6 – Amenity

The proposed development has been designed to comply with the solar access requirements of the Apartment Design Guide. The proposed units will have considerable internal amenity.

Principle 7 – Safety

The applicant has considered Crime Prevention Through Environmental Design (CPTED) principles as outlined in CDCP 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.

Principle 8 – Housing Diversity and Social Interaction

The proposed design incorporates various dwelling sizes and includes adaptable units promoting diversity, affordability and access to housing choice.

Principle 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. 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.

Section	Design Criteria	Proposed	Complies
Part 3 Siting the Development			
Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site = 260.1m ²	The proposed communal open space provides 182.4m ² (rooftop terrace) + 104.8m ² (ground level) = 287.2m ² which equals to 27.6% of the site area.	Yes
	Minimum 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9 am and 3 pm on 21 June (mid-winter).	182.4m ² (64%) receives all day sun in mid-winter (roof top terrace). The ground level communal open space receives no direct sun in mid-winter.	Yes
Deep Soil Zones	Deep soil zones are to have a minimum dimension of 3m for sites between 650m ² and 1,500m ² , with a minimum of 7% site coverage.	Nil	No – see comment [1] below
Visual Privacy (Separation between buildings)	Habitable rooms to habitable rooms Up to 4 storeys: 12m 5 – 6 storeys: 18m	Habitable rooms to habitable rooms Up to 4 storeys: 9m – 9.2m 5 – 6 storeys: 11m	No – see comment [2] below
	Habitable rooms to non-habitable rooms Up to 4 storeys: 9m 5 – 6 storeys: 13.5m	Habitable rooms to non-habitable rooms Up to 4 storeys: 7.2m 5 – 6 storeys: 7.2m	No – see comment [2] below No – see comment [2] below
	Side and rear setback Up to 4 storeys: 6m 5 – 6 storeys: 9m	<u>Side</u> Nil setback <u>Rear</u> First four storeys: 6m 5 th , 6 th storeys: 6m	No – see comment [2] below No – see comment [2] below
Bicycle and Car Parking	The site is not located within 800m of a railway station and therefore the parking controls outlined within our CDCP 2012 apply. This is assessed under the DCP section of the report.	N/A	N/A

Section	Design Criteria	Proposed	Complies
	<u>Car parking</u> 56 spaces comprising: Studio = eight spaces One bed = 21 spaces Two bed = 15.6 spaces Visitor = 8.2 spaces One x car wash bay Commercial = two spaces Total 55.8 spaces	55 spaces	No – see comment [3] below
	<u>Bicycle parking</u> 8.4 residents 4.2 visitors Total = 12.6 rounded to 13	14	Yes
Part 4 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 9am and 3pm at mid-winter.	The living rooms and private open space areas for 33 out of the 42 apartments (78%) receive at least two hours of direct sunlight between 9am and 3pm on 21 June.	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	Seven out of the 42 proposed apartments (16.6%) do not receive direct solar access between 9am and 3pm on 21 June.	Yes by condition – see comment [4] below
Natural Ventilation	At least 60% of apartments are naturally cross ventilated	26 of the proposed 42 units (62%) are naturally cross ventilated.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	No apartment is greater than 18m in depth	Yes
Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: - 2.7m for habitable rooms - 2.4m for non-habitable rooms - 3.3m for ground floor commercial areas	- Habitable rooms 2.7m - >2.4m non-habitable rooms - Ground floor commercial premise 2.7m	Yes Yes No – see comment [5] below
Apartment Size and Layout	Apartments are required to have the following minimum internal areas: - One bedroom: 50m ² - Two bedrooms: 70m ² Additional bathrooms increase the minimum internal area by 5m ² each.	All units comply	Yes

Section	Design Criteria	Proposed	Complies
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All habitable rooms have windows of acceptable size to facilitate acceptable solar access and natural ventilation	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	The habitable room depths do not exceed the maximum depths permitted.	Yes
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	The proposal comprises open plan layouts. Each open plan layout comprises a maximum depth of 8m from a window to the rear pantry of the kitchen.	Yes
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	The master bedrooms and secondary bedrooms of each apartment comprise an area of at least 10m ² or 9m ² respectively.	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m, excluding wardrobe space.	Yes
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> - 3.6m for studio and one bedroom apartments - 4m for two and three bedroom apartments 	All living/dining rooms in all apartments comprise a minimum width of 4m in one direction.	Yes
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of each apartment is at least 4m.	Yes
Private Open Space and Balconies	All apartments are required to have primary balconies as follows: <ul style="list-style-type: none"> - Minimum area of 4m² for studio units - Minimum area of 8m² and minimum depth of 2m for one bedroom units - Minimum area of 10m² and minimum depth of 2m for two bedroom units 	All unit balconies comply	Yes
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	A maximum of three apartments are located off a central circulation core.	Yes

Section	Design Criteria	Proposed	Complies
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: - 6m ³ for one bedroom units - 8m ³ for two bedroom units At least 50% of the required storage is to be located within the apartment.	Adequate storage provision supplied.	Yes

[1] Deep Soil Zones

There is no deep soil provided on the site. Despite the non-compliance of the proposal with the minimum deep soil requirements it is considered that the development is consistent with that envisaged by the controls. Mixed use development typically demands large spaces underground for parking, bin rooms, bicycle storage, private storage, lift and stair cores and plant which enhance the function of the building whilst retaining an attractive appearance to the street and surrounding properties.

[2] Visual Privacy

Part 3F of the Apartment Design Guidelines (ADG) deals with separation of buildings located on the same site as well as side and rear setbacks and is aimed at visual and acoustic privacy as well as achieving adequate light, ventilation, acoustic privacy and adequate communal open space. Part 3F also states that the adjacent context and scale of the development need to be considered.

Separation between buildings

With regard to the separation between buildings on the same site, the ADG requires 12m between habitable rooms up to four storeys, increasing to 18m for the fifth and sixth storey. The proposal seeks between 9m – 9.2m for four storeys which equates to a departure of 25% and 11m for the fifth and sixth storey which equates to a departure of 38.89%.

Despite the numerical non-compliance with the Apartment Design Guide it is considered that there is adequate spatial separation between buildings to gain adequate light and ventilation to apartments to achieve a satisfactory level of internal residential amenity. The plans notate “SEPP compliant privacy screens to internal courtyard facing apartments”. To ensure visual privacy is achieved in accordance with the SEPP and to complement the notations on the plans conditions of consent are imposed requiring translucency to windows where screens are not provided. The provision of privacy screens and translucent glass to windows satisfactorily achieves the objectives for separation of buildings with respect to visual privacy.

Side boundary setback

It is acceptable that there is a zero side setback (when viewed from the street) as the controls envisage a street wall and the proposal aligns with the approved adjoining development at 13-15 Weyland Street to achieve the desired street wall.

With respect to the side boundary setback of buildings within the site the zero side setback is satisfactory as the Apartment Design Guide clearly states that “No separation is required between blank walls”. It is noted that the subject proposal does not perfectly align with the approved development at 13-15 Weyland Street and some walls will be visible from the adjoining property at a zero setback but the intent on the Apartment Design Guide is served and the congruency between buildings is acceptable.

Rear setback

The ADG rear setback is required to be 6m up to four storeys and 9m for the fifth and sixth storey. The proposal comprises a 6m rear setback for all levels which generates a 33.3% departure at the fifth and sixth storey. The separation of the proposal from the rear boundary is considered to be reasonable because it is similar to other approved developments on Weyland Street and does not create detrimental privacy or overshadowing impacts on surrounding properties.

[3] Car Parking

Our Development Control Plan stipulates that one bedroom and studio apartments require one space each, two bedroom apartments require 1.2 spaces each and visitor parking must be supplied at a rate of one space per five dwellings. This equates to 55.8 spaces rounded up to 56 which includes a car wash bay. In total 55 spaces are provided, falling short of the provision by one space.

To increase the provision of commercial floorspace, the conditions of consent require the deletion of the one-bedroom apartment at the ground floor level abutting the commercial space and replacement with an extension of the commercial unit ‘001’. This alteration results in the same parking requirement and the shortfall of one car parking space remains.

The insufficient provision of spaces is considered unsatisfactory and the minimum standard needs to be achieved. In order to meet the minimum parking requirement, the density (or number of bedrooms) would need to be reduced. Alternatively, the basement may be modified to incorporate an additional space. A condition of consent is included to require compliance with our parking requirements.

[4] Solar Access

The Apartment Design Guide stipulates that no more than 15% of apartments in a building may receive no direct sunlight between 9 am and 3 pm at mid-winter. A total of seven out of the 42 proposed apartments (16.6%) do not receive direct solar access between 9am and 3pm on 21 June, which includes the ground floor apartment abutting the commercial unit described as ‘001’. This apartment also limits the commercial space and viability of the site and is inconsistent with the spirit of mixed use development. A condition of consent deletes this apartment and seeks it to be replaced with an extension of the ‘001’ commercial unit. As a result of its deletion the solar access requirements of the ADG are satisfied as the maximum number of units receiving no direct sunlight becomes 14% and complies with the control.

[5] Ceiling Heights

The Apartment Design Guide (Objective 4C-1) requires that the ground floor mixed use spaces comprise a floor to ceiling height of at least 3.3m. The floor to floor height of the ground floor retail is 3m which translates to 2.7m floor to ceiling height when deductions are made for slab thickness and services.

This non-compliance is a consequence of achieving a six storey appearance at the streetfront to complement the desired future character whilst keeping the development within the building height limit of 18m. In essence the ground floor has been 'pinched' to fit the six storeys within 18m. It is noted that every floor above achieves the minimum 2.7m floor to ceiling height as required by the ADG.

The design response is considered an acceptable one. Excavating the ground floor would not be considered a superior option and reducing the number of storeys would compromise the building's 'fit' in the streetscape. The internal residential amenity, usability and adaptability of the floor are not compromised by any appreciable amount and the non-compliance is supported.

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

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

A Preliminary Site Investigation Report prepared by EI Australia (Report No. E22821 AA_Rev) dated 18 July 2016 has been submitted and makes recommendations that a Hazardous Materials Survey be conducted on the existing on-site structures to identify potentially hazardous building products that may potentially be released to the environment during demolition. The report requires further identification and assessment of any potential contamination sources during the excavation phase. A condition of consent requires compliance with this report.

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

BASIX Certificate number: 688983M accompanied the original scheme and made a number of commitments to achieve an acceptable level of building sustainability. With the evolution of the scheme and reduction in density from 45 to 42 residential apartments a fresh BASIX Certificate needs to be submitted to ensure the approved building achieves sustainability targets. This requirement appears as a condition of consent.

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

The subject site is zoned B5 Business Development under the provisions of the LEP. The site is identified as a 'key site' which makes mixed use development permissible under Clause 6.7 of CLEP 2012. Mixed use developments, which can include both commercial and residential uses on the ground, is permitted.

The following clauses of the LEP were taken into consideration in the assessment of the application:

Standard	Requirement	Proposal	Complies
Zoning	B5 – Business Development	The proposed development is located on a 'key site'. The proposed development is defined as a 'mixed use development' and is permissible with consent.	Yes – see comment [1] below
Height of Buildings	18m	18.4m (lift overrun – front) 21.41m (lift overrun – rear) 20.85m (rooftop terrace roof)	No – see comment [2] below

[1] Zoning - Mixed Use Development

The objective for achieving sufficient depth of commercial spaces is to create a viable building space for the commercial use. The proposed depth of the commercial space described as '001' on drawing number 110-000 (rev D) is considered insufficient and fails to meet the objective. The residential apartment abutting this commercial space diminishes the opportunity for providing commercial space and results in an inadequate commercial provision that fails to achieve a credible mixed use outcome. To rectify this non-compliance a condition of consent is included to replace the ground floor residential apartment (one-bedroom) with an extension of the commercial '001' tenancy so that a genuine commercial component within a mixed use outcome is achieved. It must be noted that the deletion of this ground floor unit is also necessary to comply with the solar access requirements of the Apartment Design Guide as described in comment [4] in the SEPP65 discussion in this report.

[2] Height of Buildings

The proposal exceeds the development standard for building height by 400mm for the front lift overrun (RL24.9), 3.41m for the rear lift overrun (RL27.9) and 2.85m for the rooftop terrace roof (RL27.35). Therefore at its worst point the proposal is 21.41m high and exceeds the development standard by 3.41m, which occurs at the lift overrun at the rear.

As such, the development seeks a variation to Clause 4.3 of CLEP 2012 relating to the height of buildings. The applicant has submitted a justification pursuant to Clause 4.6 of CLEP 2012 regarding the non-compliance with the development standard. Clause 4.6 of the LEP states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

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

Based on research into recent decisions of the Land & Environment Court, (*Four2Five Pty Ltd v Ashfield Council* and *Mount Annan 88 Pty Ltd v Camden Council*) a series of questions has been formulated for assessing whether a variation of a standard is justified in order to enable consent to be granted.

Clause 4.6 requires concurrence of the Secretary before consent is granted. The Secretary's concurrence may be assumed, as advised to all NSW Councils in Planning Circular PS08-003, issued by the Department on 9 May 2008.

Questions for Assessing Variation of a Development Standard

The questions are divided into two parts, A and B. The questions of Part A require a positive answer to all four questions for consent to be granted, as they are based on what the Court has termed "the four preconditions" to satisfy statutory requirements of clause 4.6 of the LEP.

In Part A, Questions 1 and 2 must be satisfactorily answered by the applicant's written request to vary the standard. In the answers to Questions 3 and 4, it is Council which must be satisfied that departure from the standard is in the public interest, whether or not the applicant adequately addresses these questions.

The two questions of Part B address the objectives of clause 4.6 and do not form part of the preconditions as determined by the Court. A positive assessment with regard to Part A would typically be expected to produce a positive response to clause 4.6 objectives.

Maximum Height of Building Standard – assessment of proposed variation to the standard

The maximum building height standard applied to the site is 18m above natural (existing) ground level.

The proposal exceeds the development standard for building height by 400mm for the front lift overrun (RL24.9), 3.41m for the rear lift overrun (RL27.9) and 2.85m for the rooftop terrace roof (RL27.35). Therefore at its worst point the proposal is 21.41m high and exceeds the development standard by 3.41m, which occurs at the lift overrun at the rear.

The six questions for assessing the proposed variation of the height standard are addressed as follows:

- A. Four preconditions for approving variation of a development standard, all must be answered in the affirmative to grant consent:
 1. **Is compliance with the standard unreasonable or unnecessary in the circumstances of the case? (Clause 4.6 (3) (a)).**

In answering this question, only one of the following sub-questions must be answered that demonstrates that strict compliance with the standard is unreasonable or unnecessary, in the circumstances of the case:

- a. Is the underlying objective or purpose (of a standard) irrelevant to the development, making compliance unnecessary?

Answer:

The applicant's submission states that the underlying purpose is relevant to the development.

- b. Would the underlying purpose or objective (of a standard) be defeated or thwarted if compliance was required, making compliance unreasonable?

Answer:

The applicant's submission states that if the strict numerical compliance was required with the 18m height control then the site would *'not be implementing urban consolidation to the fullest extent practicable on the site or provide a functional 6 storey building on the site'*.

- c. Has the development standard been virtually abandoned or destroyed by the Council's actions (decisions) in departing from the standard, making compliance unnecessary and unreasonable?

Answer:

The applicant's submission states that approvals along Weyland Street indicate that six storey buildings are acceptable in the street and that each of these approvals has consented to some degree of non-compliance with the 18m height control. The applicant's submission states that the development standard remains intact.

- d. Is the zoning of particular land unreasonable or inappropriate so that a development standard applying to the zone is also unreasonable or unnecessary as it applied to that land, noting that this does not permit a general enquiry into the appropriateness of the development standard for the zoning?

Answer:

The applicant's submission did not address this question.

- e. Apart from matters addressed by questions 1 (a) – (d), 2, 3 and 4, are there any other circumstances of the case in which strict compliance with the standard is unreasonable or unnecessary?

Answer:

The applicant's written request primarily turns on the principles *Four2Five Ltd v Ashfield Council* and its findings that circumstances particular to the individual case are required to be demonstrated to justify the departure. The applicant's submission relies on the emerging character of the locality and states that the non-compliance is necessary to be congruent with this emerging character.

Comment

It is agreed that the approvals granted in the street confirm an emerging character of six storey buildings and that these approvals involve departures to the development standards up to 16.67%. It is considered that the Clause 4.6 variation has merit in that it departs from the standard in order to achieve congruence with the emerging character on the street. The departure also does not create detrimental environment impacts and is for the most part appropriately located at the rear of the site.

2. Are there sufficient environmental planning grounds to justify contravention of the development standard? (Clause 4.6 (3) (b))

Answer to Question 2:

The applicant's request to vary the height standard submits the following as sufficient environmental planning grounds to justify exceeding the height standard:

- *The emerging character of the locality is best expressed by recent approvals granted and applications pending on adjoining B5 zoned land. The applicant observes that Development Application DA-354/2015 (1562-1568 Canterbury Road) accepted a variation of 12% for the lift overrun and 7% for the main roof and also imposed a condition requiring a non-trafficable roof to be converted to a 250m² rooftop communal open space.*
- *Compliance with the height control would involve two potential building forms, being a 5 storey building that would be under development of the site, or a mean and dysfunctional 6 storey building that provides low quality accommodation.*

Comment

It is confirmed that for Development Application DA-354/2015 relating to 1562-1568 Canterbury Road a departure of 12% departure was granted for the lift overrun and 7% for the main roof and a condition was imposed (condition 5.9) requiring a non-trafficable roof to be converted to a 250m² rooftop communal open space.

It is agreed that the emerging character is six storey buildings on Weyland Street and it is agreed that the proposed communal roof top terrace, which increases the residential amenity of the development, necessitates a departure to the development standard in order to stay congruent with the future buildings in the street.

3. Is the proposed development consistent with the objectives of the development standard and therefore in the public interest? (Clause 4.6 (4) (a) (ii))

Answer to Question 3:

The applicant's written request to vary the standard submits that the additional height is consistent with the standard's objectives and is therefore in the public interest, as outlined below:

It achieves the objectives of the development standard because it maintains the desirable attributes and character of an area, minimises overshadowing and ensures there is a desired level of solar access and public open space and contributes positively to the streetscape and visual amenity of the area.

4. Is the proposed development consistent with objectives of the zone and therefore in the public interest? (Clause 4.6 (4) (a) (ii))

The proposal is in the public interest because it achieves the zoning objectives by providing a high quality mixed use development that is consistent with the emerging character of the street and provides a comprehensive landscape scheme.

5. Has an appropriate degree of flexibility been applied, in the application of the development standard to a particular development?

It is considered that this proposal will demonstrate consistency with the exercise of "an appropriate degree of flexibility" in applying the development standard by addressing the requirements of subclauses 4.6(3) and (4) of the CLEP 2012. The submission successfully demonstrates that the departure to the development standard is effective in producing a better outcome and that the departure results in no significant impacts on adjoining properties or the streetscape.

6. Will better outcomes be achieved, for the development itself and from the development (for the locality or area where the development is proposed), by allowing flexibility (to vary a standard) in the particular circumstances?

The applicant submits that the proposed variation of the maximum building height development standard ensures that the site is developed in an orderly fashion and notes that strictly imposing the development standard would result in a five storey building that would be an underdevelopment of the site, or a dysfunctional six storey building. It is argued that the departures are required to find a balance between numerical compliance and an optimum design that respects the emerging character on Weyland Street.

Comment

It is agreed that the building height departure is necessary to achieve an optimum design for this site and to achieve congruency with development recently approved on Weyland Street.

Conclusion – Clause 4.6 Assessment

The applicant’s submission to vary the maximum building height standard is supported, as demonstrated by the above detailed assessment. Accordingly, consent may be granted to the application, as all of Clause 4.6 preconditions for granting consent have been satisfied.

Development Control Plans [section 79C(1)(a)(iii)]

The following table provides a summary of the development application against the relevant controls contained in the Canterbury Development Control Plan 2012.

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

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

Control	Requirement	Proposed	Complies
Height	Floor to ceiling heights Ground Floor: 3.3m	Ground Floor: 2.7m	No – see comment [1] below
	Residential Floors: 2.7m Basement Carpark: 2.8m	Residential floors: 2.7m Basement Carpark: 2.8m and 2.9m	Yes Yes
Depth/footprint	Maximum 18m – residential	11.5m – 13m	Yes
	10-24m – commercial	3m – 6.5m	No – see comment [2] below
Front setback	1-4 storeys nil setback on street Above 4 storeys 5m setback	Ground level 2m Second storey - zero setback 3 and 4 storeys - 2m setback 5 and 6 storeys - 5m	No – see comment [3] below
Basement parking	The basement is to protrude a maximum 1m above the existing ground level	Basement is located entirely below the existing ground level	Yes
	The access driveway is to be a maximum width of 6m	The width of the driveway crossing is 5.4m	Yes
	Secure bicycle parking is to be	Bicycle parking is provided	Yes

Control	Requirement	Proposed	Complies
	provided		
	The car park entry is to be recessed from the main building façade	The car park entry is appropriately recessed from main façade	Yes
Design Controls			
Context	Building form and design does not have to mimic traditional features, but should reflect these in a contemporary design.	It is considered that the proposed development demonstrates a contemporary design	Yes
Street address	Entries are to be located where they relate to the existing street, subdivision pattern, street tree planting and pedestrian access network.	Entries to the building are located on the street frontage	Yes
	Habitable rooms to face towards the street, private open space, communal space, internal driveway or pedestrian ways in order to promote positive social interaction and community safety.	Habitable rooms are facing Weyland Street as well as the ground level communal open space between the two buildings	Yes
Façade Design	Long spans of blank walls are to be avoided along street frontages. Address the street frontages with façade treatment with articulation of elevations on corner sites.	Long spans of blank walls along street frontages have been avoided	Yes
	Contrasting elements are to be incorporated in the façade, using a harmonious range of high quality materials.	Contrasting elements incorporated into the street frontages and a harmonious range of high quality materials used	Yes
	Building layout or structure is to be expressed in the façade, with architectural features such as columns, beams, floor slabs, balconies, wall opening and fenestration, doors, balustrades, roof forms and parapets are elements that can be revealed or concealed and organised into simple or complex patterns.	Building layout is suitably expressed through use of a variety of architectural features, such as recessed balconies, balustrades different window sizes and the roof form	Yes
Performance controls			
Visual Privacy	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to visual privacy have no effect in the assessment of residential apartment development applications. Section 3.3.1 of the CDCP is therefore not relevant to the assessment of this application and visual privacy matters have been assessed only in relation to part 3F of the ADG.		
Open Space	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to open space and balconies have no effect in the assessment of residential apartment development applications. Section		

Control	Requirement	Proposed	Complies
	3.3.3 of CDCP is therefore not relevant to the assessment of this application and open space and balcony matters have been assessed only in relation to part 4E of the ADG.		
Internal Dwelling Space and Design (Including storage)	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to apartment size and layouts have no effect in the assessment of residential apartment development applications. Section 3.3.4 of the CDCP is therefore not relevant to the assessment of this application and matters have been assessed only in relation to part 4D of the ADG.		
Housing choice	Include a mix of unit sizes, such as studio, one, two, three and three plus bedroom apartments	A satisfactory mix of units is provided	Yes

The proposed development complies with many of the design and numerical requirements of Canterbury Development Control Plan 2012 with the following matters requiring further discussion:

[1] Floor to Ceiling Height – Commercial Component

This non-compliance is a consequence of achieving a six storey appearance at the streetfront to complement the desired future character whilst keeping the development within the building height limit of 18m and keeping the ground level at grade as opposed to excavating.

The design response is considered an acceptable one. Excavating the ground floor would not be considered a superior option and reducing the number of storeys would limit the ease with which the proposal will be absorbed within the streetscape. The internal residential amenity, useability and adaptability of the floor are not compromised by any appreciable amount and the non-compliance is supported.

[2] Depth/footprint

The depths of the commercial areas do not comply with the minimum 10m and maximum 24 metres. The objective of these requirements is to ensure an appropriate level of depth is available to create viable building spaces for retail and commercial use. By deleting the ground floor residential apartment abutting the commercial space identified as '001' and extending the commercial space '001' in its place the commercial depth is increased to 11m, which complies with the requirements of the Canterbury Development Control Plan 2012. This requirement appears as a condition of consent.

[3] Front Setback

Our controls seek the first four storeys to be set at a nil setback to the street, with any storey above achieving a 5 metre setback. As Weyland Street is captured by the same controls that apply to Canterbury Road, a four storey street wall has been set by default for Weyland Street. In this proposal the first two storeys are located at a nil setback, and the third and fourth storeys have a 2m setback. The fifth storey is set back 5 metres and the sixth storey is set back at 3m and 5m.

This proposal is consistent with the approved development at 13-15 Weyland Street and 17-19 Weyland Street with respect to front setbacks. The proposed 2m 'step' at the third and fourth storey, whilst a variation to the control, actually modulates the building horizontally and creates visual relief and interest. Given the R3 residential zone across the road, some visual relief is considered a good design response. The front setback of the proposal is satisfactory.

It is noted that the controls allude to a 9 metre setback from the street but the objectives suggest this requirement applies only to sites along Canterbury Road. This requirement does not apply here.

Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

Canterbury Development Contributions Plan 2013 applies to the site and has been included in the conditions of consent.

Additional Considerations

- **Planning Agreements [section 79C(1)(a)(iiia)]**
A planning agreement has not been entered into under section 93F.

- **The Regulations [section 79C(1)(a)(iv)]**
A Building Code of Australia (BCA) Compliance Assessment Report (Ref No: BCA 15/049, dated 15 December 2015) by Paul Aramini Consulting Pty Ltd notes the following non-compliances:
 - Protection of openings – all apartments within 3m of the east and west boundaries are required to be protected in accordance with the BCA.
 - Number of exits – a minimum of two exits are required within a basement providing egress from any storey. This proposal has one and the BCA Compliance Assessment Report states this will be addressed with a Fire Engineering Solution that will comply with the relevant Performance Requirements.
 - Exit travel distances – travel distance to one exit within each of the basement levels exceeds the required 20m and the BCA Compliance Assessment Report states this will be addressed with a Fire Engineering Solution that will comply with the relevant Performance Requirements.
 - Travel via Fire Isolated Exits – Egress from the fire isolated stair on the north building does not discharge to a road or open space. The report does not state whether this will be addressed with a Fire Engineering Solution that will comply with the relevant Performance Requirements.
 - Fire hydrants – difficulties highlighted as to compliance with AS2419. The report does not state whether this will be addressed with a Fire Engineering Solution that will comply with the relevant Performance Requirements.
 - Fire Sprinklers – the report proposes that a sliding fire door creating two fire compartments or a Fire Engineering Solution that will comply with the relevant Performance Requirements.

The application has been assessed under the EP&A Regulation 2000 and measures are identified to protect persons using the building and to facilitate their egress from the building in the event of a fire or restrict the spread of fire from the building to other buildings nearby. Where measures are not proposed, a condition of consent is imposed to bring the development into conformity with the BCA to provide an adequate level of fire safety and health and amenity for the occupants of the proposed rooftop studio apartments.

- **The Likely Impacts of the Development [section 79C(1)(b)]**

With respect to the visual impact, the exceedance of the development standard for Building Height provide a negligible impact having regard to the bulk and scale of the overall building form and complements the approved built form of adjoining six-storey mixed used developments in the street.

In short the proposed development causes no adverse impacts.

- **Suitability of the Site [section 79C(1)(c)]**

The site is suitable to accommodate a multi-storey mixed use development as reflected by the controls contained within Canterbury LEP 2012 and Canterbury DCP 2012 particularly as it largely meets the numerical controls and it complements a built form and envelope approved in street.

The ground floor apartment abutting the commercial space is required via conditions of consent to be deleted and replaced with commercial space because increasing the commercial space more closely aligns with the intent of the mixed use zone.

- **The Public Interest [section 79C(1)(e)]**

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments and by the consent authority ensuring that any adverse impacts on the surrounding area and environment are avoided. The public interest is considered to have been achieved in so far as the development provides for additional housing choice within the local government area without compromising the amenity of the locality.

Notification

The application was both advertised and notified for a period of four weeks. At the conclusion of the first exhibition period three submissions were received. No submissions were received to the second notification period. For the purposes of thoroughness the concerns raised to the first round are discussed as follows:

- **Loss of amenity, in particular overshadowing, privacy, noise, loss of views and increase in traffic.**

Comment

The submitted shadow diagrams indicate that the proposal will not cause a detrimental loss of sunlight to the properties across the road. In terms of privacy there is considered to be adequate spatial separation between the building and the properties across the road to afford an adequate degree of privacy. There are no

significant views lost as a result of this proposal. The submission states that sunset views may be affected but, given the zoning of the land it is not reasonable to reduce this development to protect views to the sunset. In terms of noise and increase in traffic the site is zoned B5 Mixed use and some increase in noise and traffic is to be expected but any projected increase is not considered a detrimental impact on the enjoyment of the existing properties.

- **Traffic movements, in particular the development will cause extra traffic which will proceed to Septimus Avenue creating a 'rat run' of sorts.**

Comment

The proposed development generally satisfies the density envisaged by the controls and there is no basis for amending the current proposal on traffic grounds.

- **Construction noise, particularly that noise from construction machinery will cause anxiety amongst residents.**

Comment

There are regulations for the hours of work and use of load machinery and equipment, which can be effective in mitigating noise impacts to neighbours. This proposal is generally consistent with that envisaged by the controls and cannot be refused on the grounds of the construction process. Further, our Rangers are on hand to investigate any breaches of the regulations that deal with construction processes.

Conclusion

Having considered all the matters for consideration contained in section 79C(1) of the Environmental Planning and Assessment Act 1979, which includes the relevant provisions contained in State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development, the Canterbury Local Environmental Plan 2012 and the Canterbury Development Control Plan 2012 the application is recommended for approval subject to conditions of consent.

Notwithstanding some departures from Council's controls, the proposal satisfies the desired local character and positively contributes to the streetscape and the local built environment, which is under transition with many nearby properties having received consent for similar developments. The Clause 4.6 variation for the departure to building height is well-founded and is supported. It is recommended that the development application be approved subject to conditions of consent.

RECOMMENDATION:

THAT

- A. The Clause 4.6 variation to the development standard relating to the Building Height within Clause 4.3 of Canterbury Local Environmental Plan 2012 is well founded, and in this case varying the standard to permit the proposed development is acceptable for the following reasons:
 - (a) A written request from the applicant has been submitted which justifies the contravention of the development standard;
 - (b) The proposal is in the public interest as it meets the objectives of the

- development standard and the objectives for development within the B5 Business Development zone;
- (c) The concurrence of the Secretary of the Department of Planning and Environment has been obtained;
 - (d) Requiring compliance with the standard would unreasonably constrain the development and the design response;
 - (e) There are sufficient environmental planning grounds to justify contravening the development standard.

B. Development Application DA-632/2015 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 excavation
- Building Specifications
- Fire Safety Schedule
- Landscape Plan
- Hydraulic Plan
- Soil and Waste Management Plan
- BASIX Certification
- Ventilation of basement in accordance with AS 1668.2
- Disability (Access to premises buildings) Standard 2010

1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.

1.3. Payment to Council of:

Damage Deposit	\$13,580.00
Development Contributions	\$402,878.42
Certificate Registration Fee	\$36.00
Long Service Levy	\$34,920.70
Long Service Levy Commission	\$19.80

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

Construction Certificate Application Fee	\$31,154.00
Inspection Fee	\$6,349.00
Occupation Certificate Fee	\$2,191.00

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

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

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

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

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

BEFORE COMMENCING THE DEVELOPMENT

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

DEMOLITION

3. Demolition must be carried out in accordance with the following:
 - (a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
 - (b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.
 - (c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
 - (d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
 - (e) Demolition of buildings is only permitted during the following hours:
7.00 a.m. – 5.00 p.m. Mondays to Fridays
7.00 a.m. – 12.00 noon Saturdays
No demolition is to be carried out on Sundays or Public Holidays.
 - (f) Burning of demolished building materials is prohibited.
 - (g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
 - (h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or

soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.

- (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
- (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
- (k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
- (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.

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
100-001	Demolition plan	Fox Johnston Architects	20/12/16
100-002 (issue C)	Site plan	Fox Johnston Architects	20/12/16
110-0-2 (issue E)	Basement 02	Fox Johnston Architects	20/12/16
110-0-1 (issue E)	Basement 01	Fox Johnston Architects	20/12/16
110-000 (issue D)	Ground floor	Fox Johnston Architects	20/12/16
110-001 (issue D)	Level 01	Fox Johnston Architects	20/12/16
110-002 (issue D)	Level 02	Fox Johnston Architects	20/12/16
110-003 (issue D)	Level 03	Fox Johnston Architects	20/12/16
110-004 (issue D)	Level 04	Fox Johnston Architects	20/12/16
110-005 (issue D)	Level 05	Fox Johnston Architects	20/12/16
110-006 (issue C)	Rooftop terrace	Fox Johnston Architects	20/12/16
200-001 (issue D)	Elevation – North	Fox Johnston Architects	20/12/16
200-002 (issue D)	Elevation – East	Fox Johnston Architects	20/12/16
200-003 (issue D)	Elevation – South	Fox Johnston Architects	20/12/16
200-004 (issue D)	Elevation – West	Fox Johnston Architects	20/12/16
200-005 (issue D)	Elevation – internal courtyards	Fox Johnston Architects	20/12/16
200-006 (issue D)	Section – AA	Fox Johnston Architects	20/12/16
200-007	Sections – Driveway and basement ramps	Fox Johnston Architects	20/12/16
400-001	Schedule of External Material Finishes	Fox Johnston Architects	20/12/16
H-DA-00 (Rev B)	Catchment calculations and sedimentation controls	ITM Design	20/12/16
H-DA-01 (Rev C)	Basement levels stormwater drainage	ITM Design	20/12/16
H-DA-00 (Rev B)	Ground floor stormwater drainage	ITM Design	20/12/16
000 (issue C) 001 (issue C) 101 (issue C) 102 (issue A) 103 (issue A) 104 (issue A) 501 (issue D)	Landscape Plans	Site image Landscape Architects	02/08/16

Ref: 21509291.1 (issue A)	Site survey	W. Buxton Pty Ltd	22/12/15
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- 5.1. For the purposes of creating a viable building space for the commercial use and to comply with the requirements of the Canterbury Development Control Plan 2012 the ground floor residential apartment contiguous with the commercial unit '001' must be deleted and replaced with a continuation of the commercial space identified as '001'. This change must be clearly shown on the Construction Certificate plans.
- 5.2. For the purposes of ensuring consistency of plans the landscape plans must be amended to complement the approved architectural plans. This set of updated plans must be provided for approval by the Accredited Certifier prior to issue of the Construction Certificate.
- 5.3. For the purposes of ensuring privacy in accordance with the Apartment Design Guidelines the south-facing bedroom (and study) windows located on Levels 01 to 05 inclusive of the northern block must be translucent glazing to any part of a window between the floor and a point 1.6m above the floor. Note: this condition applies where screens have not been provided to achieve privacy. Details must be shown on the Construction Certificate plans.
- 5.4. For the purposes of ensuring compliance with Part 3D of the Apartment Design Guidelines which requires that communal open spaces be easily identified for all users, a sign must be erected at the ground level communal open space clearly indicating the direction and means of accessing the roof top terrace communal open space. The wording of the sign, and its location, must be clearly shown on the Construction Certificate plans.
- 5.5. It is considered highly likely that the basement excavation will destabilise the Camphor laurel located at the rear of 7 Weyland Street and for safety reasons this tree must be removed prior to construction of this development in consultation with the owners of 7 Weyland Street, Punchbowl.
- 5.6. For the purposes of ensuring public health and safety the recommendations of the Preliminary Site Investigation Report prepared by EI Australia (Report No. E22821 AA_Rev) dated 18 July 2016 must be fully complied with.
- 5.7. The BCA Compliance Assessment Report (Ref: BCA 15/049, dated 15 December 2015) by Paul Aramini Consulting Pty Ltd must be fully complied with and result in full compliance with the requirements of the Building Code of Australia and National Construction Code. Details of any Fire Engineered Solutions and deemed-to-satisfy provisions must be provided in full for approval with the Construction Certificate.
- 5.8. For the purposes of meeting the minimum car parking provision required by Part 6.8 of Canterbury Development Control Plan 2012 one (1) additional space that complies with AS 2890.1: Off-Street Car Parking must be provided within the basement. As an alternative means of complying with the minimum

parking provision the density of the development is to be reduced. This alteration must be incorporated into the development and submitted with the Construction Certificate. Note: deletion/amendment of residential apartment(s) will change the contributions payable under the Canterbury Development Contributions Plan 2013.

- 5.9. For the purposes of ensuring compliance with State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 a BASIX Certificate must be submitted to the Principal Certifying Authority confirming that the development scheme submitted for Construction Certificate approval achieves sustainability targets. This BASIX Certificate must be issued to the Principal Certifying Authority prior to the issue of the Construction Certificate.
6. Finishes and materials including the treatment of external walls, roofing, balcony balustrades, fences, windows and doors being in accordance with the approved External Finishes prepared by Fox Johnston Architects, Drawing No. DA400-001, dated July 2016 and received by Council on 13 October 2016.

The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the external appearance of the building without the approval of Council.
7. The site's boundary fencing is to be retained, or replaced (if damaged during the construction process) at the applicant's expense. Any repairs or replacement must be made before the issue of any occupation certificate. Any damage caused during the works period is to be made good within 24 hours of damage.
8. A Dilapidation Report/photographic survey prepared by an appropriately qualified engineer is to be undertaken of the adjoining properties being 13-15 Weyland and 5-7 Weyland Street detailing the physical condition of the property, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. On completion of the excavation and building works and prior to occupation of the building, a certificate by an appropriately qualified engineer stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this consent.
9. Fifty-five (55) off street car parking spaces being provided within the two basement levels and the ground floor level of the development. The driveways and car parking areas must be designed in accordance with AS2890.1-1993 (Off-street car parking).
10. A separate consent is required for the use of the commercial tenancies.

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 monetary contribution of \$402,878.42 shall be paid to 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	\$36,439.55
• Open Space and Recreation	\$356,195.63
• Plan Administration	\$10,243.24

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.

Canterbury Development Contributions Plan 2013 may be inspected at Council's Administration Centre, 137 Beamish Street, Campsie or from Council's website www.cbccity.nsw.gov.au. A copy of the Plan may be purchased from Campsie Customer Service Centre, 137 Beamish Street, Campsie during office hours.

12. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
13. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 a.m. - 5.00 p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays. Remediation work shall comply with the requirement of the NSW Industrial Noise Policy and the Environment Protection Authority' Environmental Noise Manual for the control of construction site noise.
14. All building construction work must comply with the National Construction Code.
15. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to walls being erected more than 300mm above adjacent ground surfaces to indicate the exact location of all external walls in relation to allotment boundaries.
16. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to the pouring of concrete at all levels and roof indicating the finished level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
17. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.

In this condition:

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

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

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

- 26. The site is to be treated with anti-graffiti paint to deter graffiti offenders targeting the building and its perimeter. This will preserve the building and increase a sense of maintenance and ownership of the site.

LANDSCAPING

27. The landscaping must be completed according to the submitted landscape plans 000 (issue C), 001 (issue C), 101 (issue C), 102 (issue A), 103 (issue A), 104 (issue A), 501 (issue D) prepared by Site image Landscape Architects except where amended by the conditions of consent. The landscaping is to be maintained at all times to the Council's satisfaction.
28. 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).⁴¹. All the tree supply stocks shall comply with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003).
29. 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.
30. 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.
31. One street tree is to be provided on the nature strip adjoining the development. This tree is to be of a *Eucalyptus haemastoma* (common name Scribbly Gum) species and be provided in 75ltr size (container size). The planting of this tree is to be carried out upon the completion of construction by contractors in accordance with AUS-SPEC Specification 0257-Landscape – Roadways and Street Trees. This document is available for purchase from Council.

ACOUSTICS

32. The building is to be constructed as per the recommendations of the Acoustic Report (Ref: 5872-1.1R) for proposed mixed use development at 9-11 Weyland Street, Punchbowl, prepared by Day Design Pty Ltd, dated 17 December 2015.

WASTE MANAGEMENT

33. Unobstructed and unrestricted access to the waste bin storage areas shall be provided for servicing from 5.00am on collection days.
34. Bins must not be presented on the road for collection. Instead, they will be collected and returned to the waste bin storage rooms by Council's waste collection contractor.

35. 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 Canterbury Development Control Plan 2012.

ENGINEERING

36. 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 20th December 2016; drawing number H-DA-00, H-DA-01, HDA-02, prepared by ITM Design Pty Ltd.
 - b) The catchment area draining to the OSD system must not be less than 75% of the total site area. All catchment areas must have a level 50mm minimum higher than top of water level for the OSD tank.
 - c) The total site discharge to the street frontage must be limited to 150L/Ha, for the total site area including the catchment area bypassing the OSD system. The OSD volume and orifice plate may require adjustment.
 - 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.
37. 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 AUSSPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Part 6.4 of Canterbury Council's DCP 2012.
38. 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.
39. 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 "Offstreet Parking Part 1 - Carparking Facilities".

- c) All parking spaces adjacent to a wall or a high vertical obstruction must have 300mm clearance in accordance with AS2890.1:2004 section 2.4.2.
 - d) All three residential SMALL parking spaces must be nominated as a secondary parking space to the nominated dwelling. The nominated dwelling must have a standard primary parking space. Any additional small parking spaces shall be eliminated from the proposal.
 - e) A minimum of 2200mm Headroom must be provided throughout the access and parking facilities. Note that Headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
 - f) 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.
 - g) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of AS/NZS 2890.1-2004.
 - h) The intersection of ramps with parking aisles and other intersection areas have been designed for use by one vehicle at a time. Appropriate traffic management measures including redesign if needed, is required to prioritise one-way traffic movement at these intersection areas.
 - i) Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of AS/NZS 2890.1:2004.
 - j) 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
40. All commercial parking spaces must be marked and separated from residential parking spaces. All residential parking spaces shall be secured from residential parking spaces.
41. The submitted Geotechnical Report provides 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 Bankstown 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 Weyland Street an Application must be made to Canterbury Bankstown 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.
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 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.
44. 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.
45. A road opening Permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's City Works Department for details.
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. If the vehicle access is to be reconstructed the levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, carparks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
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.

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 Bankstown 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:
 - 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.

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".
55. The reconstruction of the kerb and gutter along all areas of the site fronting Weyland 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, Concrete Kerb & Gutter".

56. The construction of concrete footpath paving and associated works along all areas of the site fronting Weyland 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".
57. 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.
58. All easements required for the subdivision being shown on and registered in conjunction with the subdivision plan.

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 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 INSPECTION

60. Class 2, 3 or 4 Buildings

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

- 60.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 60.2. prior to covering any stormwater drainage connections, and
- 60.3. 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

- 60.4. prior to covering any stormwater drainage connections, and
- 60.5. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
61. 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 9707 9000 during normal office hours.

CONSOLIDATION OF LOTS

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

COMPLETION OF DEVELOPMENT

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

WE ALSO ADVISE:

64. This application has been assessed in accordance with the National Construction Code.
65. 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.
66. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
 - Air handling systems
 - Final fire safety certificate
 - BASIX completion
 - Waterproofing
 - Glazing
 - Section J of the NCC
67. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.

68. 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.
69. 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.
70. 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.
71. The drawings and documentation submitted with this development application do not appear to indicate the location of air conditioning units. You are asked to note that the provision of AC units can be carried out through exempt development, however should you not be able to comply with the exempt development provisions a full development application may be required for the provision of AC units.
72. 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.
73. If you are not satisfied with this determination, you may:
 - 73.1. 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
 - 73.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 of the Environmental Planning and Assessment Act 1979.

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