

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

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Agenda for the

**Independent Hearing  
And Assessment  
Panel Meeting**

6 February 2017 – 6.00pm

**Council Chambers  
137 Beamish Street, Campsie**

IHAP Chairperson and Panel Members

Notice is hereby given that a meeting of the Independent Hearing and Assessment Panel be held in the Council Chambers, 137 Beamish Street, Campsie on Monday 6 February 2017 at 6.00 P.M

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

Matthew Stewart  
**GENERAL MANAGER**

27 January 2017

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## REPORT SUMMARIES

**1 1 BENNETT STREET AND 107–109 ORCHARD ROAD, CHESTER HILL: APPLICATION TO REZONE THE SITE FROM ZONE IN2 LIGHT INDUSTRIAL TO ZONE R4 HIGH DENSITY RESIDENTIAL**

- Council is in receipt of an application requesting rezoning of the site at 1 Bennett Street and 107–109 Orchard Road in Chester Hill from Zone IN2 Light Industrial to Zone R4 High Density Residential (17 metre building height) under Bankstown Local Environmental Plan 2015.
- The site forms part of the Villawood Industrial Precinct. The Draft South District Plan identifies this precinct as one of the top ten employment land precincts critical to the district’s productivity and sustainability.
- Based on the Department of Planning & Environment’s Strategic Merit Test to determine whether a proposal demonstrates strategic and site specific merit to proceed to the Gateway, the proposal is not supported for the following key reasons:
  - The proposal is inconsistent with the Greater Sydney Commission’s Metropolitan Plan (*A Plan for Growing Sydney*) and Draft South District Plan, in particular the priorities and actions to protect and support employment lands in the district.
  - The proposal is inconsistent with Council’s Employment Lands Development Study and North West Local Area Plan, which identify the Villawood Industrial Precinct and the retention of the current industrial zone as vital to the City of Canterbury Bankstown’s economic success in the district. The Local Area Plan also identifies the site as an out-of-centre location and unsuitable for residential intensification.
  - The proposal seeks to amend the LEP Amendments, which implement the North West Local Area Plan. The LEP Amendments came into effect in January 2016 and are one year old. According to the assessment criteria, LEP controls less than five years old will only be considered where it clearly meets the Strategic Merit Test. In this case, the proposal does not meet the Strategic Merit Test.
- Based on the Department of Planning & Environment’s justification matters as set out in the Department’s publication *A Guide to Preparing Planning Proposals*, the proposal is inconsistent with relevant state and local strategies, state environmental planning policies and Ministerial (117) Directions. The assessment findings are discussed in more detail in this report.

**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, A TWO LEVEL BASEMENT FOR PARKING AND ASSOCIATED LANDSCAPING**

- 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.

**3 1 – 7 ROWE DRIVE, POTTS HILL: CONSTRUCTION OF 20 X TWO BEDROOM SELF-CONTAINED DWELLINGS AND ONE X THREE BEDROOM SELF-CONTAINED DWELLING, WITH BASEMENT AND AT-GRADE CAR PARKING FOR 22 VEHICLES, UNDER STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004**

- DA-1540/2015 proposes to construct a residential development under the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. The proposed development contains 21 self-contained dwellings, with basement and at-grade parking for 22 cars. The proposed built form is stepped to follow the natural slope of the site from Rowe Drive down to Jones Avenue.
- This matter is reported to Council's Independent Hearing and Assessment Panel in accordance with the Canterbury-Bankstown Council Instrument of Delegations. Objections from 28 separate households have been received and accordingly the application must be reported to the Independent Hearing and Assessment Panel for determination.
- The development has a Capital Investment Value of \$4.689 million.
- The Development Application has been assessed against the relevant provisions contained in *State Environmental Planning Policy No. 55 (Remediation of Land)*, *State Environmental Planning Policy (Housing for Seniors of People with a Disability) 2004*, *State Environmental Planning Policy (BASIX) 2004*, *Bankstown Local Environmental Plan 2015*, and *Bankstown Development Control Plan 2015*. The application fails to strictly comply in regard to the proposed floor space ratio, however despite the non-compliance, represents an appropriate built form outcome for the site.
- The application was advertised and notified on lodgement for 14 days. It was then renotified for 14 days following the lodgement of amended plans and additional information. Submissions from a total of 28 separate households were received in response to the notification of the proposed development, 21 of which were pro-forma letters. The submissions raise concerns relating to accessibility, bulk and scale of the proposed development, traffic and parking impacts, visual and acoustic privacy, and matters concerning consistency with the original Potts Hill masterplan. The concerns raised in the submissions have been adequately addressed and do not warrant refusal or further modification of the proposed development.
- It is recommended that the application be approved subject to conditions.

**GENERAL****1 1 BENNETT STREET AND 107–109 ORCHARD ROAD, CHESTER HILL:  
APPLICATION TO REZONE THE SITE FROM ZONE IN2 LIGHT INDUSTRIAL  
TO ZONE R4 HIGH DENSITY RESIDENTIAL****REPORT BY: PLANNING**

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**Summary:**

- Council is in receipt of an application requesting rezoning of the site at 1 Bennett Street and 107–109 Orchard Road in Chester Hill from Zone IN2 Light Industrial to Zone R4 High Density Residential (17 metre building height) under Bankstown Local Environmental Plan 2015.
- The site forms part of the Villawood Industrial Precinct. The Draft South District Plan identifies this precinct as one of the top ten employment land precincts critical to the district's productivity and sustainability.
- Based on the Department of Planning & Environment's Strategic Merit Test to determine whether a proposal demonstrates strategic and site specific merit to proceed to the Gateway, the proposal is not supported for the following key reasons:
  - The proposal is inconsistent with the Greater Sydney Commission's Metropolitan Plan (*A Plan for Growing Sydney*) and Draft South District Plan, in particular the priorities and actions to protect and support employment lands in the district.
  - The proposal is inconsistent with Council's Employment Lands Development Study and North West Local Area Plan, which identify the Villawood Industrial Precinct and the retention of the current industrial zone as vital to the City of Canterbury Bankstown's economic success in the district. The Local Area Plan also identifies the site as an out-of-centre location and unsuitable for residential intensification.
  - The proposal seeks to amend the LEP Amendments, which implement the North West Local Area Plan. The LEP Amendments came into effect in January 2016 and are one year old. According to the assessment criteria, LEP controls less than five years old will only be considered where it clearly meets the Strategic Merit Test. In this case, the proposal does not meet the Strategic Merit Test.
- Based on the Department of Planning & Environment's justification matters as set out in the Department's publication *A Guide to Preparing Planning Proposals*, the proposal is inconsistent with relevant state and local strategies, state environmental planning policies and Ministerial (117) Directions. The assessment findings are discussed in more detail in this report.

**Financial Impact:**

This matter has no direct financial implications for Council.

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1 BENNETT STREET AND 107–109 ORCHARD ROAD, CHESTER HILL: APPLICATION TO REZONE THE SITE FROM ZONE IN2 LIGHT INDUSTRIAL TO ZONE R4 HIGH DENSITY RESIDENTIAL (CONT.)

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

The site comprises the following properties:

Property Address	Property Description	Land Use Zone	Site Area
1 Bennett Street in Chester Hill	Lot 21, DP 702060	Zone IN2 Light Industrial	30,100m <sup>2</sup>
107 Orchard Road in Chester Hill	Lot 10, DP 560618	Zone IN2 Light Industrial	10,590m <sup>2</sup>
109 Orchard Road in Chester Hill	Lot 4, DP 510776	Zone IN2 Light Industrial	12,140m <sup>2</sup>

The site forms part of the Villawood Industrial Precinct. The precinct is characterised by heavy chemical and metal manufacturers, engineering companies, warehouses, distribution centres, depots and the National Archives. The Leightonfield railway station and the Villawood Intermodal Terminal are key assets for the precinct. The precinct is also bordered by Woodville Road, which provides good access to the M4 and M5 Motorways.

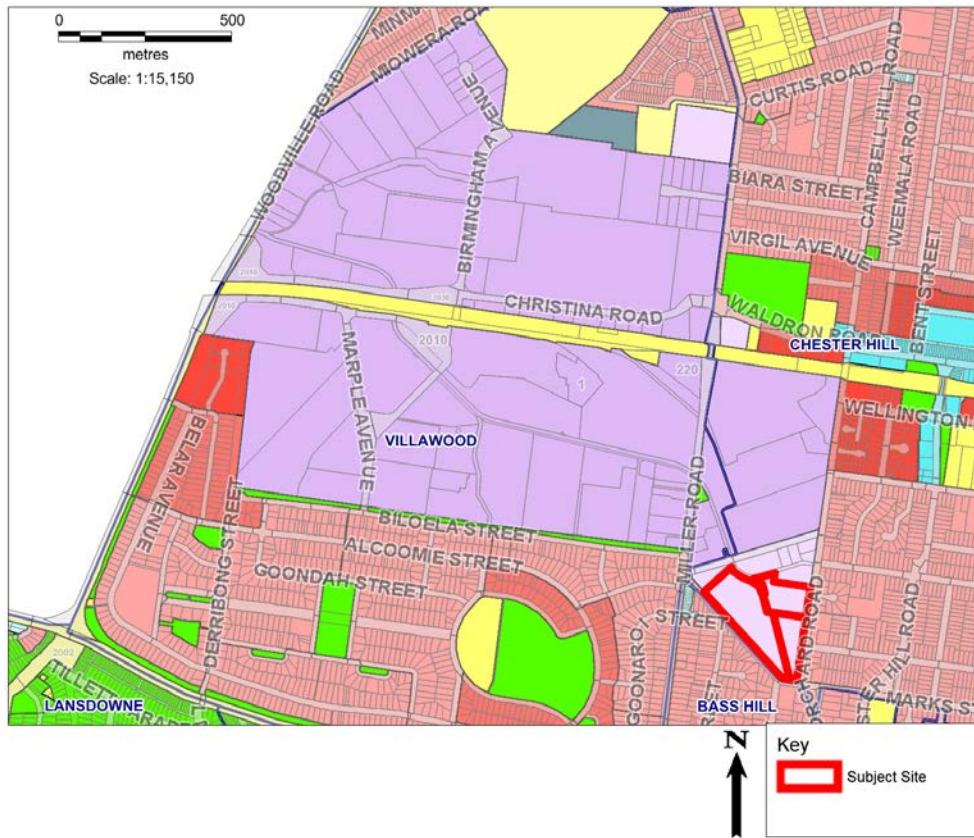
According to the application, the site is occupied by three large industrial warehouse buildings constructed in the early 1960s, which are currently used for low intensity industrial purposes. The balance of the site is generally used for loading purposes and parking.

The site adjoins industrial development (115–123 Orchard Road and 1–11 Sir Thomas Mitchell Road in Chester Hill) and a branch of the Villawood drainage channel to the north. The site is adjacent to the low-rise suburban neighbourhood to the east (across Orchard Road) and west (across Bennett Street).



1 BENNETT STREET AND 107-109 ORCHARD ROAD, CHESTER HILL: APPLICATION TO REZONE THE SITE FROM ZONE IN2 LIGHT INDUSTRIAL TO ZONE R4 HIGH DENSITY RESIDENTIAL (CONT.)

Site within the context of the Villawood Industrial Precinct



Site and local context



1 BENNETT STREET AND 107-109 ORCHARD ROAD, CHESTER HILL: APPLICATION TO REZONE THE SITE FROM ZONE IN2 LIGHT INDUSTRIAL TO ZONE R4 HIGH DENSITY RESIDENTIAL (CONT.)

**Background**

In November 2015, the proponent met with Council officers to discuss the proposal to rezone the site from an industrial zone to a residential zone. Correspondence to the proponent stated there was no justification to rezone the site based on the information provided.

In July 2016, the proponent met with Council’s Administrator, General Manager and Director Planning to discuss the proposal to rezone the site from an industrial zone to a residential zone. Correspondence to the proponent stated the proposal is contrary to Council’s strategic direction for the site and surrounds, and it is unlikely Council would support the proposal.

In November 2016, the proponent attended a formal pre-lodgement meeting. The proponent outlined the rezoning request prior to submitting the application.

**Proposal**

In December 2016, Council received an application requesting the following amendments to Bankstown Local Environmental Plan 2015 in relation to the site at 1 Bennett Street and 107-109 Orchard Road in Chester Hill:

<b>Development Standards</b>	<b>Current</b>	<b>Proposed</b>
Land use zone	Zone IN2 Light Industrial	Zone R4 High Density Residential
Maximum building height	The Height of Buildings Map does not apply to industrial zoned land.	17 metres

According to the application, the intended outcome is *“to transform currently underutilised industrial land which is not feasible for ongoing industrial development given the historic and continuing flooding issues affecting the site, the relatively isolated nature of the site which is surrounded by an established residential neighbourhood, the prohibition of B-double trucks accessing the site, and restricted trading hours due to the residential interface.*

*The proposed rezoning would result in a very small and inconsequential loss of industrial land, representing just 0.6% of the total industrial land within the Canterbury Bankstown Local Government Area and 3.2% of the total land within the Leightonfield Station Industrial Precinct.*

*The proposed density of the subject site will facilitate additional residential uses close to public transport, infrastructure and services. The provision of townhouses along the street frontages with higher residential flat buildings behind ensures an appropriate interface with existing residential development opposite the site. The large detention basin within the centre of the site will resolve the flood affection of the site and can be designed in a manner that integrates with the surrounding open space and provides useable recreational areas for the community”.*

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1 BENNETT STREET AND 107–109 ORCHARD ROAD, CHESTER HILL: APPLICATION TO REZONE THE SITE FROM ZONE IN2 LIGHT INDUSTRIAL TO ZONE R4 HIGH DENSITY RESIDENTIAL (CONT.)

The proponent submitted a planning proposal report (prepared by Urbis, dated 5 December 2016) in support of the application.

### Considerations

Based on the Environmental Planning & Assessment Act 1979 and the Department of Planning & Environment's guidelines, the following key policies are relevant:

- Metropolitan Plan (*A Plan for Growing Sydney*)
- Draft Amendment to the Metropolitan Plan (*Towards our Greater Sydney 2056*)
- Draft South District Plan
- Council's Employment Land Development Study
- Council's North West Local Area Plan
- Department of Planning & Environment's publications: *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

### Assessment

#### Strategic Merit Test

In August 2016, the Department of Planning & Environment introduced the Strategic Merit Test to determine whether a proposal demonstrates strategic and site specific merit to proceed to the Gateway. A proposal that seeks to amend controls that are less than five years old will only be considered where it clearly meets the Strategic Merit Test.

Based on the Strategic Merit Test as outlined in the Department's publication *A Guide to Preparing Local Environmental Plans*, the proposal to rezone the site from Zone IN2 Light Industrial to Zone R4 High Density Residential is not supported for the following key reasons:

- 1. Is the proposal consistent with the relevant district plan within the Greater Sydney Region, or corridor / precinct plans applying to the site, including any draft regional, district or corridor / precinct plans released for public comment?**

#### Comment

The proposal is inconsistent with the Greater Sydney Commission's Draft South District Plan, released for public comment in November 2016.

In particular, the proposal is inconsistent with Productivity Priority 5 to protect and support employment lands in the district. According to this priority, the Greater Sydney Commission's research reaffirms the value of employment lands to Sydney's productivity. The Commission is therefore taking a precautionary approach to the conversion of employment lands in the absence of a district wide assessment of their value and objectives. The application of the precautionary approach in the Villawood Industrial Precinct (where the site is located) is particularly important given that:

- The Draft South District Plan identifies the Villawood Industrial Precinct (also known as the Leightonfield Station Precinct) as one of the top ten employment land precincts critical to the district's productivity and

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1 BENNETT STREET AND 107–109 ORCHARD ROAD, CHESTER HILL: APPLICATION TO REZONE THE SITE FROM ZONE IN2 LIGHT INDUSTRIAL TO ZONE R4 HIGH DENSITY RESIDENTIAL (CONT.)

sustainability. The precautionary approach avoids the intrusion of non-industrial uses, especially residential uses into a developed industrial precinct, which may create amenity conflicts as well as fragment an existing consolidated area of employment land. It also avoids creating an undesirable precedent for other rezoning requests in the Villawood Industrial Precinct that do not accord with the strategic framework for the City of Canterbury Bankstown.

- The Department of Planning & Environment's Draft West Central Subregional Strategy identifies the need to retain the employment land in the Villawood Industrial Precinct (also known as the Leightonfield Station Precinct) for industrial purposes.
- Council's Employment Lands Development Study and North West Local Area Plan identify the need to retain the employment land in the Villawood Industrial Precinct for industrial purposes.
- The Sydney South Planning Panel applied the precautionary approach in relation to a recent rezoning review. The Panel decided not to support a proposal to rezone a site at 45–57 Moxon Road in Punchbowl from an industrial zone to a residential zone as it did not demonstrate strategic merit. According to the Panel, the loss of employment land is inconsistent with the productivity priority and relevant actions in the Draft South District Plan.
- As part of the precautionary approach, the Commission will work with local councils to inform the preparation of appropriate planning controls to protect, support and enhance the economic function of employment lands. It is noted that issues such as residential interface, accessibility for B–double trucks, flooding and concept plans are not matters for consideration under the precautionary approach.

**2. Is the proposal consistent with a relevant local strategy that has been endorsed by the Department?**

Comment

The proposal is inconsistent with the relevant local strategies that apply to the site.

Firstly, the proposal is inconsistent with the Employment Lands Development Study, which Council adopted on 22 September 2009. The Department of Planning & Environment endorsed the preparation of the study under the Planning Reform Funding Program.

According to the study, the Villawood Industrial Precinct (where the site is located) is a generally 'large lot' industrial area with a relatively stable urban service and light industry role, and employment base. New investment in smaller strata factory units is occurring, and opportunities exist for the intensification of employment activities. The study identifies the need to retain the current industrial zone and to enhance the function of the precinct for industrial, freight and logistics, and urban service activities.

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1 BENNETT STREET AND 107–109 ORCHARD ROAD, CHESTER HILL: APPLICATION TO REZONE THE SITE FROM ZONE IN2 LIGHT INDUSTRIAL TO ZONE R4 HIGH DENSITY RESIDENTIAL (CONT.)

Secondly, the proposal is inconsistent with the North West Local Area Plan, which Council adopted on 24 September 2013.

The Local Area Plan sets the vision and actions for development in the suburbs of Chester Hill, Sefton, Villawood, Bass Hill and Georges Hall to 2031. The Local Area Plan also implements the job and dwelling targets under the Metropolitan Plan, Council's Employment Lands Development Study and Council's Residential Development Study.

In particular, the proposal is inconsistent with Action I2, which identifies the Villawood Industrial Precinct (where the site is located) and the retention of the current industrial zone as vital to the City of Canterbury Bankstown's economic success in the district. The proposal is also inconsistent with Action L2, which identifies the site as an out-of-centre location and unsuitable for residential intensification.

**3. Is the proposal responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls?**

Comment

The proposal is not responding to a change of circumstances as:

- The Metropolitan Plan, Draft South District Plan, NSW Long Term Transport Master Plan and State Infrastructure Strategy do not identify any new infrastructure investment in the North West Local Area.
- Council's North West Local Area Plan responds to changing demographic trends to 2031 consistent with the Metropolitan Plan.
- The proposal seeks to amend the LEP Amendments, which implement the North West Local Area Plan. The LEP Amendments came into effect in January 2016 and are one year old. According to the assessment criteria, LEP controls less than five years old will only be considered where it clearly meets the Strategic Merit Test. In this case, the proposal does not meet the Strategic Merit Test.

Detailed assessment findings have been circulated separately to Panel members.

**Additional Considerations**

In relation to other considerations, Council assessed the proposal based on the justification matters outlined in the Department of Planning & Environment's publication *A Guide to Preparing Planning Proposals*. The intended outcome is to demonstrate whether there is justification for a proposal to proceed to the Gateway based on consistency with relevant state and local strategies, state environmental planning policies and Ministerial (117) Directions.

1 BENNETT STREET AND 107–109 ORCHARD ROAD, CHESTER HILL: APPLICATION TO REZONE THE SITE FROM ZONE IN2 LIGHT INDUSTRIAL TO ZONE R4 HIGH DENSITY RESIDENTIAL (CONT.)

A key issue is the proposal's request to rezone the site from Zone IN2 Light Industrial to Zone R4 High Density Residential in order to resolve historic and continuing flooding issues on the site.

In considering this request, parts of the site are affected by the high and medium stormwater flood risk precincts. According to the Ministerial (117) Direction 4.3, a proposal must not contain provisions that apply to the flood planning areas which permit a significant increase in the development of that land unless it is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.

The proposal puts forward the view that the introduction of residential uses (and associated detention basin) is necessary to address stormwater flooding issues on the assertion that industrial uses are more vulnerable to flooding. The principles of the Floodplain Development Manual 2005 and Council's policies do not support this view and instead consider that the introduction of sensitive land uses such as residential uses would increase the number of people exposed to the flood risk precincts on the site.

**RECOMMENDATION:**

THAT the application to rezone the site at 1 Bennett Street and 107–109 Orchard Road in Chester Hill from Zone IN2 Light Industrial to Zone R4 High Density Residential not be supported.

**BANKSTOWN WARD**

**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, A TWO LEVEL BASEMENT FOR PARKING AND ASSOCIATED LANDSCAPING**

**FILE NO:** 947/9D  
**REPORT BY:** PLANNING  
**WARD:** BANKSTOWN

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

**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

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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 (CONT.)

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 1,040.4m<sup>2</sup>.

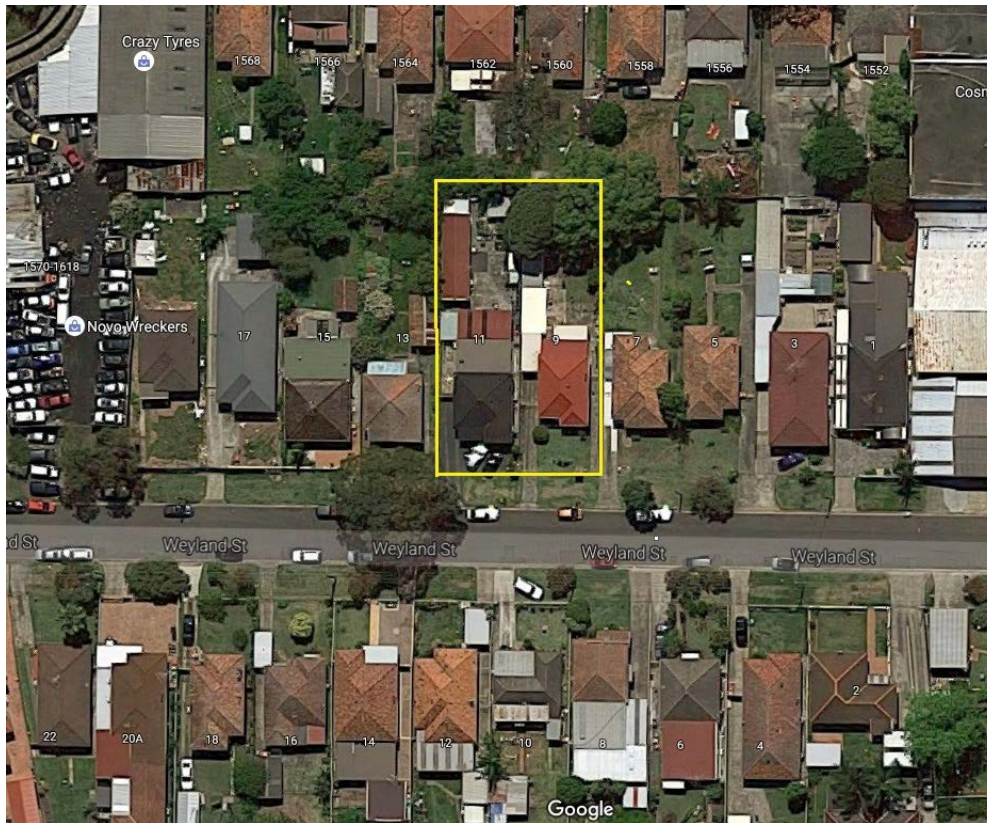
The site is zoned B5 Business Development under Canterbury LEP 2012. It is a relatively flat site. The immediate area is generally characterised by single and double storey detached dwellings and some commercial and industrial activities to the north, west and east. Development approval has been issued 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.



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 (CONT.)



**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 (25m<sup>2</sup> and 45m<sup>2</sup>) 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 <sup>2</sup> and 45m <sup>2</sup> ), 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.

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

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 <sup>2</sup> ).

### 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.

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- 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	18.2m but conditioned to comply with 18m height limit

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Address	DA number	Proposal	Height
		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.	

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:

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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.

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#### 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
<b>Part 3 Siting the Development</b>			
Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site = 260.1m <sup>2</sup>	The proposed communal open space provides 182.4m <sup>2</sup> (rooftop terrace) + 104.8m <sup>2</sup> (ground level) = 287.2m <sup>2</sup> 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 <sup>2</sup> (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 <sup>2</sup> and 1,500m <sup>2</sup> , with a minimum of 7% site coverage.	Nil	No – see comment [1] below

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Section	Design Criteria	Proposed	Complies
Visual Privacy (Separation between buildings)	Habitable rooms to habitable rooms Up to 4 storeys: 12m 5 – 6 storeys: 18m	Habitable rooms to habitable rooms Up to 4 storeys: 9m – 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 <sup>th</sup> , 6 <sup>th</sup> 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
	<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
<b>Part 4 Designing the Building</b>			
Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of two hours direct sunlight between 9am and 3pm at mid-winter.	The living rooms and private open space areas for 33 out of the 42 apartments (78%) receive at least two hours of direct sunlight between 9am and 3pm on 21 June.	Yes

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Section	Design Criteria	Proposed	Complies
	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: <ul style="list-style-type: none"> <li>- 2.7m for habitable rooms</li> <li>- 2.4m for non-habitable rooms</li> <li>- 3.3m for ground floor commercial areas</li> </ul>	<ul style="list-style-type: none"> <li>- Habitable rooms 2.7m</li> <li>- &gt;2.4m non-habitable rooms</li> <li>- Ground floor commercial premise 2.7m</li> </ul>	Yes Yes No – see comment [5] below
Apartment Size and Layout	Apartments are required to have the following minimum internal areas: <ul style="list-style-type: none"> <li>- One bedroom: 50m<sup>2</sup></li> <li>- Two bedrooms: 70m<sup>2</sup></li> </ul> Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each.	All units comply	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All habitable rooms have windows of acceptable size to facilitate acceptable solar access and natural ventilation	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	The habitable room depths do not exceed the maximum depths permitted.	Yes
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	The proposal comprises open plan layouts. Each open plan layout comprises a maximum depth of 8m from a window to the rear pantry of the kitchen.	Yes
	Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	The master bedrooms and secondary bedrooms of each apartment comprise an area of at least 10m <sup>2</sup> or 9m <sup>2</sup> respectively.	Yes



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Section	Design Criteria	Proposed	Complies
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m, excluding wardrobe space.	Yes
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> <li>- 3.6m for studio and one bedroom apartments</li> <li>- 4m for two and three bedroom apartments</li> </ul>	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"> <li>- Minimum area of 4m<sup>2</sup> for studio units</li> <li>- Minimum area of 8m<sup>2</sup> and minimum depth of 2m for one bedroom units</li> <li>- Minimum area of 10m<sup>2</sup> and minimum depth of 2m for two bedroom units</li> </ul>	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
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <ul style="list-style-type: none"> <li>- 6m<sup>3</sup> for one bedroom units</li> <li>- 8m<sup>3</sup> for two bedroom units</li> </ul> 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.

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[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.

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### [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.

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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:

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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.

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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:

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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?

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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 250m<sup>2</sup> 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.*



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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 250m<sup>2</sup> 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.

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**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

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Control	Requirement	Proposed	Complies
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 provided	Bicycle parking is provided	Yes
	The car park entry is to be recessed from the main building façade	The car park entry is appropriately recessed from main façade	Yes
<b>Design Controls</b>			
Context	Building form and design does not have to mimic traditional features, but should reflect these in a contemporary design.	It is considered that the proposed development demonstrates a contemporary design	Yes
Street address	Entries are to be located where they relate to the existing street, subdivision pattern, street tree planting and pedestrian access network.	Entries to the building are located on the street frontage	Yes
	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,	Building layout is suitably expressed through use of a variety of architectural features, such as recessed balconies, balustrades different window sizes and the	Yes

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Control	Requirement	Proposed	Complies
	roof forms and parapets are elements that can be revealed or concealed and organised into simple or complex patterns.	roof form	
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 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.

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[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)(iii)]**  
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.

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- 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.

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- **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.

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### 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



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- 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

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- 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).

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- (m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
- (n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of Australian Standard AS2601-2001: Demolition of Structure. Note: For further advice you may wish to contact the Global Lead Advice and Support Service on 9716 0132 or 1800 626 086 (freecall), or at [www.lead.org.au](http://www.lead.org.au).
- (o) Hazardous dust not being allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended.
- (p) Any existing accumulations of dust (eg. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

#### SITE SIGNAGE

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

#### GENERAL

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

Drawing No.	Drawing Title	Prepared by	Received by Council on
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

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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

- 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.

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- 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.

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- 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

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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](http://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.

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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.



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#### 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).<sup>41</sup>. 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.

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### 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.

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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

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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

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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 1<sup>st</sup> 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,

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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](http://www.sydneywater.com.au/BuildingDeveloping/DevelopingYourLand) , Water Servicing Coordinators, or telephone 13 20 92. Following application, a "Notice of Requirements" will be forwarded detailing water and sewage extensions to be built

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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

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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.



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 (CONT.)

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.

**-END-**

**BASS HILL WARD****3 1 – 7 ROWE DRIVE, POTTS HILL: CONSTRUCTION OF 20 X TWO BEDROOM SELF-CONTAINED DWELLINGS AND ONE X THREE BEDROOM SELF-CONTAINED DWELLING, WITH BASEMENT AND AT-GRADE CAR PARKING FOR 22 VEHICLES, UNDER STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004**

FILE NO: DA-1540/2015

REPORT BY: PLANNING

WARD: BASS HILL

<b>D/A No:</b>	<b>DA-1540/2015</b>
<b>Applicant:</b>	<b>Capital Developments Pty Ltd</b>
<b>Owner:</b>	<b>KYS Properties Pty Ltd</b>
<b>Zoning:</b>	<b>R2 – Low Density Residential</b>
<b>Application Date:</b>	<b>21 December 2015</b>

**Summary:**

- DA-1540/2015 proposes to construct a residential development under the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. The proposed development contains 21 self-contained dwellings, with basement and at-grade parking for 22 cars. The proposed built form is stepped to follow the natural slope of the site from Rowe Drive down to Jones Avenue.
- This matter is reported to Council's Independent Hearing and Assessment Panel in accordance with the Canterbury-Bankstown Council Instrument of Delegations. Objections from 28 separate households have been received and accordingly the application must be reported to the Independent Hearing and Assessment Panel for determination.
- The development has a Capital Investment Value of \$4.689 million.
- The Development Application has been assessed against the relevant provisions contained in *State Environmental Planning Policy No. 55 (Remediation of Land)*, *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, *State Environmental Planning Policy (BASIX) 2004*, *Bankstown Local Environmental Plan 2015*, and *Bankstown Development Control Plan 2015*. The application fails to strictly comply in regard to the proposed floor space ratio, however despite the non-compliance, represents an appropriate built form outcome for the site.
- The application was advertised and notified on lodgement for 14 days. It was then renotified for 14 days following the lodgement of amended plans and additional information. Submissions from a total of 28 separate households were received in

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1 – 7 ROWE DRIVE, POTTS HILL: CONSTRUCTION OF 20 X TWO BEDROOM SELF-CONTAINED DWELLINGS AND ONE X THREE BEDROOM SELF-CONTAINED DWELLING, WITH BASEMENT AND AT-GRADE CAR PARKING FOR 22 VEHICLES, UNDER STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004 (CONT.)

response to the notification of the proposed development, 21 of which were pro-forma letters. The submissions raise concerns relating to accessibility, bulk and scale of the proposed development, traffic and parking impacts, visual and acoustic privacy, and matters concerning consistency with the original Potts Hill masterplan. The concerns raised in the submissions have been adequately addressed and do not warrant refusal or further modification of the proposed development.

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

**Policy Impact:**

This matter has no direct policy implications. The proposed floor space ratio departure is appropriate in the context of the site, and would not set any undesirable precedent for development under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* or the *Bankstown Local Environmental Plan 2015*.

**Financial Impact:**

This matter has no direct financial implications.

**Report:**

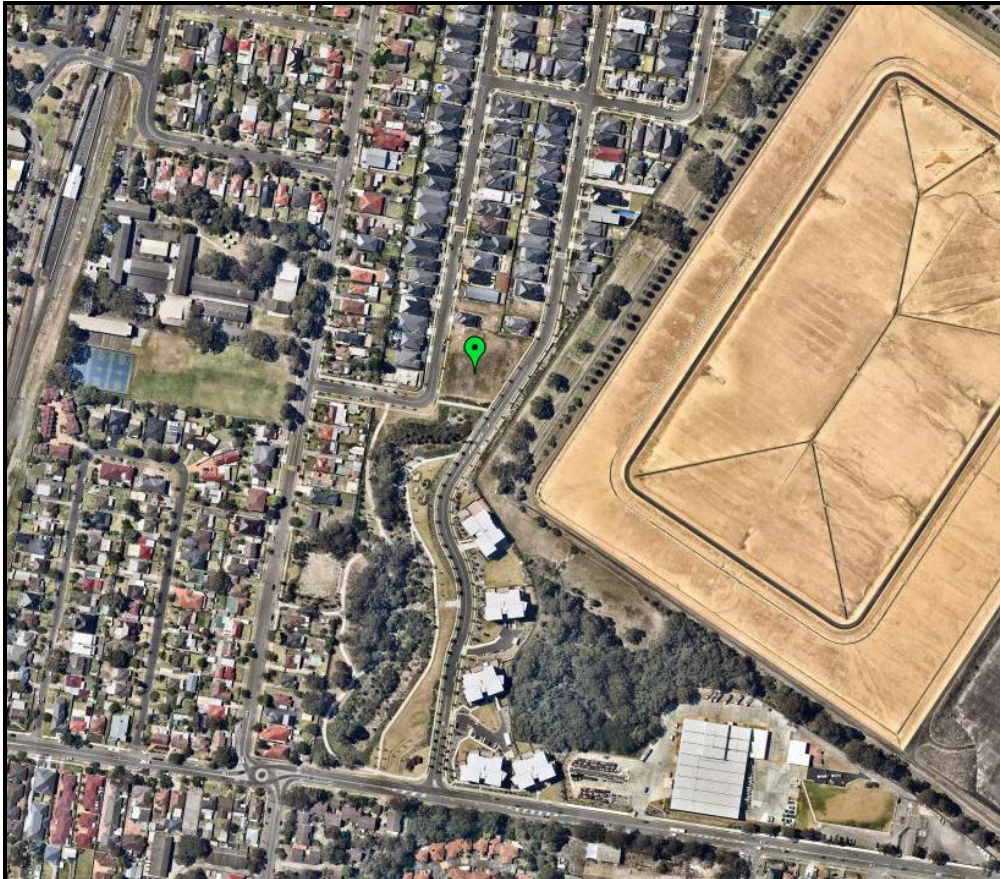
**Site Details**

The subject site, known as 1–7 Rowe Drive, Potts Hill, is zoned R2 – Low Density Residential and has an area of 3,090m<sup>2</sup>. The development site comprises four allotments that have a change in level of up to 10m from Rowe Drive (eastern frontage) down to Jones Avenue (western frontage).

The site is located toward the southern end of the Potts Hill residential estate and is vacant (grass cover only). Immediately north of the site are detached, two storey residential dwellings. Residential dwellings are also located to the west of the site, across Jones Avenue. To the east is the existing Potts Hill Reservoir, and to the south is a public reserve. Beyond this reserve, at the southern entrance to the Potts Hill Estate, lies a series of four storey residential flat buildings, the first of which is less than 100m from the proposed development.

1 – 7 ROWE DRIVE, POTTS HILL: CONSTRUCTION OF 20 X TWO BEDROOM SELF-CONTAINED DWELLINGS AND ONE X THREE BEDROOM SELF-CONTAINED DWELLING, WITH BASEMENT AND AT-GRADE CAR PARKING FOR 22 VEHICLES, UNDER STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004 (CONT.)

The context of the site is illustrated in the aerial photo below.



### Proposal

DA-1540/2015 proposes the following works:

- Construction of a two storey residential development containing 21 self-contained dwellings (20 x two bedroom and one x three bedroom).
- Basement and at-grade parking for 22 cars.
- Civil works and site landscaping.
- Construction of kerb ramps and a pedestrian refuge on Bruncker Road.

The proposed development comprises a series of buildings that are stepped with the topography of the site, from Rowe Drive down to Jones Avenue. The buildings generally present a two storey appearance, and are of a contemporary design with a mix of external finishes to provide a modulated and articulated building façade.

The development primarily contains two bedroom, self-contained dwellings. One three bedroom dwelling is proposed, which has an adaptable floor plan to allow conversion to a two bedroom dwelling with adjoining carer's accommodation if needed.

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Primary vehicular access is from Jones Avenue, with a basement parking area that accommodates 17 cars. Additional at-grade parking is provided along the Rowe Drive and Jones Avenue frontages, with open car spaces accessed via individual driveways.

### Assessment

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

- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- Bankstown Local Environmental Plan 2015

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

- **State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)**  
Clause 7 of SEPP 55 requires Council to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works.

The proposed development site was subject to works undertaken as part of a Department of Planning Part 3A Major Project Approval for the overall Potts Hill Reservoirs redevelopment. Following completion of the works, in December 2011, a Site Audit Report was issued which states that the site is suitable for '*residential with gardens and accessible soil*'.

The applicant of the current DA engaged the same environmental consultants to review the current condition of the site, in order to determine whether the previous findings regarding site suitability remain valid. This review has been undertaken, and the environmental consultants have concluded that the current condition of the site, from the aspect of land contamination, is not materially different from the condition of the land at the time of issue of the Site Audit Statement. It is therefore considered that the requirements of Clause 7 of SEPP 55 have been met.

- **State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004**  
The proposed development seeks consent for self-contained dwellings under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. Development can only be undertaken according to the provisions of the SEPP if certain requirements are met with respect to the location of the subject site and access to facilities including shops, community services and medical practitioners. Compliance with these requirements, as well as other relevant provisions of the SEPP, is outlined in the following table.

1 – 7 ROWE DRIVE, POTTS HILL: CONSTRUCTION OF 20 X TWO BEDROOM SELF-CONTAINED DWELLINGS AND ONE X THREE BEDROOM SELF-CONTAINED DWELLING, WITH BASEMENT AND AT-GRADE CAR PARKING FOR 22 VEHICLES, UNDER STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004 (CONT.)

SEPP REQUIREMENT	PROPOSED	COMPLIES
<p><b>Location and access to facilities</b> A public transport service must be located not more than 400m from the site and must be accessible by means of a suitable access pathway.</p>	<p>Bus stops are located on the northern side (eastbound) and southern side (westbound) of Bruncker Road. Both stops are located within 390m of the development site.</p>	Yes
<p>The public transport service must take residents to a place located not more than 400m from the required facilities and services.</p>	<p>Bus Route 908 runs between Bankstown and Merrylands, both of which are retail and commercial centres with access to the required facilities and services.</p>	Yes
<p>The public transport service must be available both to and from the proposed development at least once between 8am – 12pm and at least once between 12pm – 6pm each day Monday to Friday.</p>	<p>The timetable for Bus Route 908 meets the required availability, being serviced hourly (in both directions) between 8am – 6pm Monday to Friday.</p>	Yes
<p><b>Site size and frontage</b> Minimum site area is 1,000sqm.</p>	<p>The site has an area of 3,090sqm.</p>	Yes
<p>Minimum site frontage is 20m.</p>	<p>The shortest site frontage (to Jones Avenue) is 58m.</p>	Yes
<p><b>Building height</b> Maximum building height in zones where residential flat buildings are not permitted is 8m (measured to the ceiling level of the topmost floor).</p>	<p>The proposed development has a maximum building height of 8m when measured to the ceiling of the upper floor according to the SEPP requirements.</p>	Yes
<p>A building adjacent to the boundary of the site must be no more than two storeys in height.</p>	<p>All buildings adjacent to the boundaries of the site are two storeys in height.</p>	Yes
<p>A building located in the rear 25% area of the site must not exceed one storey in height.</p>	<p>The site has two street frontages, therefore has no 'rear'.</p>	N/A
<p><b>Design of in-fill self-care housing</b> The provisions of the <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i> must be taken into account.</p>	<p>The proposal is generally consistent with this Policy. Minor numerical departures from the 'rules of thumb' are appropriate in the context of the site.</p>	Yes
<p><b>Standards for self-contained dwellings</b> Development for the purposes of self-contained dwellings must comply with</p>	<p>The proposed development has been designed according to the</p>	Yes

1 – 7 ROWE DRIVE, POTTS HILL: CONSTRUCTION OF 20 X TWO BEDROOM SELF-CONTAINED DWELLINGS AND ONE X THREE BEDROOM SELF-CONTAINED DWELLING, WITH BASEMENT AND AT-GRADE CAR PARKING FOR 22 VEHICLES, UNDER STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004 (CONT.)

SEPP REQUIREMENT	PROPOSED	COMPLIES
the standards specified in Schedule 3 (including accessibility, security, private car accommodation, accessible entries, interior layout, surface finishes, door hardware and lift provision).	specific design requirements outlined in Schedule 3.	
<b>Density and scale</b> Cannot refuse consent if the floor space ratio is 0.5:1 or less.	0.57:1.	Exceeds 0.5:1 – See comment [1] below
<b>Landscaped area</b> Cannot refuse consent if a minimum 30% of the area of the site is to be landscaped.	30% of the site is proposed to be developed according to the 'landscaped area' definition in the SEPP.	Yes
<b>Deep soil zones</b> Cannot refuse if not less than 15% of the area of the site is provided as deep soil zones with a minimum 3m dimension, two-thirds of which is to be located at the rear of the site.	Proposed deep soil zones with a minimum 3m dimension make up 16% of the site area.	Yes
<b>Solar access</b> Cannot refuse if living rooms and private open spaces for a minimum 70% of dwellings receive a minimum 3 hours direct sunlight between 9am – 3pm in mid-winter.	95% of the proposed dwellings would receive at least 3 hours direct sunlight between 9am – 3pm in mid-winter.	Yes
<b>Private open space</b> Cannot refuse if ground floor dwellings have not less than 15sqm of private open space with minimum 3m x 3m dimensions and access from a ground floor living area.	All proposed ground floor dwellings have at least 15sqm private open space accessible from a living area, with minimum 3m x 3m dimensions.	Yes
<b>Parking</b> Cannot refuse if at least 0.5 car spaces are provided for each bedroom.	22 car parking spaces are provided within the development.	Yes

[1] Floor Space Ratio

Clause 50(b) of the SEPP states that consent must not be refused if the density and scale of the buildings, when expressed as a floor space ratio, is 0.5:1 or less. The proposed development has a gross floor area of 1,750m<sup>2</sup>, which equates to a floor space ratio of 0.57:1. It is noted that Clause 50(b) of the SEPP does not set a *maximum* floor space ratio, rather offers Council discretion to refuse an application if

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the 0.5:1 figure is exceeded. It is also noted that the *Bankstown Local Environmental Plan 2015* does not set a maximum floor space ratio for the subject sites.

The proposed development complies with the maximum building height provisions of the SEPP and would not have any adverse overshadowing impacts due to the orientation of the site. It adopts a built form that follows the natural topography from Rowe Drive down to Jones Avenue, and provides setbacks that are consistent with the neighbouring dwellings to the north.

Despite the proposed 0.57:1 floor space ratio, the building envelopes are considered to be appropriate and acceptable in the context of the site. Existing dwellings to the north and west were approved under a mix of Complying Development Certificates and Development Consents, issued according to the provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, or the *Potts Hill Residential Design Controls* and *Bankstown Development Control Plan 2015*. None of these documents contain maximum floor space ratio provisions. Instead, they set a maximum allowable floor area of 330m<sup>2</sup> regardless of what the site area may be. A review of the dwelling approvals issued in the vicinity of the site reveals that the average floor space ratio is consistent with that of the proposed development, being 0.57:1. Refusal of the application on the grounds of density or scale would therefore be unwarranted.

- **Bankstown Local Environmental Plan 2015**

The proposed development is satisfactory with regard to the relevant provisions of the *Bankstown Local Environmental Plan 2015*, including the following:

Clause 1.2 – Aims of Plan

The proposed development is consistent with the relevant aims of the LEP:

- (a) *to manage growth in a way that contributes to the sustainability of Bankstown, and recognises the needs and aspirations of the community;*
- (d) *to provide development opportunities that are compatible with the prevailing suburban character and amenity of residential areas of Bankstown;*
- (f) *to provide a range of housing opportunities to cater for changing demographics and population needs;*
- (i) *to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety;*
- (k) *to consider the cumulative impact of development on the natural environment and waterways and on the capacity of infrastructure and road network; and*
- (l) *to enhance the quality of life and the social well-being and amenity of the community.*

Clause 2.3 – Zone Objectives and Land Use Table

The site is located in Zone R2 – Low Density Residential, which permits development for the purposes of 'seniors housing'. The proposed development meets the LEP



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1 – 7 ROWE DRIVE, POTTS HILL: CONSTRUCTION OF 20 X TWO BEDROOM SELF-CONTAINED DWELLINGS AND ONE X THREE BEDROOM SELF-CONTAINED DWELLING, WITH BASEMENT AND AT-GRADE CAR PARKING FOR 22 VEHICLES, UNDER STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004 (CONT.)

definition of ‘seniors housing’ and, even in the absence of the SEPP, would be permitted with consent at the subject site. Moreover, the proposal is consistent with the objectives of the R2 zone, being:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To allow for certain non-residential development that is compatible with residential uses and does not adversely affect the living environment or amenity of the area.*
- *To allow for the development of low density housing that has regard to local amenity.*
- *To require landscape as a key characteristic in the low density residential environment.*

#### Clause 4.3 – Height of Buildings

According to the LEP Height of Buildings Map, the maximum permitted building height for the development site is 9m. However according to Clause 5(3) of the SEPP, the provisions of the SEPP prevail over those contained in the LEP. The proposed building height complies with the 8m limit prescribed by the SEPP, as outlined in the compliance table earlier in this report.

#### Clause 4.4 – Floor Space Ratio

According to the LEP Floor Space Ratio Map, there is no maximum floor space ratio for the development site.

### **Additional Considerations**

- **Draft Environmental Planning Instruments [section 79C(1)(a)(ii)]**  
There are no draft EPI's applicable to the proposed development.
- **Development Control Plans [section 79C(1)(a)(iii)]**  
There are no provisions in Part B1 – Residential Development of the *Bankstown Development Control Plan 2015* that apply specifically to seniors housing. Moreover, there are no provisions in Part A3 – Key Infill Development Sites that apply to the subject property or the proposed type of development.
- **Planning Agreements [section 79C(1)(a)(iiia)]**  
There are no planning agreements applicable to the proposed development.
- **The Regulations [section 79C(1)(a)(iv)]**  
The proposed development is not inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

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1 – 7 ROWE DRIVE, POTTS HILL: CONSTRUCTION OF 20 X TWO BEDROOM SELF-CONTAINED DWELLINGS AND ONE X THREE BEDROOM SELF-CONTAINED DWELLING, WITH BASEMENT AND AT-GRADE CAR PARKING FOR 22 VEHICLES, UNDER STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004 (CONT.)

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

As discussed in this report, the proposed development is acceptable with regard to its likely environmental, social and economic impacts on the locality.
- **Suitability of the Site [section 79C(1)(c)]**

'Seniors housing' is permitted with consent at the subject site according to the provisions of the *Bankstown Local Environmental Plan 2015*. Moreover, the site meets the relevant criteria according to the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. The proposed floor space ratio departure is considered to acceptable in the context of the development, and the proposal represents an appropriate built form outcome for the site. The steep slope of the site has been appropriately responded to, with the proposed buildings being stepped with its natural topography with only minimal proposed change in levels.
- **The Public Interest [section 79C(1)(e)]**

The proposed development would not contravene the public interest. It responds appropriately to the standards contained in *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, as well as the relevant provisions of the *Bankstown Local Environmental Plan 2015*. Matters raised in public submissions have been satisfactorily addressed, and the proposed development would contribute to housing choice in the northern sector of the Canterbury-Bankstown LGA.

### Notification

The application was advertised and notified on lodgement for 14 days. It was then renotified for 14 days following the lodgement of amended plans and additional information. Submissions from a total of 28 separate households were received in response to the notification of the proposed development, 21 of which were pro-forma letters. The submissions raise concerns relating to accessibility, bulk and scale of the proposed development, traffic and parking impacts, visual and acoustic privacy, and matters concerning consistency with the original Potts Hill masterplan.

- **Accessibility**
  - *This development cannot be classified for Housing for Seniors and People with a Disability as the location does not have access to facilities as required by the SEPP. The existing public transport is not safely adequate for this type of development.*
  - *The dwelling at the middle of the site located on the boundary of 5 and 7 Rowe Drive would be more than 400m to the bus stop on Brunker Road. The dwelling fronting Jones Avenue at 1 Rowe Drive (and the other dwellings fronting Jones Avenue) are more than 400m to the nearest bus stop on Brunker Road.*
  - *The footpath does not meet grade requirements for the SEPP with a section near Brunker Road exceeding 1:6 for approximately 20m.*

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- *The site is steep. There is approximately 10m height difference between Jones Avenue and Rowe Drive. This restricts movement of the developments residents from top to bottom.*

Comment

Clause 26 of the SEPP requires that the bus stops be located ‘not more than 400 metres from the site of the proposed development’. The sites included in the proposed development are to be consolidated into one allotment. The distance between the consolidated allotment and the bus stops on the northern and southern sides of Bruncker Road is a maximum of 390 metres.

The SEPP requires that access to the bus stops be via a ‘suitable access pathway’, which is defined as ‘a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like’. The maximum allowable gradient for this pathway is 1:14, however for certain sections this gradient can increase to as much as 1:8. To ensure that appropriate access to services is provided, the applicant proposes to construct kerb ramps and a pedestrian refuge to allow safe access to the bus stop on the southern side of Bruncker Road. This will provide bus services in two directions (one toward Bankstown and one toward Merrylands) that comply with the SEPP requirements. Council’s Traffic Engineers have reviewed the proposed kerb ramps and pedestrian refuge and endorse their location and design.

With respect to the gradients, the applicant engaged a registered surveyor to review the access pathway and was not able to identify any section with a non-compliant grade as suggested in the objection. Moreover, with respect to movements within the site, a lift has been provided to afford resident access between the Jones Avenue dwellings and the common pedestrian entry at the Rowe Drive frontage.

- **Bulk and scale**
  - *The proposed buildings are big and intrusive in the existing streetscape of both Rowe Drive and Jones Avenue. The proposal is not consistent with the streetscape and adds bulk and scale which results in a total overdevelopment of the site.*
  - *The proposed size of this development will increase the population density of the area, including visitors. The development is oversized.*
  - *The development is a departure from the adjoining and adjacent developments along Rowe Drive and Jones Avenue.*
  - *The proposal is a significant departure from the Potts Hill Design Guidelines.*

Comment

While it is for a different development type to the detached dwellings adjoining to the north and west of the site, the proposal remains compatible with the overall development of Potts Hill residential estate, noting that residential flat buildings are

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located less than 100m south of the site at Bruncker Road. The proposed dwellings that present to Rowe Drive and Jones Avenue are single-storey and two-storey in height, and are separated to provide a streetscape rhythm that is similar to that of detached dwellings.

There are no provisions in the *Potts Hill Residential Design Controls* that apply to seniors housing. At Page 1 of the Controls (Introduction) it is stated that '*This document is intended to comprise a complete stand alone suite of controls for the precinct, with the exception of statutory controls under relevant state policies and local environmental plans*'. The Guidelines therefore acknowledge that development may be proposed under other environmental planning instruments (i.e. SEPPs), such is the case with the subject proposal.

Although the proposed development would increase the population density at the subject site (in particular compared to an alternative outcome involving detached dwellings), it cannot be reasonably held that this increase would represent an overdevelopment of the site.

- **Traffic and parking**

- *The location of the main driveway for at least 14 vehicles is from Jones Avenue which is an extremely dangerous position being on the bend of a street, in an area with high potential for accidents.*
- *The development will generate a lot of pedestrian movement, and appropriate remedial measures have not been taken to maintain safety standards.*
- *The extra traffic generated from this development will affect the existing and likely future amenity of the neighbourhood. Bruncker Road is a major road and can be difficult to cross for an able bodied person let alone an elderly or disabled person.*
- *The proposal does not suggest any improvements to the adjacent road network and hierarchy, the impact on the road safety and the impact of the extra traffic or noise that will be generated.*
- *Where the carpark access on Jones Avenue is to be located it is too close to the narrow curve of the Avenue, which will adversely impact the traffic causing congestion and significantly increasing the risk of possible accidents.*
- *There are not enough parking spaces already on Jones Avenue. The proposed development provides limited car space and does not provide additional parking for service vehicles or visitor day/night parking.*
- *The number of new residents as a result of this development would create very significant traffic and parking issues. Getting out of Potts Hill would become so much slower and more difficult.*

Comment

The development application is supported by a Traffic and Parking Assessment, prepared by a qualified traffic engineer. This assessment examines existing traffic

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conditions and assesses the potential implications of the proposed development, including the design and layout of the proposed parking facilities and access points, and the existing road hierarchy and traffic controls.

The Traffic and Parking Assessment finds that:

- *The development proposal yields a traffic generation potential of approximately 8 vehicle trips per hour during commuter peak periods. That projected increase in traffic activity as a consequence of the development proposal is minimal, consistent with the zoning objectives of the site and will clearly not have any unacceptable traffic implications in terms of road network capacity.*
- *The geometric design layout of the proposed car parking facilities have been designed to comply with the relevant requirements specified in the Standards Australia publication Parking Facilities Part 1 – Off-Street Car Parking AS2890.1 – 2004 in respect of parking bay dimensions, ramp gradients and aisle widths.*
- *The proposed parking facilities satisfy the relevant requirements specified in both the SEPP as well as the Australian Standards, and the proposed development will not have any unacceptable parking implications.*

The findings of the applicant's Traffic and Parking Assessment are accepted. As noted earlier in this report, the applicant proposes to construct kerb ramps and a pedestrian refuge to allow safe access to the bus stop on the southern side of Bruncker Road. The proposed development also includes provision for 22 off-street car parking spaces, which meets the requirements of the SEPP which prescribe a minimum 0.5 spaces per bedroom. It must therefore be accepted that there would be no impact on the surrounding locality with respect to overflow parking from the development. Service and emergency vehicles would access the site via Jones Avenue and Rowe Drive, as is the existing situation.

- **Visual and acoustic privacy**

- *The proposed additional number of dwellings that will overlook our property is unacceptable.*
- *There is a greater potential and concern that there will be an increase in noise in general.*
- *Amplification of noise and building associated noise during the week and weekends.*
- *A building has recently been erected at 12 Jones Avenue. Privacy issues for this residence have not been adequately addressed.*

Comment

The design and layout of the proposed development minimises opportunities for overlooking to neighbouring properties, with the floor level of terraces and living areas adjacent the northern boundary generally consistent with the surrounding

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natural ground levels. Privacy impacts to the south, east and west are not expected, given that in these directions the proposed dwellings overlook Rowe Drive, Jones Avenue, and a public reserve.

With respect to acoustic privacy, it is recommended that conditions be included in any consent granted that regulate construction hours and protect against any adverse noise impacts during building works. The proposal is for self-contained residential dwellings only. Common facilities, meeting rooms or the like are not included in the proposed development. Likely noise generation is therefore expected to be within reasonable limits for a residential area that includes a range of dwelling types.

- **Other matters**

- *As a centre for disabled/seniors, we are worried about the risks they pose to us, as we don't know/understand the protocol that they are using to secure their premises and we don't have an understanding of the type of disabled residents they will permit to stay there.*
- *A proposal put forward for a use outside the scope of a residential home does not correlate with the Masterplan derived upon our purchase of the property.*
- *The DA plan is different from what we were informed by Landcom when buying the land. We were told this land would be used for residential purposes not for aged housing.*
- *This development was not flagged at the time of the land release.*
- *When we purchased our property from Sydney Water we were advised that all the surrounding blocks of land around us were for sale and the use would only be for a dwelling house. At no point were we advised that any type of multi-dwelling development would be constructed opposite us.*
- *Devaluation of our property value is a concern.*

Comment

The proposed development, being self-contained dwellings, is permitted at the site by virtue of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. According to the provisions of the SEPP, the dwellings would generally be occupied by people aged 55 or over or people with a disability, as well as people who live in that same household. The proposed development is not for the purposes of a residential care facility, group home, hostel or the like.

The Part 3A Concept Plan Approval issued by the Minister for Planning in 2009 for the Potts Hill estate carried a condition that allowed development for the purposes of 'seniors housing', together with various forms of low and medium density residential dwellings. While there has been no housing dedicated to this purpose provided within the estate to date, it remains a permitted land use at the subject sites according to the provisions of both the SEPP and the *Bankstown Local Environmental Plan 2015*.

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No evidence has been submitted to support any potential impact on property values.

### Conclusion

The Development Application has been assessed in accordance with the provisions of Section 79C of the *Environmental Planning and Assessment Act 1979*, *State Environmental Planning Policy No. 55 (Remediation of Land)*, *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, *State Environmental Planning Policy (BASIX) 2004*, *Bankstown Local Environmental Plan 2015*, and *Bankstown Development Control Plan 2015*.

The proposed development represents an appropriate built form for the site. Relevant planning controls have been appropriately responded to and no significant or unresolved matters have been raised in public submissions. Approval of this application would facilitate further development of the Potts Hill residential estate, without having unacceptable or unreasonable impacts on the surrounding locality.

### RECOMMENDATION:

THAT Development Application DA-1540/2015 be **APPROVED** subject to the following conditions:

1. The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
2. Development shall take place in accordance with Development Application No. DA-1540/2015 submitted by Capital Developments Pty Ltd, accompanied by the following drawings prepared by Integrated Design Group affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval:
  - **DA0101 Issue K dated 9 January 2017**
  - **DA1100 Issue K dated 9 January 2017**
  - **DA1101 Issue M dated 9 January 2017**
  - **DA1102 Issue L dated 9 January 2017**
  - **DA1103 Issue L dated 9 January 2017**
  - **DA2000 Issue M dated 9 January 2017**
  - **DA2001 Issue L dated 23 September 2016**
  - **DA3000 Issue L dated 23 September 2016**
  - **DA9600 Issue J (undated)**

### CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

*Prior to the release of a Construction Certificate the following conditions MUST be satisfied and nominated fees/contributions/bonds paid:*

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3. The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
4. Detailed design of the following works in Bruncker Road must be submitted to and approved by Council's Traffic Committee prior to the issue of a Construction Certificate:
  - i) **Pedestrian refuge;**
  - ii) **Two standard kerb ramps;**
  - iii) **Type 2 bus stop pad (Standard Drawing S-017) with seat;**
  - iv) **Approach and departure footpath sections between the bus stop and nearest kerb ramps;**
  - v) **Any other associated works; and**
  - vi) **Associated signage.**
5. The Construction Certificate plans must demonstrate compliance with Items 8 to 13 (inclusive) and Items 15, 16 and 19 of Schedule 3 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
6. A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.
7. The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
8. A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with the Bankstown Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.



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9. The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

Please refer to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin)

For Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://www.sydneywater.com.au) 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPIN.

Prior to release of a construction certificate Sydney Water must issue either a Building Plan Assessment letter which states that your application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.

10. A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
11. Prior to issue of a Construction Certificate, a Long Service Levy payment of 0.35% of the value of the work is required to be paid to Council on behalf of the Long Service Corporation prior to issue of the Construction Certificate.
12. Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan) a contribution of **\$46,892.62** shall be paid to Council.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Section 94A plan. The contribution is to be paid before the issue of the construction certificate.

**Note:** The Section 94A Contributions Plans may be inspected at Council's Customer Service Centre, located at Upper Ground Floor, Civic Tower, 66-72 Rickard Road, Bankstown, between the hours of 8.30am-5.00pm Monday to Friday.

13. Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
14. Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall

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generally be in accordance with the concept stormwater plan No. 15MB6761/D1 to D03, rev B dated 19.10.2016 prepared by United Consulting Engineers Pty Ltd. The final plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.

15. Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

16. An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
17. A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
- a) A light duty VFCs at the property boundary.
  - b) Drainage connection to Council's system.
  - c) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
  - d) Repair of any damage to the public road including the footway occurring during development works.
  - e) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: As a site survey and design is required to be prepared by Council in order to determine the necessary information, payment for the Work Permit should be made at

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least twenty one (21) days prior to the information being required and must be approved prior to the issue of the Construction Certificate.

18. Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council for a Site, Pedestrian and Traffic Management Plan. This Plan must address the measures that will be implemented for the protection of adjoining properties, pedestrian safety and traffic management and other requirements as specified below.

**A PRIVATE CERTIFIER CANNOT APPROVE YOUR SITE, PEDESTRIAN & TRAFFIC MANAGEMENT PLAN**

This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the construction site;
- c) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- d) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- e) Proposed measures to be implemented for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- f) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- g) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.
- h) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- i) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- j) Proposed measures for protection of the environment including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site. The applicant will be

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required to pay for inspections by Council Officers in accordance with Council's adopted fees and charges.

In addition a RMS Approval / Road Occupancy Licence will be required for works on Regional or State Roads or within 100m of a traffic facility including roundabouts and traffic signals. Refer to Council's Development Engineering Standards for a list of Regional and State Roads.

19. As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$50,000.
- m) Demolition is proposed.
- n) Subdivision is proposed.
- o) A Swimming pool is proposed.

Assessment of Works Permits (a to e) includes the preparation of footway design levels, vehicular crossing plans, dilapidation reports and issue of a Road Opening Permit.

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All proposed works within the public road and footway shall be constructed under the supervision and to the satisfaction of Council. The applicant/developer shall arrange for necessary inspections by Council whilst the work is in progress.

For commercial or multi-unit residential developments within the designated CBD or an urban village area, footway design and construction and street tree supply, installation and tree hole detailing shall be as per the Council master plan for that area. Full width footways are to be supplied and installed at full cost to the developer to specification as supplied by Council. Layout plan of pavement to be submitted to Council for approval prior to the issue of the Works Permit.

All Council fees applicable, minimum restoration charges and inspection fees shall be paid prior to the assessment of the Work Permit in accordance with Council's adopted fees and charges. Note: Additional fees after approval will be charged where the Work Permit requires occupation of the Road or Footpath ie Hoardings, Work Zones etc. In determining a Works Permit, Council can impose conditions and require inspections by Council Officers.

Forms can be obtained from Council's Customer Service counter located on the ground floor of Council's administration building at 66 - 72 Rickard Road, Bankstown or Council's website [www.cbcity.nsw.gov.au](http://www.cbcity.nsw.gov.au).

Part of any approval will require the person or company carrying out the work to carry public liability insurance to a minimum value of ten million dollars. Proof of the policy is to be provided to Council prior to commencing any work approved by the Work Permit including the Road Opening Permit and must remain valid for the duration of the works.

The commencement of any works on public land, including the footway or public road, may incur an on the spot fine of not less than \$1100 per day that work continues without a Works Permit and/or a Roadway/Footpath Building Occupation Permit. All conditions attached to the permit shall be strictly complied with prior to occupation of the development. Works non-conforming to Council's specification (includes quality of workmanship to Council's satisfaction) shall be rectified by the Council at the applicant's expense.

20. **For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design**

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**levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.**

21. The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "regional road", with every effort to avoid school zones on public roads. The applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.

**CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION**

22. The erection of a building / subdivision works in accordance with this development consent must not be commenced until:
- a) Detailed plans and specifications have been endorsed with a Construction Certificate (by the consent authority or an accredited certifier), and
  - b) The person having benefit of the Development Consent has appointed a 'principal certifying authority' (PCA), and has notified the consent authority and the Council (if Council is not the consent authority) of the appointment, and
  - c) The person having benefit of the development consent has given at least 2 days notice to the Council of their intention to commence the development works the subject of this consent.
23. Prior to the commencement of works, a dilapidation report shall be prepared by the developer and a copy provided to directly adjoining property owners to the north of the subject site. The report must clearly identify the condition of existing structures on adjoining properties prior to the commencement of works. All care shall be taken during the construction process to ensure adjoining structures are protected, and should any change in condition occur from that recorded in the dilapidation report, the rectification of such shall be at full cost to the developer of the subject site.
24. Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
25. Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of

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construction works and shall be maintained at all times.

26. Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
27. Prior to commencement, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
28. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

29. Prior to the commencement of any building work a fence shall be erected along the property boundaries of the development site, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the site. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high.

All fencing is to be maintained for the duration of the construction to ensure that the site is secured and privacy of the adjoining properties is not compromised.

Where the development site is located within 3.6m of a public place then a Class A or Class B hoarding shall be constructed appropriate to the works proposed. A Works Permit for such hoardings shall be submitted to Council for approval prior to the issue of any Construction Certificate.

30. A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
31. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with part 6 of that Act, such a contract of insurance must be in force before any building work authorised to be carried out by this consent commences.

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32. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority (PCA) for the development to which the work relates (not being council) has given the Council written notice of the following information:
- a) in the case of work for which a principal contractor is required to be appointed:
    - (i) the name and licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that act,
  - b) in the case of work to be done by an owner-builder:
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

**Note:** If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under the above requirements becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates (not being the council) has given the council written notice of the updated information.

This clause does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the State's building laws.

33. For development that involves any building work, subdivision work or demolition work, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition is being carried out:
- a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted during and outside working hours, and
  - c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**Note:** This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building, or in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the State's building laws.



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(CONT.)

**CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

34. The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
35. The building work must be carried out in accordance with the requirements of the Building Code of Australia, the provisions of the relevant Australian Standards and the approved plans.
36. Prior to the ground floor slab being poured, an identification report prepared by a registered surveyor shall be submitted verifying that the proposed slab's finished ground floor level and siting to the property boundary conforms with the approved plans.
37. All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
38. All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
39. If the soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
40. If an excavation extends below the level of the base of the footings of an adjoining building or a building on an adjoining allotment of land, the person causing the excavation to be made:
  - a) if necessary, must underpin and support the building in an approved manner, and
  - b) must, at least 7 days before excavating below the level of the base of the footings of a building give notice of intention to do so to the owner of that building and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - c) must take all precautions to protect all of the structures from damage.

The owner of any affected buildings is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.

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41. All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
42. Pathway lighting must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and must provide at least 20 lux at ground level.
43. The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA).
44. A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.
45. All fill material to be removed from the site shall be done so in accordance with the recommendations of the "Waste Classification (WC) Assessment" by Environmental Investigation Services, 16 July 2014 and in accordance with the requirements of the NSW EPA Waste Classification Guidelines 2009. This fill material must be disposed of to an appropriate EPA licensed waste facility.
46. If unexpected soil contaminants are encountered during excavation and/or construction works, which have the potential to alter previous conclusions made regarding potential site contamination, all work is to cease and Council notified immediately. The contaminated land situation is to then be evaluated by a suitably qualified and experienced environmental consultant and an appropriate response determined by the applicant which is agreed to by Council, prior to the re-commencement of works. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information. The applicant must also adhere to any additional conditions, which may be imposed by the accredited site auditor, if required.
47. Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.

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1 – 7 ROWE DRIVE, POTTS HILL: CONSTRUCTION OF 20 X TWO BEDROOM SELF-CONTAINED DWELLINGS AND ONE X THREE BEDROOM SELF-CONTAINED DWELLING, WITH BASEMENT AND AT-GRADE CAR PARKING FOR 22 VEHICLES, UNDER STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004 (CONT.)

**CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

48. The use of a building in accordance with this Development Consent must not be commenced until Council or the PCA has issued an Occupation Certificate for the building and site works.
49. A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate.
50. **Prior to the issue of an Occupation Certificate, a restriction must be registered against the title of the property in accordance with section 88E of the Conveyancing Act 1919, limiting the use of the accommodation approved under DA-1540/2015 to those people referred to in Clause 18(1) of *State Environmental Planning Policy (Housing for Seniors of People with a Disability) 2004*.**
51. **A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.**

The Work As Executed information shall be shown in red on a copy of the approved stormwater plan and shall include all information specified in Council's Development Engineering Standards. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the on-site stormwater detention system.

The engineer's certification of the on-site stormwater detention system should be carried out similar to Council's standard form "On-Site Stormwater Detention System – Certificate of Compliance", contained in Council's Development Engineering Standards.

A copy of the Work As Executed Plan and Hydraulic Engineer's Certification shall be submitted to Council for information prior to issue of the final occupation certificate.

52. **The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act.**

Note: The location of the "On-Site Stormwater Detention System" shall be shown on the plan of subdivision where subdivision is proposed. Where subdivision is not proposed the location of the "On-Site Stormwater Detention System" shall be included on an A4 size site plan attached to the Section 88E Instrument and registered on the title prior to the issue of the final occupation certificate.

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1 – 7 ROWE DRIVE, POTTS HILL: CONSTRUCTION OF 20 X TWO BEDROOM SELF-CONTAINED DWELLINGS AND ONE X THREE BEDROOM SELF-CONTAINED DWELLING, WITH BASEMENT AND AT-GRADE CAR PARKING FOR 22 VEHICLES, UNDER STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004 (CONT.)

The developer shall submit to Council evidence of the final registration of the Restriction and Positive Covenant on the title of the property.

53. Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
54. A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
55. Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
56. The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.
57. The Section 73 Certificate must be submitted to the Principal Certifying Authority before occupation of the development/release of the plan of subdivision.

**-END-**