



AGENDA FOR THE INDEPENDENT HEARING AND ASSESSMENT PANEL MEETING

6 November 2017 – 6.00pm

Location:

**Council Chambers
Cnr Chapel Road and The Mall,
Bankstown**

ORDER OF BUSINESS

1 20 - 22 Pheasant Street, Canterbury

Demolition of existing structures and construction of multi-dwelling housing development containing nine townhouses (including two for affordable housing under SEPP Affordable Rental Housing), basement parking, strata subdivision and consolidation of the two lots

3

Independent Hearing and Assessment Panel - 6 November 2017

ITEM 1	20 - 22 Pheasant Street, Canterbury
	Demolition of existing structures and construction of multi-dwelling housing development containing nine townhouses (including two for affordable housing under SEPP Affordable Rental Housing), basement parking, strata subdivision and consolidation of the two lots
FILE	DA-176/2017- Canterbury Ward (697/20D)
ZONING	R3 Medium Density Residential
DATE OF LODGEMENT	17 May 2017, revised plans 27 July 2017, 10 August 2017, 23 August 2017 and 12 September 2017
APPLICANT	Benson McCormack Architecture
OWNERS	Pheasants Nest Pty Ltd
ESTIMATED VALUE	\$2,966,936
SITE AREA	1,702.8m²
AUTHOR	Planning

RECOMMENDATION

It is recommended that Development Application DA-176/2017 be approved subject to the attached conditions.

SUMMARY REPORT

In accordance with the Canterbury-Bankstown Independent Hearing and Assessment Panel Charter, this matter is reported to Council's Independent Hearing and Assessment Panel (IHAP) for determination given the number of submissions received.

Development Application DA-176/2017 is for the demolition of existing structures and construction of nine townhouses (including two for affordable housing), basement parking, strata subdivision and consolidation of the two lots.

The Development Application has been assessed in accordance with the requirements of Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979 including an assessment against State Environmental Planning Policy SEPP 55 – Remediation of Land, SEPP (Building Sustainability Index: BASIX) 2004, Canterbury Local Environmental Plan 2012 (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012).

The application was publically advertised for 21 days and a further 14 day neighbour notification provided. The advertising periods concluded on 19 July 2017 and 6 September 2017. During these advertising periods, objections were received from 44 households (or email addresses where no postal addresses were given). The matters outlined within the submissions are discussed in the body of the report.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that Development Application DA-176/2017 be approved subject to the attached conditions.

ATTACHMENTS

- A. Section 79C Assessment Report
- B. Conditions of Consent

DA-176/2017 ASSESSMENT REPORT

BACKGROUND

The subject DA was lodged with Council on 17 May 2017. The DA initially sought consent for ten townhouses. Following an assessment of the application, a letter dated 14 July 2017 was issued to the applicant requesting additional information and amended plans. The letter requested additional information relating to the following issues:

- Accessibility
- Local Character (Building Depth)
- Setbacks
- Access to Private Open Space
- Insufficient information on plans to undertake a full assessment
- Strata Subdivision Issues
- Engineering Issues
- Waste Management Issues
- Inconsistencies between the Statement of Environmental Effects and Plans

The application was originally notified on 26 May 2017, and 44 objections (from different addresses) were received.

Following the request additional information was received on 10 August 2017. In order to achieve compliance with a number of the concerns within the letter dated 14 July 2017, the applicant amended the application by reducing the number of townhouses (from ten to nine).

Given the changes to the original development application, neighbours were re-notified of the application on 22 August 2017, a further four letters of objection (all from those who had previously objected to the proposal) were received.

On 23 August 2017 a further set of additional information was received, which included amended stormwater and drainage information. Final plans were received on 12 September 2017.

SITE DETAILS

The subject site, legally known as Lots 68 and 69 on Deposited Plan (DP) 11299, is located at 20 and 22 Pheasant Street, Canterbury. The site currently contains two dwellings and a number of outbuildings and structures which are to be demolished, including 22 existing property trees of which 20 will be removed as well as two vehicle crossings (one paved and one unpaved) which will be removed and replaced.

The site has a combined frontage of 24.38m wide, minimum depth of 65.84m on the south side boundary and 71.63m on the north boundary, an irregular rear boundary and total land area of 1,702.8m².

The Survey Plan does not identify any easements affecting the land.

The site falls from the street down to the rear where it adjoins Hughes Park and former natural watercourse as an open concrete drainage channel. Confirmation has been received from the NSW Office of Water that the proposal is not Integrated Development pursuant to Section 91 of the Environmental Planning & Assessment Act, 1979 on the basis that the channel is fully concreted.

The site is adjoined by the following development:

- North side boundary: 18 Pheasant Street is a single storey dwelling with its driveway and carport located along the common boundary to the subject site.
- South side boundary: 24 Pheasant Street is a double-storey dwelling with a swimming pool recently constructed (under CDCs 224/2016 and 1009/2016) and has its garage, side setback and private open space along the common boundary. An application (DA-347/2017) to include decking attached to the pool and new spa was received by Council on 5 September 2017.
- East (rear) boundary: adjoins the RE1 Public Recreation zoned reserve and open concrete drainage channel (Cup and Saucer Creek) which is also adjoined by Hughes Park on the opposite side.

The development application for the installation of a raised deck around the existing pool at 24 Pheasant Street, is still under consideration of Council. There are no other applications found on Council's records for major redevelopment proposals on adjoining properties.

The wider locality and streetscape is characterised by single and two-storey dwellings with at least one multi-dwelling housing development located at the southern end of Pheasant Street (demolition of structures, construction of a townhouse/villa development containing five dwellings, front fence and associated strata title subdivision at 30 Pheasant Street, consented under DA-620/2010).



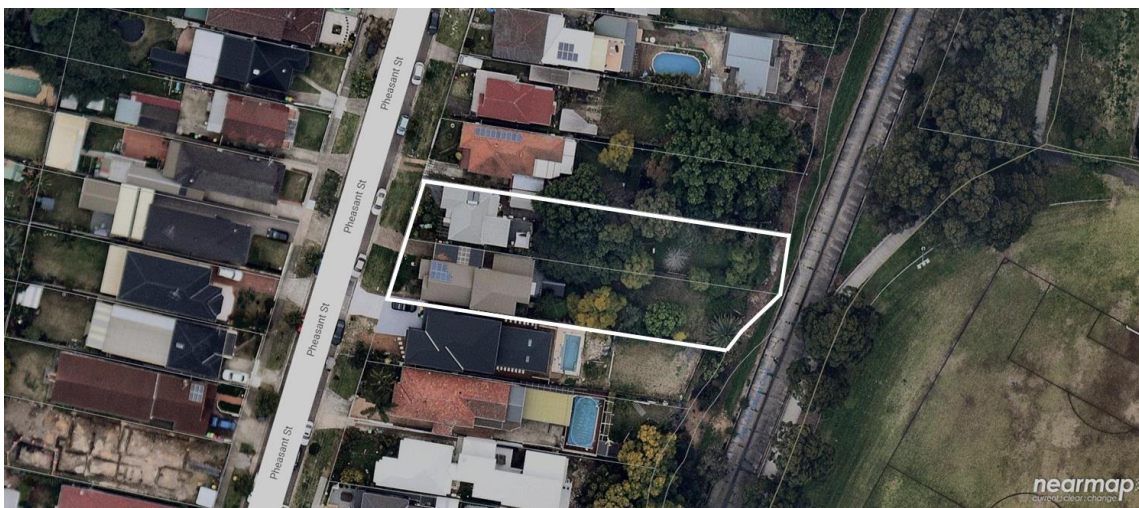
20 and 22 Pheasant Street forming the subject development site



18 Pheasant Street pictured on the right side adjoins the site's north boundary



24 Pheasant Street is a recently constructed two storey dwelling adjoining the site's south boundary



Locality plan



View in a southerly direction along the open space area that adjoins the subject site along the rear



View in an easterly direction over the drainage channel towards Hughes Park

PROPOSAL

The application proposes demolition of all existing structures, construction of a multi-dwelling housing development comprising nine dwellings (including two units which are dedicated as affordable housing units pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009), Strata subdivision and ancillary works such as excavation to provide basement car parking for 19 spaces (including an accessible space) and one car wash bay, landscaping and engineering/stormwater work.

The dwelling mix comprises: -

- One x four bedroom
- Five x three bedroom
- Three x two bedroom + study.

The study rooms have a maximum dimension of 2.7m x 2.7m (dwelling 3), which is of insufficient size to represent a bedroom. The study rooms in dwellings 1 and 2 have dimensions of 2m x 2.7m and have no enclosing wall.

Dwellings 5 and 6 with a total GFA of 278.36m² are designated as affordable rental housing units according to the submitted plans.

The application has not identified the developer/applicant as being a social housing provider.

Dwelling 9 at the rear of the site is designated as an adaptable dwelling for future reconfiguration for disabled occupants. Although to the rear of the site, the site is accessible to Pheasant Street and car park through lifts.

The existing vehicle crossings will be demolished and made redundant and a new 4.5m wide crossing will be provided at the southern side of the site.

Twenty existing property trees are also proposed to be removed however two property trees will be retained and protected. A further six existing neighbouring property trees located along the northern boundary of the site will be retained and protected through building setbacks and tree protection zones (TPZ). There are no existing street trees that would be affected by the development.

Stormwater is proposed to be connected and conveyed into the existing open concrete drainage channel located to the rear of the site.

STATUTORY CONSIDERATIONS

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

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy 55 Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013.

ASSESSMENT

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

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

A revised multi-dwelling BASIX Certificate (Certificate No. 814451M_02) dated 23 August 2017 accompanies this application. The commitments include the provision of 2,500 litre common water tank and other energy and thermal comfort requirements. The rainwater tank and other commitments have been shown on the relevant plans and the proposal is considered to meet the requirements for sustainability.

State Environmental Planning Policy 55 Remediation of Land (SEPP 55)

State Environmental Planning Policy 55 - Remediation of Land aims to promote the remediation of contaminated land for the purposes of reducing risk to human health or any other aspect of the environment.

Clause 7 of SEPP 55 states that a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated. If the land is contaminated, it must ascertain whether it is suitable in its contaminated state for the proposed use or whether remediation of the land is required.

Given that the site has historically been used for residential purposes there is no reason to suspect that the site may be contaminated. Accordingly, further investigation of the site's potential contamination is not required as the site is considered to be suitable for continued residential use.

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)

The application is for infill affordable housing development lodged pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009. This Policy aims to provide new affordable rental housing and retain and mitigate any loss of existing housing by provision of a consistent planning regime. Specifically, the Policy provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and minimum development standards.

The following provisions of the SEPP are relevant to this proposal:

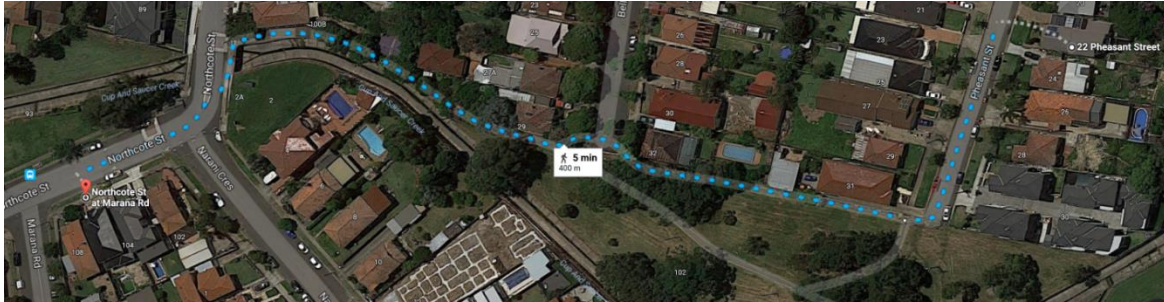
Permissibility (Clause 10(1))

The proposal for in-fill affordable housing development comprising multi dwelling housing is permissible in the R3 Medium Density Residential zone pursuant to Clause 10(1) of ARH SEPP, since multi dwelling housing is permissible in the zone under Canterbury Local Environmental Plan 2012 (CLEP 2012) and the proposal is not located on land containing a heritage item.

Accessibility (Clause 10(2))

Clause 10(2) of the SEPP also requires that in-fill affordable housing developments in the Sydney Region be located within an 'accessible area' which is an area in proximity of certain transport nodes, including being within 800m walking distance to the entrance of a railway station or within 400m walking distance to a bus stop used by a regular bus service as defined by the ARH SEPP.

The site is located within 400m walking distance (as per google maps) from a bus stop located at Northcote Street near Marana Road, Earlwood. Timetables for the 473 bus route, which service the stop, provide at least an hourly service between 6am and 9pm, Monday to Friday, and between 8am and 6pm on Saturdays and Sundays. The application therefore satisfies the requirements of this Clause. Given the distance to the bus stop and number of bus services, the site constitutes an “accessible area” under the ARH SEPP. In addition, the applicant has submitted a survey which shows the site within the 400m distance.



Floor space ratio (FSR) bonus (Clause 13)

Clause 13(1) of the SEPP outlines the floor space ratio (FSR) bonus applicable to in-fill affordable rental housing if the percentage of gross floor area (GFA) to be used for affordable housing is at least 20% of the gross floor area of the development.

Floor space ratio is defined as the maximum floor space allowable in the subject zone (i.e. 0.5:1 as per CLEP 2012) plus a floor space bonus based on the amount of floor space to be dedicated to affordable rental housing.

The development (according to GFA diagrams) provides a total gross floor area (GFA) of 1,208.71m² representing an FSR of 0.71:1.

Since this application proposes to dedicate 23% of the total GFA (i.e. 278.36m² – Units 5 and 6) as affordable housing, it therefore benefits from an FSR bonus.

Given the maximum allowable floor space ratio in the subject zone is 0.5:1, but increases to 0.73:1 with the added bonus of 0.23:1 emanating from the applicant’s dedication of 23% of the proposal as affordable housing, the proposed FSR of 0.71:1 complies with and is less than the maximum allowable FSR, satisfying the requirements of this clause.

Minimum standards that cannot be used to refuse consent (Clause 14)

Clause 14 prescribes minimum standards which cannot be used by Council to refuse consent. The following table is an assessment of the proposal against these standards:

Control	Requirement	Proposal	Complies
Site area	450m ²	1,702.8m ²	Yes
Landscaped area	30% of site (equal to 510.84m ²)	34.6% (equal to 589.8m ²)	Yes
Deep soil zone	15% of site (equal to 255.42m ²), 3m minimum dimension,	20.13% (equal to 342.76m ² when including areas >3m dimension)	Yes

Control	Requirement	Proposal	Complies
	Two-thirds located at rear of site if practicable		
Solar access	Living rooms and private open space areas for a minimum of 70% of dwellings are to receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	Due to the orientation, all units will receive at least 3 hours sunlight.	Yes
Car parking	1 space per 2 bed (3 x 2bed) 1.5 spaces per 3+ bed (6 x3+bed) 3x 2beds and 6x3+beds are proposed.	12 spaces are required. 19 spaces are provided.	Yes
Dwelling size	70m ² per 2 bed 95m ² per 3+ bed	The smallest dwelling is Unit 1 which has a floor area of 114.3m ² . All dwellings are of an appropriate size.	Yes

As demonstrated above the proposed development complies with all standards prescribed in Clause 14 of SEPP ARH.

Design Requirements: Seniors Living Policy (Clause 15)

Clause 15 requires a two step assessment.

Firstly, Clause 15(1) requires Council to consider the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development 2004 to the extent that the provisions are consistent with the SEPP.

Secondly, Clause 15(2) says that this clause does not apply where development falls under the definition of Clause 4 of SEPP 65 – Design Quality of Residential Apartment Development.

SEPP 65 does not apply, as Clause 4 of the policy states (emphasis added):

4 Application of Policy

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

- (a) the development consists of any of the following:**
 - (i) the erection of a new building,**
 - (ii) the substantial redevelopment or the substantial refurbishment of an existing building,**
 - (iii) the conversion of an existing building, and**
- (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and**
- (c) the building concerned contains at least 4 or more dwellings.**

For SEPP 65 to apply clause 4 sets three preconditions. If the development proposed is not for a residential flat building, shop top housing or mixed use development, then whether it meets the remaining preconditions is irrelevant. In this instance, SEPP 65 does not apply as consent is sought for multi dwelling housing, not a residential flat building, shop top housing or mixed use development. As such, Clause 15(1) applies as do the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development 2004 SEPP.

The *Seniors Living Policy: Urban Design Guidelines for Infill Development* sets out five sections, each corresponding to a key issue when designing infill development. Sections of the guidelines addressing these issues are:

- Responding to (neighbourhood) context
- Site Planning and Design
- Impacts on streetscape
- Impacts on neighbours
- Internal site amenity

1. Responding to (neighbourhood) context

The Seniors Living Policy stipulates that *'new developments that increase residential densities need not be out of character with their surroundings'*. In this respect, new development seeking an increased development must respond to the existing and desired future character of their local area. A detailed analysis of the character of the area is found below under 'Clause 16A – Character of Local Area'. However in short, the development establishes an appropriate relationship with existing development and the desired future character as shaped by the CLEP 2012 and CDCP 2012 planning controls.

2. Site Planning and Design

Key objectives according to the guidelines are listed and responded to below:

- *Minimising impact on neighbourhood character*

The existing character of the area comprises single detached dwellings, with a move to a higher density area, as identified through the recent consent at 30 Pheasant Street. The proposed development incorporates terrace style housing rows spanning across the front and perpendicular to the road at rear of the subject site. The terrace style adopted by the development is in keeping with the proposed future character of the area and does not disrupt the existing subdivision pattern. In this respect, the front façade presents appropriately across the extent of the site.

The development is in keeping with the character with both the existing and future desired character of the area. The proposed multi dwellings are appropriately articulated. The existing consent at 30 Pheasant Street shows the character of the area is changing and the development has been sympathetically designed.

- *Providing high amenity for new dwellings*

The amenity afforded to the dwellings is acceptable. Solar access has been provided to the proposed dwellings in accordance with the ARH SEPP. Adequate privacy between dwellings has been demonstrated, with limited direct views between dwellings.

- *Maximising deep soil areas*

Deep soil areas in excess of the minimum requirement have been proposed within the development.

- *Minimising visual dominance of parking and vehicle manoeuvring*

Generally, the proposed basement car parking and driveway do not dominate the front setback and the front façade is not dominated by services that would detract from the front façade and diminish the quality of the streetscape.

- *Providing a range of dwelling sizes to promote housing choice*

A range of dwellings and sizes is provided.

3. Impacts on streetscape

The impact of the proposal on the local streetscape is acceptable as discussed below under 'Clause 16A Character of a Local Area'. Points 1 and 2 above also detail the proposal's impact on the streetscape with respect to the built form proposed and the proposal's consistency with the future desired character as sought by the suite of applicable controls in the CLEP 2012 and CDCP 2012.

4. Impacts on neighbours

With respect to visual privacy, the first floor areas have bedrooms and bathrooms and will therefore not create any unreasonable privacy impacts. Visual privacy between dwellings within the development is satisfactory.

Although representing a significant change from the existing situation, the visual bulk presented by the dwellings to neighbouring properties is acceptable, due to the increased side setbacks from the proposal and sloping characteristics of the subject site.

Solar access is maintained to the southern building, including retention of adequate sunlight to the living areas and private open space, in accordance with ARH SEPP.

5. Internal site amenity

As discussed above, the key issues of internal amenity include adequate direct sunlight to the internal living spaces and private courtyards of the townhouses and privacy afforded to the private open space areas of the dwellings.

The proposed design concept driven by the design principles of the Policy, presenting an appropriate and well-thought out design response that is suitable for this site and

for the type of development being proposed. Assessment of the proposal has not identified any issues of concern arising from this Policy.

Character of the Local Area

Clause 16(A) of the ARH SEPP requires that a consent authority take into consideration whether the design of the development is compatible with the character of the local area. The current planning controls applicable to the subject site and its surrounds allow for a range of development types, including multi dwelling housing.

Project Venture v Pittwater Council (2005, NSWLEC 191) sets out the planning principles for compatibility in the urban environment and expanded upon Fodor v Hornsby Shire Council (2005, NSWLEC 71). In the Project Venture decision, Senior Commissioner (SC) Roseth noted that 'for a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment'. SC Roseth opined that the most important contributor to urban character is the relationship between the built form and surrounding space; "a relationship that is created by building height, setbacks, and landscaping".

In this instance, the proposed development is in keeping with the maximum height limits and is of a similar height to that of the recent redevelopment of 24 Pheasant Street and redevelopment of 30 Pheasant Street for townhouses.

The proposed setbacks, at 1.5m and 2.5m, are in keeping with the approved setbacks at 24 Pheasant Street, and as indicated above, the landscaping for the proposed site is in excess of the minimum requirements set out in the ARH SEPP.

As demonstrated below, the proposal is in keeping with the overall FSR requirements and other controls which show that the proposal responds to the character of the local area.

The proposed development is considered under the ARH SEPP and in this respect, responds appropriately to the intent of the Policy and satisfies the requirements of Clause 16(A). The proposed development is considered to be compatible with the character of the local area and is acceptable.

Must be used as Affordable Housing for Ten Years (Clause 17)

Clause 17 of the SEPP requires that the nominated affordable housing dwellings within the development must be used for affordable housing for a period of ten years and managed by a registered community housing provider, specifically requiring that Council impose conditions to this effect, to ensure that the proposal satisfies this Clause. Appropriate conditions of consent have been recommended to ensure Clause 17 is met by the developer.

Subdivision (Clause 18)

Clause 18 of the SEPP allows land on which in-fill affordable rental housing has been carried out to be subdivided with consent. The application seeks consent for Strata Subdivision into nine lots plus a common property lot upon completion of the development.

As the site is also under two separate titles, consolidation of the two lots into one lot is also required and has been addressed by the recommended conditions of consent.

Canterbury Local Environmental Plan 2012 (CLEP 2012)

The site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan (CLEP) 2012. The proposed multi dwelling housing development and ancillary work including subdivision is permissible in the zone subject to development consent.

The development satisfies the general objectives of the zone by providing for community housing needs within a medium density environment and contributing to the provision of a variety of housing types.

The site is not mapped as having any environmental constraints.

The controls applicable to this application are:

Standard	Requirement	Proposal	Complies
Zoning	R3 Medium Density Residential	Multi Dwelling Housing, Demolition, Subdivision	Yes
Building height (Clause 4.3)	8.5m maximum	The maximum height above natural ground level of any building is Unit 9 at 8.5m	Yes
Floor space ratio (Clause 4.4)	The maximum FSR under the LEP is superseded by the bonus provided under ARH SEPP. 0.5:1 (CLEP 2012) + 0.23:1 bonus by SEPP ARH = 0.73:1 maximum	0.71:1 This includes balcony areas where operable louvres are included.	Yes
Stormwater management (Clause 6.4)	A consent authority must be satisfied that the development: (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.	Council's engineer has considered this proposal, as discussed under CDCP 2012 (below) and raised no objection to the proposal subject to the imposition of appropriate conditions.	Yes

The proposal complies with the relevant controls of CLEP 2012.

Canterbury Development Control Plan 2012 (CDCP 2012)

The following sections of Canterbury Development Control Plan 2012 are relevant:

B1 Transport and Parking

This part of the DCP contains requirements in relation to car parking however the provisions of ARH SEPP take precedence. Refer to the ARH SEPP Tables for detailed assessment against relevant requirements.

CDCP 2012 requires provision of one car wash bay where multi dwelling housing comprising ten or more dwellings is proposed. In this instance nine dwellings are proposed and a carwash bay is not required. However, the inclusion of the car wash bay allows for better services for future occupants.

CDCP 2012 requires bicycle parking at a rate of one space per five dwellings for residents and one space per ten dwellings for visitors. With nine dwellings, a total of three spaces are required. The applicant has provided three bicycle parking within the basement, satisfying these controls and improving the facilities available to residents.

Council's Development Engineer has reviewed the proposal against other relevant aspects of this part of the DCP such as design requirements for vehicular access areas and basements and has recommended approval of the application subject to the imposition of conditions.

B2 Landscaping and B3 Tree Preservation

This aspect of the proposal was reviewed by Council's Landscape Architect who advised that removal of the majority of existing property trees is acceptable subject to the retention of two on-site trees and subject to replacement planting comprising five new trees with a mature height of 9m.

The applicant submitted an Arboricultural Assessment Report in support of the proposed tree removal and retention, which was also considered by the Council's Landscape Architect. The report also identifies neighbouring property trees in the vicinity of the development which require tree protection zones provided by increased building setbacks incorporated into the design. The report has been reviewed and is considered to be acceptable.

B4 Accessible and Adaptable Design

The proposal is acceptable with respect to this part of the DCP and has been accompanied by a Statement of Compliance: Access for People with a Disability addressing access and mobility requirements. A condition is recommended to require the development to comply with the recommendations of the report.

B5 Stormwater and Flood Management

This aspect of the proposal was assessed by Council's Development Engineer who raised no objection to the proposal in relation to Stormwater and Flood Management subject to the imposition of conditions on any consent. Accordingly, the proposal is considered to generally meet the provisions of Part B5 of CDCP.

B7 Crime Prevention and Safety

The proposal is acceptable from a crime prevention and safety perspective. The proposal has been considered against the key principles of Surveillance, Access Control, and Territorial Reinforcement and Space Management.

- **Surveillance**
The proposal avoids blind corners and allows passive and active surveillance of communal areas within the site. Entry points are well located and easily legible from the street. The proposed front fencing does not limit views to and from the site, due to its low level nature. Landscaping does not restrict views to and from the street and does not provide hidden areas for intruders to hide.
- **Access Control**
Entrances are easily identifiable and conditions in relation to the street naming and numbering to allow for ease of identification, can be included as a condition of consent. Fencing and planting ensures a sense of ownership and prevents unauthorised access.
- **Territorial Reinforcement and Space Management**
Fencing, planting and landscaping promotes a sense of ownership and proposals include a clear sense of public and private spaces.

Given the above, the proposal is considered to be in accordance with the provisions of the controls found in Part B7 of the DCP and does not raise any issues of concern with respect to this part of the DCP.

B9 Waste

This aspect of the proposal was reviewed by Council's Waste Services officer who has raised no objection subject to the imposition of standard conditions. Given this, the proposal is considered to be in compliance with the requirements of Part B9 of the CDCP 2012.

C3 Multi Dwelling Housing and Attached Dwellings

It is noted that Part C3 of CDCP 2012 does not provide criteria for the assessment of affordable rental housing applications as ARH SEPP is the relevant policy. However ARH SEPP does not contain controls regarding built form, setbacks etc. With this in mind, it is considered that the multi dwelling housing controls contained in Part C3 of CDCP 2012 should be used as a guide. This guide is useful in setting the proposed future desired character of the area.

Accordingly, the proposed development has been assessed against the multi dwelling housing controls of CDCP 2012 as follows:

Standard	Control	Proposed	Complies
C3.2.1 Minimum Lot Size and Frontage	The minimum primary street frontage width for multi dwelling housing is 20m for development any local road.	24.38m wide	Yes
C3.2.2 Isolated Sites	Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate redevelopment.	Neighbouring properties will not be prevented from redevelopment and the proposal will not result in the isolation of any dwellings.	Yes
C3.2.3 Private Open Space	Multi Dwelling Housing must provide 40m ² of private open space per dwelling.	The proposed private open space for all dwellings exceeds 40sq.m.	Yes
	Private open space must include an area 2.5m by 2.5m suitable for outdoor dining facilities.	All private open spaces include sufficient space for external dining. The external patio area is located adjacent to main habitable spaces and are generally flat.	Yes
	Private open space must be located adjacent to the main living areas, such as a living room, dining room or kitchen.		
	Private open space at ground level must be a minimum of 4m in any direction for multi dwelling housing.		
	Private open space at ground level shall have a maximum gradient of 1:50.		
	Ensure that balconies, verandas or pergolas do not encroach upon any required deep soil area.		
C3.3.2 Height	(c) Two storey dwellings may be permitted at the rear of an allotment in R3 zones only where that part of the site faces an industrial development, a road, a railway line or an area of open space.	The site is bounded to the rear of the open by a reserve and creek. Therefore, a two storey built form at the rear of the site is acceptable on the basis that site faces an area of open space.	Yes
	(e) Maximum external wall height of 7m where two storeys are permitted and the height of buildings under the LEP is 8.5m.	External walls are less than 7m in height.	Yes
	Any part of a basement or sub-floor area that projects greater than 1m above ground level comprises a storey.	No part of the basement will project greater than 1m above ground level. The maximum projection of the basement is 960mm.	Yes
	The provision of basement parking for multi dwelling	Basement parking is desirable at this location	Yes

Standard	Control	Proposed	Complies
	<p>housing in the R3 Medium Residential Zone of the LEP may be considered where site constraints warrant and it can be demonstrated that there will be no adverse impacts on amenity, streetscape or public domain.</p>	<p>given the proposal is for affordable rental housing where bonus floor space is applied.</p> <p>Provision of parking in a basement enables the bonus floor space to be absorbed at ground and first floor levels at the same time as enabling all other aspects of the proposal to be consistent with the local character such as with respect to provision of ample deep soil zones, landscaped areas, generous building setbacks etc.</p> <p>The application has demonstrated that there will be no adverse impacts on amenity, streetscape or public domain.</p>	
	<p>Maximum 1m cut below ground level where it will extend beyond an exterior wall of the building.</p>	<p>The proposal will result in significant amounts of cut to accommodate the basement parking. However, this land will be refilled.</p>	<p>Yes</p>
	<p>No limit to cut below ground level where it will be contained entirely within the exterior walls of a building, however, excavated area is not to accommodate any habitable room that would be located substantially below ground level.</p>	<p>No habitable space is located substantially below ground level.</p>	<p>Yes</p>
	<p>Maximum 600mm fill above ground level where it would extend beyond an exterior wall of a building.</p>	<p>The maximum fill proposed is 580mm.</p>	<p>Yes</p>
<p>C3.3.3 Setbacks</p>	<p><u>Front and rear setbacks</u></p> <p>(a) A minimum setback of 6m from the front boundary.</p> <p>(b) A minimum setback of 3m from the rear boundary where the building the subject of the setback, is single storey.</p> <p>(c) Minimum 3m or 5m width of deep soil along the front and rear boundaries based on setback requirements.</p>	<p>The front setback is 6m.</p> <p>The rear setback is not defined in CDCP as a rear setback of 5m to accord with deep soil requirements is provided.</p>	<p>Yes</p>

Standard	Control	Proposed	Complies
	<p><u>Side setbacks</u></p> <p>(a) A minimum of setback of 1.5m from the side boundaries for dwellings that would be fronting the street or front setback.</p> <p>(b) A minimum setback of 2.5m from the side boundaries for building that does not front the street or front setback.</p> <p>(c) A minimum of 1m width of deep soil along side boundaries.</p>	<p>A setback of 1.5m is provided for dwellings 1-3 which are fronting the street.</p> <p>A setback of 3.955m to the south and 4.1m to the north are provided for the dwellings that do not front the street.</p> <p>Deep soil is provided at a length of 805mm x 61m along the southern boundary (as a result of the basement garage) and 1.5m minimum width to the north. Whilst this is a technical breach, the landscape architect is satisfied with the deep soil setbacks and that it will not affect landscape treatments, and Council has approved similar in the past</p>	<p>Yes</p> <p>Yes</p> <p>No, however acceptable.</p>
C3.3.4 Building Depth	Building depth must not exceed a maximum of 25m.	The maximum building depth is 21.2m (dwellings 4 to 7)	Yes
C3.3.5 Building Separation	<p>Multi dwelling housing must provide a minimum 5m separation between buildings that are on one site (measured from the outer faces of the exterior wall of each building).</p> <p><u>In the separation area:</u> Deep soil or private open spaces are permitted as well as communal open space.</p> <p>Driveways, walkways and building lobbies are permitted (driveways should have planted verges at least 1m wide comprising canopy trees, along both sides).</p> <p>Garages, carports or outdoor parking are not permitted.</p>	<p>5m separation is provided between buildings.</p> <p>Deep soil and private open spaces are provided within the separation.</p> <p>No garages, carports or outdoor parking are provided in the separation areas.</p>	Yes
C3.4 Building Design	<p>Contemporary architectural designs may be acceptable if:</p> <p>(a) A heritage listing does not apply to the existing</p>	No heritage items exist on site, as such a contemporary design is acceptable in this location.	Yes

Standard	Control	Proposed	Complies
	dwelling or to its immediate neighbours.		
	New building forms and design features shall not mimic traditional features, but should reflect these in a contemporary design.	The proposed design provides a modern contemporary design with echoes of traditional features including pitched roof and complementary materials. The use of light finishing materials on the upper levels of properties not fronting the street allow the buildings to appear less dominant.	Yes
	Access to upper storeys must not be via external stairs.	There are no external stairs.	Yes
	In multiple unit development, face at least one habitable room or private open space area towards a communal space, internal driveway or pedestrian way.	All communal spaces, including pedestrian access ways, have at least one habitable room facing which provides passive surveillance and security within the site.	Yes
	Ground level private terraces located within the front setback must be setback at least 1m from the street boundary to accommodate a landscape strip which should remain in communal ownership.	Private open spaces located to the front of the site are located 1m behind the frontage with the street. The proposed subdivision plan shows this area as lying within the common ownership.	Yes
C3.4.2 Roof Design and Features	Roof pitches are to be compatible and sympathetic to nearby buildings.	The proposed roof pitch is 12 degrees for those dwellings not fronting the street and 15 degrees for those fronting the street. This is in keeping with the newly constructed dwelling at 24 Pheasant Street, which has a pitch of 15 degrees.	Yes
C3.4.3 Dwelling Layout & Mix	The primary living area and principal bedroom must have a minimum width of 3.5m.	All primary living areas and main bedrooms have a minimum internal dimension of 3.5m.	Yes
	Secondary bedrooms must have a minimum width of 3m.	All secondary bedrooms have a minimum width of 3m.	Yes
	Provide general storage in addition to bedroom wardrobes and kitchen cupboards. The minimum amount of storage required is 6m ³ for one bedroom dwellings 8m ³ for two	All dwellings include sufficient storage to meet the requirements.	Yes

Standard	Control	Proposed	Complies
	bedroom dwellings, or 10m ³ for dwellings with three or more bedrooms.		
	10% of dwellings in any new multiple dwelling development must be accessible or adaptable to suit current or future residents with special needs.	11% i.e. 1 out of 9 dwellings is proposed as adaptable.	Yes
C3.5.1 Solar Access and Overshadowing	<p><u>Solar Access to Neighbouring Development</u></p> <p>C4 Proposed development must retain a minimum of 2 hours of sunlight between 9.00am and 3.00pm on 21 June for existing primary living areas and to 50% of the principal private open space.</p> <p>C5 If a neighbouring dwelling currently receives less than 2 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property.</p> <p>C6 Sunlight to solar hot water or photovoltaic systems on adjoining properties must comply with the following:</p> <p>(a) Systems must receive at least 2 hours of direct sunlight between 9.00am and 3.00pm on 21 June.</p> <p>(b) If a system currently receives less than 2 hours of sunlight, then proposed development must not reduce the existing level of sunlight.</p> <p>C7 Clothes drying areas on adjoining residential properties must receive a minimum of 2 hours of sunlight on 21 June.</p>	<p>The solar access plans submitted with the application show that the proposal will retain solar access to the private open space of the neighbouring property to the south, which is the only affected property.</p> <p>The solar access diagrams shown in relation to main internal living spaces of the neighbouring property to the south (24 Pheasant Street) show that solar access will be maintained through the high level window for at least 3 hours at midwinter.</p> <p>Neighbouring properties do not have photovoltaic sections.</p> <p>The clothes drying area of 24 Pheasant Street will be in shadow throughout midwinter.</p>	Yes
C3.5.2 Visual Privacy	<p>If living room windows or private open spaces would directly overlook a neighbouring dwelling:</p> <p>(a) Provide effective screening with louvres, shutters, blinds or pergolas; and/or</p> <p>(b) Use windows that are less than 600mm wide or have a minimum sill height of at</p>	The proposed living room windows present some cross viewing opportunities between neighbouring properties. However, at ground floor level, the living rooms are located in such a way that boundary fences and the distance between the proposed dwelling and	Yes

Standard	Control	Proposed	Complies
	<p>least 1.5m above the associated floor level. Screening of bedroom windows is optional and dimensions are not restricted.</p>	<p>side boundary mean that there will not be a detrimental loss of privacy to neighbouring property owners.</p> <p>On the first floor, the use of limited windows in bedrooms to the sides also results in a high level of privacy retention for adjoining neighbours. Some louvred privacy screens are proposed on the bedroom windows which overlook the pool to the south, and this will result in only limited or restricted views. A condition can be placed to ensure that these are non-manoeuvrable and maintain privacy to the pool.</p> <p>The potential for overlooking from neighbouring properties into the site is also limited. Views into the site from the north (18 Pheasant Avenue) are into private open space. However, again, the limited windows and overhang of the first floor level above ground floor level will diminish any concerns regarding privacy to main living spaces.</p>	
C3.5.3 Acoustic Privacy	<p>C1 Protect sensitive rooms, such as bedrooms, from likely sources of noise such as major roads and neighbouring living areas.</p> <p>C2 Bedroom windows in new dwellings that would be located at or close to ground level are be raised above, or screened from, any shared pedestrian pathway.</p> <p>C3 Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp.</p>	<p>There are no major roads or rail corridors affecting the site.</p> <p>The proposed use is residential in a residential area, given this there is unlikely to be conflict between the proposed and existing use.</p> <p>All bedrooms are raised above and screened from internal walkways, with the exception of the potential</p>	Yes

Standard	Control	Proposed	Complies
		accessible (4 th) bedroom in unit 10. However, this bedroom is located at the end of the common internal walkway which serves only this unit. Given this the proposal is unlikely to result in acoustic privacy issues.	
C3.6 Fences and Ancillary Development	<p>C1 Provide boundary definition by construction of an open fence or low hedge to the front street boundary.</p> <p>C2 Front fences within the front boundary setback are to be no higher than 1.2m.</p> <p>C3 Side fences may be 1.8m high to the predominant building line. Forward of the building line, side fences must taper down to the height of the front fence at a height no greater than 1.2m.</p> <p>C4 On corner sites where the façade of a building presents to two street frontages, fences are to be no higher than 1.2m.</p> <p>C5 Screen walls around private open spaces shall not be taller than 1.2m, although screens with 50% transparency may be up to 1.8m in height.</p>	The proposed front fencing is a total height of 1.4m (open above 600mm). The side fences, behind the main building line are 1.8m high.	Yes

Canterbury Development Contributions Plan 2013

The Canterbury Development Contributions Plan 2013 requires payment of a contribution, which has been included as a condition of consent.

Prescribed matters under the Environmental Planning & Assessment Regulation 2000 (EPAR)

The proposal is consistent with the provisions of the Regulation.

Likely Impacts on the Environment

The key impacts of the development have been discussed above. There are no other environmental impacts likely to arise from the proposed development. The likely impacts of the proposal are considered to be acceptable and the proposal is reasonable.

Suitability of Site for the development

The site is suitable for the development as demonstrated through the high level of compliance with both the state policy and Council's controls.

Submissions Received to the Application - Part A3 Notification and Advertising

The development application was advertised and publicly notified to all adjoining owners and occupiers in accordance with this part of CDCP 2012. Submissions were received from 44 separate addresses (including email addresses, where no postal address was given; and a petition containing 16 signatories).

The objections received raised the following (summarised) issues and a response to each issue is also given:

Construction and Development Objections

- **Noise – Including Domestic and Construction Noise**

The proposal is for a residential development in a residential area, as a result a reasonable prospect would be to expect residential levels of noise from future occupants. The planning system cannot regulate the noise coming from residential properties, as this is a policing matter.

Noise from construction will be limited by condition to standard working hours. The imposition of a condition would ensure a level of amenity in quiet hours for neighbours to the development.

Given this, it is not considered that a refusal on the grounds of noise impact would be justified.

- **Dust/Emissions**

Dust and emissions during demolition and construction will be subject to a standard condition which aims to limit such disturbances. The residential nature of the proposed development is unlikely to result in unexpected dust/emissions through the use.

Subject to the imposition of this condition, it is not considered that a refusal on the grounds of dust and emissions would be justified.

- **Fire Safety**

The proposal has been considered by the Council's Building Surveyor who raised no issues in terms of fire safety or to the proposal subject to the imposition of appropriate conditions.

The proposed finishing materials must be compliant with the relevant standards (National Construction Code). Given this, it is not considered that a refusal on the grounds of fire safety would be justified.

- **Failure to comply with Disability Discrimination Act (DDA)**

The proposal includes an adaptable unit, in accordance with the requirements of the controls, as discussed above. This adaptable unit is accessible to the front of the site and to the basement car park. Lifts have been placed to enable access and the proposal also incorporates minimum room and access widths to

ensure compliance with the relevant controls of the DDA. Furthermore, the requirements of the National Construction Code and Building Codes of Australia require disabled access to be provided and are included as standard conditions on such consents.

Given this, it is not considered that a refusal on the grounds of non-compliance with the Disability Discrimination Act would be justified.

- **Structural integrity of development – impact on neighbours/rocky outcrop**
The proposal has been considered by the Council’s Development Engineer and Building Surveyor; neither raised objection to the proposal on the basis of ground conditions or structural stability. Accordingly, a geotechnical survey is not considered necessary. However a condition can be placed on the consent which ensures that a dilapidation survey is undertaken to ensure there is no detrimental impact on neighbouring structures as a result of the proposal.

Subject to the imposition of such a condition, it is not considered that a refusal on the grounds of structural integrity would be justified.

- **Construction Vehicle and Management Plan (CVMP)**
All new development will require access by construction vehicles. The movements of construction vehicles and the impact on the wider road network can be considered as part of a CVMP. The imposition of such a condition would support the efficient and effective development of the site.

Subject to the imposition of such a condition, it is not considered that a refusal on the grounds of construction traffic would be justified.

Traffic and Parking Objections

- **Car Parking**
The proposed basement carpark contains 19 spaces plus a car wash bay (which is not included as a car parking space). For the nine units, a minimum of 12 car parking spaces are required (see earlier in the report). There are, therefore, sufficient car parking spaces to accommodate the development within the basement car park. The additional spaces should ensure that no car parking will spill over on to the street.

Given this, it is not considered that a refusal on the grounds of car parking would be justified.

- **Traffic – Street width, poor visibility, congestion, pedestrian safety (including Glenmore Street)**
The application has been considered by the Council’s Development Engineer in relation to access and parking. The access to the site is considered suitably safe to avoid the creation of a hazard to public safety or pedestrians in the area. The street width is appropriate for the development to allow for safe access and egress to the basement car park.

The provision of 19 car parking spaces, in excess of the 12 required, should limit any on-street parking and the proposal is not likely to exacerbate any existing on-street parking or parking congestion.

Whilst an increase in the number of units will result in more vehicle movements, it is not considered that this will be detrimental to the wider traffic network.

Given this, it is not considered that a refusal on the grounds of traffic safety would be justified.

Natural Environment Objections

- **Loss of Trees**

The Council's Landscape Architect has considered the proposal and the loss of trees as a result of the proposed development and has recommended that the application be approved subject to the imposition of suitable conditions and the imposition of a landscape plan for the new development.

A number of the trees to be removed to accommodate the development are non-indigenous or important species which are worthy of retention, for example fruit trees. Accordingly, it is not considered that a refusal on the grounds of loss of trees would be justified.

- **Ecological Impacts (loss of habitat and species)**

The loss trees has been considered above. There are no identified specific protected habitat and species related to these trees, and whilst various fauna may visit the site, the proposal is located adjacent and in close proximity to a park and waterway. The loss of the trees, and any other habitat in the area, is only a small part of a wider connected area of greenspace. The loss of the trees will not affect the overall integrity of the wider greenspace.

A condition can be placed on any consent which ensures that any protected or vulnerable species discovered during construction or tree felling are adequately protected. It is therefore not considered that a refusal on the grounds of loss of habitat or impact on species would be justified.

- **Inappropriate landscaping**

The proposal has been considered by the Council's Landscape Architect who has raised no objection to the proposal subject to the imposition of appropriate conditions.

Given this, it is not considered that a refusal on the grounds of inappropriate landscape design would be justified.

- **Impact on trees outside the site**

The proposal has been considered by the Council's Landscape Architect who has considered the proposed developments impact on the trees of neighbours.

The Landscape Architect has considered that the proposal is acceptable subject to the imposition of appropriate conditions.

Given this, it is not considered that a refusal on the grounds of impact on trees would be justified.

Design and Density Objections

- **Out of Character (design/density)**

The proposal has been considered in relation to design and density earlier in the report and has been considered against the relevant provisions of the Canterbury Development Control Plan, Canterbury Local Environmental Plan, State Environmental Planning Policies and, in particular, the Senior Living Policy: Urban Design Guidelines. The consideration of the policy is that the proposal achieves a high level of compliance with the character of the area.

The proposal is compliant in terms of Floor Space Ratio, height of buildings, setbacks and landscaping details. These key components are identified in case law as being important considerations in relation to the wider character of the area.

Given this, it is not considered that a refusal on the grounds of local character would be justified.

- **Poor Design**

The design of the application has been considered above, through the application of the relevant policies, codes and controls. The proposal is in keeping with the requirements of these controls and policies.

Given this, it is not considered that a refusal on the grounds of design would be justified.

- **Over-development, scale, massing and bulk / overbearing on neighbours.**

Over-development of the site has been considered above as part of this report. Over-development is not, in itself, defined but is an amalgamation of a number of key controls which limit the scale, massing and bulk of any proposed development, including FSR, height, setbacks and landscaping controls. As demonstrated above, the proposal is compliant with the controls set out in the relevant policy framework.

Given this, it is not considered that a refusal on the grounds of over-development of the site would be justified.

- **Inappropriate finishing materials**

The finishing materials have been amended to allow for a less bulky visual when viewed from the rear of neighbouring properties. The proposed finishing materials are of a suitable quality and standard to be acceptable in the area. The proposed finishing materials and colours are not incongruous in the

streetscape and are found in modern developments within the local government area.

Given this, it is not considered that a refusal on the grounds of inappropriate finishing materials would be justified.

- **Failure to adhere to existing rear setbacks of neighbours (out of keeping with character of area)**

As discussed above, the proposed development has a rear setback which complies with the minimum setback controls. There is no requirement to limit the extent of the building to the same footprint as neighbouring properties. Given this, it is not considered that a refusal on the grounds of inappropriate rear setbacks would be justified.

Planning Policy Objections

- **Accessibility - Proximity of bus stop and number of services and quality of footpaths**

The applicant has applied for a bonus to the Floor Space Ratio under the State Environmental Planning Policy – Affordable Rental Housing. This bonus is only applicable to sites, where any part of that site, is within 400m of a bus stop which has a frequent service (as outlined in Part 2, Division 1, Clause 10 of the SEPP.

The applicant has provided a survey plan which shows that the nominated bus stop (on Northcote Street opposite Marana Road) is within the 400m walking distance. This has been independently verified by Council.

The applicant has also provided the bus timetables, again verified by Council, that frequent the nominated bus stop. The timetables show that the bus stop meets the frequency requirements of the SEPP.

Concern has been raised that the footpaths used to meet this minimum requirement are unlit and go through a park and may not be of a high quality to allow access for wheelchair users or the less mobile. The Land and Environment Court has considered the appropriateness of routes between a site and bus stop and provides guidance in this respect (*Fobitu v Marrickville Council (2012) NSWLEC125*).

As noted in Paragraph 28 of the decision, Commissioner Brown found that the definition of accessibility is based on, firstly, the shortest distance, secondly, ability to be safely walked by pedestrians and, thirdly, use of public footpaths and pedestrian crossings. The applicant has demonstrated that the proposed route to the bus stop, in this instance, is the shortest distance, can be safely walked by pedestrians and uses appropriate crossing points. The route proposed has been verified by Council officers.

Given this the proposal is considered to be compliant with this Part of the SEPP and the proposal is within an accessible area as identified within the SEPP.

Therefore, it is not considered that a refusal on the grounds of accessibility, as per the ARH SEPP, would be justified.

- **Permissibility – Zoning**

As discussed above, the site lies within an R3 – Medium Density Zoning. The proposal is for the construction of nine townhouses. Multi-dwelling housing is permissible within the zoning. The proposal is therefore permissible within the zone.

The proposal also meets the objectives of the zone by providing for the housing needs of the community and providing a variety of housing types and sizes within the medium density zone.

Given this, it is not considered that a refusal on the grounds of permissibility would be justified.

- **Failure to comply with FSR (objectives/numerical figure)**

As discussed above, the proposal benefits from a bonus to Floor Space Ratio due to its accessibility (as per the SEPP). The FSR identified within the CLEP 2012 is 0.5:1, however the bonus allowed (based on the affordable units) would allow a maximum FSR of 0.73:1.

The proposed development has a proposed FSR of 0.71:1 and is therefore compliant with the controls. Given this, it is not considered that a refusal on the grounds of excessive Floor Space Ratio would be justified.

- **Undesirable precedent**

The proposed development is for nine townhouses. The proposal, as discussed above, is permissible within the zone and complies with the requirements of the ARH SEPP, CLEP 2012 and CDCP 2012.

Each application is considered on its own merits and the setting of a precedent is not considered sufficient justification to warrant a refusal of an application, particularly when that proposal complies with the relevant controls.

Amenity Objections

- **Loss of Privacy**

The issue of privacy has been discussed above. The proposal accords with the relevant controls and policies and meets the minimum setback requirements set out in CDCP 2012.

Given this, it is not considered that a refusal on the grounds of loss of privacy would be justified.

- **Overshadowing**

The applicant has provided amended shadow diagrams and these plans have been assessed in the report (above). The assessment shows that the proposal will not detrimentally affect the solar access of neighbouring properties to the

south and as such, the proposal accords with the requirements of the DCP and other controls.

Given this, it is not considered that a refusal on the grounds of overshadowing would be justified.

- **Waste Management (collection), location of bin store to neighbours (odour/emissions)**

The application has been considered by Council's Waste Services, who have raised no objection to the location of the waste storage area, subject to the imposition of conditions.

The waste storage area is located adjacent to the side boundary. Council does not encourage waste storage areas in the front setback, however also requires waste facilities to be located near the street as per Part B9 of the Canterbury Development Control Plan. Given this, the location of the waste storage area, whilst adjacent to the southern neighbour and in proximity to the kitchen, is appropriately located.

The bin store has been enclosed (i.e. has a roof) which should limit odours and emissions from neighbouring properties and restrict access for vermin.

Conditions will be placed on the consent to ensure appropriate collection takes place in accordance with the provisions of Part B9 of the Canterbury Development Control Plan.

Given this, it is not considered that a refusal on the grounds of waste collection and storage would be justified.

- **Loss of View (neighbours and 26 Pheasant)**

There is no legal right to a view, however the Courts have considered the loss of a view as a material planning consideration in the assessment development applications. The planning principle outlined in *Tenacity Consulting v Warringah Council* (2004: NSWLEC 140) and *Rose Bay Marina Pty Ltd v Woollahra Municipal Council* (2013: NSWLEC 1046) establishes the relevant assessment path for considering loss of views:

Views from the North (18 Pheasant)

- *What views are to be affected?*

The current view over the site, from neighbours to the north, are limited as a result of the existing tree cover. These views are also secondary views when considered against the primary view to the rear. Views across the rear of the site to the Reserve are not affected. There are no significant long or medium distance views. There are no iconic views affected as a result of this development.

- *How are the views obtained and assessed?*
The views are obtained from the living spaces looking from the rear window within the property and, in particular, from the balcony. The main view is to the reserve to the rear and not across the application site.
- *What is the extent of the impact?*
The percentage loss of the view as a result of the proposal is not considered appropriate in this instance as the qualitative view, i.e. the view to the reserve to the rear, is unaffected. As a result of the construction of the subject proposal, there will be a loss of the view of the existing trees however this is not considered detrimental.
- *Is the proposal reasonable?*
The subject development complies with the provisions of the development plan in relation to controls for overall size, scale and massing. The topography and nature of the site means the proposed rear setback is generally acceptable and meets the overall objectives of the Development Control Plan. Given this, the proposal, in itself, is generally considered reasonable.
- *Conclusion*
The Tenacity Consulting case, highlighted above, states in paragraph 25 that the complete loss of a view can still be reasonable. Further, Paragraph 27 of the Tenacity Consulting v Warringah Council case states that "the expectation to retain side views (i.e. across other lots) is often unrealistic".

The view impediment from the proposed development is considered reasonable in this case as the view is to the side of the objecting site, where retaining views are less realistic, and the Development Plan objectives and controls are met. Further, there are no significant views affected by the proposal.

Views from the South (24 and 26 Pheasant Street)

- *What views are to be affected?*
The view is limited distance view to the north, as a result of existing tree cover. The predominant views are to the rear (east) over the reserve, which are retained. There are no mid- to long- distance views.
- *How are the views obtained and assessed?*
The views are obtained from the living spaces, particularly upper bedrooms at 24 Pheasant Street and from outside space, including deck and pool at 24 Pheasant Street. The view is across the application site.

- *What is the extent of the impact?*
The percentage loss of the view as a result of the construction is not considered appropriate in this instance as the qualitative view, i.e. the view of the reserve to the rear, is unaffected.
- *Is the proposal reasonable?*
The subject development complies with the provisions of the development plan in relation to controls for overall size, scale and massing. The topography and nature of the site means the rear setback is acceptable and consistent with the overall objectives of the Canterbury Development Control Plan 2012 and other applicable controls. Given this, the proposal, in itself, is generally considered reasonable.
- *Conclusion*
The Tenacity Consulting case, highlighted above, states in paragraph 25 that the complete loss of a view can still be reasonable. Further, Paragraph 27 of the Tenacity Consulting v Warringah Council case states that “the expectation to retain side views (i.e. across other lots) is often unrealistic”.

In this instance, the view impediment from the neighbours to the south is considered reasonable in this case as the view is over a side site, where retaining views are less realistic, and the Development Plan and other objectives and controls are met. Further, there are no significant views lost as result of the proposed development.

Given this, it is not considered that a refusal on the grounds of view loss would be justified.

- **Light pollution**

The proposed development is for a residential development within a medium density residential zone. The amount of light presented by the proposal is not excessive when considered against this requirement. There are no proposed streetlights or other excessive lights proposed as part of the proposal.

Given this, it is not considered that a refusal on the grounds of light pollution would be justified.

- **Litter**

The residential nature of the proposal is not expected to result in an inappropriate level of litter within the street. Council’s Waste Services have reviewed the application and raised no objection to the proposal subject to the imposition of suitable conditions. There is, therefore, sufficient space to accommodate an appropriate number of bins within the bin storage area to serve the development.

Given this, it is not considered that a refusal on the grounds of an increase in local litter would be justified.

- **Anti-social behaviour**

The proposal for nine units contains two affordable units. These are residential units within an established residential area. Given this, there is no conflict between the proposed use and existing use which would give rise to anti-social behaviour conflicts (for example that might occur between a public house and a residential property). Anti-social behaviour as a result of occupants of any of the proposed dwellings would be a policing matter and cannot be constrained through planning conditions or controls.

Given this, it is not considered that a refusal on the grounds of potential for anti-social behaviour would be justified.

- **Lack of local amenities**

The proposal is located in a residential zone. Whilst local shops, service stations may not be located within the immediate vicinity, the proposed development is permissible within the zone and in keeping with surrounding uses.

Given this, it is not considered that a refusal on the grounds of lack of local amenities would be justified.

Objections Regarding Superseded Plans

- **Insufficient information to assess application (In relation to garbage store proximity to neighbours kitchen)**

This objection was related to a previous set of plans. Revised plans were received and the impact of the proposed garbage store room on neighbouring properties has been considered in this report and the location is reasonable.

- **Accuracy of shadow diagrams**

This objection was related to a previous set of plans. Revised plans were received showing corrected shadow diagrams. These plans were considered as part of this report and discussed above.

- **Failure to show neighbour's pool on the plans (and take into account on solar access/privacy on that pool)**

This objection was related to a previous set of plans. Revised plans were received showing the location of the neighbour's pool. These plans were considered as part of this report and discussed above.

The existing pool at 24 Pheasant Street will be partially overshadowed by the proposed development. However, no controls exist which limit overshadowing of pools. In addition, the overshadowing is less than 50% of the extent of the pool for over 4 hours at midwinter. The proposal is compliant with the requirements of the CDCP in relation to solar access.

- **Height breaches**

This objection relates to a previous set of plans, which have since been amended. The proposal, as discussed above, is now within the maximum height limits and the proposal complies with these controls.

Given this, it is not considered that a refusal on the grounds of breaching height controls would be justified.

Stormwater Management Objections

- **Run-off drainage concerns**

The application was considered by the Council's Development Engineer in relation to drainage and stormwater. The Council's Development Engineer raised no objection to the proposal subject to the imposition of appropriate conditions.

Given this, it is not considered that a refusal on the grounds of impact on trees would be justified.

Non-Material Planning Objections

- **Loss of property value**

The loss of property value is not a material planning consideration and cannot be taken into account during the assessment of a development application.

The Public Interest

In view of the assessment carried out above, it is considered that the proposal is highly compliant with the relevant policies, provisions and controls. Despite the number of objections and comments raised in relation to the application the proposed development is in line with the public interest.

CONCLUSION

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant development control plans, codes and policies. The proposal is considered to be acceptable subject to conditions of consent and is recommended for approval.

CONDITIONS OF CONSENT

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
 - 1.1. Details of:
 - Protection from termites
 - Structural Engineering Plan
 - Building Specifications
 - Fire Safety Schedule
 - Landscape Plan
 - Hydraulic Plan
 - Firewall Separation
 - Soil and Waste Management Plan
 - BASIX Certification
 - Mechanical ventilation
 - Ventilation of basement carpark
 - Construction Vehicle and Management Plan

BEFORE COMMENCING THE DEVELOPMENT

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

SITE SIGNAGE

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

DEMOLITION

4. Demolition must be carried out in accordance with the following:
 - 4.1. 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.
 - 4.2. 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.
 - 4.3. Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
 - 4.4. 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.
 - 4.5. 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.
 - 4.6. Burning of demolished building materials is prohibited.
 - 4.7. Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
 - 4.8. 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.
 - 4.9. 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.
 - 4.10. The capacity and effectiveness of soil and water management devices must be maintained at all times.
 - 4.11. 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.

- 4.12. 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).
- 4.13. 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.
- 4.14. 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.
- 4.15. Hazardous dust must not be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended.
- 4.16. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is 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.
- 4.17. At least two (2) working days (i.e. Monday to Friday exclusive of public holidays), the developer or demolition contractor must notify adjoining residents prior to the commencement of asbestos removal works. Notification is to include at a minimum:
- The date and time when asbestos removal works will commence
 - The name, address and business hours contact number telephone number of the demolisher, contractor and or developer
 - The full name and license number of the asbestos removalist; and
 - The telephone number of the WorkCover Hotline 13 10 50
- Warning signs must be placed so as to inform all people in the nearby vicinity that asbestos removal work is taking place in the area. Signs should be placed at all main entry points to the asbestos work area where asbestos is present. These signs should be weatherproof, constructed of light weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994. Safety signs for the occupational environment for size, illumination, location and maintenance.
- 4.18. A clearance inspection is to be carried out and a clearance certificate is to be issued before the workplace can be re-occupied by:
- an independent licensed asbestos assessor, for work that must be carried out by a Class A licensed asbestos removalist (for example, if the removal work involved friable asbestos)

- an independent competent person, for asbestos work that is not required to be carried out by a Class A licensed asbestos removalist (for example, if removal work involved more than 10 m² of non-friable asbestos).
- Ensure clearance certificates are submitted to Council after demolition work is completed and prior to building work being commenced on the site.

GENERAL

5. The development being carried out in accordance with the following plans, specification and details except where amended by conditions specified in this consent.

Plan Details	Revision Details	Drawn By	Dated
Basement Plan A-0101	B	Benson McCormack Architects	August 2017
Ground Floor Plan A-0102	B	Benson McCormack Architects	August 2017
First Floor Plan A-0103	B	Benson McCormack Architects	August 2017
Roof Plan A-0104	B	Benson McCormack Architects	August 2017
North Elevation A-0201	B	Benson McCormack Architects	August 2017
South Elevation A-0202	B	Benson McCormack Architects	August 2017
East Elevation A-0203	B	Benson McCormack Architects	August 2017
West Elevation A-0204	B	Benson McCormack Architects	August 2017
Internal Elevations A-0205	B	Benson McCormack Architects	August 2017
Demolition Plan A-0007	A	Benson McCormack Architects	April 2017
Earthworks Plan A-0009	B	Benson McCormack Architects	August 2017
Schedule of Finishes and Colours A-1308	B	Benson McCormack Architects	August 2017
Draft Strata Plan Ground A-1313	B	Benson McCormack Architects	August 2017
Draft Strata Plan First A-1314	B	Benson McCormack Architects	August 2017

- 5.1. A Construction Vehicle and Management Plan (CVMP) will be submitted to the Principal Certifying Authority. The CVMP will outline an approximate number, size and type of vehicle to service the site throughout construction; hours of deliveries and the location of vehicles parking during construction. The CVMP will also detail how complaints for breaches of the CVMP can be made to an

onsite foreperson and how complaints will be dealt. The CVMP will be available on site throughout the construction phase.

- 5.2. The applicant shall provide a Dilapidation Report/photographic survey prepared by an appropriately qualified engineer for neighbouring properties detailing the physical condition of the property, to be submitted to the Principal Certifying Authority prior to any works commencing on site. On completion of the excavation and building works and prior to the issue of an Occupation Certificate, a certificate from an appropriately qualified engineer stating to the effect that no damage has resulted to adjoining properties is to be submitted to the Principal Certifying Authority. If damage is identified which requires rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as practical and prior to occupation of the development. All costs associated in achieving compliance with this condition shall be borne by the person entitled to act on this consent. A copy of the report shall be provided to the owner(s) of 18 and 24 Pheasant Street and must clearly show any existing damage. The report must include dated photographic evidence of both the interior and exterior of the properties. The owner(s) of 18 and 24 Pheasant Street shall not unreasonably deny access to their properties for the purpose of this report and follow up inspection(s).
- 5.3. Should any protected or vulnerable species be discovered on site prior to or during construction work must immediately stop and advice sought from a suitably qualified ecologist. An appropriate licence must be sought and obtained from the Office Of Environment And Heritage under the Biodiversity Conservation Act 2016 or other relevant legislation.
- 5.4. Any privacy louvres for windows facing 24 Pheasant Street must be installed to limit views of the pool at 24 Pheasant Street. These louvres should not be manoeuvrable, however should still ensure an adequate level of internal amenity for future occupiers.
6. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The amount of the contribution (as at the date of this consent) has been assessed as \$131,206.99. The amount payable is based on the following components:

Contribution Element	Contribution
2013	
• Community Facilities	\$ 11,868.00
• Open Space and Recreation	\$ 116,000.57
• Plan Administration	\$ 3,338.42

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

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

7. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
8. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 a.m. - 5.00 p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays.
9. All building construction work must comply with the National Construction Code.
10. 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.
11. Provide a Surveyor's Certificate to the Principal Certifying Authority indicating the finished floor levels and roof to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
12. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.

In this condition:

- a) relevant BASIX Certificate means:
 - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
 - b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."
13. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
 14. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.

15. 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.
16. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
17. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
18. Drains, gutters, roadways and 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.
19. The site must be provided with a vehicle washdown area at the exit point of the site. The area must drain to an approved silt trap prior to disposal to the stormwater drainage system in accordance with the requirements of Specification S2 of Council's Stormwater Management Manual. Vehicle tyres must be clean before leaving the site.
20. 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.

PRIOR TO THE COMMENCEMENT OF WORKS

21. 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 \$25,000.
- 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.

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.

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.cbccity.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.

22. Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the area. 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 construction to ensure that the work area is secured.

Where the work is located within 3.6m of a public place then a Type A or Type B hoarding must be constructed appropriate to the works proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval prior to the commencement of work.

23. 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.

STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

24. In accordance with Clause 17(1) (a) of State Environmental Planning Policy (Affordable Rental Housing) 2009, a minimum of 23% of the floor space within the approved development (identified on the development application plans as dwellings 5 and 6) must be used for the purpose of affordable housing for a tenure of 10 years from the date of the issue of the occupation certificate. All affordable rental housing at the site must be managed by a registered community housing provider.
25. A restriction being registered against the title of the property on which development is to be carried out, in accordance with section 88E of the [Conveyancing Act 1919](#), prior to the issue of the occupation certificate requiring that a minimum of 23% of the floor space (identified on the development application plans as dwellings 5 and 6) within the approved development to be used for the purposes of affordable housing for 10 years from the date of issue of the occupation certificate in accordance with Clause 17(1) (b) of State Environmental Planning Policy (Affordable Rental Housing) 2009. In this regard, the restriction shall specifically nominate those units to be allocated as affordable housing.

SYDNEY WATER REQUIREMENTS

26. Prior to the commencement of any works on site, including demolition or excavation, the plans approved as part of the Construction Certificate must also be approved by Sydney Water. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Customers will receive an approval receipt which must be included in the Construction Certificate documentation. Please refer to the web site www.sydneywater.com.au.

Prior to the issue of an Occupation Certificate (or if relevant, a Subdivision Certificate) a Compliance Certificate under Section 73 of the Sydney Water Act, 1994, must be submitted to Council by the Principal Certifying Authority.

Sydney Water may require the construction of works and/or the payment of developer charges. This assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to the mains. Sydney Water

will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met.

Applications can be made either directly to Sydney Water or through a Sydney Water Accredited Water Servicing Coordinator. Please make early contact with the Coordinator, since building of water / sewer extensions can be time-consuming and may impact on other services as well as building, driveway or landscaping design. Go to www.sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

CRITICAL INSPECTIONS

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

Class 2, 3 or 4 Buildings

- 27.1. at the commencement of the building work, and
- 27.2. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 27.3. prior to covering any stormwater drainage connections, and
- 27.4. 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

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

28. Section 81(A) of the EP&A Act 1979 requires that a person having the benefit of a development consent, if not carrying out the work as an owner-builder, must notify the principal contractor for the building work of any critical stage inspections and other inspections that are to be carried out in respect of the building work, as nominated in this development consent.

To arrange an inspection by Council please phone 9789-9300 during normal office hours.

COMPLETION OF DEVELOPMENT

- 29. Obtain an Occupation Certificate/Interim Occupation Certificate from the Principal Certifying Authority before partial/entire occupation of the development.
- 30. 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.

SUBDIVISION

31. Prior to the issue of the Subdivision Certificate, the following items are to be complied with:

- (a) The developer shall create the following easements, where necessary over the relevant lots, on the plan of subdivision under provisions of the Conveyancing Act. A statement shall be placed on the Section 88B Instrument that nominates Canterbury-Bankstown Council as the authority empowered to release, vary or modify the easements created.
 - i. Easements to drain water (for inter-allotment drainage).
 - ii. Easement for services (for utilities).
 - iii. Right of carriageway (for internal driveway, vehicle manoeuvring).
 - iv. Easement for overhang (for eaves and gutters).

- (b) The following information shall be submitted to Council or accredited certifier (where applicable) with an application for a Subdivision Certificate:
 - i. Original plan of subdivision prepared and signed by a qualified surveyor, plus five (5) copies;
 - ii. Copy of the relevant development consent, including all Section 96 Modifications if applicable,
 - iii. Evidence that all conditions of consent relevant to the release of the subdivision certificate have been complied with,
 - iv. A certificate of compliance (Section 73 Certificate) from Sydney Water if required,
 - v. Certification by a registered surveyor that all services such as stormwater, drainage, water, gas, electricity and telephone are contained separately within each lot or within easements created to accommodate such services
 - vi. A certificate from a Registered Surveyor which demonstrates that the height and location of all floor slabs and external walls complies with the approved plans. In this regard, the certificate from the Registered Surveyor is required to identify the finished floor level of the floor slabs and external walls and the offsets to property boundaries.
 - vii. A Work As Executed Plan prepared by a registered surveyor, together with certification from a qualified professional civil engineer of the constructed on-site drainage and/ or stormwater detention system, shall be obtained prior to release of the linen plans.

The Work As Executed plans shall be shown on a copy of the approved stormwater drainage plan and shall contain all information specified in Council's Development Engineering Standards.

The Work As Executed information shall be shown in red on a copy of the approved plans. The information shall be submitted to the Engineer prior to certification.

The engineer's certification shall be carried out on 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 information together with the certification shall be submitted to Council for information prior to issue of the linen plan.

- viii. Copy of the Work Permit Compliance Certificate, where required.
- ix. A copy of the Final Occupation Certificate.

- (c) An application and appropriate fees for the issue of a Subdivision Certificate shall be submitted to Council upon submission of the information referred to in part (b) of this condition.

- 32. The subdivision certificate shall not be issued until the requirements of this condition have been complied with.

STORMWATER ENGINEERING

- 33. 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 prepared by John Romanos & Associates Pty Ltd, Drawing number 1806-S1/4, 1806-S2/4, 1806-S3/4, 1806-S4/4, Issue D, dated 23 August 2017.
- 34. Stormwater being disposed to the Sydney Water Corporation drainage system, subject to the Corporation's approval. The Corporation's written approval shall be submitted with the Construction Certificate.
- 35. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Canterbury Council's DCP 2012.
- 36. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.
- 37. 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.
- 38. 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. 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.

39. 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.
40. 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. 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.
41. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that Operation and Management Plans has been prepared and implemented for the OSD and basement pump out facilities. The Plan must set out the following at a minimum:
 - a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
 - b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

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

42. 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.
43. The driveway access to the property shall be 5.5m wide for 5.4m from the property front boundary to facilitate two car movements then a transition to a single lane ramp.
44. The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890.1"Off-street Parking Part 1 - Carparking Facilities". In this regard, the submitted plans must be amended to address the following issues:
 - a) The finished levels within the property must be adjusted to ensure that the levels at the boundary comply with those issued by Council for the full width of the vehicle crossing. The longitudinal profile must comply with the Ground Clearance requirements of *AS/NZS 2890.1-2004*.

- b) The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
 - c) A minimum of 2200mm Headroom must be provided throughout the access and parking facilities. Note that Headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
 - d) 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.
 - e) Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of AS/NZS 2890.1:2004.
45. The legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged Canterbury Bankstown Council prior to the issue of a Construction Certificate.
- Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent.
- Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.
- Where temporary anchors are proposed to be used in Pheasant 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.
46. 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.
47. A full width Heavy duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 5.5 metres at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by

- Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter”.
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. 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”.
 50. The reconstruction of the kerb and gutter along all areas of the site fronting Pheasant Street is required. Work to be carried out by Council or an approved contractor, at the applicant’s cost. The work is to be carried out in accordance with Council’s “Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter”.
 51. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting Pheasant 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”.
 52. 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.
 53. All easements required for the subdivision being shown on and registered in conjunction with the subdivision plan.

WASTE

54. This development, containing nine (9) residential dwellings, requires allocation of waste and recycling bins based on the generation rates detailed in Section B9.4 (b) (page 116) of Part B9 Canterbury DCP 2012:

6 x 240L garbage bins (collected weekly)
 10 x 240L recycling bins (collected fortnightly)
 5 x 240L garden organics bins (collected fortnightly)

Bin Type	Height	Width	Depth
240 Litres	1080mm	580mm	735mm

55. All waste and recycling bins are collected by Council from the temporary holding area on Pheasant Street as a collect and return service.

56. It is the responsibility of the property manager or residents to present any provided garden waste bins to the kerbside for collection by Council the evening before the designated collection day. An area of at least 5m² is provided for this purpose.
57. Bin Storage Area:
The storage area should be signposted 'Waste & Recycling' on the entrance doors.
58. Inspection prior to Occupation Certificate:
Inspection by Council is required before the Occupation Certificate will be issued.

LANDSCAPING

59. The landscaping must be completed according to the approved Landscape Plan (prepared by Site Design + Studios, drawing no. 1619 L-01 and L-02, issue B, dated 19 April 2017, submitted to Council on 17 May 2017) except where amended by the conditions of consent. The landscaping is to be maintained at all times to the Council's satisfaction
60. All the tree supply stocks shall comply with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003).
61. All scheduled plant stock shall be **pre-ordered**, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact 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.
62. 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.
63. The application has been submitted with a BASIX certificate (81445M) which outlines a water commitment of 96 square meters indigenous or low water use vegetation for each lot. The landscaping must be completed according to the approved Landscape Plan (prepared by Site Design + Studios, drawing no. 1619 L-01 and L-02, issue B, dated 19 April 2017, submitted to Council on 17 May 2017) (except where amended by the conditions of consent) to fulfil the BASIX requirement.
64. The following trees must be retained and protected during demolition and construction (the tree numbers relate to the numbering used to identify each tree in both the Arboricultural Assessment report (prepared by Peter Richards, dated 5 April 2017 submitted to Council on 17 May 2017) and the approved Landscape Plan:

Tree No.	Botanical Name	Common Name	Location	TPZ/SRZ m radius
9	<i>Phoenix canariensis</i>	Canary Island Date Palm	Property tree	3.8m/2.1m
12	<i>Salix nigra</i>	Black Willow	Neighbouring tree	9.9m/3.2m
15	<i>Acemena smithii</i>	Lillypilly	Property tree	2.8m /2.1m
16	<i>Ulmus parvifolia</i>	Chinese Elm	Neighbouring tree	8.4m /3.4m
17	<i>Acer palmatum</i>	Japanese Maple	Neighbouring tree	7.2m s/2.7m
18	<i>Corymbia citriodora</i>	Lemon-scented Gum	Neighbouring tree	3.8m /2.3m
19	<i>Brachychiton acerifolium</i>	Illawarra Flame Tree	Neighbouring tree	3.8m /2.3m
24	<i>Corymbia citriodora</i>	Lemon-scented Gum	Neighbouring tree	3.8m /2.3m

64.1. These trees are to be retained and protected during demolition and construction in accordance with all recommendations, advice and guidelines provided in a Tree Management Plan, to be prepared by an AQF Level 5 Registered Consulting Arborist with a minimum 5 years industry experience and submitted to Council or the certifier prior to the issue of the Construction Certificate. The Tree Management Plan is to include but is not limited to:

64.1.1. All recommendations, advice and guidelines provided in the Arboricultural Assessment report (prepared by Peter Richards, dated 5 April 2017 submitted to Council on 17 May 2017) and Australian Standard AS 4970-2009 Protection of Trees on Development Sites.

64.1.2. The engagement of an AQF Level 5 Registered Arborist as a project arborist to supervise the building works and certify compliance with all Tree protection measures. Contact details of this project arborist are to be forwarded to council and the consenting authority prior to the issue of Construction Certificate.

64.1.3. The project arborist is to be employed by the applicant to carry out the following:

- i. Carry out the protection of the trees to be retained during demolition and construction in accordance with all recommendations, advice and guidelines provided in the Tree Management Plan.
- ii. Establishment of the tree protection zone and erection of fencing and signage as per the above mentioned requirements.
- iii. Attendance on site regularly in accordance with Section 5.4.1 of AS 4970 -2009. Particularly during any demolition and construction within the tree protection zones.

- iv. Any roots greater than 25mm in diameter that is exposed within 1m of the TPZ must be cleanly cut and kept moist.
 - v. Any remedial works that might be required for the tree, should these conditions and the tree protection plan have not been complied with.
 - vi. Provide a final assessment of the tree condition, details of any works conducted to the tree and provision of certification that the tree protection works have been carried out in accordance with the requirements listed above at minimum as set out in Section 5.5.2 of AS 4970-2009. This certification is to be provided to the principle certifying authority and council at practical completion. The report must also include the following items at a minimum:
 - Full name, business address, telephone numbers, evidence of qualifications and experience of consulting arborist.
 - Full address of the site
 - Full name and details of the person/company the report is being prepared for
 - Details of their attendance on site
 - Details of any work they had to complete on site.
- 64.2. All other existing property trees are permitted to be removed to accommodate construction. This is conditional on the replacement planting of 5 x locally indigenous trees with a minimum 100 litre pot size and a mature height of 9m. These trees are to be maintained at all times to the Council's satisfaction.
65. An amended Landscape Plan to address the following issues must be submitted to the satisfaction of either Council or the certifier prior to the issue of the Construction Certificate:
- 65.1. All new trees are to be a minimum 75 litre pot size.
 - 65.2. The landscape plan is to include adequate soil depths to all on podium beds and raised planter boxes.
 - 65.3. Construction Details including:
 - i. Standard constructions and details drawings (e.g. Sections through mass planting beds, tree planting and mulching details, paths, steps and retaining walls),
 - ii. Detailing and location of edge treatments (e.g. Concrete, brick, timber). This is particularly important within carpark areas adjacent to landscaped areas. Location and material of wheel stops must be shown where appropriate.
66. The proposed planting to all podium levels must comply with the Canterbury Development Control Plan 2012 Section, B2.3.5, C5 and C6 including the following:

- Planter boxes:
 - Use masonry or concrete construction;
 - Provide drainage for each planter box, and coordinate drainage details with hydraulics plan;
 - Provide waterproofing to each planter box.
- Minimum soil depth:
 - 100-300mm for turf;
 - 300-450mm for groundcovers;
 - 500-600mm for small shrubs;
 - 600-750mm for medium shrubs;
 - 750-900mm for small trees with approximate soil area of 3.5m x 3.5m;
 - 1000mm for medium trees with approximate soil area of 6m x 6m; and
 - 1300mm depth for large trees with approximate soil area of 10m x 10m.

STREET NUMBERING

67. Future Street Addressing for the approved development within DA-176/2017 will be '20 Pheasant Street, Canterbury'. Allocation of street numbers has been based on the NSW Address Policy and Rural and Urban Addressing Standard AS/NZS 4819:2011.
68. The applicant must contact Council to confirm Street Addressing prior to the issue of an Occupation Certificate, and supply a schedule of Lots and Addresses for Strata Subdivision. Please contact Council's Customer Services on 9707 9700 (or email Council@cbc.city.nsw.gov.au) to do so.

WE ALSO ADVISE

69. If you appoint a Principal Certifying Authority other than Council, any certificate provided to us must be accompanied by a \$36 registration fee.
70. All sub-property numbering must be unique and would be as follows:
1/20 Pheasant Street, Canterbury
2/20 Pheasant Street, Canterbury
3/20 Pheasant Street, Canterbury
4/20 Pheasant Street, Canterbury
5/20 Pheasant Street, Canterbury
6/20 Pheasant Street, Canterbury
7/20 Pheasant Street, Canterbury
8/20 Pheasant Street, Canterbury
9/20 Pheasant Street, Canterbury
71. This application has been assessed in accordance with the National Construction Code.
72. 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.

73. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
 - Air handling systems
 - Final fire safety certificate
 - Glazing
 - Waterproofing
 - BASIX completion
74. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
75. 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.
76. 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.
77. 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.
78. If you are not satisfied with this determination, you may:
- 78.1 Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of the receipt of this Notice of Determination.; or
- 78.2 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-