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**Date:** Wed, 04 Nov 2015 17:04:40 +1100  
**Attachments:** image001.jpg (20.61 kB); DA169-15 220-222 Canterbury Rd & 4 Close St, Canterbury.docx (10.34 MB)

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Second and final email.

Regards,

Planning\_Ingenuity\_Signature\_Benjamin\_Black\_FA



**220 – 222 CANTERBURY ROAD & 4 CLOSE STREET,  
CANTERBURY: DEMOLITION OF EXISTING  
STRUCTURES, CONSTRUCTION OF A PART 6/PART 9  
STOREY, MIXED USE DEVELOPMENT CONTAINING 3  
LEVELS OF BASEMENT PARKING, 5 COMMERCIAL  
TENANCIES (TOTAL 749M<sup>2</sup>) PLAZA AREA (266M<sup>2</sup>) & 84  
RESIDENTIAL UNITS UNDER DA-169/2015**

**FILE NO:**

#####

**REPORT BY:**

**DIRECTOR - CITY PLANNING**

**WARD:**

**CENTRAL**

<b>D/A No:</b>	<b>DA-169/2015</b>
<b>Applicant:</b> <b>Owner:</b>	
<b>Zoning:</b>	<b>Local Centre B2 - Canterbury Local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>24/04/2015</b>

**Summary:**

- Council has received a development application for the demolition of existing buildings on the subject site and the construction of a part 7 and part 9 storey mixed use building comprising five (5) commercial tenancies, 84 residential apartments, 3 levels of basement parking for 94 vehicles and a public plaza area of 266m<sup>2</sup> attached to the proposed development on the adjoining site.
- The proposed development forms Stage 1 of a larger development, with Stage 2 proposed on the adjoining site at No 212-218 Canterbury Road.
- The proposal has a capital investment value of \$18,266,200 and is therefore to be determined by Council.
- The subject site is zoned B2 – Local Centre under *Canterbury Local Environmental Plan 2012*. The proposed development is defined as ‘shop top housing’, and ‘commercial premises’ which are permissible uses in the Local Centre B2 zone subject to consent.
- The development application has been assessed against the relevant State and Local Instruments and Planning Policies. Apart from the height and FSR the application is generally compliant with these requirements however there are issues of non-compliance are discussed in the body of the report
- The proposed development does not comply with the maximum floor space ratio and height standard applicable to the site under Canterbury LEP 2012. Sufficient

grounds to justify an exception to the maximum height and floor space ratio development standard has been submitted, such that the requirements of Clause 4.6 of CLEP 2012 have been satisfied.

- The development application was publicly exhibited and adjoining land owners notified in accordance with the requirements of *Canterbury Development Control Plan 2012*. The application was notified between ##### 2015 and ##### 2015. ##### submissions were received.
- It is considered that the proposed development has been designed appropriately given the nature and characteristics of the site and is unlikely to result in significant adverse impacts on the character or amenity of the surrounding area. The development application is recommended for approval subject to conditions

### **Council Delivery Program and Budget Implications:**

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

### **Report:**

#### **Background**

On 24 April 2015, DA169/2015 for the construction of a part six and part nine storey, mixed use development containing 3 levels of basement parking, 5 commercial tenancies (total 749m<sup>2</sup>) plaza area (266m<sup>2</sup>) & 84 residential units was lodged with Council. The proposed development will have vehicle access and egress off Close Street. The vehicle access and egress is shared with the adjoining development of 212-218 Canterbury Road, which is Stage 2 (known as “Site 2” on the survey plan). The proposed development assessed in this report is Stage 1. This application indicates that there is provision for future linking of the basements of these two developments. This adjoining proposed development is considered in a separate report to Council (Ref#: ).

A 6 and 7 storey shop top housing development with basement parking comprising 30 apartments and 1 commercial tenancy was approved in August 2014 (DA-399/2013) for the adjoining site to the south known as No 6 – 8 Close Street Canterbury. This adjoining approved development achieves compliance with the relevant height and FSR development standards and has not commenced construction.

The following developments have been approved in this immediate locality:-

- **2A Charles Street**, located opposite the site, has consent for a mixed retail/residential development containing 202 units, a supermarket and liquor store, commercial/retail tenancies, basement car parking and stratum subdivision into three (3) lots approved by JRPP on 28 May 2014 (**DA 579/2013**). This development is currently under construction and has an approved FSR of 3.108:1 (max 2.75:1 & 3:1) and height of 27.3m (max 27m). This development is therefore generally compliant with the planning controls. The development has a nil setback to Canterbury Road.
- **211 – 215 Canterbury Road**, located on the opposite side of Canterbury Road on the corner of Charles Street, has approval for a mixed development comprising 9 commercial tenancies and 69 residential units (**DA-420/2013**). This development generally complies with the FSR and height controls, with a minor FSR exceedence of 255m<sup>2</sup> (FSR of 3.14:1 with a max of 3:1).

- **242 - 258 Canterbury Road & 1 -13 Close Street**, located opposite the site along Close Street, has approval for a nine storey mixed use building containing commercial premises with shop top housing, residential flat buildings (397 units), two basement level car parking areas and central open space area linking to the Cooks River (**DA-503/2013**). This development seeks a variation to the FSR of 3.08:1 with 564sqm above the bonus density allowable for a major site. This represents a variation of 2.4%.
- **1A, 1, 2, 3 Charles Street and 12 Robinson Street**, located along Charles Street, was originally refused by the JRPP in October 2012 and subsequently approved by the Court (**DA-164/2012**). A recent S96 to increase the FSR was refused by the JRPP on 3 June 2015. The currently approved development complies with the FSR.

### Site Details

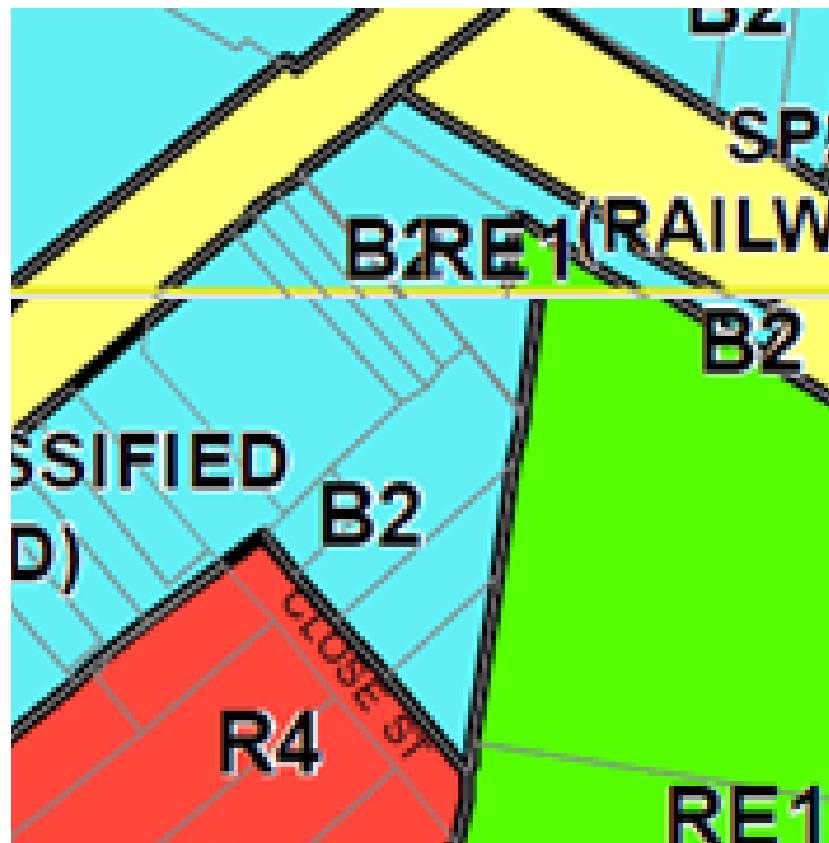
The subject site is identified as Lots 1 and 2 DP 229069 and Lot B DP 32847, and is commonly known as No. 220 – 222 Canterbury Road and 4 Close Street, Canterbury. The site is located on the eastern side of Canterbury Road and the northern side of Close Street (refer to Figure 1). The site is located towards the western end of the Canterbury town Centre, in the B2 Local Centre zone under the Canterbury LEP 2012 (refer to Figure 2).

The site is an L-shaped area and has a 13.365m frontage to Close Street, a 10.5m frontage to Canterbury Road, a depth of 40 metres (along the sites south-eastern boundary) and a northeastern side boundary (common to 212-220 Canterbury Road) of 62m. The site has a total area of 1,618.13m<sup>2</sup>. The site falls by around 7 metres in a southerly direction and is currently used for commercial and industrial purposes. A two storey brick building currently occupies the Close Street frontage and two storey shop top housing exists along the Canterbury Road frontage.



**Figure 1: Aerial photograph showing the subject site and surrounds**





**Figure 2: Zoning Map for the subject Site**

The surrounding development is a mix of commercial and residential uses, including Canterbury Railway Station and Canterbury Town Centre. The subject site is located in the lower portion of the town centre, with Canterbury Road sloping down at this section towards the Cooks River.



**Figure 3: The subject Site from Close Street**



**Figure 4: The subject Site from Canterbury Road**

To the north of the site (beyond the adjoining site) is the southwest rail corridor which carries both passenger and commercial trains while to the east of an existing lawn bowling club beyond which are existing residential properties. To the south of the site is Close Street which carries a low volume of traffic with existing commercial development opposite. Adjoining to the west is a four storey residential flat building on the corner of Close Street and Canterbury Road with ground level car parking underneath. Canterbury Road forms part of the western boundary which carries a high volume of traffic.

Charles Street, a side street to the northwest of the site off Canterbury road is undergoing a transformation from light industrial to mixed use high density residential area as outlined in Figure 5. This precinct has recently been rezoned under Canterbury Local Environmental Plan 2012 to residential and commercial zonings. The approved developments in the vicinity of the site are outlined above.



**Figure 5: Charles Street – undergoing transition**

**Proposal**

This current application proposes the following development:-

- Demolition of the existing buildings on the site; and
- Construction of two separate buildings (9 storey building with frontage to Canterbury Road and a part 7 and part 9 storey mixed use building with frontage to Close Street) over 3 levels of basement parking:-
  - Basement levels - three (3) basement levels comprising a total of 94 car parking spaces (including 9 disabled parking spaces), storage areas for the residential units and separate waste storage areas for the residential and commercial components of the proposal. A commercial tenancy is proposed on this level facing Close Street. Residential entry to the proposal is located between this commercial tenancy and the ramp to the basement;
  - Ground Floor – this level comprises four (4) commercial tenancies located around a public plaza (extension from the adjoining site) as well as two (2) x two bedroom with study residential units facing Close Street. Pedestrian entry for the commercial and residential components of the proposal are provided from Canterbury Road. A waste storage room is also provided on this level;
  - Levels 1 to 5 – these levels include twelve (12) units on each level comprising 1 x 1 bed unit, 3 x 1 bed units with study, 2 x 2 bed units and 6 x 2 bed units with study. These levels comprise an L- Shape over a common basement;
  - Level 6 comprises a total of eight (8) units comprising 3 x 1 bed units with study, 2 x 2 bed units and 3 x 2 bed units with study over the Canterbury Road block only. Roof terrace communal open space is provided on the Close Street frontage portion of the building; and
  - Levels 7 and 8 comprise seven (7) units on each level including 3 x 1 bed units with study, 1 x 2 bed unit and 3 x 2 bed units with study over the Canterbury Road block only.
  - Level 9 of the building fronting Canterbury Road provides for roof terrace communal open space.

The total development involves 84 residential apartments comprising 29 x 1 bedroom units (including those with a study) and 55 x 2 bedroom units (including those with a study) Vehicular access is provided from Close Street and allows vehicular access through to No 212-218 Canterbury Road, being the adjoin site to the north-west and Stage 2 of this proposal.

**Statutory Considerations**

When determining this development application, the relevant matters listed in Section 79C of the *Environmental Planning and Assessment Act, 1979* (EP&A Act), must be considered and the following environmental planning instruments, development control plans, codes and policies are relevant:

- (a) State Environmental Planning Policy (Infrastructure) 2007;
  - (b) State Environmental Planning Policy No. 55 – Remediation of Land;
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- (c) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- (d) State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;
- (e) Canterbury Local Environmental Plan 2012;
- (f) Canterbury Development Control Plan 2012;
- (g) Canterbury Town Centre Development Contributions Plan.

The proposed development has been assessed against the relevant environmental planning instruments and development controls plans below.

### Assessment

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

- **State Environmental Planning Policy (Infrastructure) 2007**

The subject site is located adjacent to a rail corridor and on an arterial road (Canterbury Road) and therefore the road and rail provisions of *State Environmental Planning Policy 2007 – Infrastructure* (Infrastructure SEPP) apply to the proposal, which are considered below.

**(a) Clause 86 – Excavation in, above or adjacent to rail corridors**

Applies to development that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land (among other things) is within 25m (measured horizontally) of a rail corridor (Cl 86(1)(b)). The concurrence of RailCorp is required (Cl 86(3)) and the consent authority must take into consideration:

- i. any response to the notice that is received within 21 days after the notice is given, and
- ii. any guidelines issued by the Director-General for the purposes of this clause and published in the Gazette.

*Comment:* The proposal involves basement parking and therefore the concurrence of RailCorp is required. The Geotechnical report addressed potential impacts on the rail corridor from excavation and concluded that vibrations generated during rock excavation should not have a negative impact on the adjacent rail corridor. The proposal was referred to RailCorp. Following review of the application, RailCorp advised that they raise no objections to the proposal subject to particular conditions relating to noise, vibration, safety, lights, reflective materials, excavation, construction, crane and other aerial operations be provided and made part of the consent should the application be approved.

**(b) Clause 87 – Impact of rail noise or vibration on non-rail development**

This Clause applies to development for a building for residential use on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration (Cl 87(1)(a)). The consent authority must take into consideration any guidelines issued by the Director-



General for the purposes of this clause and published in the Gazette (87(2)). If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- *in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,*
- *anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time. (Cl 87(3))*

*Comment:* An Acoustic report prepared by Acoustic Logic dated 15 April 2015 considered potential noise and vibration resulting from the adjoining railway on the proposal with reference to the Infrastructure SEPP and the NSW Government Department of Planning Development Near Rail Corridors and Busy Roads – Interim Guidelines 2008. This report concluded that it was consistent with these guidelines subject to recommendations in Chapter 5.

**(c) Clause 101 – Development with frontage to classified road**

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) *design of the vehicular access to the land, or*
  - (ii) *the emission of smoke or dust from the development, or*
  - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The proposal involves vehicle access from Close Street and not from Canterbury Road. The Traffic report concludes there will be no adverse impact on the surrounding road network resulting from the proposal. The proposal is for a mixed use development and it is considered there will be no smoke or dust emitted from the proposal that would adversely affect the road network. The Acoustic Report concluded that subject to the recommendations of the report, the proposal will not adversely affect the road noise.

**(d) Clause 102 – Impact of road noise or vibration on non-road development**

This Clause applies to development for (among other things) a building for residential use on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers is likely to be adversely affected by road noise or vibration (Cl 102(1)(a)).

The consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette (Cl 102(2)). If the development is for the purposes of a building for

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residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- *in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,*
- *anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time (Cl 102(3)).*

The Acoustic Report considered potential noise and vibration resulting from Canterbury Road, which is listed on the traffic volume maps for the ISEPP as a road where a noise intrusion assessment is mandatory under this clause.

This report concluded that it was consistent with the guidelines subject to recommendations.

#### **(e) Clause 104 – Traffic-generating development**

Before determining a development application for development to which this clause applies, the consent authority must give written notice of the application to the RTA within 7 days after the application is made, and take into consideration:

- (i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
- (ii) the accessibility of the site concerned, including:*
  - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
  - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
- (iii) any potential traffic safety, road congestion or parking implications of the development.*

The proposal involves more than 75 dwellings in a residential flat building and more than 75 car parking spaces and therefore falls under the requirements of Schedule 3 of the SEPP and requires referral to Roads and Maritime Services (RMS). The access point to the development is from Close Street, within 90 metres of Canterbury Road. The application was referred to the RMS and no objection was received.

The proposed access and traffic implications of the proposal have been considered in the traffic report. It is considered there are adequate arrangements for access and car parking and there will be no adverse impact on the surrounding road network.

The proposal is considered to be consistent with the Infrastructure SEPP subject to relevant conditions.

- **State Environmental Planning Policy No. 55 – Remediation of Land**

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55), 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

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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.

The proposed development involves excavation of the entire site to accommodate the basement carparking levels. Appropriate conditions relating to waste classification of excavated soils has been placed on the consent. Therefore the proposal is considered to be consistent with SEPP 55 and the land suitable for the proposed residential development.

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

The application satisfies the commitments made in BASIX Certificate 625403M dated 22 April 2015. In this regard, it is considered that the proposed development satisfies the requirements contained in SEPP BASIX 2004. The proposal is considered to be consistent with the BASIX SEPP subject to relevant conditions.

- **State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development**

This policy applies to residential flat buildings of three or more storeys and is required to be considered when assessing this application. SEPP 65 aims to improve the design quality of residential flat buildings across NSW and provides an assessment framework, the *Residential Flat Design Code* (RFDC), for assessing “good design”. Clause 50(1A) of the *Environmental Planning and Assessment Regulation 2000* requires the submission of a design verification statement from the building designer at lodgement of the development application. This documentation has been submitted.

SEPP 65 was amended via Amendment 3, commencing on 17 July 2015, which introduced various changes to SEPP 65 including the introduction of the *Apartment Design Guide* to replace the RFDC. This amendment, however, does not apply to this development application pursuant to the transitional provisions of Clause 31 of SEPP 65 as this application was lodged prior to 19 June 2015 (notification on the NSW Legislation website). However under the provisions of the Act the amendments to SEPP 65 are considered an advertised Draft EPI whilst not formally adopted are required to be considered. An assessment of the proposal against draft SEPP65 was found to be consistent with the draft policy.

SEPP 65 requires the assessment of any DA for residential flat development against the ten design quality principles contained in Clauses 9-18. It is considered that the proposal is generally consistent with these principles as outlined below:-

#### Context

The mixed-use nature of the proposed development is consistent with the future character and desired built form of the Canterbury Town Centre and is permissible in the zone. High density residential development will be a characteristic of the area within and adjacent to the business center.

#### Scale

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The scale and built form of the proposed development is consistent with the scale of development which is encouraged for this area. The development is generally consistent with the height, bulk and urban design context in this locality despite seeking a variation to the floor space ratio and building height. The height variation of between 1.6m and 2.2m is nominal and only relates to the central lift core to provide access to the roof terrace communal open spaces.

While the floor space variation is significant it is not considered to have any material effect on the perceived bulk and scale of the overall development when viewed from the street. The lower retail level is setback 3m with landscaping and activates the street through the glass façade of the commercial tenancy reducing any perceived bulk impact at the human interface. Furthermore, these variations will not create any unreasonable overshadowing, privacy or amenity impacts for occupants of the surrounding locality. On this basis, the proposal is considered to be acceptable and is consistent with Council's vision for the Canterbury Town Centre.

#### Built Form

The proposal achieves a built form which is generally consistent with the site controls and objectives listed under Clause 3.1 of Canterbury Development Control Plan (CDCP) 2012.

The ground level retail and upper level podium present a strong vertical theme that reinforces the commercial streetscape of both Charles Street and Canterbury Road by activating the street edge with shops and cafés/commercial uses and a large supermarket. The street awning reinforces the link to the existing streetscape and enhances the quality of the pedestrian environment. The development also presents to Charles Street as a large multi-unit development, albeit with a clear entry point for vehicular and unloading access.

Suitable courtyards and landscaping have been incorporated within the design at the podium level and around the perimeter of the northern and eastern sections of the site to enhance the visual appearance of the streetscape, and complement future development. The proposal achieves the built form objectives as it contributes positively to the streetscape and provides a high level of amenity for residents and tenants.

#### Density

The proposed development has been designed to achieve the aims and objectives of the built form controls of CLEP 2012 and CDCP 2012 and therefore represents an appropriate density for the site.

#### Resource, Energy and Water Efficiency

Beyond the energy and resource commitments required from the applications BASIX Certificate, the RFDC requires additional energy efficiency commitments which are mainly focused on cross-ventilation and solar access.

The proposal has been designed to maximize energy and resource efficiency, with all dwellings designed to promote the principles of passive solar design and natural ventilation. All living areas open directly onto balconies/courtyards and the use of covered terrace areas will provide shading during the summer months and allow sunlight to penetrate during winter. The proposed common open space

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located on the roof terrace, provides satisfactory solar access for the majority for the day in mid-winter.

#### Landscape

Landscape details are outlined on the landscape plan which has been reviewed by Council's Landscape Architect and was deemed acceptable subject to some amendments that were addressed with suitable conditions of consent. A public plaza area is proposed as well as a terraced front setback to Canterbury Road which will incorporate landscaping planting to soften the built form. The plaza area is easily accessible from the residential units and it provides an area of communal open space for the enjoyment of the occupants set away from the main road. The roof terrace communal areas have also been appropriately landscaped.

#### Amenity

The proposal achieves satisfactory residential amenity by providing reasonable room sizes and shapes. As a "rule of thumb", buildings should not exceed 18m in depth in order to allow sunlight to penetrate the building into each unit and provide adequate cross ventilation. The residential units exceed the maximum depth of 8m, however, it is considered that adequate light and ventilation is still provided to the units. Natural ventilation and solar access controls of the RFDC are met by the proposal. The proposed apartments adopt well designed spaces with comfortable room dimensions, with outlooks towards the remainder portions of the Canterbury town Centre. High Ceilings and large openings will ensure light and air penetrates deep into the floor plan.

#### Safety and Security

Satisfactory provision for security is provided with enclosed entry areas to lobby for access to the dwellings and the upper levels. The proposal provides direct entry and presentation to the street, with balconies and windows overlooking all setbacks to maximize opportunities for casual surveillance. The entry areas are well defined and adequate lighting can be provided. There are no obvious areas for concealment (although the waste storage area on the ground floor is a potential entrapment site) and there is clear distinction between public and private spaces. Some level changes and divisions between private and communal zones provide clearly defined zones within the common open space.

#### Social Dimensions and Housing Affordability

The mixed use development will add to the range of dwelling size options within the Canterbury LGA and will optimise the provision of housing to suit the social mix. The development also provides 9 adaptable dwellings in the development. The increase in housing choice in close proximity to the railway station and town centre achieves the objectives of the planning controls.

#### Aesthetics

The design of the proposal in terms of density and upper level setback are non-compliant however is considered consistent with the objectives of Canterbury LEP 2012 and Canterbury DCP 2012. This proposal, in its current form, will contribute positively to the Canterbury Town Centre. The scale, density and built form is larger than when measure against height and FSR controls however it is not envisaged that the development will have a negative long term impact on the Town Centre. Additionally the proposed building reflects the similar

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setbacks approved by the JRPP (DA-579/2013) in the building located opposite on Canterbury Road known as 2A Charles Street.

#### Residential Flat Design Code

The matters contained in the RFDC must also be considered. An assessment of the proposal under the provisions and “Rules of Thumb” in the RFDC indicates that the proposal is generally consistent with the recommended design standards, with the exception of building depth, deep soil zones and the size of communal open space areas. The building depth and common open space controls are considered in the assessment of the Canterbury DCP 2012 below which are satisfactory for the proposed development. With respect to deep soil zones, these are not required, nor appropriate, in this town centre location. The proposal is therefore considered to be consistent with the requirements of the RFDC.

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

The site is zoned B2 – Local Centre pursuant to Clause 2.2 of the Canterbury Local Environmental Plan 2012 (CLEP 2012). The land use table in Clause 2.3 states the following zone objectives:-

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To facilitate and support investment, economic growth and development for active, diverse and well-designed centres.*

The proposal is considered to be consistent with these objectives given there are several commercial tenancies proposed at ground level which will ensure there are a range of retail, business and other uses provided on the site. A range of units are proposed which will improve housing choice in the area.

The proximity to Canterbury Railway Station and town centre will ensure employment opportunities are provided in an accessible location, that public transport is maximized and that investment and development is provided within the town centre. Shop top housing and commercial premises are permissible with consent and therefore the proposal is permissible.

The controls applicable to this application are outlined in Table 1.

<b>Table 1: Canterbury LEP 2012 — Compliance Table</b>			
<b>Cl</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Comply</b>
<b>2.6</b>	<b>Subdivision—consent requirements</b> Land to which this Plan applies may be subdivided, but only with development consent.	The proposal does not involve subdivision.	<b>N/A</b>
<b>2.7</b>	<b>Demolition requires development consent</b> The demolition of a building or work may be carried out only with development consent.	Demolition is proposed.	<b>✓</b>
<b>4.3</b>	<b>Height of buildings</b> The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The subject site has 2 different max heights:- Lots fronting Canterbury Road – 27 metres; Lot fronting Close Street – 21 metres.	Max height - 21 metres (Close St block) exceeds the height by 1.6m and 27 metres (Canterbury Road block) exceeds to height by 2.2m.	<b>No refer to Cl4.6 variation</b>

Table 1: Canterbury LEP 2012 — Compliance Table			
CI	Requirement	Proposal	Comply
4.4	<b>Floor space ratio</b> The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. The subject site has 2 different max FSRs:- <ul style="list-style-type: none"> <li>• Lots fronting Canterbury Road (area = 514.2m<sup>2</sup>) – 3:1 – (1,542.6m<sup>2</sup>)</li> <li>• Lot fronting Close Street (area = 1103.9m<sup>2</sup>) – 2.75:1 – (3035.7m<sup>2</sup>)</li> </ul>	GFA proposed = 7060m <sup>2</sup> ; FSR – 4.36:1 (54.2% variation). Max permissible GFA = 4578.3m <sup>2</sup> Proposed additional GFA = 2,481.7m <sup>2</sup>	<b>No</b> <b>Refer to</b> <b>CI4.6</b> <b>variation</b>
5.10	<b>Heritage conservation</b> Consider potential impact on land on which a heritage item is located, or on land that is within a heritage conservation area, or on land that is within the vicinity of land referred to above.	<p>There are no heritage item on the site, however, there are several items (Items I166, I167, I168) associated with the railway, old post office and a hotel. These items are located on the opposite side of the railway line and to the northeast of the site.</p> <p>In this regard, the development is contained wholly within the site and will not have a material impact on the adjacent Heritage item. It is considered there is sufficient distance to these items, that there will be no adverse impact on these items resulting from the proposal.</p> <p>The proposal is consistent with the objectives of Clause 5.10 of the LEP in that the heritage significance of the item is conserved as is the environmental heritage of Canterbury.</p>	✓
6.1	<b>Acid sulfate soils (ASS)</b> Consent is required on Class 5 land for:- Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	<p>The Geotechnical Report prepared by STS dated March 2015 concluded that the subsurface conditions present on the site are not consistent with the geomorphic and site criteria conditions for ASS. ASS are not evident on the site and that no ASS were observed in the boreholes.</p> <p>The report further stated that based on the monitoring of the groundwater levels, it appears the groundwater present is within the sandstone bedrock which is relatively impermeable. Therefore, water flow into the basement excavation is not expected to be excessive. Any dewatering of the excavation that may be required is highly unlikely to affect any ASS's that may be present in the nearby area. The report concluded that an ASS Management Plan will not be required for the proposal.</p>	✓
6.2	<b>Earthworks</b> Consent is required for earthworks and must consider:- <ol style="list-style-type: none"> <li><i>the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</i></li> <li><i>the effect of the development on the likely future use or redevelopment of the land,</i></li> <li><i>the quality of the fill or the soil to be excavated, or both,</i></li> <li><i>the effect of the development on the existing and likely amenity of adjoining properties,</i></li> <li><i>the source of any fill material and the destination of any excavated material,</i></li> <li><i>the likelihood of disturbing relics,</i></li> <li><i>the proximity to, and potential for adverse</i></li> </ol>	<p>The Geotechnical Report stated that the proposal would require excavating between about 5 and 12 metres below the ground surface with the deeper excavation being at the north eastern end of the site and the shallower adjacent to Close Street.</p> <p>This report concluded that the proposal was satisfactory subject to the recommendations. Appropriate conditions are to be imposed.</p>	✓

Table 1: Canterbury LEP 2012 — Compliance Table			
Cl	Requirement	Proposal	Comply
	<i>impacts on, any waterway, drinking water catchment or environmentally sensitive area,</i> (h) <i>any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i>		
6.4	<b>Stormwater management</b> 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.	A stormwater plan has been provided and Council's engineers raise no objection to this plan.	✓
6.6	<b>Essential services</b> Consent must not be granted to development unless services essential for the development are available or adequate arrangements made (water, electricity, sewerage, stormwater drainage, vehicular access.	There are adequate services on the site for the proposed development.	✓
6.7	<b>Mixed use development in business zones</b> This clause applies to land in B1 Neighbourhood Centre, Zone B2 Local Centre, and Zone B5 Business Development. Despite any other provision of this Plan, development consent may be granted to a mixed use development, on land to which this clause applies, incorporating residential accommodation and a medical centre.	This clause applies to the proposed development. This clause allows the proposal.	✓

### Clause 4.6 Variation

The objectives of clause 4.6 are to provide some level of flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development in particular circumstances. As such, consent may be granted for development which would contravene development standards, in this case non-compliant height and FSR, as specified in clauses 4.3 and 4.4 of the Canterbury Local Environmental Plan (Height of Buildings Map) and (Floor Space Ratio Map).

However, consent can only be granted for development which contravenes a development standard if the consent authority has considered a written request from the applicant to do so. Pursuant to provision of Clause 4.6(3) the written statement must demonstrate that compliance with the development standard is unreasonable and that there are sufficient environmental grounds to justify contravening the development standard. These matters are separately discussed below.

### Height



The development seeks a variation to Clause 4.3(2) of CLEP 2012 relating to the height of buildings for the subject site.

Specifically, the site comprises two height zones, comprising proposed maximum of the portion off the site fronting Canterbury Road as 27m and the portion of the site fronting Close Street being 21m. The building exceeds the 27m height limit by a maximum of 2.2m and exceeds the 21m height limit by 1.6m.

In accordance with Clause 4.6(3), for Council to consent to an exception to a development standard it must have considered a written request from the applicant that seeks to demonstrate that:

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

The applicant has submitted a justification in accordance with Clause 4.6(3) of CLEP 2012 regarding the non-compliance of the development standard and is summarised below:

- *The reinvigoration of a low use site with a new vibrant modern building, that although marginally greater in height respects its surrounding s and reduces its impact on nearby residential properties.*
- *The increased height derives from the provisions of access to the rood top communal open space, with these facilities adding to the amenity of future residents and providing a belter outcome in terms of liveability*
- *The greater height is not readily evident from the public domain. The central location of the lift and stairs reduce their visibility from the public domain. This setback is further strengthened by the stepping of the two upper floors of the building*
- *The lack if impact in terms of privacy, solar access and amenity form the proposal and its respect of the existing residential properties.*
- *The matter of the roof top open space facilities breaching building height limits has been considered by Council in relation to a number of recent DA's and accepted on the basis of improved amenity these facilities provide for the future residents.*

Pursuant to Clause 4.6(4)(a) consent cannot be granted unless Council is satisfied that:

- “ (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*  
(ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,*”

The submitted Clause 4.6 variation focuses on how the proposal is consistent with the objectives of the height clause ultimately applying the tests established in *Wehbe v Pittwater Council* [2007] NSWLEC 827 relating to SEPP No. 1

Objections to justify why compliance with the Standard is unreasonable and unnecessary and indicated that the standard has been abandoned in light of other approval variations.

It is considered that the proposal meets the intent of the objectives of the height standard in that the variation will have no significant adverse environmental or amenity impacts as a result of the height, bulk and scale of the proposed development and will be consistent with the desired future character of the area as sought by CDCP 2012.

Additionally the buildings appear as 9 storey and 7 storey form (as envisaged by the 27m and 21m height limits) and the provision of the central lift core within the rooftop provide appropriate lift/stair access to the roof top communal open space, without compromising the stated underlying objectives of the building height controls. This is a preferred environmental planning outcome as compared to the removal of these facilities from the development

Further *Four2Five Pty Ltd v Ashfield Council* relates to a consideration of a clause 4.6 departure to a building height development standard. The court indicated that merely showing that the development achieves the objectives of the development standard will be insufficient to justify that a development is unreasonable or unnecessary in the circumstances of the case for the purposes of an objection under Clause 4.6, (and 4.6(3)(a) in particular). Further, the requirement in clause 4.6(3)(b) to justify that there are sufficient environmental planning grounds for the variation, may well require identification of grounds particular to the circumstances of the proposed development - as opposed merely to grounds that would apply to any similar development on the site or in the vicinity.

The particular circumstances of this development are considered to be the provision of the rooftop common open space area. The height departure is a result of the desire to provide appropriate lift and stair access to this area to facilitate its use by future residents. Compliance with the control could be achieved by removing the communal open space however there is not sufficient space or solar access available to the remaining areas of common open thereby reducing the amenity to the future resident. Further, the removal of communal open space access would be a burden placed on the amenity of the future occupants that is far greater than any benefit that could be achieved by insisting on strict compliance.

The height variation has been considered and is satisfactory and appropriate in terms of the objectives of the height standards contained in Clause 4.3(1) of CLEP 2012. In this instance, compliance with the standard is deemed to be unreasonable and unnecessary. Further, it is noted that necessary documentation in accordance with Clause 4.6 of CLEP 2012, justifying the proposed variation, has been submitted and is supported.

Pursuant to the provision of Clause 4.6(4)(b) the concurrence of Secretary is assumed having regard to previous advice received from the Department of Planning and Infrastructure in Circular PS-08-003.

FSR

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The development seeks a variation to Clause 4.4(2) of CLEP 2012 relating to the floor space ratio for the subject site.

Specifically, the site comprises two floor space ratio zones, comprising proposed maximum FSR's for the site of 3:1 and 2.75:1. The resulting maximum permissible gross floor area (GFA) on the site is 4,578.3m<sup>2</sup>. The proposal involves a GFA of 7,060m<sup>2</sup> with an FSR of 4.36:1, representing an additional 2,481.7m<sup>2</sup> over the maximum permissible floor space. This is a 54.24% variation from the maximum permissible FSR.

The applicant has submitted a justification in accordance with Clause 4.6(3) of CLEP 2012 regarding the non-compliance of the development standard and is summarised below:

- *Greater internal floor areas for the units are provided than prescribed under the RFDC increasing residential amenity;*
- *The resultant building is within the permissible building envelope with the variation not resulting in the bulk and scale of the building increasing nor creating impacts in terms of shadow or loss of solar access greater than that expected under the relevant planning framework;*
- *The proposal provides for a reinvigoration of the site.*
- *The proposal provides an outcome envisaged by the planning controls to seek an increase in residential development close to the railway;*
- *A proposal which achieved numerical compliance would not alter the overall height and bulk of the building when viewed from the public domain.*
- *The proposal will increase housing choice and affordability in the area;*
- *A compliant proposal would reduce the available units in the area and would not result in the orderly and economic development of land.*
- *The building will "fit" within its future locational setting with the surrounding buildings.*
- *The proposal satisfies the objectives of the FSR development standard and Clause 4.6.*
- *The number of units could be reduced as could the internal size of the units. As proposed, 44 of the proposed 88 units (52.3%) are larger than the minimum RFDC rule of thumb, so reductions to achieve FSR compliance would simply reduce the number of units and their internal amenity, which would be a disbenefit to future residents.*

Pursuant to Clause 4.6(4)(a) consent cannot be granted unless Council is satisfied that:

- “
- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,”*

The submitted Clause 4.6 variation focuses on how the proposal is consistent with the objectives of the FSR clause ultimately applying the tests established in

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*Wehbe v Pittwater Council* [2007] NSWLEC 827 relating to SEPP No. 1 Objections to justify why compliance with the Standard is unreasonable and unnecessary and indicated that the standard has been abandoned in light of other approval variations.

The proposal meets the intent of the objectives of the floor space ratio standard in that the variation will have no significant adverse environmental or amenity impacts as a result of the height, bulk and scale of the proposed development and will be consistent with the desired future character of the area as sought by CDCP 2012.

Further *Four2Five Pty Ltd v Ashfield Council* relates to a consideration of a clause 4.6 departure to a building height development standard. The court indicated that merely showing that the development achieves the objectives of the development standard will be insufficient to justify that a development is unreasonable or unnecessary in the circumstances of the case for the purposes of an objection under Clause 4.6, (and 4.6(3)(a) in particular). Further, the requirement in clause 4.6(3)(b) to justify that there are sufficient environmental planning grounds for the variation, may well require identification of grounds particular to the circumstances of the proposed development - as opposed merely to grounds that would apply to any similar development on the site or in the vicinity.

The particular circumstances of this development are considered to be the provision to mimic the approved built form opposite on Canterbury Road (DA-579/2013) to create a significant gateway entrance to Canterbury's southern town center.

The proposed design will enhance the streetscape quality and provide a suitable gateway entrance to the southern portion of the Canterbury Town Centre. The floor space ratio variation is also unlikely to have any unexpected or undue impact on the amenity enjoyed by residents of surrounding properties in terms of its height, bulk, scale, overshadowing, privacy impacts, view loss or visual impact.

The applicant also submitted an independent urban design review of the built form prepared by AE Design Partnership. The urban design review states the following:

*In accordance with clause 3.2.6 of the Canterbury DCP 2012 (and the Canterbury Town Centre Structure Plan), the proposed built form will emphasize the site as a foreground treatment location, strengthening the legibility of the urban structure and creating an emphasis on the gateway to the Canterbury Town Centre.*

*The visual impact of the upper level setback control (clause 3.2.6 of the Canterbury DCP 2012), which mandates a further setback above the 4th level is negligible when passing through Canterbury Road from ground level. If necessary, the applicant is willing to provide a change of building materials and finishes to emphasize the podium of the building. Overall, the proposal is compatible with the development on adjoining sites and will facilitate the desired future character of the Canterbury Town Centre.*

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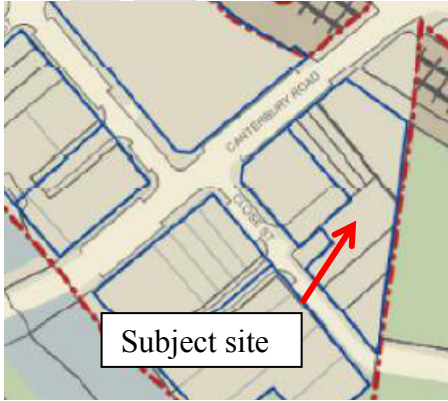


The floor space ratio variation has been considered and is satisfactory and appropriate in terms of the objectives of the standards contained in Clause 4.4(1) of CLEP 2012. In this instance, compliance with the standard is deemed to be unreasonable and unnecessary. Further, it is noted that necessary documentation in accordance with Clause 4.6 of CLEP 2012, justifying the proposed variation, has been submitted and is supported.

Pursuant to the provision of Clause 4.6(4)(b) the concurrence of Secretary is assumed having regard to previous advice received from the Department of Planning and Infrastructure in Circular PS-08-003.

- **Canterbury Development Control Plan 2012 (CDCP2012)**

The controls of the CDCP 2012 relevant to the current proposal include Part 3: Business Zones and Part 3.1: Business Centres (Appendix 3.2 Canterbury Town Centre), which are addressed in Table 2. The relevant controls in Part 6, including 6.1 (Access), 6.2 (Climate and energy), 6.3 (crime prevention), 6.8 (traffic) and 6.9 (waste) are considered in Table 3. The controls in Parts 6.4 (Engineering) and 6.6 (Landscaping) are outlined on the relevant plans and considered by Council's referral officers.

Table 2: Canterbury DCP 2012: PART 3 – BUSINESS ZONES – Compliance Table			
CI	Requirement	Proposal	Comply
<b>3.1.2 Site amalgamation &amp; minimum frontage</b>	<ul style="list-style-type: none"> <li>Min frontage – 12m – 18m (B1/B2 zone);</li> </ul>	The site has a minimum frontage to Canterbury Road of 10.95m and a 13.6m frontage to Close Street. The minimum frontage is achieved to Close Street.	Yes
	<ul style="list-style-type: none"> <li>Min lot (Canterbury Town Centre) - 1500m<sup>2</sup></li> </ul>	The overall site area is 1,586.2m <sup>2</sup> . Combined with the adjoining development, the overall proposal generally satisfies the minimum area and frontage.	Yes
	<ul style="list-style-type: none"> <li>Amalgamated sites (Figure 3.1) - see below</li> </ul> 	<p>The subject site and the adjoining site forming Stage 2 combine to include the majority of the lots in the required amalgamation pattern. No 244 Canterbury Road will become isolated as a result of this application.</p> <p>The lots at the southern end of this amalgamation pattern comprise No 6-8 Close Street which have development consent for a shop top housing redevelopment in accordance with the LEP controls (see background section).</p>	<b>No refer to Note 1</b>
<b>3.1.4 Site Isolation</b>	New development should not result in isolation of a neighbouring property that could not accommodate redevelopment.	There will be site isolation as outlined above in relation to No 224 Canterbury Road Canterbury.	<b>No refer to Note 1</b>
<b>3.1.5</b>	Max height >5 storeys, comprehensive redevelopment	Max height >5 storeys.	N/A

**Table 2: Canterbury DCP 2012: PART 3 – BUSINESS ZONES – Compliance Table**

CI	Requirement	Proposal	Comply
<b>Retention of facades</b>	is permitted and facades do not need to be retained.		
<b>3.1.6 Height</b>	Building height - refer CLEP max height (27m).	Max height - 21 metres (Close St block) exceeds the height by 1.6m and 27 metres (Canterbury Road block) exceeds to height by 2.2m.	<b>No refer to CI4.6 variation</b>
	Min 3.3m floor to ceiling height for ground floor	3.5m	Yes
	Min 2.7m floor to ceiling height for residential floors	2.7m	Yes
	Min 2.8m ceiling height car parking floor	3.0m	Yes
<b>3.1.7 Depth/ footprint</b>	Residential - max 18m depth from glass line to glass line	14.6m-24.1m. The main area of non-compliance is in the north-eastern corner and in the Canterbury Road block.	<b>No Refer Note 2</b>
	Commercial/retail – Depth 10m - 24m	9.79m – 21.49 metres	Yes
	Max length of any wall - 50m (may be longer with 9m x 9m indent deep soil area).	There are no walls >50 metres.	Yes
<b>3.1.8 Setback (B2 along C'bury Rd)</b>	No of storeys at street - 1- 4 storeys	There is no setback of any of the floors such that the building is 9 storeys at the street.	<b>No Refer Note 3</b>
	Min setback 3m from street boundary	Setback 3 metres at street boundary, with encroachment only of awnings over the ground floor commercial (see below). Balconies provide only minor setback along the front building façade.	Yes
	Upper level setback - Above 4 storeys additional 5m.	There is no setback of any of the floors such that the building is 9 storeys for the entire building.	<b>No Refer Note 3</b>
	Do not present a flat façade along the setback line - provide articulation and variation.	There is no variation in terms of the face of the building with some articulation provided only by balconies.	<b>No Refer Note 3</b>
	No side setback in the B1 or B2 zones when desired character is for a continuous street frontage.	Nil side setback appropriate in this town centre location.	Yes
<b>3.1.9 Building separation</b>	Up to 3 storeys = 6m min 4 storey = 12m min 5 to 8 storey = 18m 9 + = 24m Zero building separation can be used in appropriate contexts, such as in a main street, to maintain a street wall building type with party walls.	The two wings of the buildings on the site are 18 metres apart (no habitable rooms or balconies facing each other), with habitable balconies being 18 metres apart within the site. The proposed building is 12 metres from the adjoining building to the west at No 226. The proposal is on a nil setback to the proposed adjoining building to the east which is part of this overall development. There is also an adjoining building to the south along Close Street (No 6-8) which is located on a nil side setback similar to the proposal.  A nil side boundary setback is acceptable in this location, with the open plaza area providing	Yes

**Table 2: Canterbury DCP 2012: PART 3 – BUSINESS ZONES – Compliance Table**

CI	Requirement	Proposal	Comply
		adequate light and ventilation.	
<b>3.1.10 Exceptions to setbacks</b>	Minor building elements may project into minimum setback area - underground parking, awnings and balconies and bay windows.	The awning over the ground floor commercial is proposed to project into setback.	Yes
<b>3.1.11 Public domain</b>	Incorporate public pedestrian through-site movement, public open space, and other public domain improvements as shown on the public domain diagrams.	Addressed in the Canterbury town centre controls below.	-
<b>3.1.12 Car parking</b>	Car parking and bicycle spaces -Part 6.8. Integrate basement parking, restrict to building footprint; Basement podium not to protrude >1m above existing ground.	The basement is integrated into the design of the building and is generally below ground level, except for the basement ramp.	Yes
	New vehicle access not permitted from Canterbury Road, Limit vehicular access points, provide separate vehicle and pedestrian entries, Optimise opportunities for deep soil, active street frontages, and good streetscape design, minimise loss of street parking. Maximum 6m width for access driveways.	There is no vehicle access form Canterbury Road and there is separate vehicle and pedestrian access. There is no deep soil planting, which is satisfactory in a town centre, although landscaping is integrated into the site as podium planting. Access driveway is 5.5m wide.	Yes
	Integrate car parking, vehicle ramps, driveways and entries, ventilation grills and screens into the overall facade and landscape design. Locate parking entries on secondary streets, rear lanes or internal driveways where possible.	The basement is below ground and integrated into the design. The vehicle entry point is from Close Street (via adjoining development).	Yes
	Minimise impacts on adjoining residences of noise, exhaust fumes and headlight glare.	There will be minimal impacts to residential development from vehicles using the basement since the land opposite the site in Close Street is also part of the B2 zone (commercial at ground level).	Yes
	Keep all loading docks, parking areas and driveways clear of goods and do not use for storage, including garbage storage.	There is adequate provision for these areas clear of the manoeuvring area in basement.	Yes
	Signposting and line marking in accordance with AS 2890.1.	This will be included in consent conditions (where applicable).	Yes
<b>3.1.13 Basement parking</b>	<u>Basement parking and ramps</u> <ul style="list-style-type: none"> <li>Secure bicycle parking easily accessible from ground level, from apartments and other uses on site.</li> <li>Provide shared multi-use parking and access driveways where possible:</li> <li>Separate long term (resident &amp; employee) and short-term (shopper &amp; visitor) parking, separate parking for residential and non-residential users (secure access to long-term parking).</li> <li>Ensure safe and efficient lift access from all parking.</li> </ul>	Bicycle parking is provide in basement and commercial spaces are confined to top floor of basement away from majority of resident spaces. Lift access is provided to all levels from the basement.	Yes
	<u>Basement parking appearance</u> <ul style="list-style-type: none"> <li>Improve appearance - recess car park entries from main building façade alignment,</li> <li>Avoid black holes in the facade</li> <li>Return facade material into the car park entry recess for the extent visible from the street, and use materials similar to the façade on any interior of the car park that is visible from the street – conceal services, pipes and ducts.</li> </ul>	The proposed basement is underground and access is via the adjoining site. The basement tis integrated into the design of the development.	Yes

**Table 2: Canterbury DCP 2012: PART 3 – BUSINESS ZONES – Compliance Table**

CI	Requirement	Proposal	Comply
<b>3.2.1 Context</b>	Building form and design do not have to mimic traditional features, but should reflect these in a contemporary design.	The proposal is of contemporary design.	Yes
<b>3.2.2 Street address</b>	<b>Entries</b> <ul style="list-style-type: none"> <li>Locate entries so they relate to existing street etc.</li> <li>Provide awning over entry to contribute to legibility of development and public domain.</li> <li>Provide accessible entries for all potential use such as furniture.</li> <li>Provide entries to upper levels in business centres, from the street front facade to encourage activities on ground floor and service activities to rear of buildings.</li> </ul>	The entry is identifiable on the street frontage and there is an awning proposed at ground level. The residential entry is visible from the street and will allow for use at all levels for various purposes.	Yes
	<b>Habitable rooms</b> <ul style="list-style-type: none"> <li>Face habitable rooms towards the street, private open space, communal space, internal driveway or pedestrian ways in order to promote positive social interaction and community safety.</li> </ul>	There are numerous balconies facing the street as well as entry points overlooked by the units. There is a public plaza area which is overlooked by the units.	Yes
<b>3.2.3 Facade design &amp; articulation</b>	<ul style="list-style-type: none"> <li>Avoid long spans of blank walls along street frontages and address both street frontages with façade treatment, and articulation of elevations on corner sites.</li> <li>Incorporate contrasting elements in the façade - use a harmonious range of high quality materials, finishes and detailing.</li> <li>Express building layout or structure in the façade - architectural features such as columns, beams, floor slabs, balconies, wall opening and fenestration, doors, balustrades, roof forms and parapets are elements that can be revealed or concealed and organised into simple or complex patterns.</li> <li>Design facades to reflect the orientation of the site using elements such as sun shading devices, light shelves and bay windows.</li> <li>Modulate wall alignment with a step in of min 1m.</li> </ul>	<p>There are no blank walls facing the street, with a façade along the street broken up to some degree by balconies and windows. There is stepping of the building form throughout however the alignment of the balconies reduce the effect of the stepping.</p> <p>However there is a vast array of materials and colours used to minimise bulk and scale of the building.</p> <p>There are contrasting elements in the façade including a variety of materials, finishes and recesses in the form of balconies and windows.</p>	<b>No Refer Note 4</b>
	<p>Where there is no characteristic built form</p> <ul style="list-style-type: none"> <li>Modulate facades with a scale and rhythm that reflects the intended use of the building, and the desired context as expressed on the building envelope diagrams.</li> </ul>	As above.	
<b>3.2.4 Façade details</b>	<b>Solid and void ratio</b> <ul style="list-style-type: none"> <li>Balconies and voids not to dominate publicly visible facades.</li> <li>Use a solid to void ratio in the vicinity of 50%, with each facade measured independently. Disharmony arises when the range of solid to void is extreme, such as fully glazed facades or those with multibalcony 'egg crates'.</li> <li>Voids include fenestration, balconies, porches and loggias.</li> <li>Do not include shopfronts in the 50% solid to void ratio calculation.</li> </ul>	<p>There is an equal ratio of solid to void within the façade of the primary street frontage.</p> <p>There are voids in the front facade for balconies and entries.</p> <p>The façade is satisfactory, however, the outer edge of the building needs further stepping as outlined above.</p>	Yes

**Table 2: Canterbury DCP 2012: PART 3 – BUSINESS ZONES – Compliance Table**

CI	Requirement	Proposal	Comply
	<p>Balconies</p> <ul style="list-style-type: none"> <li>Use balconies in moderation and integrate them into overall composition of façade - do not use a monotonous or repetitive configuration of balconies.</li> <li>Where possible place balconies facing an internal courtyard and do not place all balconies on an external façade.</li> <li>Use balcony types that respond to the street context, building orientation and residential amenity.</li> <li>Use lightweight materials and construction for balconies.</li> <li>Construct balcony balustrades with glass panels, open metal framing, board or sheet cladding, rather than entirely of masonry, or break up significantly blank walls of masonry with panels.</li> </ul>	Balconies are spread over various facades, including the front/street and the internal facades. There is a mix of painted surfaces and masonry for balcony balustrades and the balconies overlook the public plaza areas.	Yes
	<p>Windows</p> <ul style="list-style-type: none"> <li>Locate and proportion windows to minimise scale and bulk of new building:</li> <li>Large windows are most-effective when they are located at the corners of a building, or if they are designed as projecting bay windows,</li> <li>Screen major windows with blinds, louvre screens, awnings or pergolas.</li> </ul>	There are a variety of windows proposed along the various facades.	Yes
<b>3.2.5 Shopfront</b>	<ul style="list-style-type: none"> <li>Windows on street frontage are transparent (not mirrored) to provide visibility between interior and exterior spaces, allow for surveillance of street and provide interest for pedestrians:</li> <li>Do not place external solid roller shutters or brick walls on shopfronts (transparent or open grille shutter (design and materials to be satisfactory to Council) behind glass shopfront if required).</li> <li>Consider alternatives to shutters such as the installation of a security alarm, a well-lit shopfront, and security patrols as a deterrent to criminal activity:</li> <li>Where the shop use will not require a window shop display, consider folding or sliding glass doors that incorporate expanding security doors or grilles behind the glass doors:</li> </ul>	Shopfronts are proposed along the Canterbury Road and Close Street frontage of the development as well as along the facade within the public plaza area.	Yes
<b>3.2.6 Corners, gateway sties &amp; foreground treatments</b>	<ul style="list-style-type: none"> <li>Gateway and foreground treatment sites are shown on the envelope diagrams in Part 3.1.</li> <li>Emphasise important corners and gateways to centres with foreground treatments that are visually prominent against the background built form, in order to improve understanding of each centre - use stronger foreground treatments for gateway buildings.</li> <li>Use corner features, wrap around balconies, vertical elements, changes in materials or colours and the like to emphasise corner buildings – vertical corner features do not exceed 1.5m above the maximum height of the building, or 2m for gateway sites.</li> <li>Variation to the front setback requirements may be considered to emphasise a corner or gateway building.</li> <li>Retention of characteristic facades precedence</li> </ul>	<p>Refer below for gateway treatment on this site pursuant to Part 3.2 of the DCP.</p> <p>The site is not a corner site.</p> <p>Front setback is satisfactory.</p> <p>Façade retention not required.</p>	Yes



**Table 2: Canterbury DCP 2012: PART 3 – BUSINESS ZONES – Compliance Table**

CI	Requirement	Proposal	Comply
	over emphasising corner, gateway sites.		
<b>3.2.7 Frontage types</b>	<p>Cantilevered Awning</p> <ul style="list-style-type: none"> <li>• Façade of building is built to front street boundary. An awning cantilevered from building facade just underneath the first floor overhangs the footpath by 3m. The footpath is covered so that pedestrians are able walk underneath the awning.</li> <li>• Awning height is in the range of 3.2m - 4.2m from natural ground level.</li> <li>• Place awning so that it complements the height, depth and form of the desired character or existing pattern of awnings, and provides sufficient protection from sun and rain.</li> </ul>	<p>An awning cantilevered from the first floor overhangs both street frontages and has a height of around 3.5 metres. This is the most appropriate form for the street given its location within a town centre.</p>	Yes
<b>3.2.8 Roof design</b>	<ul style="list-style-type: none"> <li>• No steeply pitched roofs that accentuate bulk – use roof pitch of 10° or less.</li> <li>• Emphasise building articulation with roof shape and alignment.</li> <li>• Relate roof design to size and scale of building, elevations and three dimensional building form – including design of any parapet or terminating elements, and the selection of roof materials.</li> <li>• Respond to site orientation of the site.</li> <li>• Relate roof design to desired built form and context (articulating the roof, or breaking down its massing on large buildings, to minimise the apparent bulk).</li> <li>• Using special roof features (elevated roof elements, which relate to the desired character of an area, to express important corners.</li> <li>• Integrate service elements into roof (lift over-runs, service plant, chimneys, vent stacks, telecommunication infrastructure, gutters, downpipes and signage).</li> <li>• Roof - sustainable functions (RWT, solar).</li> </ul>	<p>The proposal involves a flat roof which is appropriate in this context.</p> <p>Building articulation emphasised by the shape of the roof.</p> <p>There is no equipment on the roof which detracts from the design of the building. There is no proposed use of the roof for any sustainable features.</p>	Yes

**Table 2: Canterbury DCP 2012: PART 3 – BUSINESS ZONES – Compliance Table**

CI	Requirement	Proposal	Comply
<b>3.2.9 Services and utility areas</b>	<ul style="list-style-type: none"> <li>Integrate services and utility areas with design of whole development.</li> <li>Screen air conditioning units behind balcony balustrades, Provide screened recesses for water heaters rather than surface mounting them on exterior walls,</li> <li>Locate meters in service cabinets.</li> <li>Provide communal rooftop antennas.</li> </ul> <p>Mailboxes</p> <ul style="list-style-type: none"> <li>Discretely located mailboxes at front of the property in accordance with Australia Post standards.</li> </ul> <p>Siting solar hot water systems</p> <ul style="list-style-type: none"> <li>Locate system so it is not visible from the street or other public places.</li> </ul>	The services are integrated into the design of the development and where not shown on the plans appropriate conditions are recommended. Mailboxes can be provided.	Yes
<b>3.3.1 Visual privacy</b>	<ul style="list-style-type: none"> <li>Locate and orient new development to maximise visual privacy between buildings on and adjacent to the site, and to minimise direct overlooking of rooms and private open space: <ul style="list-style-type: none"> <li>Provide adequate building separation, and rear and side setbacks when appropriate,</li> <li>Orient windows of new living areas, and balconies or terraces, towards the street and rear of the lot, particularly on narrow sites, to use the street width and rear garden, or podium depth, to increase the separation distance, and avoid directly overlooking neighbouring residential properties.</li> </ul> </li> </ul>	<p>Visual privacy is maximized within and between sites given the main orientation of windows and balconies is to either street or the public plaza area in the central portion of the site. There is adequate building separation within the site and there is a lack of immediately adjoining buildings in which overlooking would be of concern.</p> <p>Visual privacy is therefore maximised by unit configuration and reasonable distances from habitable rooms between buildings</p>	Yes
	<ul style="list-style-type: none"> <li>Use balconies to screen other balconies and any ground level private open space.</li> </ul>	There is limited overlooking between balconies since the balconies are spread over the various facades of the development.	Yes
	<ul style="list-style-type: none"> <li>Separate communal open space, common areas and access routes through the development, from the windows of rooms, particularly habitable rooms.</li> </ul>	The communal area at ground level is adequately separated from habitable rooms and balconies on the upper floors.	Yes
	<ul style="list-style-type: none"> <li>Change the level between ground floor apartments with their associated private open space, and the public domain or communal open space.</li> </ul>	The ground floor units along Close Street are adequately separated from driveways and common open space.	Yes
	<ul style="list-style-type: none"> <li>Use detailed site and building design elements to increase privacy without compromising access to light and air - offsetting windows of apartments in new development and adjacent development windows, recessed balconies and/or vertical fins between adjacent balconies, solid or semi-solid balustrades to balconies, louvre or screen panels to windows and/or balconies.</li> </ul>	Windows of new living areas, and balconies suitably orientated.	Yes

**Table 2: Canterbury DCP 2012: PART 3 – BUSINESS ZONES – Compliance Table**



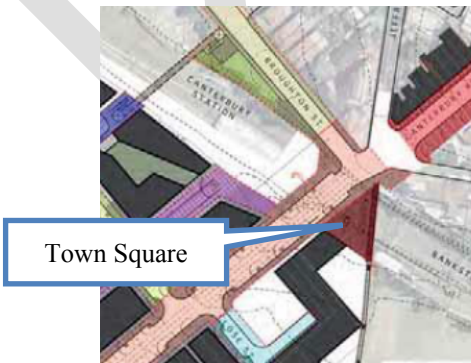
CI	Requirement	Proposal	Comply
<b>3.3.2 Acoustic privacy</b>	<u>Adjoining railway or busy road</u> <ul style="list-style-type: none"> <li>Address 'Development Near Rail Corridors and Busy Roads (Interim Guideline)', NSW Department of Planning.</li> <li>Comply with 'A Guide to Working in and Around Rail Corridors' and requirements of the Rail Infrastructure Corporation and State Rail Authority 'Interim Guidelines for Applicants – Consideration of Rail Noise and Vibration in the Planning Process'.</li> </ul>	The Acoustic report submitted with the application adequately addresses these issues with various recommendations to be incorporated as conditions of consent.	Yes
	<u>General</u> <ul style="list-style-type: none"> <li>Lower levels facing the road or rail to: <ul style="list-style-type: none"> <li>Locate windows facing the noise source and ensure that total unprotected window area is minimal (and following Building Code) so as to limit amount of airborne noise entering the built fabric,</li> </ul> </li> <li>Ensure the detailing of the window types addressing the corridors are designed and constructed to attenuate excessive noise - (double and triple glazing and insulated to manufacturers standards),</li> <li>Balcony parapet walls constructed of solid masonry or materials of similar sound attenuating qualities.</li> <li>When designing public spaces fronting busy roads and rail corridor at ground level, consider the use of elements such as moving water and screens to achieve sound attenuation.</li> </ul>	Addressed in the Acoustic report. The proposal will comply with the BCA.	Yes
<b>3.3.3 Open space</b>	<u>Balconies and private courtyards</u> <ul style="list-style-type: none"> <li>Min area – 10% of dwelling GFA (2+ bed units).</li> <li>Primary balcony - 8m<sup>2</sup> (1 bed) ;12m<sup>2</sup> (2+ beds)</li> <li>Min depth of 2m for primary balcony.</li> </ul>	<ul style="list-style-type: none"> <li>All units have balconies which are a min 10% of GFA;</li> <li>All primary balconies satisfy min sizes.</li> <li>Balconies &gt;2m deep.</li> </ul>	Yes
	<u>Private open space (POS) design</u> <ul style="list-style-type: none"> <li>Shop top housing open space may include a balcony or garden terrace on a podium level</li> <li>Provide privacy to POS - locate or screen to prevent direct overlooking;</li> <li>Locate adjacent to main living areas (living/ dining/family room or kitchen) with direct access.</li> <li>Min 2.5m by 2.5m (1 area) suitable for outdoor dining with dining table &amp; 2-4 chairs, 1 additional area s for outdoor clothes drying, concealed by shutters, screens, fences or tall opaque balustrades.</li> <li>Design open space to accommodate variety of activities.</li> <li>For dwellings with a single open space, irregular "L" or "U" shapes preferred to separate uses,</li> <li>Design principal POS as 'outdoor room' - privacy-screens, sun-shading, pergolas or shrubs and trees, midwinter sunlight, privacy, next to principal indoor living areas.</li> </ul>	<p>Each unit has a POS as a balcony, ranging from 8m<sup>2</sup> (1 bed units) to 12m<sup>2</sup>-16.5m<sup>2</sup> (2 bed units).</p> <p>All POS areas area adjoining living areas with good privacy from within the development.</p> <p>There is sufficient space for table/chairs and min dimensions of 2.5m x 2.5m area.</p> <p>The majority of the balconies face north, with the exception of the studio unit on each floor.</p> <p>Each POS can function as an outdoor room.</p>	Yes
	<u>Balconies design</u> <ul style="list-style-type: none"> <li>Provide additional amenity and choice with secondary balcony (Juliet balcony) or operable wall with balustrades, adjacent to bedrooms.</li> <li>Balcony to take advantage of local climate and</li> </ul>	The balconies have been designed with generally solid balustrades and surveillance of the street is provided. Local views and solar access are accommodated for the	Yes

**Table 2: Canterbury DCP 2012: PART 3 – BUSINESS ZONES – Compliance Table**

CI	Requirement	Proposal	Comply
	<p>context.</p> <ul style="list-style-type: none"> <li>Design balustrades to allow views and casual surveillance of street and visual privacy.</li> </ul>	balconies.	
	<p><u>Communal open space (COS)</u></p> <ul style="list-style-type: none"> <li>Podiums or terraces, deep-soil setback or separation between buildings:</li> <li>Min 6m dimension for COS.</li> <li>Consolidate COS into recognisable areas.</li> <li>Sunny locations, adjacent to/visible from main building lobby.</li> <li>Windows to overlook COS and approaches to main building lobby.</li> <li>Screen walls max 1.2m high.</li> <li>Min 10% of site area as COS on sites &gt;500m<sup>2</sup>.</li> <li>Child play areas, indoor areas/gyms encouraged.</li> </ul>	<p>The proposed development provides for numerous and varied areas of communal open space to benefit the future residents.</p> <p>The proposed plaza area comprises an area of 266m<sup>2</sup> whilst it is an area that is accessed by the users of the commercial tenancies it provides an area for social interaction.</p> <p>A small area of common open space is located on level 1 (min area required is 159m<sup>2</sup>) with a dimension &gt;6m.</p> <p>The common open space area, however, is not well located since it will be in shadow most of the day in mid-winter facing south in between the proposed buildings and adjoining approved building at 6-8 Close Street.</p> <p>Additional common open space has been provided as a roof terrace to each building. The building front Close Street has a roof terrace with an area of 360m<sup>2</sup> and the area above the building fronting Canterbury Road has an area of 219m<sup>2</sup>.</p> <p>Both these roof terraces receive the required solar access.</p>	Yes
<b>3.3.4 Internal dwelling design</b>	<p><u>Room dimensions</u></p> <ul style="list-style-type: none"> <li>Accommodate range of furniture typical for room.</li> <li>Min width – 3.5m for living area, main bedroom.</li> <li>Min width – 3m for secondary bedroom</li> </ul>	These minimum dimensions have been achieved. There are various layouts to suit appropriate furniture layouts in the units.	Yes
	<p><u>Storage:</u></p> <ul style="list-style-type: none"> <li>Min storage - 6m<sup>3</sup> (1 bed); 8m<sup>3</sup> (2 bed); 10m<sup>3</sup> (3+)</li> </ul>	52 separate storage areas provided for units in the basement (6m <sup>3</sup> , 8m <sup>3</sup> , 9m <sup>3</sup> , 10m <sup>3</sup> , 12m <sup>3</sup> and 15m <sup>3</sup> ).	Yes
<b>3.3.5 Housing choice</b>	<ul style="list-style-type: none"> <li>Mix of unit sizes - studio, 1, 2, 3 and 3+ beds.</li> <li>10% of units (&gt;30 units/building) - accessible/adaptable apartments.</li> <li>Commercial uses on ground floor - potential future changes.</li> <li>Promote housing choice with private gardens/terraces directly accessible from main living spaces, maximising accessible and visitable apartments on ground floor, change /partial change in use (home office accessible from street).</li> </ul>	<p>Unit sizes proposed are:-</p> <ul style="list-style-type: none"> <li>29 x 1 bed units (34.5%)</li> <li>55 x 2 bed units (65.5%)</li> <li>9 adaptable units (10.7%);</li> <li>Various units with a study.</li> <li>Ground floor residential units along Close Street which is appropriate for this site.</li> </ul>	Yes

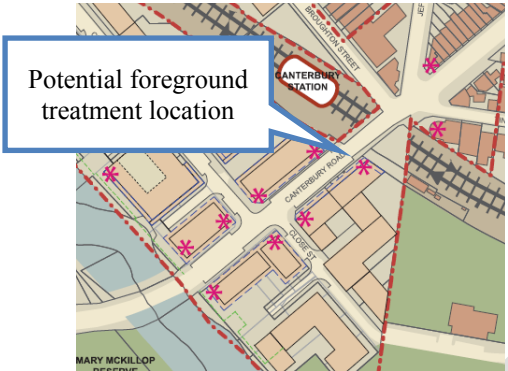
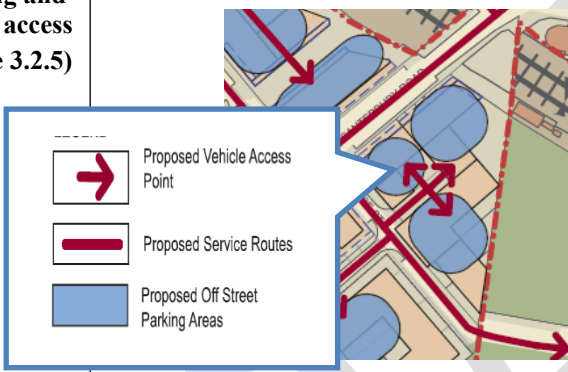
**Appendix 3.2 Canterbury Town Centre**

**Table 2: Canterbury DCP 2012: PART 3 – BUSINESS ZONES – Compliance Table**

CI	Requirement	Proposal	Comply
<b>Aims (page P3.1.5)</b>	<ul style="list-style-type: none"> <li>• Redevelop the Riverfront district into an attractive vital and vibrant mixed-use environment via a rich network of publicly accessible spaces &amp; places</li> <li>• Create attractive waterfront along Cooks River through pedestrian and cycle ways, landscaped open spaces, opportunities for outdoor activities.</li> <li>• Reinststate the role of the Traditional Centre on Canterbury Road.</li> </ul>	The proposal provides for a mixed use development in the 'riverfront precinct' which allows for an active street frontage and common/public open space.	Yes
<b>Structure plan (Figure 3.2.1)</b>		A public plaza is proposed at ground level which links with the adjoining site. This is not strictly required on the subject site under the DCP, however, has some public benefit and is therefore supported.	Yes
<b>Specific heights in storeys (Figure 3.2.2)</b>		The proposal comprises 9 storeys.	<b>No</b> See note 5.
<b>Canterbury Town Centre public domain structure plan (Figure 3.2.3)</b>		The proposal is not located on land proposed for the town square, however, a plaza is proposed at ground level.	Yes



**Table 2: Canterbury DCP 2012: PART 3 – BUSINESS ZONES – Compliance Table**

CI	Requirement	Proposal	Comply
Canterbury Town Centre corner treatment sites (Figure 3.2.4)	 <p>Potential foreground treatment location</p>	This applies to the adjoining site.	N/A
Parking and vehicle access (Figure 3.2.5)	 <p>Proposed Vehicle Access Point</p> <p>Proposed Service Routes</p> <p>Proposed Off Street Parking Areas</p>	The proposal involves vehicle access from Close Street. Off-street car parking is provided in the basement car park.	Yes

**Table 3: Canterbury DCP 2012: Part 6 – Compliance Table**

CI	Requirement	Proposal	Comply
<b>Part 6.1: Access and Mobility</b>			
<b>6.1.5 Assessment Table:</b>	<ul style="list-style-type: none"> <li>A compliance report in relation to the Disability (Access to Premises-Buildings) Standards.</li> <li>Access in accordance with the BCA and AS 1428.1 &amp; 1428.2 – (AS 1428.2 advisory only). For lifts – disability access as per AS 1735.12 as required by the BCA. Appropriate access for all persons through the principal entrance of a building to be provided.</li> <li>A continuous accessible path of travel to all required facilities.</li> <li>In a car parking area containing 10 or more spaces, one space to be provided for each 50 parking spaces or part thereof for employees.</li> </ul>	<p>The proposal provides access ramps to the plaza area and provides lifts to the upper levels and the basement. An Access report has not been provided, however, can be imposed as a condition of consent.</p> <p>A commercial adaptable space has been provided in the basement.</p>	Yes
<b>Part 6.2 – Climate, and energy and resource efficiency</b>			
<b>6.2.1 Site layout &amp; building orientation</b>	Design and orientate the building to maximise solar access and natural lighting, without unduly increasing the building's heat load.	The proposal is generally orientated to the north such that the majority of living areas and balconies have a northerly aspect.	Yes
<b>6.2.6 Daylight &amp; sun access (New buildings in business zones)</b>	At least 70% of the proposed apartments' living area windows and private open space (balconies) receive at least 2 hours sunlight between 9.00 am and 3.00 pm on 21 June.	60 units (71.4%) of units will receive at least two hours sunlight between 9am and 3pm in mid-winter.	Yes

Table 3: Canterbury DCP 2012: Part 6 – Compliance Table			
Cl	Requirement	Proposal	Comply
	At least 50% of any communal open space receives 2 hours of sunlight between 9.00 am and 3.00 pm on 21 June.	The two roof terrace areas of communal open space received adequate sunlight.	Yes
<b>6.2.6 Daylight and sun access (Existing dwellings adjoining new residential)</b>	<p>Siting and form of new developments shall protect existing neighbouring dwellings:</p> <ul style="list-style-type: none"> <li>At least 2 hours sunlight between 9.00am and 3.00pm on 21 June shall be retained for existing indoor living areas and at least 50% of the principal portion of existing private open space, or</li> <li>If a neighbour currently receives less than 2 hours sunlight then siting and form of proposed buildings shall be adjusted to maintain existing sunlight.</li> </ul>	The property adjoining the subject site at No 224 would receive minimal sunlight between 9.00am and 3.00pm in mid-winter. The adjoining development to the west at No 226 would receive only a minor amount of solar access at midday in midwinter.	<b>No</b> <b>Refer to Note 6</b>
<b>6.2.7 Ventilation (Residential and mixed-use)</b>	Provide natural cross ventilation to at least 60% dwellings, and natural ventilation to 25% of kitchens in a multiple unit development.	66.6% (56 of 84) of units are naturally cross ventilated. All kitchens are within 6.5m of a window.	Yes
	Use entranceway as ventilation pathway to units.	As required.	Yes
	Where natural ventilation is not possible, energy efficient ventilation devices such as ceiling fans considered as alternative to air conditioning.	Natural ventilation generally achieved for units.	Yes
	Limit residential building depth to 18m glass line to glass line to support natural ventilation - rear of any habitable room should not be >8m from window.	Building depth is addressed in DCP Part 3 assessment.	<b>Refer to Note 2</b>
<b>Part 6.3 Crime Prevention</b>			
<b>6.3.2. Residential Development</b>	Allow natural observation from the street to the dwelling, from the dwelling to the street, and between dwellings.	There is adequate surveillance of public areas from within the proposed units.	Yes
	Provide an appropriate level of security for individual dwellings and communal areas.	There is adequate security with separate residential access provided from lobby areas.	Yes
	Design dwellings and communal areas to provide a sense of ownership.	This is achieved in the plaza area.	Yes
<b>6.3.3. Commercial / Retail / Industrial &amp; Community Facilities</b>	<p>Locate public services in areas of high activity.</p> <p>Allow for natural surveillance and suitable streetscape appearance.</p> <p>Provide entries that are clearly visible from the street.</p> <p>Maximise the access and visibility of facilities.</p> <p>Use building materials that reduce opportunity for intruder access.</p>	There are clear entries from the street and shopfronts along Canterbury Road allow for an active frontage with surveillance. Solid construction materials reduce crime opportunities.	Yes
<b>6.3.4 Car Parks</b>	<p>Provide adequate lighting.</p> <p>Use materials that enhance natural surveillance within the car park.</p> <p>Allow natural observation.</p> <p>Ensure clear sight lines throughout the parking area.</p> <p>Design car parks to allow for natural surveillance.</p> <p>Provide security to monitor access to area.</p> <p>Ensure ease of access and safety within the car park.</p> <p>Clearly distinguish between private and public space.</p> <p>Ensure that parking areas are clearly identified by signage to prevent unintended access and to assist persons trying to find their car.</p>	There are minimal entrapment opportunities in the basement and there are generally clear lines of sight throughout the basement. There will be adequate lighting provided as required by the BCA.	Yes
<b>Part 6.8 – Vehicle Access &amp; Parking</b>			
<b>6.8.3 Minimum parking &amp; servicing</b>	<p>Shop top housing in B2 zones – Large Centres:</p> <ul style="list-style-type: none"> <li>Studio: 0.25 spaces/dwelling (N/A)</li> <li>1 bed: 0.8 space/dwelling (29 x 0.8 = 23.2 spaces)</li> <li>2 bed: 1 space/dwelling (55 x 1 = 55 spaces)</li> </ul>	<p>Residential spaces required – 87.2 spaces.</p> <p>Residential spaces provided – 81 spaces + 8 adaptable spaces</p>	Yes

<b>Table 3: Canterbury DCP 2012: Part 6 – Compliance Table</b>			
<b>CI</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Comply</b>
<b>requirements</b>	<ul style="list-style-type: none"> <li>3 bedroom +: 1 space/dwelling (N/A)</li> <li>Adaptable – space/unit (9 x 1 = 9 spaces)</li> <li>Visitor Parking: Not required (N/A)</li> </ul>	= 89 residential spaces.	
	Commercial in B2 zone <ul style="list-style-type: none"> <li>Commercial/office - 1 space/60m<sup>2</sup> or shops (12.48 spaces = 13 spaces);</li> <li>Minimum 1 courier parking space</li> </ul>	13 commercial spaces are provided (including 1 adaptable space). Courier spaces can be provided via condition.	Yes
	<ul style="list-style-type: none"> <li>Car wash (10+ units) – 1 car wash bay</li> </ul>	Can be provided via condition.	Yes
	Bicycle spaces <ul style="list-style-type: none"> <li>Residential - 1 space/5 dwellings (16.8 spaces);</li> <li>Commercial – 1 space/200m<sup>2</sup> (staff) and 1 space/750m<sup>2</sup> over 1000m<sup>2</sup> (visitors) – 3.75 spaces for staff required.</li> </ul>	31 bicycle spaces are provided.	Yes
<b>Part 6.9 – Waste Management</b>			
<b>6.9.1 Demolition &amp; construction phase</b>	Submit a statement in relation to the waste that will be generated in the demolition and construction phase.	A Waste Management Plan is provided.	Yes
<b>6.9.2 Waste management plan</b>	Submit a detailed Waste Management Plan for the on-going use of the development once completed.	A Waste Management Plan is provided.	Yes
<b>6.9.3.4 Residential flat buildings, residential in mixed use development</b>	<ul style="list-style-type: none"> <li>Rubbish bin allocation – 1x 240 litre bin/2 units + 1 bin for any 1 unit over.</li> <li>Recycling bin allocation - 1 x 240 litre bin/3 units + 1 bin for any one/two units over.</li> <li>Garden bin allocation – 1 x 240 litre bin/5 units + 1 for any 1-4 units over (on request).</li> </ul>	Rubbish – 42 bins required Recycling – 28 bins required. There is adequate space in waste storage rooms for these bins (41 waste and 24 recycling), which is sufficient for the development as there are surplus bins proposed to be provided for the commercial component. No garden recycling bins are required for this development.	Yes
<b>6.9.3.5 Non-residential development</b>	<ul style="list-style-type: none"> <li>Rubbish – 1 x 240 litre rubbish bin/property.</li> <li>Recycling - 1 x 240 litre recycling bin/property.</li> <li>Garden vegetation - 1 x 240 litre bin following assessment in the individual case.</li> <li>Waste and recycling storage area to meet anticipated waste generation rates</li> <li>Provision for separation, storage and collection of recyclables.</li> <li>In business centres wherever possible the access to garbage collection should be from a rear laneway or side street.</li> </ul>	7 x rubbish and 7 x recycling bins have been provided in a separate commercial waste storage room in the basement.  Close street will be used for garbage collection.  This is considered sufficient for the 5 commercial tenancies.	Yes

### **Variations to the CDCP 2012 Controls**

As demonstrated in the above table, the proposal complies with the requirements of CDCP 2012 with the exception of the following:

### **Note 1: CI 3.1.2 & CI 3.1.4 Amalgamation and Lot Isolation**

The DCP requires amalgamation of lots within the Canterbury Town Center. In this regard development must not result in the creation of an “isolated lot”. An “isolated lot” is a lot which is bounded on both sides by properties which comprise existing development. New development should not result in isolation of a neighbouring property that could not accommodate redevelopment. In the subject case the adjoining property to the west, being 224 Canterbury Road, currently only contains a two storey brick terrace and has a frontage of 5.7m. This property will become isolated should the proposed development proceed as the site will be bounded by buildings on all common boundaries.

Council will only allow development which would result in the creation of an “isolated lot”, where it is demonstrated that reasonable offers have been made to the owner of the adjoining lot and it can be demonstrated that there is potential for redevelopment via schematic designs.

The applicant submitted a separate ‘amalgamation report’ which contained the valuation reports and subsequent offers and attempts to negotiate with the owner of 224 Canterbury Road. It is evidenced within the documentation that the owner of No 224 Canterbury Road did not want to sell at the time the offers were made.

Within the applicants ‘amalgamation report’ a schematic design of potential development opportunity has been demonstrated.

It is also considered that the documentation submitted satisfactorily addresses the Planning Principle outlined in NSW Land and Environment Court judgment in *Melissa Grech v Auburn Council*[2004] NSWLEC 40.

In light of the attempted negotiations undertaken by the developer of the subject property it is assumed that the owner of 224 Canterbury Road does not wish to sell and a reasonable period and offers have been made. It is considered that that DCP and planning principle has been satisfied. In this regard it is not unreasonable that an isolated lot be created as part of the development of the subject site.

**Note 2: Building Depth (Cl 3.1.7)**

The northern portion of the building located along the north-eastern side of the subject site exceed the building depth control of 18 metres. While this is inconsistent with the controls, in terms of amenity and impact, it is considered that the building depth is adequate for light and ventilation. The majority of the units are less than 10 meters deep, meaning that light and ventilation from nearby windows and balconies reaches the majority of the unit.

Similarly, the use of dual aspect and corner units improves the internal amenity of units such that there are minimal adverse impacts from the inconsistency with the building depth requirement. The proposal satisfies the solar access and cross ventilation requirements of the DCP and the circulation zones on each level comprises a large proportion of the areas which exceed the building depth controls. It is therefore considered that this variation to the DCP control is satisfactory and is supported in this instance.

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**Note 3: Front Setback and Storeys (Cl 3.1.8)**

The controls require the following:-

- No of storeys at street - 1- 4 storeys
- Upper levels setback – above 4 storeys an additional 5 metres
- Do not present a flat façade along the setback line - provide articulation and variation.

The proposal does not strictly accord to these requirements given there is no setback of any of the floors such that the building is 9 storeys at Canterbury Road and 7 storeys at Close Street frontages. Whilst the building does not comply with the setbacks it is considered that the proposed building is in keeping with the nil setback to Canterbury Road established by the approval of the building (DA-579/2013) located directly opposite known as 2A Charles Street. This building was approved by JRPP on the 28 May 2014.

The design of the building opposite has been reflected within the current proposal and will create a significant gateway entry to the southern portion of the Canterbury Town Square. The urban design peer review has indicated that the design is at an appropriate setback and the objectives of the control are considered satisfied.

**Note 4: Façade Design & Articulation**

The proposal is inconsistent with these controls, whilst there is stepping of the building the alignment of the balconies remove the overall articulation. However there is a vast array of materials and colours used in an attempt to minimise bulk and scale of the building.

At street level there is activation provided by the commercial tenancy and the 3m setback with landscaping provides relief at human scale. As indicated previously, the design of the building opposite has been reflected within the current proposal and will create a significant gateway entry to the southern portion of the Canterbury Town Square. The urban design peer review has indicated that the design is at an appropriate setback and the objectives of the control are considered satisfied.

In this regard the variation to this control is considered acceptable and the

**Note 5: Building Height (Storeys) (Appendix 3.2 – Figure 3.2.2)**

The CDCP 2012 sets out a height control for the subject site of 8 storeys in the precinct controls in Appendix 3.2 for the Canterbury Town Centre in Figure 3.2.2. The *Canterbury LEP 2012* provides a maximum height for the subject site of 27 metres pursuant to Clause 4.3. Section 74(5) of the EP&A Act provides that a DCP control has no effect to the extent that it is inconsistent or incompatible with the provision of an environmental planning instrument. In this case, the maximum height for the subject site is set by the CLEP 2012 and therefore the height control (in storeys) of the CDCP 2012 has no effect.

**Note 6: Solar Access (within and adjoining properties) (Cl 6.2.6)**

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The CDCP 2012 sets out solar access controls for both the proposed development and adjoining development in Clause 6.2.6. There is adequate solar access to the proposed units within the development and the roof terrace common open space. However, the proposed building affects the adjoining western properties for the entire morning period.

There is limited solar access to the adjoining premises at No 224 Canterbury Road, it will not receive the required 2 hours of solar access to the rear portion of the building and the private open space. The building is orientated north with its frontage to Canterbury Road and is also positioned 3m further forward than the proposed building and as such will receive solar access to this portion of the building. The rear of the site will be in shadow from the proposed building however. Remembering that mid-winter is the worst case scenario adequate solar access is achieved for the remainder of the year. It is also noted that the owner of the 224 Canterbury Road did not wish to sell or amalgamate with current proposal. In this regard whilst the required minimum of 2 hours is not received by no. 224 Canterbury Road the proposal is considered satisfactory in regard solar access and its impacts are considered acceptable.

There would also only be limited solar access in the morning to No 226, the existing residential flat building on the corner of Close Street and Canterbury Road, as a result of this proposed development. This adjoining building will receive solar access from midday onwards. This adequately addresses solar access and the impacts of the development are considered acceptable.

- **Development Contributions Plan – Canterbury Town Centre and Riverfront Precinct**

Significant upgrades of the existing infrastructure are necessary to sustain the scale of urban renewal envisaged for the Canterbury Town Centre. Accordingly, the main purpose of this Plan is to enable reasonable contributions to be obtained from development for the provision of new and augmented local infrastructure that will both benefit and be required for the proposed development.

Residential flat developments are identified as increasing demand for local infrastructure and are therefore subject to a contribution. The Plan requires a contribution of \$149.59 per square metre of gross floor area.

The proposed development has a gross floor area of 7,060m<sup>2</sup> and which was calculated as requiring a contribution of \$1,056,105.40. On this basis, a condition has been included within the recommendation requiring the applicant to pay this contribution.

## REFERRALS

**Development Engineering** – The stormwater plan submitted with the application has been assessed by Council's Development Engineer pursuant to Part 6.4 of CDCP 2012. No objection was raised subject to conditions being attached to any consent granted.

**Landscape Architect** – The Landscape Plan submitted with the application has been assessed by Council's Landscape Architect pursuant to Part 6.6 of CDCP 2012. No objection was raised subject to conditions being attached to any

consent granted.

Team Leader Youth and Safety - The application has been assessed by Council's Team Leader Youth and Safety Officer pursuant to Part 6.3 of CDCP 2012. No objection was raised subject to conditions being attached to any consent granted.

Access Committee – The application was referred to the Disability Access Committee pursuant to Part 6.1 of CDCP 2012. No objection was raised subject to conditions being attached to any consent granted.

## LIKELY IMPACTS ON THE ENVIRONMENT

The scale and built form of the proposed development whilst is larger than the height and FSR controls the proposal is considered to be satisfactory. The proposal is not expected to have any detrimental impacts in terms of the natural or built environments, and the social and economic aspects, as discussed under the following headings below:

- **Privacy Considerations**

Privacy impacts have been adequately mitigated by off-setting windows, screening and through the design and orientation of buildings. The zero side setback of the buildings and associated lack of windows facing adjoining properties results in minimal overlooking opportunities towards the adjoining development to the northwest (proposed stage 2). The buildings are generally orientated to overlook the common open space, Canterbury Road as well as the adjoining land to the south zoned for public recreation. It is considered that the measures proposed are acceptable.

- **Suitability of the Site**

The site is located within the Canterbury Town Centre, in close proximity to Canterbury Railway Station. The location contributes to the vision of the development of the precinct and in terms of land use achieves an appropriate character setting and amenity for the proposed residential and commercial use. The proposed development is permissible in the subject site's current zoning. The proposal has been assessed under Sections 5A and 79C of *the Environmental Planning and Assessment Act, 1979* and, as demonstrated throughout this report, the proposal generally complies with the provisions of most of the relevant state environmental planning policies, development control plans, codes and policies with the exception of FSR and height and other matters raised in this report. The proposal is suitable for site.

- **Public Interest**

The proposed development satisfies the relevant requirements contained within the Canterbury Local Environmental Plan 2012 and relevant Development Control Plans applicable to the proposal as discussed in earlier sections of this report. The proposed development promotes the coordinated, orderly and economic use of the land and is not expected to have any unreasonable impacts on adjoining development. Approval of the application is therefore considered to be in the public interest.

- **Sediment and Erosion Control**

Standard conditions can be included regarding the installation and maintenance of the sediment and erosion control measures as part of the pre and during construction phase of the development.

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

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

- **Notification**

The development application was placed on notification in accordance with the requirements of Part 7 – Notification of Development Applications of CDCP 2012. No submissions were received during this period.

### **Conclusion**

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979 and all relevant development control plans, codes and policies.

The proposed development is permissible in the zone subject to consent under the provisions of Canterbury Local Environmental Plan 2012. As demonstrated, the proposed development is generally consistent with the provisions of the relevant State and Local Environmental Planning Policies and development control plan.

As outlined throughout this report, the site is capable of accommodating the proposed mixed use development and is not expected to have any detrimental impacts on the amenity of the locality. In this regard the proposal is considered to be a suitable development for the site. It is recommended that the development application be approved, subject to conditions.

### **RECOMMENDATION:**

THAT Development Application DA-169/2015 be APPROVED subject to the following conditions

A Right of Carriageway over 220-222 Canterbury Road providing access over the driveway and basements to Close Street.

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