



*City of Canterbury*

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*City of Cultural Diversity*

**BUSINESS PAPER**

**Meeting of**

**INDEPENDENT HEARING AND  
ASSESSMENT PANEL**

**24 NOVEMBER 2015**

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IHAP Chairperson and Panel Members

Notice is hereby given that a meeting of the Independent Hearing and Assessment Panel will be held in the Function Room, 137 Beamish Street, Campsie on Tuesday 24 November 2015 at 6.00p.m.

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

Jim Montague PSM  
**GENERAL MANAGER**

16 November 2015

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## REPORT SUMMARIES

### 1 **212-218 CANTERBURY ROAD, CANTERBURY: DEMOLITION, CONSTRUCTION OF NINE STOREY MIXED USE DEVELOPMENT WITH BASEMENT PARKING, COMMERCIAL TENANCIES IN A PLAZA AREA AND RESIDENTIAL UNITS**

- This report has been prepared by an independent external planning consultant, Planning Ingenuity Pty Ltd, on behalf of Council.
- Council has received a development application for the demolition of existing buildings on the subject site and the construction of a nine storey mixed use building comprising six commercial tenancies, 88 residential apartments, three levels of basement parking for 91 vehicles and a public plaza area of 304m<sup>2</sup> attached to the proposed development on the adjoining site.
- The proposed development forms Stage 2 of larger development, with Stage 1 proposed on the adjoining site at 220-222 Canterbury Road and 4 Close Street, Canterbury.
- The proposal has a capital investment value of \$18,919,800 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 floor space ratio the application is generally compliant, however there are non-compliances which are discussed in the body of this report.
- The proposed development does not comply with the maximum floor space ratio and height standard applicable to the site under Canterbury Local Environmental Plan 2012 (CLEP 2012). Sufficient grounds to justify an exception to the maximum height development standard has been submitted, such that the requirements of Clause 4.6 of CLEP 2012 have been satisfied. Subject to compliance with proposed deferred commencement conditions, the proposed floor space ratio variation is justified in the circumstances and the application has justified the proposal in accordance with Clause 4.6 of the CLEP 2012.
- 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 15 May 2015 and 18 June 2015. Three submissions were received raising issues regarding infrastructure, solar access and general overdevelopment.
- Subject to compliance with deferred commencement conditions, it is considered that the proposed development has been designed appropriately given the characteristics of the site and the applicable planning controls, and is unlikely to result in unreasonable impacts on the character or amenity of the surrounding area.
- The application is recommended for approval subject to conditions, including

the following deferred commencement conditions:

- i. Submission of amended architectural and landscape plans increasing the building setback to 3m from the rear boundary adjoining 15 Close Street (excluding basement parking levels and retaining the plaza footprint).
- ii. Submission of amended plans addressing matters outlined in Sydney Trains letter of 3 July 2015.
- iii. Receipt of concurrence from Sydney Trains subject to (ii) above.

**2 220-222 CANTERBURY ROAD AND 4 CLOSE STREET, CANTERBURY:  
DEMOLITION AND CONSTRUCTION OF A SIX AND NINE STOREY  
MIXED USE DEVELOPMENT OVER BASEMENT CARPARK**

- This report has been prepared by an independent external planning consultant, Planning Ingenuity Pty Ltd) on behalf of Council.
- Council has received a development application for the demolition of existing buildings on the subject site and the construction of a part seven and part nine storey mixed use building comprising five commercial tenancies, 84 residential apartments, three 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 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 (CLEP 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 as 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 CLEP 2012. Sufficient grounds to justify an exception to the maximum height development standard has been submitted, such that the requirements of Clause 4.6 of CLEP 2012 have been satisfied. Subject to compliance with proposed deferred commencement conditions, the proposed floor space ratio variation is justified in the circumstances and the applicant has justified the proposal in accordance with Clause 4.6 of CLEP 2012.
- 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 15 May 2015 and 18 June 2015. four submissions were received.
- Subject to compliance with deferred commencement conditions 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
- The application is recommended that Deferred Commencement Consent subject to the following conditions:
  - i. Submission of amended architectural and landscape plans increasing the building setback to 3m from the rear boundary adjoining 15 Close Street (excluding basement parking levels and retaining the plaza footprint ).
  - ii. Submissions of amended plans showing potential future basement link through to 224 Canterbury Road, and necessary rights of access implemented.

**3 308-320 CANTERBURY ROAD AND 6-8 CANTON STREET, CANTERBURY: DEVELOPMENT APPLICATION FOR THE CONSTRUCTION OF ADDITIONAL LEVELS ON APPROVED MIXED USE DEVELOPMENT AND MODIFICATION APPLICATION TO PROVIDE ADDITIONAL BASEMENT PARKING**

- The applicant has lodged a development application (DA) and corresponding Section 96 application to carry out alterations and additions to the approved development. Both applications have been assessed concurrently and the report prepared by an independent external planning consultant (DFP Planning Pty Ltd) on behalf of Council. The details of each application are discussed below.
- The subject development was determined by way of approval by the Sydney East Joint Regional Planning Panel (Development Application 405/2013) for a mixed use development at 308-310 Canterbury Road, 312-320 Canterbury Road and 6-8 Canton Street, Canterbury on 19 February 2014 which included the construction of a five storey mixed use development comprising ground floor commercial, 126 units and eight town houses including basement car parking. Demolition of the existing buildings has commenced on site.
- The site is known as 308-320 Canterbury Road and 6-8 Canton Street, Canterbury and is zoned B5 Business Development and Residential R4 under Canterbury Local Environmental plan 2012 (CLEP 2012). The site is identified as “A” on the Key Sites Map, and such development for the purposes of residential accommodation is permitted with consent but only as part of a mixed use development. The proposal retains the approved ground floor commercial uses and as such, satisfies the definition of mixed use development. This use is permissible in the subject zone.
- The applications have been assessed against the provisions contained in State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy 55- Remediation of Land (SEPP 65), State Environmental Planning Policy (Infrastructure) 2007, Canterbury Local Environmental Plan 2012 (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The existing development was approved with a number of minor variations to the SEPP 65 and DCP 2012 and accordingly it is necessary to have regard to the existing approval. The proposal is found to make a number of improvements to the existing approval

in terms of building separation and cross ventilation. The application is found to generally comply with the requirements of these polices with the exception of building height.

- The Development Application DA-604/2014 proposal involves a breach of the building height development standard under Clause 4.3 of CLEP 2012, by a maximum of 15 metres. The application is supported by a written request prepared by the applicant under Clause 4.6 of CLEP 2012 to vary the height development standard.
- The Development Application DA-604/2014 was publically exhibited twice and adjoining land owners notified in accordance with Part 7 of the CDCP 2012. The first notification period closed on 10 February 2015 and we received submissions from fourteen households, and the second notification (exhibition of the amended plans) period closed on 2 November 2015 and we received submissions from six households. Issues raised in the submissions are provided in the body of this report.
- The Section 96(1A) Application (DA-405/2013/A) seeks to amend DA-405/2013 which approved the mixed use development that the subject DA relates. The Section 96(1A) application seeks approval to provide two additional basement levels to provide a total of 349 spaces. The additional parking spaces proposed in the Section 96(1A) application will be allocated to the additional units proposed by this DA.
- The development application has been amended in September 2015 by reducing the number of units from 220 to 194. The Section 96(1A) application was not amended and accordingly there is currently an oversupply of basement parking spaces. A condition of consent is recommended to ensure that adequate parking can be provided prior to the issue of a Construction Certificate.
- The applicant has offered to prepare a Voluntary Planning Agreement (VPA) for Council's signature that proposes a Section 88b instrument be registered on the title in favour of Council to allow the general public access to the communal open space located on 6-8 Canton Street within the proposed development.
- Notwithstanding the variation sought to the building height standard, the development application and Section 96 application are recommended for approval subject to conditions.

**EAST WARD****1 212-218 CANTERBURY ROAD, CANTERBURY: DEMOLITION, CONSTRUCTION OF NINE STOREY MIXED USE DEVELOPMENT WITH BASEMENT PARKING, COMMERCIAL TENANCIES IN A PLAZA AREA AND RESIDENTIAL UNITS**

**FILE NO:** 150/212D PT2  
**REPORT BY:** DIRECTOR CITY PLANNING  
**WARD:** EAST

<b>D/A No:</b>	<b>DA-168/2015</b>
<b>Applicant:</b> <b>Owner:</b>	<b>Chanine Designs</b> <b>Ngoc Thang Tran, Kim Diep Nguyen, Thi Thoa Nguyen and Minh Trieu Van</b>
<b>Zoning:</b>	<b>Local Centre B2 – Canterbury local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>24 April 2015, amended plans received on 11 September and 2 October 2015</b>

**Summary:**

- This report has been prepared by an independent external planning consultant, Planning Ingenuity Pty Ltd, on behalf of Council.
- Council has received a development application for the demolition of existing buildings on the subject site and the construction of a nine storey mixed use building comprising six commercial tenancies, 88 residential apartments, three levels of basement parking for 91 vehicles and a public plaza area of 304m<sup>2</sup> attached to the proposed development on the adjoining site.
- The proposed development forms Stage 2 of larger development, with Stage 1 proposed on the adjoining site at 220-222 Canterbury Road and 4 Close Street, Canterbury.
- The proposal has a capital investment value of \$18,919,800 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 floor space ratio the application is generally compliant, however there are non-compliances which are discussed in the body of this report.
- The proposed development does not comply with the maximum floor space ratio and height standard applicable to the site under Canterbury Local Environmental Plan



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2012 (CLEP 2012). Sufficient grounds to justify an exception to the maximum height development standard has been submitted, such that the requirements of Clause 4.6 of CLEP 2012 have been satisfied. Subject to compliance with proposed deferred commencement conditions, the proposed floor space ratio variation is justified in the circumstances and the application has justified the proposal in accordance with Clause 4.6 of the CLEP 2012.

- 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 15 May 2015 and 18 June 2015. Three submissions were received raising issues regarding infrastructure, solar access and general overdevelopment.
- Subject to compliance with deferred commencement conditions, it is considered that the proposed development has been designed appropriately given the characteristics of the site and the applicable planning controls, and is unlikely to result in unreasonable impacts on the character or amenity of the surrounding area.
- The application is recommended for approval subject to conditions, including the following deferred commencement conditions:
  - i. Submission of amended architectural and landscape plans increasing the building setback to 3m from the rear boundary adjoining 15 Close Street (excluding basement parking levels and retaining the plaza footprint).
  - ii. Submission of amended plans addressing matters outlined in Sydney Trains letter of 3 July 2015.
  - iii. Receipt of concurrence from Sydney Trains subject to (ii) above.

#### **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, DA-168/2015 for the construction of a part six and part nine storey, mixed use development containing three levels of basement parking, six commercial tenancies (total 749m<sup>2</sup>) plaza area (266m<sup>2</sup>) and 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 at 220-222 Canterbury Road, which is Stage 1 (known as "Site 1" on the survey plan). The proposed development assessed in this report is Stage 2. 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.

A six and seven storey shop top housing development with basement parking comprising 30 apartments and one commercial tenancy was approved in August 2014 (DA-399/2013) for the adjoining site to the south known as 6–8 Close Street Canterbury. This adjoining approved development achieves compliance with the relevant height and floor space ratio (FSR) development standards and has not commenced construction.

212-218 CANTERBURY ROAD, CANTERBURY: DEMOLITION, CONSTRUCTION OF NINE STOREY MIXED USE DEVELOPMENT WITH BASEMENT PARKING, COMMERCIAL TENANCIES IN A PLAZA AREA AND RESIDENTIAL UNITS (CONT.)

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 lots approved by Joint Regional Planning Panel (JRPP) on 28 May 2014 (DA 579/2013). This development is currently under construction and has an approved FSR of 3.108:1 (maximum 2.75:1 and 3:1) and height of 27.3m (max 27m). This development is therefore generally compliant with the planning controls. The approved development has a nil setback to the street frontage.
- **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 nine commercial tenancies and 69 residential units (DA-420/2013). This development generally complies with the FSR and height controls, with a minor FSR exceedance of 255m<sup>2</sup> (FSR of 3.14:1 with a max of 3:1).
- **242 - 258 Canterbury Road and 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 has 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 Land and Environment Court (DA-164/2012). A recent Modification Application to increase the FSR was refused by the JRPP on 3 June 2015. The currently approved development complies with the FSR.

Proposed on the adjoining site (220-222 Canterbury Road) and assessed concurrently with this application, is a development proposal (DA-169/2015) for the construction of a part seven and part nine storey mixed use building comprising five commercial tenancies, 84 residential apartments, three levels of basement parking for 94 vehicles and a public plaza with area of 266m<sup>2</sup>, which is attached to the public plaza proposed on the subject site. It is known as Stage 1 of the development site and it has a capital investment value of \$18,266,200.

### Site Details

The subject site is identified as Lot 1 DP 87958 and Lot 1 DP 304046, and is commonly known as 212 – 218 Canterbury Road, Canterbury. The site is located on the eastern side of Canterbury Road (refer to Figure 1). The site is located towards the southern 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 irregular in shape with a north-eastern boundary length of 37.40m, a south-eastern boundary length of 39.35m, a south-western boundary length of 62m, a 19.2m frontage to Canterbury Road, giving total site area of 1,259.63m<sup>2</sup>. The site falls in a southerly direction and is currently used for commercial and industrial purposes.

212-218 CANTERBURY ROAD, CANTERBURY: DEMOLITION, CONSTRUCTION OF NINE STOREY MIXED USE DEVELOPMENT WITH BASEMENT PARKING, COMMERCIAL TENANCIES IN A PLAZA AREA AND RESIDENTIAL UNITS (CONT.)



Figure 1: Aerial photograph showing the subject site in red and the adjoining site (the subject of DA-169/2015) dashed

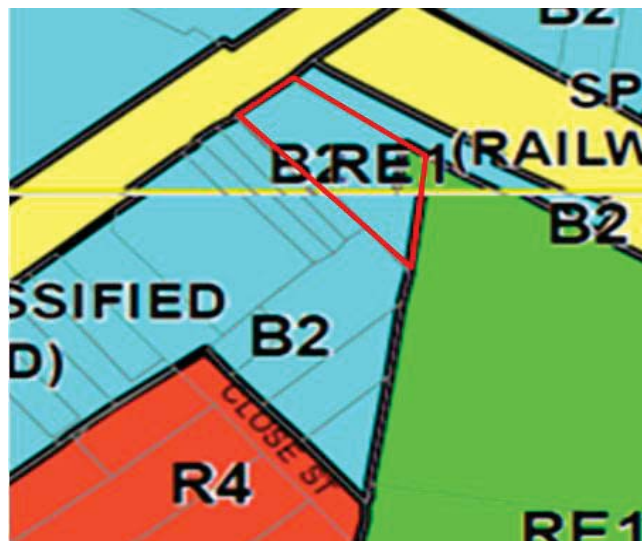


Figure 2: Zoning Map for the subject Site

The surrounding development is a mix of commercial and residential uses, including Canterbury Railway and development forming part of 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.

212-218 CANTERBURY ROAD, CANTERBURY: DEMOLITION, CONSTRUCTION OF NINE STOREY MIXED USE DEVELOPMENT WITH BASEMENT PARKING, COMMERCIAL TENANCIES IN A PLAZA AREA AND RESIDENTIAL UNITS (CONT.)



Figure 3: 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. To the east is 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. 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 is outlined above.

### Proposal

This current application proposes the following development:-

- Demolition of the existing buildings on the site; and
- Construction of a nine storey mixed use building with frontage to Canterbury Road over three levels of basement parking:-
  - Basement levels - three basement levels comprising a total of 89 car parking spaces (including nine disabled parking spaces), storage areas for the residential units and separate waste storage areas for the residential and commercial components of the proposal. The basements are linked through to the adjoining development (DA-169/2015) proposed at 220-22 Canterbury Road and 4 Close Street.
  - Ground Floor – this level comprises six commercial tenancies located around a public plaza (extension from the adjoining site) with activation to Canterbury Road. Pedestrian entry for the commercial and residential components of the

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- proposal are provided from Canterbury Road. A waste storage room is also provided on this level;
- Levels 1 to 8 – these levels include eleven units on each level comprising 1 x one bed studio, 1 x one bed unit, 2 x one bed units with study, 5 x two bed units and 2 x two bed units with study. These levels comprise an U- Shape arrangement over a common basement;
  - There are two lift cores provided within the building. The lift cores are centrally located within each wing of the building.
  - Level 9 of the building provides for roof terrace communal open space.

The total development involves 88 residential apartments comprising 32 x one bedroom units (including those with a study) and 56 x two bedroom units (including those with a study)

Vehicular access is provided from the development associated with Stage 1 located at 4 Close Street and 220-222 Canterbury Road (DA-169/2015). In this regard a Right of Carriageway is required to be registered over 220-222 Canterbury Road to provide for access over the driveway and basement to Close Street. An appropriate condition is proposed requiring the creation of the legal access.

In addition to the creation of the legal access the matter of timing of the linked basements is dealt with via a condition restricting the issuing of occupation/subdivision certificates until such time as at least a minimum of an interim occupation certificate has been issued for the basement of 220-222 Canterbury Road (DA-169/2015). An appropriate condition has been placed on the consent.

### 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:

- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Town Centre and Riverfront Precinct 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 (SEPP 2007)**  
The subject site is located adjacent to a rail corridor and on an arterial road

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(Canterbury Road) and therefore the road and rail provisions of State Environmental Planning Policy 2007 – Infrastructure (SEPP 2007) 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 Sydney Trains 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.*

The proposal involves basement parking and therefore the concurrence of Sydney Trains 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 Sydney Trains. In their letter dated 3 July 2015, Sydney Trains advised that additional information was required. The applicant was advised of the request for additional information but the information was not forthcoming.

The information requested by Sydney Trains forms part of the matters requested within the Deferred Commencement conditions.

**(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))*

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 SEPP 2007 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 and the recommendations have been included as conditions of consent.

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**(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 that there will be no smoke or dust emitted from the proposal that would adversely affect the road network. The Acoustic Report conclude that subject to the recommendations of the report, the proposal will not adversely affect the road noise. Suitable conditions will be included in any consent granted.

**(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 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 SEPP 2007 as a road where a noise intrusion assessment is mandatory under this clause.

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This report concluded that it was consistent with the guidelines subject to recommendations which will be included as conditions of consent.

**(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 (88 in total) 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 considered by the Traffic Committee who endorsed the application.

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 SEPP 2007 subject to relevant conditions.

- **State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)**  
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.

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.



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

The application satisfies the commitments made in BASIX Certificate 625775M dated 23 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 65 – Design Quality of Residential Flat Development (SEPP 65)**

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).

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 centre.

#### Scale

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 0.9 and 1.7m 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 numerically 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. There appears to be a disconnect between the FSR and height development standards for the site under the LEP. 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,

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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 of Part 3 of the Canterbury Development Control Plan (CDCP) 2012. The approved ground level retail will present a strong vertical theme that reinforces the commercial streetscape of Canterbury Road by activating the street edge with shops and commercial uses. The street awning reinforces the link to the existing streetscape and enhances the quality of the pedestrian environment. 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 maximise 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 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

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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 City and will optimise the provision of housing to suit the social mix. The development also provides nine 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 CLEP 2012 and CDCP 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 impact on the Town Centre. Additionally the proposed building reflects the similar 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**

Further to the design quality principles discussed above, the proposal has been considered against the various provisions of the Residential Flat Design Code in accordance with Clause 30 (2) (c) of SEPP 65. The proposed development is generally considered satisfactory, with the exception of building depth and deep soil zones areas, in regards to the following 'Rules of Thumb' controls:

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Guideline	Required	Proposed	Complies
Building Depth	Max 10m – 18m – wider	13.1m-22.8m	No – see DCP discussion
Building Separation	Up to 4 storeys = 12m 5-8 Storeys = 18m	The buildings on the site are 9 metres apart (no habitable rooms or balconies facing each other), with habitable balconies being 18 metres apart within the site. The only adjoining building is to the Southwest which is part of this overall development. A nil side boundary setback is acceptable in this location, with the open plaza area providing adequate light and ventilation  To the south of the site is the property known as 15 Close Street which is currently zoned RE1 Public recreation. The proposed building currently has a Nil setback to this property. However is proposed to be increased to 3m as a result of the deferred commencement condition.	Yes - However further discussed in Note 1 following the RFDC Table
Street Setbacks	Consistent with existing	3m to Canterbury Road.	See DCP discussion
Side and Rear Setbacks	Consistent with existing streetscape patterns	Nil side setbacks are consistent with Council's desired future character, except for rear boundary which will require a 3m setback.	Yes – however see Note 1 following the RFDC table
Deep Soil Zones	Min 25% of the open space. Exceptions may be made in urban areas where site is built out and no capacity for water infiltration.	0% provided across the site, which is in a urban area and the site will be built to capacity.	Yes
Fences and Walls	Consistent with existing streetscape	No fencing proposed	N/A
Landscape Design	Improve amenity, streetscape and energy efficiency.	Communal open space with no deep soil on rooftop and plaza. This is allowable in urban areas.	Yes
Open Space	Between 20-30% of site area	Roof top common open space 827m <sup>2</sup> and the plaza has an area of 304m <sup>2</sup> . This equates to 89% of site area.	Yes
Building Entry	Provide physical and visual connection between building and street. Provide safe entrance. Provide equitable entrance.	Highly visible building entry to Canterbury Road. Entry will be well lit, safe and equitable.	Yes

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Guideline	Required	Proposed	Complies
Parking	Provide underground car parking	Proposal includes underground car parking as per DCP 2012 requirements.	Yes
	Provide bicycle parking	Provision of bicycle parking to be imposed by way of condition of consent.	Yes
Pedestrian Access	Barrier free access to at least 20% of dwellings	Barrier free access provided to 100% of dwellings.	Yes
Vehicle Access	Max width of driveway is 6m	5.5m driveway to Close Street	Yes
	Located vehicle entry away from pedestrian entry	Vehicle entry away from pedestrian entry	Yes
Apartment Layout	Single aspect max depth is 8m	8m	Yes
	Min apartment size: 1 bed: 50m <sup>2</sup> min 2 bed: 70m <sup>2</sup> min 3 bed: 90m <sup>2</sup> min	Min sizes: 1 bed: >50m <sup>2</sup> 2 bed: >70m <sup>2</sup> 3 bed: >90m <sup>2</sup>	Yes
Apartment Mix	Provide an apartment mix	Acceptable apartment mix as follows: 15 x one bedroom, 42 x two bedroom, and 1 x three bedroom units.	Yes
Building Configuration	Balconies have a minimum depth of 2m	Minimum 2m	Yes
	Ceiling Heights 2.7m habitable 2.4 non habitable	2.7m 2.4	Yes Yes
	Storage 1 bed – 6m <sup>3</sup> 2 bed – 8m <sup>3</sup> 3+ bed – 10m <sup>3</sup>	Substantial storage areas incorporated within units and designated to each unit within the basement, majority of units have designated storage areas in excess of these minimum volumes.	Yes
Acoustic Privacy	Like rooms together	Like rooms are placed together to ensure acoustic privacy is achieved.	Yes.
Daylight Access	70% of units to receive 3 hours between 9am to 3pm – can be 2 hours in dense urban areas.	70.4% (62) units achieve a minimum of two hours at the winter solstice.	Yes
	Single aspect units with southern orientation limited to 10% of total (maximum 6 units)	0 single aspect units with southern orientation.	Yes
Natural Ventilation	60% of units to be naturally cross ventilated	63.6% (56) of units achieve natural cross ventilation (clearstory roof lights used on Level 6 units).	Yes

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Note 1 - Building separation

To the south of the subject site is a property known as 15 Close Street which contains a bowling club and is currently zoned RE1 Public Recreation. The proposed building currently has a nil setback to this property. The nil setback is appropriate to the RE1 zone and complies with building separation and the CDCP setbacks.

However there is a draft LEP to rezone the bowling club site from RE1 to R4 High Density Residential. The Planning Proposal has been on public exhibition and is a matter for consideration in the assessment of this application. It is understood that the planning proposal is nearing finalisation.

The proposed nil eastern boundary setback has the potential to undermine the development potential of the bowling club site and is not an appropriate response to the interface between the B2 and (future) R4 zones.

Rezoning of the bowling club would allow for residential apartment development and as such building separation must be considered. Council has identified a 9m setback to the common boundary with the subject site under a draft masterplan. The masterplan also indicates a through site link adjacent to the eastern boundary of the subject site. In this regard, it is considered appropriate to recommend that the application be approved subject to a deferred commencement condition requiring a 3m setback to the common boundary with the subject site. This would create a 12m separation between the buildings and is considered to be reasonable compromise given that the LEP hasn't been finalised, but is a matter that requires consideration. A 12m building separation would achieve reasonable resident amenity and the proposed 3m setback would ensure that the future redevelopment of the bowling club site is not undermined. In addition, without a 3m setback, the east facing units would have a harsh and undesirable interface with the anticipated public through site link.

- **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 provide within the town centre. Shop top

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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.

**Table 1: CLEP 2012 - Compliance Table**

Clause	Requirement	Proposal	Complies
2.6	<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.	N/A
2.7	<b>Demolition requires development consent</b> The demolition of a building or work may be carried out only with development consent.	Demolition is proposed.	Yes
4.3	<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 – 27 metres.	The maximum height of the development exceeds the 27m by between 0.9m to 1.7m	No refer to C14.6 variation discussion
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>• 3:1 – majority of Lot 1 DP 877958 (1,084.2m<sup>2</sup>)</li> <li>• 2.75:1 – majority of Lot 1 DP 304046 (175.4m<sup>2</sup>)</li> </ul>	GFA proposed = 7,672m <sup>2</sup> ; FSR – 6.1:1 (105.4% variation). Max permissible GFA = 3,734.95m <sup>2</sup>	No Refer to C14.6 variation
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.	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.  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. The proposal is consistent with the objectives of Clause 5.10 of the LEP in that the heritage significance of the item is	Yes

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Clause	Requirement	Proposal	Complies
		conserved as is the environmental heritage of Canterbury.	
6.1	<p><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>	<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>	Yes
6.2	<p><b>Earthworks</b> Consent is required for earthworks and must consider:</p> <ul style="list-style-type: none"> <li>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</li> <li>(b) the effect of the development on the likely future use or redevelopment of the land,</li> <li>(c) the quality of the fill or the soil to be excavated, or both,</li> <li>(d) the effect of the development on the existing and likely amenity of adjoining properties,</li> <li>(e) the source of any fill material and the destination of any excavated material,</li> <li>(f) the likelihood of disturbing relics,</li> <li>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</li> </ul>	<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>	Yes



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Clause	Requirement	Proposal	Complies
	(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.		
6.4	<p><b>Stormwater management</b> Consent authority must be satisfied that the development:</p> <p>(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</p> <p>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</p> <p>(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.</p>	A stormwater plan has been provided and Council's engineers raise no objection to this plan.	Yes
6.6	<p><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.</p>	There are adequate services on the site for the proposed development.	Yes
6.7	<p><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.</p>	This clause applies to the proposed development. This clause allows the proposal.	Yes

#### Clause 4.6 Variation

Council has received legal opinion that the extent of non-compliance to a Development Standard is not a relevant consideration in determining the reasonableness of any Clause 4.6 submission.

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

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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.

The maximum permissible height for the site is 27m. The building exceeds the height by between 0.9m and 1.7m. This point encroachment is created by the central lift cores accessing the roof top communal open space.

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 roof top communal open space, with these facilities adding to the amenity of future residents and providing a better 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 from 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.”*

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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 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 building has as nine storey form (as seen from Canterbury Road) and the provision of the central lift core within the rooftop is not visible from points surrounding the site and provides appropriate lift/stair access to the roof top communal open space, without compromising the stated underlying objectives of the building height controls. The location of the communal open space on the roof top receiving uninterrupted solar access and views is a preferred environmental planning outcome as compared to the removal of these facilities from the development. The proposal meets the intent of the objectives of the height standard and each objective is discussed below:

- (a) to establish and maintain the desirable attributes and character of an area  
The height encroachment cannot be seen from the street and the encroachment is created by the central lift core. The height of the building at the street front is in keeping with the heights of the buildings previously approved in particular with that opposite on Canterbury Road known as 2A Charles Street. In this regard the proposal maintains the desired character of the area.
- (b) to minimise overshadowing and ensure there is a desired level of solar access and public open space  
The proposed development does not unreasonable impact upon solar access to adjoining properties and public spaces.
- (c) to support building design that contributes positively to the streetscape and visual amenity of an area  
The Urban Design peer review prepared by AE Design Partnership indicated that the proposed built form will emphasise 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. In this regard it is considered that the proposal will contribute positively to the streetscape and improve the amenity of the area.

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(d) to reinforce important road frontages in specific localities

The proposed lift overrun will not form part of the streetscape presentation. With the imposition of a gateway entrance to the Canterbury Town Centre the significant building and that opposite on 2A Charles Street reinforces the importance of Canterbury Road.

As discussed above 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.

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 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 would not be any benefit achieved. Instead, the amenity of the future occupants would be compromised. 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.

Floor Space Ratio

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

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Specifically, the site is mapped as being affected by two floor space ratio zones, comprising maximum FSR's of 3:1 and 2.75:1. The resulting maximum permissible gross floor area (GFA) on the site is 3,734.95m<sup>2</sup>. The proposal involves a GFA of 7,672m<sup>2</sup> with an FSR of 6.1:1, representing an additional 3,937.05m<sup>2</sup> over the maximum permissible floor space. This is a 105.4% 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.*
- *There is a miss-match between the FSR and height controls.*
- *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, 80 of the proposed 88 units (90.9%) are larger than the minimum RFDC rule of thumb, with 32 (36.3%) more than 10% larger. In this context, 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) development 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 *Wehbe v Pittwater Council* [2007] NSWLEC 827 relating to SEPP 1 Objections to justify why compliance with the Standard is unreasonable and unnecessary in the circumstances.

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The objectives of the floor space ratio standard are listed below

- (a) to provide effective control over the bulk of future development,
- (b) to protect the environmental amenity and desired future character of an area,
- (c) to minimise adverse environmental impacts on adjoining properties and the public domain,
- (d) to optimise development density within easy walk of the railway stations and commercial centres.

In regards to objectives (a), (b) and (c), except for the proposed lift overruns, the building has been designed to the permitted building height (27m), but has non-compliant setback for the street portion of the building where a 5m setback is not achieved for the upper five levels (as required by the DCP). The applicant has submitted an urban design peer review that essentially concludes that the subject site will mimic the proximity to Canterbury Road (and to a similar height) of the approved building located on the opposite side of Canterbury Road. Thus creating a 'gateway' entrance. This is considered to be an appropriate urban design outcome. In addition, the building has side and rear boundary setbacks that are compliant with the DCP provisions. The proposal therefore achieves compliance with objective (a).

However, in relation to objectives (b) and (c), an improved amenity outcome for the future residents of the site and the adjacent bowling club site (which is in the process of being rezoned to R4 High Density Residential, refer to Note 1 under the DCP compliance table for discussion) would be achieved with the creation of a 3m setback to the eastern site boundary. This is less than what would be required under the SEPP 65 provisions, but is seen as a reasonable compromise given the status of the Draft LEP for the bowling club site, at the time of lodgement of this application.

The envelope of the development, albeit with a justified variation to the front setback requirement, is consistent with the intent of the controls and the proposal is a building that has the bulk and related amenity impacts that is commensurate with a 9 storey building.

The site is located directly opposite the entrance to Canterbury Rail Station and within the Canterbury Town Centre. Increasing the density on a site in such an accessible location is considered reasonable particularly when the impacts created are minimal. In this regard objective (d) is satisfied.

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 the LEP and DCP.

It should be noted that a proposal which complies with the setbacks (excluding rear setback to draft LEP), height and landscaping controls envisaged for the site an FSR of approximately 5.8:1 would be generated, which is far greater than the max FSR under the LEP. Consequently it appears that there is no correlation between the FSR standard and the other controls in the LEP and DCP.

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Further *Four2Five Pty Ltd v Ashfield Council* relates to a consideration of a clause 4.6 departure to a 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.

In regards to FSR, 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 entrance to Canterbury's southern town centre. The proposed design will enhance the streetscape quality and provide a suitable gateway entrance to the southern portion of the Canterbury Town Centre. This is achieved by mimicking the nil setback to Canterbury Road of the approved building opposite. And in this regard the development is compatible with the envisaged streetscape and is a site specific outcome.

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."*

It is evident that there is no correlation between the height and floor space ratio development standards for the site. To insist on strict compliance with the FSR standard would drive a building that would be approximately one third of the proposed development. Such an outcome would be contrary to the intent for a 27m high building on the site and Council's strategic planning objectives.

The proposed is also considered consistent with the objectives of the Draft Sydenham to Bankstown Urban Renewal Corridor, which is in its initial stages.

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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.

Therefore the current proposal is a preferable outcome from an environmental planning perspective and demonstrates that there is merit in varying the development standard to achieve a better design response on the site. Having regard to the above commentary, it is considered appropriate in this instance to support the submission under Clause 4.6 of LEP 2012 to permit the proposed development.

However as a result of the Draft LEP on the site adjoining to the east, the application is proposed to be approved subject to a Deferred Commencement condition. This condition will require a 3m setback to the all residential levels from the rear boundary adjoining 15 Close Street.

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 (CDCP 2012)**

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 3. 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 4. The controls in Parts 6.4 (Engineering) and 6.6 (Landscaping) are outlined on the relevant plans and considered by Council's referral officers.



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**Table 2: CDCP 2012 Part 3 Business Zones – Compliance Table**

Clause	Requirement	Proposal	Complies
3.1.2 Site amalgamation and minimum frontage	<ul style="list-style-type: none"> <li>Min frontage – 12m – 18m (B1/B2 zone);</li> <li>Min lot (Canterbury Town Centre) - 1500m<sup>2</sup></li> <li>Amalgamated sites (Figure 3.1) - see below</li> </ul> 	<p>The site has a minimum frontage to Canterbury Road of 19.2m and site area of 1283.3m<sup>2</sup>. Combined with the adjoining development, the overall proposal satisfies the minimum area and frontage requirements.</p> <p>The lots at the southern end of this amalgamation pattern comprise 6-8 Close Street which have already obtained approval for redevelopment into shop housing development in accordance with the LEP controls (see background section). Agreement has not been reached with the owner of 224 Canterbury Road. Documentation to this effect has been submitted. Refer to Note 1.</p>	No Refer Note 1
3.1.4 Site Isolation	New development should not result in isolation of a neighbouring property that could not accommodate redevelopment.	Whilst not specifically adjoining this subject application as a combined application (Stage 1 and 2) there will be site isolation as outlined above in relation to 224 Canterbury Road Canterbury.	No Refer Note 1
3.1.5 Retention of facades	Max height >5 storeys, comprehensive redevelopment is permitted and facades do not need to be retained.	Max height >5 storeys.	N/A
3.1.6 Height	Building height - refer CLEP max height (27m).	The maximum height of the development exceeds the 27m by between 0.9m to 1.7m.	No - see 4.6 discussion
	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
3.1.7 Depth/ footprint	Residential - max 18m depth from glass line to glass line	13.1m-22.8m	No Refer Note 2
	Commercial/retail – Depth 10m - 24m	15 – 20 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

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Clause	Requirement	Proposal	Complies
3.1.8 Setback (B2 along Canterbury Rd)	Number 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.	No Refer Note 3
	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 some setback along the front building façade. The basement is setback 3m from the boundary to Canterbury Road.	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 frontage.	No Refer Note 3
	Do not present a flat façade along the setback line - provide articulation and variation.	There is variation in terms of the face of the building with some articulation provided by balconies and features design elements.	Yes
	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
3.1.9 Building separation	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 buildings on the site are 9 metres apart (no habitable rooms or balconies facing each other), with habitable balconies being 18 metres apart within the site. The only adjoining building is to the Southwest which is part of this overall development. A nil side boundary setback is acceptable in this location, with the open plaza area providing adequate light and ventilation. Amended via deferred commencement condition to 3m rear setback to Close Street being the subject of a draft LEP.	Yes  Refer to Note 7
3.1.10 Exceptions to setbacks	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
3.1.11 Public domain	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.	-

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Clause	Requirement	Proposal	Complies
3.1.12 Car parking	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 below ground level.	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 from 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.	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 ROW through the Close Street development 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

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Clause	Requirement	Proposal	Complies
3.1.13 Basement parking	Basement parking and ramps <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 and employee) and short-term (shopper and 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
	Basement parking appearance <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 is integrated into the design of the development.	Yes
3.2.1 Context	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 and is appropriate in the town centre.	Yes
3.2.2 Street address	Entries <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 clearly 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

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Clause	Requirement	Proposal	Complies
	<p>Habitable rooms</p> <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>	<p>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.</p>	Yes
3.2.3 Façade design and articulation	<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 well-articulated façade along the street.</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> <p>The façade has various building elements integrated into it including balconies and balustrades, external fixtures and differing materials which provides significant articulation. There are numerous steps into the front facade for balconies, windows and entries. Wall alignment adequately modulated.</p>	Yes
	<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.	

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Clause	Requirement	Proposal	Complies
3.2.4 Façade details	<p>Solid and void ratio</p> <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>	Yes
	<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>	<p>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.</p>	Yes

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Clause	Requirement	Proposal	Complies
	<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
3.2.5 Shopfront	<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 frontage of the development as well as along the facades along the public plaza area.	Yes

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Clause	Requirement	Proposal	Complies
3.2.6 Corners, gateway sties and foreground treatments	<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 may be given precedence over emphasising corner and gateway sites.</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
3.2.7 Frontage types	<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 the street 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



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Clause	Requirement	Proposal	Complies
3.2.8 Roof design	<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

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Clause	Requirement	Proposal	Complies
3.2.9 Services and utility areas	<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
3.3.1 Visual privacy	<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>	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 an absence of immediately adjoining buildings in which overlooking would be of concern. Visual privacy is therefore maximised by unit configuration and reasonable distances from habitable rooms between buildings	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

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Clause	Requirement	Proposal	Complies
	<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>	There are no ground floor units.	N/A
	<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
3.3.2 Acoustic privacy	<p>Adjoining railway or busy road</p> <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

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Clause	Requirement	Proposal	Complies
	<p>General</p> <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> <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> </li> </ul>	Addressed in the Acoustic report. The proposal will comply with the BCA.	Yes
3.3.3 Open space	<p>Balconies and private courtyards</p> <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>• Primary balconies satisfy min sizes with exception of several 2 bed units comprising Units 4, 10, 16, 22, 28, 34, 40 and 46 in northern corner which have balconies 10.5-10.8m<sup>2</sup>.</li> <li>• Balconies &gt;2m deep.</li> <li>• No min size for studios (6m<sup>2</sup>).</li> </ul>	No Refer Note 4.

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Clause	Requirement	Proposal	Complies
	<p>Private open space (POS) design</p> <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 and 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 6m<sup>2</sup> (studios) and 8m<sup>2</sup> - 15m<sup>2</sup> (1 and 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
	<p>Balconies design</p> <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 context.</li> <li>• Design balustrades to allow views and casual surveillance of street and visual privacy.</li> </ul>	<p>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 balconies.</p>	Yes

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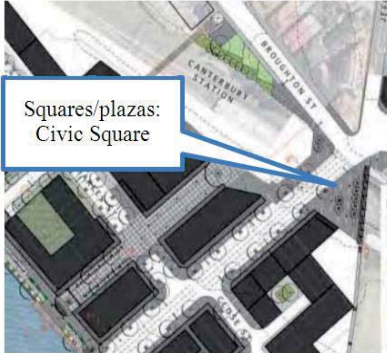

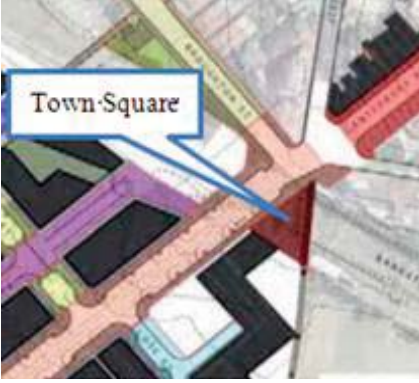
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Clause	Requirement	Proposal	Complies
	Communal open space (COS) <ul style="list-style-type: none"> <li>Podiums or terraces, deep-soil setback or separation between buildings:</li> <li>Min 6m dimension for COS.</li> <li>Consolidate COS into recognisable 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>	The proposed plaza area comprises an area of 304m <sup>2</sup> (min area required is 128m <sup>2</sup> ) with a dimension >6m.  The roof top has a combined area of 827m <sup>2</sup>	Yes
3.3.4 Internal dwelling design	Room dimensions <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
	Storage: <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>	Storage provided for units in the basement (6m <sup>3</sup> and 8m <sup>3</sup> ).	Yes
3.3.5 Housing choice	<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>	Unit sizes proposed are:- <ul style="list-style-type: none"> <li>8 x studio units (9.1%)</li> <li>24 x 1 bed units (27.3%)</li> <li>56 x 2 bed units (63.6%)</li> <li>10 adaptable units (11.4%);</li> <li>Various units with a study.</li> <li>No ground floor residential which is appropriate for this site.</li> </ul>	Yes

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Clause	Requirement	Proposal	Complies
Appendix 3.2 Canterbury Town Centre			
Aims (page P3.1.5)	<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 and places</li> <li>• Create attractive waterfront along Cooks River through pedestrian and cycle ways, landscaped open spaces, opportunities for outdoor activities.</li> <li>• Reinstate 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
Structure plan (Figure 3.2.1)		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 significant public benefit and is therefore supported.	Yes
Specific heights in storeys (Figure 3.2.2)		The proposal comprises 9 storeys.	No Refer Note 5
Canterbury Town Centre public domain structure plan (Figure 3.2.3)		The proposal is not located on land proposed for the town square, however, a plaza is proposed at ground level.	Yes

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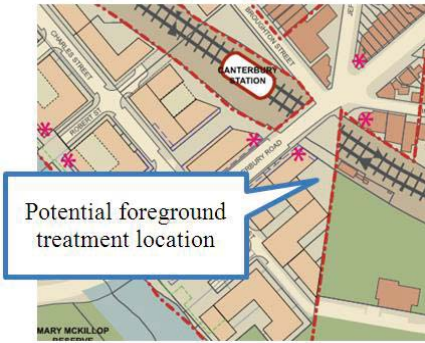
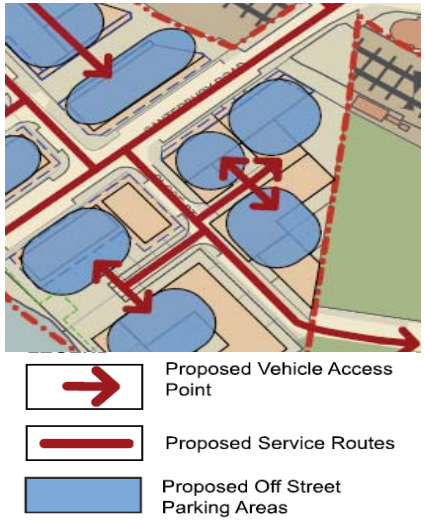
Clause	Requirement	Proposal	Complies
Canterbury Town Centre corner treatment sites (Figure 3.2.4)		The proposal provides for a forecourt with landscaping along Canterbury Road as well as a public plaza which wraps round to the adjoining site.	Yes
Parking and vehicle access (Figure 3.2.5)		The proposal involves vehicle access from Close Street (via the adjoining site). Off-street car parking is provided in the basement car park.	Yes

Table 4: CDCP 2012 Part 6 – Compliance Table

Clause	Requirement	Proposal	Complies
Part 6.1: Access and Mobility			
6.1.5 Assessment Table	<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 and 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>	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, will be imposed as a condition of consent.	Yes



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Clause	Requirement	Proposal	Complies
Part 6.2 – Climate, and energy and resource efficiency			
6.2.1 Site layout and building orientation	Design and orientate the building to maximise solar access and natural lighting, without unduly increasing the building's heat load.	The proposal is generally orientated to the north such that the majority of living areas and balconies have a northerly aspect.	Yes
6.2.6 Daylight and sun access (New buildings in business zones)	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.	69 units (78.4%) of units will receive at least three hours sunlight between 9am and 3pm in mid-winter.	Yes
	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
6.2.6 Daylight and sun access (Existing dwellings adjoining new residential)	Siting and form of new developments shall protect existing neighbouring dwellings: <ul style="list-style-type: none"> <li>At least 2 hours sunlight between 9am and 3pm on 21 June shall be retained for existing indoor living areas and at least 50% of the principal portion of 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 224 would receive little sunlight between 9am and 3pm in mid-winter. The development further to the west at 226-240 would receive morning sun in midwinter.	No Refer to Note 6
6.2.7 Ventilation (Residential and mixed-use)	Provide natural cross ventilation to at least 60% dwellings, and natural ventilation to 25% of kitchens in a multiple unit development.	63.6% (56 of 88) 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 of the residential floors ranges from 13.1m to 22.8m. This is addressed in DCP Part 3 assessment (note 1).	Refer to Note 2
Part 6.3 Crime Prevention			
6.3.2. Residential Development	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

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Clause	Requirement	Proposal	Complies
	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
6.3.3. Commercial / Retail / Industrial and Community Facilities	Locate public services in areas of high activity. Allow for natural surveillance and suitable streetscape appearance. Provide entries that are clearly visible from the street. Maximise the access and visibility of facilities. Use building materials that reduce opportunity for intruder access.	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
6.3.4 Car Parks	Provide adequate lighting. Use materials that enhance natural surveillance within the car park. Allow natural observation. Ensure clear sight lines throughout the parking area. Design car parks to allow for natural surveillance. Provide security to monitor access to area. Ensure ease of access and safety within the car park. Clearly distinguish between private and public space. Ensure that parking areas are clearly identified by signage to prevent unintended access and to assist persons trying to find their car.	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 and Parking</b>			
6.8.3 Minimum parking and servicing requirements	Shop top housing in B2 zones – Large Centres: <ul style="list-style-type: none"> <li>• Studio: 0.25 spaces/dwelling (8 x 0.25 = 2 spaces)</li> <li>• 1 bedroom: 0.8 spaces/dwelling (14 x 11.2 spaces)</li> <li>• 2 bedroom: 1 space/dwelling (56 x 1 = 56 spaces)</li> <li>• 3 bedroom +: 1 space/dwelling (N/A)</li> <li>• Adaptable – space/unit (10 x 1 = 10 spaces)</li> <li>• Visitor Parking: Not required (N/A)</li> </ul>	Required - 79.2 spaces residential spaces required.  Provided – 81 spaces (including 9 adaptable spaces). 80 car parking spaces, including 10 adaptable spaces, are to be allocated to residential via conditions.	Yes

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Clause	Requirement	Proposal	Complies
	Commercial in B2 zone <ul style="list-style-type: none"> <li>Commercial/office - 1 space/60m<sup>2</sup> or shops (10.8 spaces = 11 spaces Required);</li> <li>Minimum 1 courier parking space</li> </ul>	10 commercial spaces are provided (including 1 adaptable space). 11 car parking spaces to be allocated to commercial via conditions. 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 (17.6 spaces);</li> <li>Commercial – 1 space/200m<sup>2</sup> (staff) and 1 space/750m<sup>2</sup> over 1000m<sup>2</sup> (visitors) – 4 spaces for staff required.</li> </ul> Total required = 22 bicycle	31 bicycle spaces are provided.	Yes
Part 6.9 – Waste Management			
6.9.1 Demolition and construction phase	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
6.9.2 Waste management plan	Submit a detailed Waste Management Plan for the on-going use of the development once completed.	A Waste Management Plan is provided.	Yes
6.9.3.4 Residential flat buildings, residential in mixed use development	<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 – 44 bins required Recycling – 29 bins required. There is adequate space in waste storage rooms for these bins (43 waste and 29 recycling), which is sufficient for the development given there are 8 studio units. No garden recycling bins are required for this development.	Yes

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Clause	Requirement	Proposal	Complies
6.9.3.5 Non-residential development	<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>	<p>5 x rubbish and 5 x recycling bins have been provided in a separate commercial waste storage room in the basement.</p> <p>Close street will be used for garbage collection.</p> <p>This is considered sufficient for the 6 commercial tenancies.</p>	Yes

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

Note 1: Site Amalgamation and Site isolation (C13.1.2 and C13.1.4)

The subject application does not directly adjoin a lot that will become isolated. However the combined development, incorporating stage one and two, will isolate the property at 224 Canterbury Road. The matter of lot isolation has been discussed within the report for DA-169/2015.

Note 2: Building Depth (C13.1.7)

The northern portion of the building located along the north-eastern side of the subject site as well as the portion of the street-facing units 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 10m 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 no 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.

Note 3: Front Setback and Storeys (C13.1.8)

The controls require the following:-

- Number of storeys at street: 1-4 storeys – 3m
- Upper levels setback: above 4 storeys an additional 5 metres
- Do not present a flat façade along the setback line - provide articulation and variation.

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The proposal does not strictly accord to these requirements given there is no additional setback of any of the floors such that the building is nine storeys at Canterbury Road. Whilst the building does not comply with the setbacks it is considered that the proposed building is in keeping with the 3m 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 28 May 2014.

The design of the building opposite has been reflected within the current proposal and create a significant entry to the southern portion of the Canterbury Town Centre. The Urban Design peer review prepared by AE Design Partnership indicated that the proposed built form will emphasis 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. In this regard it is considered that the proposal will contribute positively to the streetscape and improve the amenity of the area. In addition the objectives of the control are considered satisfied.

Note 4: Private Open Space (2 bed Units on northern corner)

Pursuant to Clause 3.3.3 of Part 3, the primary balconies of units are to be a minimum of 8m<sup>2</sup> (1 bed) and 12m<sup>2</sup> (2+ beds). The proposed 1 bed units provide the required balcony sizes as well as the majority of the 2 bed units. However, there are a number of 2 bed units which provide a primary balcony of only 10.5m<sup>2</sup> to 10.8m<sup>2</sup>. These units comprise Units 4, 10, 16, 22, 28, 34, 40 and 46 in northern corner.

The objectives of this control include that all residents have access to private and functional open space on their land, such as private yards, courtyards and balconies or roof top terraces and that all residents in multiple dwelling buildings have access to consolidated, semi-private and functional communal open space on their land.

Despite this minor non-compliance for 8 of the proposed 88 units, all of the proposed units have access to sufficient private open space as well as communal open space. The majority of balconies will receive sufficient solar access and various uses can be undertaken on the balconies are required by the controls. The balconies also combine with the adjacent living spaces to create combined living zone. It is therefore considered that the minor variation is acceptable given there will be adequate private open space provided for each unit.

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 CLEP 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)

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

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units within the development and the roof terrace common open space. However, the proposed building affects the adjoining western properties throughout the day.

There is limited solar access to the adjoining premises at 224 Canterbury Road, it will not receive the required two hours of solar access to the rear portion of the building and the private open space. The building is orientated north west with its frontage to Canterbury Road and is also positioned 3m further forward of the proposed building and as such will receive solar access to this portion of the building in the afternoon. The rear of the site will be in shadow from the proposed building however. This is largely unavoidable given the orientation/relationship, permitted building height and nil side boundary setbacks. It is also noted that the agreement of amalgamation was not reached with the owner of 224 Canterbury Road. In this regard whilst the required minimum of two hours is not received by 224 Canterbury Road the proposal is considered satisfactory in regard solar access given its urban context where it is expected that there would be some erosion of solar access and its impacts are considered acceptable.

There would also only be limited solar access to 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.

It is noted that the solar diagrams appear to be incorrect in the position of the north point.

Note 7: Rear Setback to 15 Close Street

The adjoining property to the south is the subject to a draft LEP rezoning the property from RE1 Public Recreation to R4 High Density Housing. Currently, to a property zoned RE1 Public Recreation no setback or building separation is required as there is no opportunity for residential development and the DCP does not require a setback.

However there is a draft LEP to rezone the bowling club site from RE1 to R4 High Density Residential. The Planning Proposal has been on public exhibition and is a matter for consideration in the assessment of this application. It is understood that the planning proposal is nearing finalisation.

The proposed nil eastern boundary setback has the potential to undermine the development potential of the bowling club site and is not an appropriate response to the interface between the B2 and R4 zones.

Rezoning of the bowling club would allow for residential apartment development and as such building separation must be considered. Council has identified a 9m setback to the common boundary with the subject site under a draft masterplan. The masterplan also indicates a through site link adjacent to the eastern boundary of the subject site. In this regard, it is considered appropriate to recommend that the application be approved subject to a deferred commencement condition requiring a 3m setback to the common boundary with the subject site. This would create a 12m separation between the buildings and is considered to be reasonable compromise given that the LEP hasn't been finalised, but is a matter that requires consideration. A 12m building separation

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would achieve reasonable resident amenity and the proposed 3m setback would ensure that the future redevelopment of the bowling club site is not undermined. In addition, without a 3m setback, the east facing units would have a harsh and undesirable interface with the public through suite link that is anticipated in Council's draft masterplan.

In this regard it is recommended that the application be amended via a Deferred Commencement condition to requiring amended plans be submitted with a 3m rear setback to the common boundary for 15 Close Street.

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

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 (GFA). The proposed deferred commencement conditions will alter the design of the development. On this basis, a condition has been included which requires the applicant to pay the required contribution based on the amended plans.

### Other Considerations

- **Likely impacts on the Environment**

The scale and built form of the proposed development is considered to be unsatisfactory. 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. 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 residential and commercial use. The proposed development is permissible in the subject site's current zoning. The proposal has been assessed under 79C of the Environmental Planning and Assessment Act, 1979 and, as demonstrated throughout the body of this report, the proposal generally complies with the provisions of most of the relevant state environmental planning policies, development control plans, codes and policies with the exception of building height and FSR and other

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matters raised in this report. The proposal is suitable for site but at a reduced density to that which is currently proposed.

- **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.
- **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).

#### Referrals

- **Development Engineer**  
The stormwater plan submitted with the application has been assessed by our 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 our 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 our 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.
- **Disability 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.

#### Notification

The proposed development and the adjoining development were publicly exhibited and adjoining land owners were notified as per the requirements of CDCP 2012. During this period, three submissions were received raising the following concerns in relation to the proposed development:

- **Overshadowing to 224 and 226 Canterbury Road**

##### Comment

As discussed in Note 7 above, solar access to the adjoining properties does not comply with the required 2 hours sunlight in mid-winter.



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The building generally complies with the envelope controls created by the height and setbacks. The height encroachment (lift overrun) does not generate any additional shadow on the adjoining properties. Whilst the proposed development does not comply with the 5m front setback to Canterbury Road for levels above the 4 floor the difference in the shadow cast would be marginal given permitted building height and nil side boundary setback.

Mid-winter being the worst case scenario adequate solar access is achieved for the remainder of the year.

- **Noise generated by occupants of new building**

Comment

The noise generated is not expected to be above that of a high density residential area for which it is zoned.

- **Extra traffic generated**

Comment

The site and the surrounding area have been zoned for high density residential development. The impact on and capacity of the area to cope with permitted development has been taken into account in the studies that have informed the planning instruments.

Our Traffic Section has assessed the application against the requirements of the DCP and found it to be satisfactory in regards to traffic generation and impacts. The application was not required to be referred to the Traffic Committee who raised no objection to the proposal.

- **Excavation and construction noise**

Comment

Some inconvenience during the construction will occur but this can be appropriately managed via conditions. Standard conditions of consent are recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, excavation, demolition and use of any crane, hoist, plant or scaffolding.

- **Damage caused to surrounding buildings and access way by significant excavation and construction**

Comment

A condition is proposed that dilapidation reports are undertaken prior to construction commencing and at the completion. Further conditions are proposed that oblige the developer to protect adjoining buildings from collapse.

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- **Blocking access to adjoining property.**

Comment

A condition in regards to maintaining access to all surrounding properties at all times is maintained.

- **These developments will contribute to the overdevelopment that is currently taking place in Canterbury, which residents are becoming very concerned about, such as the proposal to rezone and reclassify the Canterbury Bowling Club, depriving the community the space for socialising and community activities.**

Comment

Canterbury Road and the Canterbury Town Centre is an area of transition. It is surrounded by new large scale high density residential development but also contains older style three storey walk ups and two and single storey commercial and residential dwellings. The proposal is consistent with Council's visions for the Canterbury Town Centre.

- **Resulting in 226 Canterbury Road being overpowered by large unit blocks from every aspect of the building, with very little privacy at all**

Comment

The impacts on privacy are unavoidable given the steep increase in density on the site. However, where there is a sensitive interface, privacy impacts have been managed through the strategic placement of windows and privacy screens to create reciprocal privacy outcomes.

- **Shadow diagrams inaccurate**

Comment

It is noted that the shadow diagrams appear incorrect with the north point incorrectly positioned this depicting shadows that are actually worse than will result. Overshadowing has been discussed in this report.

### 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, code and policies.

The proposed development is permissible in the zone subject to consent under the provisions of CLEP2012. As demonstrated, the proposed development is generally consistent with the provisions of the relevant State Environmental Planning Policies and Councils development control plans with the exception of the matters discussed in this report.

As outlined throughout this report, the site is capable of accommodating the proposed 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

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is recommended that the development application be approved, subject to deferred commencement matters as outlined below.

**RECOMMENDATION:**

THAT the Development Application, DA-168/2015, be approved as a **DEFERRED COMMENCEMENT** Consent under Section 80(3) of the Environmental Planning and Assessment Act, 1979.

- A. This consent is not to operate until the Applicant has, within 12 months, amended the development to:
1. In light of the imminent rezoning, and desired future development potential of the adjoining property at 15 Close Street, Canterbury, the development must be amended to create a 3m setback to its rear/eastern boundary (excluding basement parking levels and the location of the lift and fire stair as currently shown on the plans). While insisting on the 3m setback this does not necessarily mean a loss of floor space however, it is up to the applicant to demonstrate how this can be achieved.  
The external treatment of the development shall be appropriately designed by a project architect and the final design endorsed by a separate, independent registered architect chosen by Council. The applicant shall bear the costs of achieving compliance with this condition.
  2. As a result of the amended building form, to reflect that as required above, the amended plans will be referred to internal and external bodies, including Sydney Trains, Roads and Maritime Service as well as Council's Development Engineer and Landscape Architect. This is to ensure the amended built form has acceptable levels of amenity and minimal impact on the local environment.
  3. In support of the required plan amendments, the following is required:
    - a) Updated stormwater and landscape plans;
    - b) Updated BASIX Certificates;
    - c) Update Geotechnical and Traffic Reports;
    - d) In relation to the referral to Sydney Trains, the following is required:
      - i. Construction methodology with details pertaining to structural support during excavation;
      - ii. Cross sectional drawings showing ground surface, rail tracks, sub-soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor;
      - iii. Detailed survey plan showing the relationship of the amended development with respect to Railcorp's land and infrastructure; and,
      - iv. Documentation detailing the following items in relation to Sydney Trains 11kV High Tension Transmission Lien adjoining the site:
        - Blow-out design and calculations;
        - Compliance with AS7000;
        - Compliance with ISSC 20, Guideline of the management of activities within Electrical Easements and Close to electrical infrastructure;
        - Compliance with SMS-06-GD-0268 – Working around electrical equipment;

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- Compliance with relevant Transport for NSW Asset Standards Authority standards/guidelines; and
  - Construction management plan detailing as to the unloading of building material and equipment and method of construction in close proximity to power lines.
- B. The following conditions of consent will be included in the development consent issued by Council after the applicant provides information sufficient to satisfy Council in relation to the conditions of the deferred commencement consent. Additional conditions, including levying Development Contributions, will be imposed as a result of satisfying the above matters.

## PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

## 1.1. Details of:

- Structural Engineering Plan including method of shoring during excavation
- Building Specifications
- Fire Safety Schedule
- Landscape Plan
- Hydraulic Plan
- Firewall Separation
- Soil and Waste Management Plan
- Plan of Management
- Acoustic Report
- Consolidation of All Lots into One Lot
- Mechanical Ventilation of Basement Carpark (Compliance with Section 4.4 of AS 1668.2)
- BASIX Certification
- Compliance with Disability (Access to Premises – Buildings) Standards 2010
- Pay to Council of Development Contributions

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

- 1.3. Payment to Council of:

Kerb and Gutter Damage Deposit	\$3328.00
Certificate Registration Fee	\$36.00
Long Service Levy	\$43044.20

Note 1: If you appoint a Council as your Principal Certifying Authority additional fees to those above will also apply.

Note 2: When the items in this condition are provided and have been assessed as satisfactory, your Construction Certificate will be posted to you.

Note 3: Development Contribution payments are payable by cash, bank cheque, or EFTPOS.

Note 4: All Council fees referred to above are subject to change. You need to refer to our website or contact our Customer Service Centre for a current schedule of fees prior to payment.

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## BEFORE COMMENCING THE DEVELOPMENT

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

## SITE SIGNAGE

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

## DEMOLITION

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

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- or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
- (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
  - (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
  - (k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
  - (l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).
  - (m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
  - (n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of Australian Standard AS2601-2001: Demolition of Structure. Note: For further advice you may wish to contact the Global Lead Advice and Support Service on 9716 0132 or 1800 626 086 (freecall), or at [www.lead.org.au](http://www.lead.org.au).
  - (o) Hazardous dust not being allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended.
  - (p) Any existing accumulations of dust (eg. Ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

## GENERAL

5. The development being carried out in accordance with the stamped approved plans, specifications and details prepared by CD Architects, Job Ref: J14231 except where amended by the following specific conditions and the conditions contained in this Notice.
6. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury City Council's Section 94 Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area. Satisfaction of the deferred commencement conditions will result in reduced gross floor area within the development. The Section 94 contribution payable is \$149.59 per square of GFA in the development.

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

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- The contribution is to be paid to Council in full prior to the release of the Construction Certificate, (or for a development not involving building work, the contribution is to be paid to Council in full before the commencement of the activity on the site) in accordance with the requirements of the Contributions Plan.
7. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
  8. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
  9. All building construction work must comply with the National Construction Code.
  10. Provide a Surveyor's Certificate to the Principal Certifying Authority at all floor levels indicating the finished floor level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
  11. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to walls being erected more than 300mm above adjacent ground surfaces to indicate the exact location of all external walls in relation to allotment boundaries.
  12. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
  13. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.
  14. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
  15. The site must be provided with a vehicle washdown area at the exit point of the site. The area must drain to an approved silt trap prior to disposal to the stormwater drainage system in accordance with the requirements of Specification S2 of Council's Stormwater Management Manual. Vehicle tyres must be clean before leaving the site.
  16. A single entry/exit point must be provided to the site which will be constructed of a minimum of 40mm aggregate of blue metal or recycled concrete. The depth of the entry/exit point must be 150mm. The length will be no less than 15m and the width no less than 3m. Water from the area above the entry/exit point should be diverted to an approved sediment filter or trap by a bund or drain located above.
  17. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
  18. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
  19. All disturbed areas must be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
  20. An application being made to Council's City Works Division for the construction of a vehicular crossing either by Council or an approved contractor complying with City Works Division standards and at the owner's cost.
  21. Toilet facilities should be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
  22. The implementation of adequate care during building construction to ensure that no damage is caused to any adjoining properties.
  23. Erection of a hoarding/fence or other measure to restrict public access to the site and to building works, materials or equipment when building work is not in progress or the

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- site is otherwise unoccupied.
24. Payment of an additional garbage levy for each new dwelling upon completion of work.
  25. All vehicles carrying materials to or from the site having their loads covered at all times with tarpaulins or similar covers in accordance with the Roads (General) Regulation 2000, Section 11 (1) (d).
  26. Stormwater from roof areas must be linked via a temporary downpipe to a Council approved stormwater disposal system immediately after completion of the roof area.
  27. No construction work outside the hours of Monday to Friday, 7.00 a.m. to 5.00 p.m. and Saturday, 7.00 a.m. to 12.00 noon, is permissible without the prior approval of Council. Noise from construction activities associated with the development should comply with the following guidelines (from NSW Environment Protection Authority Environmental Noise Control Manual Chapter 171).

Construction periods of 4 weeks and under:

The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 20dB(A) when assessed to the any sensitive noise receiver.

Construction periods greater than 4 weeks and not exceeding 26 weeks:

The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed to the any sensitive noise receiver.

28. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.

In this condition:

- a) relevant BASIX Certificate means:
  - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
  - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."

**DILAPIDATION & EXCAVATION**

29. A photographic survey of the adjoining properties detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, should be submitted to the Principal Certifying Authority and Canterbury City Council if Council is not the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority and Canterbury City Council if Council is not the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage should be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected



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person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition should be borne by the persons entitled to act on this Consent. In the event that access is denied the applicant is to demonstrate in writing that all reasonable steps were taken to obtain access to the adjoining property, and any assessment will then be based of what can be observed externally'.

30. A dilapidation report prepared by an Accredited Engineer, detailing the structural adequacy of all properties that share a boundary with the development site and their ability to withstand the proposed excavation, and any measures required to be incorporated into the work to ensure that no damage will occur during the course of the works, should be submitted to Council, or the Principal Certifying Authority with the Construction Certificate. All costs to be borne by the applicant. In the event that access is denied the applicant is to demonstrate in writing that all reasonable steps were taken to obtain access to the adjoining property, and any assessment will then be based of what can be observed externally'.

ROADS & MARITIME SERVICES

31. All buildings and structures together with any improvements integral to the future use of the site are to be wholly within the existing freehold property unlimited in height or depth along the Canterbury Road, boundary.
32. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.  
Telephone 8849 2114  
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

33. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on New Canterbury Road.
34. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on New Canterbury Road during construction activities.
35. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.

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A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

Roads and Maritime has the following comments for Council's consideration in the determination of the application:

36. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2 – 2002 for heavy vehicle usage.

## ACOUSTICS &amp; ENVIRONMENTAL HEALTH

37. The building be treated such that it will achieve acoustic attenuation provided for in the "Development near busy roads and rail corridors" being 35dB(A0 for bedrooms and 40dB(A) for non-bedrooms in order to satisfy requirements under Clause 102(3) of State Environmental Planning Policy (Infrastructure) 2007. And in accordance with the recommendations contained with the DA Acoustic Assessment (report no. 20150139.2) dated 15 April 2015 prepared by Acoustic Logic.
38. All activity being conducted so that it causes no interference to the existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.
39. The proposed use of the premises and/or machinery equipment installed, must not create noise so as to interfere with the amenity of the neighbourhood. If a noise nuisance occurs, the person in control of the premises must arrange for an acoustic investigation to be carried out (by an accredited Acoustic Engineer), obtain Principal Certifying Authority concurrence for the recommendations of the Consultant, and implement those recommendations so as to reduce the noise levels to the ambient noise level. The acoustic investigation is to be carried out by a suitably qualified acoustic consultant who has not been previously involved with the proposal.

## LANDSCAPING

40. Landscaping is to be undertaken in accordance with landscape plans prepared by Greenland Design drawing numbers 0981B.L.01-03 dated 11 September 2015.  
Plant Quality and Sizes: All the tree supply stocks should comply with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003). Plant Pre-order: All scheduled plant stock should be pre-ordered, prior to issue of Construction Certificate or 3 months prior to the commencement of landscape construction works for the supply to the site on time for installation.  
Written confirmation of the order should be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation should include the date, name, address and contact details of supplier, and expected supply date.

## STORMWATER ENGINEERING

41. The stormwater system be constructed in general, in accordance with the plans, specifications and details dated 15 April 2015, drawing number 140426-D200-211 RevB; prepared by Australian Consulting Engineers and as amended by the following conditions.
42. Certification from an accredited engineer must be provided to certify that all works has

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- been carried out in accordance with the approved plan(s), relevant codes and standards.
43. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's DCP 2012, Part 6.4.
  44. Full width grated drains being provided across the vehicular entrance/exit to the site where internal areas drain towards the street, and be connected to the drainage system upstream of the silt arrestor pit and in accordance with Clause 4 of Council's DCP 2012, Part 6.4.
  45. OSD is required; three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority PCA and Canterbury City Council, if Council is not the PCA. The plans must be prepared by a practicing Civil Engineer and include levels reduced to Australian Height Datum (AHD) and full details of the hydraulic evaluation of the entire stormwater drainage system. The details shall be prepared in accordance with Council's DCP 2012, Part 6.4.
  46. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1<sup>st</sup> March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.
  47. Full width heavy duty vehicular crossings shall be provided at the vehicular entrances to the site at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
  48. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.
  49. The levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, carparks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
  50. Driveways, parking and service areas are to be constructed or repaired in accordance with the appropriate AUS-SPEC #1 Specifications: C242-Flexible Pavements; C245-Asphaltic Concrete; C247-Mass Concrete Subbase; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.
  51. Lighting is required for the public footway adjacent to the Lane and must comply with AS/NZS 1158.3.1: 2005 and AS/NZS 1158.0: 2005. Lighting must be recessed into the

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- building structure above the public footway and be integral to its structure with all wiring and conduits concealed.
52. A maintenance plan must be provided in respect of the lighting system above the public footway to address the following issues at a minimum: inspection schedule and a schedule of maintenance actions and maintenance frequency including cleaning, replacement of lighting based on expected operational life, replacement of protective coatings, amongst other cleaning/maintenance actions.
53. The lighting maintenance plan for the public footway must be provided by an electrical contractor or electrical engineer to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
54. The lighting maintenance plan for the public footway approved with the Construction Certificate must be retained on site and implemented at all times
55. The design of the vehicular access and off street parking facilities must be amended to address the relevant provisions of Australian Standards, including but not limited to AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking, AS 2890.2-2002 Parking Facilities - Off-Street commercial vehicles facilities, AS/NZS 2890.6-2009 Off-street parking for people with disabilities and AS 2890.3-1993 Parking Facilities - Bicycle parking facilities. The following specific issues must be addressed in the design:
56. The finished levels of the access driveways within the property must be adjusted to ensure that the levels at the boundary comply with those issued by Council.
- a) The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of *AS/NZS 2890.1-2004* for a B99 design vehicle.
  - b) Minimum Headroom of 2200mm must be provided throughout the access and parking facilities. Minimum Headroom of 2500mm must be provided above any disabled parking space(s). Note that the Headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, ducts, etc, and at any open garage door.
  - c) The vehicular access ramp must comply with the ramp grade requirements of Section 3.3 of *AS/NZS 2890.1-2004*.
  - d) Longitudinal sections must be provided along the worst case edge of all ramps within the parking facilities demonstrating compliance with the above requirements. The longitudinal sections at the entry/exit access ramp(s) must extend to the centreline of the connecting road carriageway.
  - e) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of *AS/NZS 2890.1-2004*.
  - f) The four small vehicle retail parking spaces and four small vehicle visitor parking spaces are not permitted and must be deleted.
  - g) The intersection of ramps with parking aisles and other intersection areas have been designed for use by one vehicle at a time. Appropriate traffic management measures, including redesign if needed, is required to prioritise one-way traffic movement at these intersection areas.
  - h) The swept path analysis for the loading dock must include the kerb and gutters in the laneway. In this regard the width of vehicular access to the loading dock may have to be increased to facilitate vehicular movements. The type of commercial vehicle used for the swept path must be provided.
  - i) The width of all vehicular access openings in the laneway must be determined
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by swept path analysis.

The design must be certified by a suitably qualified Civil Engineer and be provided prior to the issue of a Construction Certificate.

57. Where neighbouring properties and the roadway are intended to be utilised to support the excavation, the legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged with Canterbury City Council prior to the issue of a Construction Certificate. Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent. Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent. Permanent rock anchors are not permitted in Canterbury Road and Close Street and any proposed permanent or temporary rock anchors under New Canterbury Road will require Roads and Maritime Service concurrence. Where temporary anchors are proposed to be used in Canterbury Road and Close Street an Application must be made to Canterbury City Council for approval under Section 138 of the Roads Act 1993. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:
- a) Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.
  - b) Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
  - c) The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
58. As the proposed development includes significant excavation within the zone of influence of adjacent road reserves, an integrated Structural and Geotechnical Engineering report must be submitted prior to the issue of a Construction Certificate.
- a) The type and extent of substrata formations by the provision of representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum;
  - b) The appropriate means of excavation/shoring in light of the point above and proximity to adjacent property and structures. Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated;
  - c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby;
  - d) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The

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implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

- e) Should groundwater be identified the basement must be of fully tanked construction to at least 1000 mm above the groundwater level. Retaining walls must be entirely self supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure.
- f) Any retaining walls must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment.

The Report must be prepared by suitably qualified Structural and Geotechnical Engineers and be submitted to Canterbury City Council and the Principal Certifying Authority prior to the issue of a Construction Certificate.

59. Details of the proposed street awning, including plans and sections, must be provided to the Principal Certifying Authority. The details must include:

- a) The street awning(s) must be setback 600mm from the kerb line.
- b) The awnings must be entirely self-supporting; posts are not permitted.
- c) The person or company carrying out the works will be required to carry public liability insurance to a value of ten million dollars. In this regard a Certificate of Currency must be submitted to the Principal Certifying Authority.
- d) All stormwater is to be collected and connected to Council's street gutter. In this regard awning downpipes for drainage are to be fully concealed within or recessed into the ground floor frontage of the building. Awning gutters are to be constructed so that they are not visible from the footpath or are integral to the awning structure.
- e) The awning(s) must be approved by the relevant Road Authority pursuant to Section 138 of the Roads Act. Note that this Consent does not give approval to construct an awning in the road.
- f) The applicant must indicate the extent of any service adjustments necessary, and submit with the design, proof of approval by the relevant service authorities. The applicant shall bear all responsibility and costs associated with the proposed relocation of services.
- g) The awning(s) must be designed by a Structural Engineer for Roof Category R1 in accordance with AS/NZS 1170.1: 2002, AS/NZS 1170.0: 2002, and AS/NZS 1170.3: 2011. The design must incorporate all loads including dead loads, live loads, wind load (lateral, uplift, and downward pressure), and potential impact load.
- h) If the awning(s) is to be built over an exit that would be utilised in an emergency it must be constructed of non-combustible material.
- i) Lighting is required and must comply with AS/NZS 1158.3.1: 2005 and AS/NZS 1158.0: 2005. Lighting must be recessed into the awning and be integral to its structure with all wiring and conduits concealed.
- j) A maintenance plan must be provided in respect of the awning(s) to address the following issues at a minimum:
  - i. Inspection schedule of structural members, connections, and supports covering the life of the awning(s).
  - ii. Inspection schedule of non-structural components.

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- iii. Schedule of maintenance actions and maintenance frequency including cleaning, replacement of lighting based on expected operational life, replacement of protective coatings, and cleaning/maintenance of guttering and downpipes.

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

- 60. Development Consent does NOT give approval to undertake any works on Council property. An application must be made to Council under Section 138 of the *Roads Act 1993* for approval to construct these works.
- 61. The Principal Certifying Authority must ensure that the awing(s) have been constructed in accordance with this Consent and the relevant standards. Prior to the issue of an Occupation Certificate certification must be provided by a Structural Engineer that the awing(s) have been constructed in accordance with the design submitted with the Construction Certificate and National Construction Code.
- 62. The maintenance plan approved with the Construction Certificate must be retained on site and implemented at all times.
- 63. Development Consent does NOT give approval to undertake any works on or over the adjacent street frontages. An application must be made to Council for under Section 138 of the *Roads Act 1993* for approval to undertake works on or over these roads. Furthermore any such Approval is not valid unless the Concurrence of Roads and Maritime Services is also obtained. All Approvals under Section 138 of the *Roads Act* must be provided prior to the issue of a Construction Certificate. The works must be constructed in accordance with the conditions of the Approval obtained under the *Roads Act* and be completed prior to the issue of an Occupation Certificate. Note: The cost of adjustment or relocation of any public utility service shall be borne by the owner/applicant. Where the finished levels of the new works will result in changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant.

#### PUBLIC IMPROVEMENTS

- 64. All redundant vehicular crossings shall be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
- 65. All redundant stormwater connections must be removed and the footpath, and kerb and gutter reinstated.
- 66. The reconstruction of damaged sections of kerb and gutter along all areas of the site fronting Canterbury Road and Close Street to the satisfaction of Councils City Works is required. Work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
- 67. The reconstruction of damaged sections of concrete footpath paving and associated works along all areas of the site fronting Canterbury Road and Close Street to the satisfaction of Councils City Works is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".

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68. An engineering design of stormwater drainage and roadworks in the laneway, must be prepared by a qualified practicing Civil Engineer. The design must be prepared to make provision for the following:
- a) The scope of works are described in the above condition.
  - b) The design must be accompanied by detailed engineering drawings including relevant long and cross sections, hydraulic grade line analysis and location of utility services.
  - c) The plans must show existing and proposed on street parking.
  - d) Video inspection must be carried out of completed stormwater drainage works and a copy provided to Council to support the certification of the works.
  - e) The design must be in accordance with the relevant requirements of Austroads and all Australian Standards.
  - f) The applicant must consult with Council's Manager – Assets in relation to the design of all works in the public road reserve.

The application for approval of works in the road pursuant to Section 138 of the Roads Act must be accompanied by the above engineering design. Approval under the Roads Act will only be issued when the design has been approved by Council and this must be achieved prior to the issue of a Construction Certificate.

69. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that all approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with Councils Conditions of Approval under Section 138 of the Roads Act. Works-as-executed plans of the extent of roadworks, including any component of the stormwater drainage system that is to revert to Council, certified by a Registered Surveyor, together with certification by a qualified practicing Civil Engineer to verify that the works have been constructed in accordance with the approved design and relevant Australian Standards, must be provided to Council prior to the issue of an Occupation Certificate. Video inspection must be carried out of completed stormwater drainage works that are to revert to Council and a copy provided to Council to support the certification of those works. The works-as-executed plan(s) must show the as built details in comparison to those shown on the plans approved with the Roadworks Permit. All relevant levels and details indicated must be marked in red on a copy of the Council stamped plans. Written notification from Council that the works approved under the Roads Act have been completed to its satisfaction and in accordance with the conditions of the Approval, must be provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.
70. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.
71. NSW Office of water terms of approval
- (A) Prior to Construction
- i. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in a report provided to the Consent Authority prior to the commencement of construction.



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- ii. The design and construction of the building must prevent any take of groundwater after construction by making any below-ground levels that may be impacted by any watertable watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high watertable elevations to prevent potential future inundation.
  - iii. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
    - any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the watertable might naturally rise in the location immediately prior to the construction of the structure; and
    - any elevated watertable is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
    - where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
  - iv. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- (B) Requirements for dealing with groundwater during excavation
- v. If for any reason the take of groundwater during construction is expected, then an authorisation shall be obtained for the take of groundwater as part of the activity.
  - vi. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
  - vii. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
  - viii. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application.
  - ix. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided. The disposal of any contaminated pumped groundwater (sometimes called “tailwater”) must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
  - x. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in

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the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

72. All redundant stormwater kerb connections and vehicular crossings should be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".

#### WASTE MANAGEMENT

73. The waste bin storage areas / presentation areas are to be designed and constructed in accordance with Parts 6.9.4.1 and 6.9.4.2 of Canterbury Development Control Plan 2012.
74. Rubbish bins must only be compacted at a rate of 2:1. Recycling bins must not be compacted.
75. Unobstructed and unrestricted access must be provided to the waste bin storage area on collection days from 5.00am. The bins must not be presented on the road.

#### CRIME PREVENTION & COMMUNITY SAFETY

76. The site is to be treated with anti-graffiti paint to deter graffiti offenders targeting the building and its perimeter. This will preserve the building and increase a sense of maintenance and ownership of the site.
77. All access points to the building (this would include lifts and stairwells) should be restricted to residents only through a security system. Visitors to the residential complex should be provided with access via the intercom.
78. The storage units located in the vicinity of the car spaces be fully enclosed and non-visible. This measure will deter potential offenders from breaking in as they are unable to see what contents (reward) is inside the storage unit.
79. In addition to existing lighting, sensor spot lights be strategically placed in high pedestrian areas to increase natural surveillance and enhance feelings of personal safety.
80. Mirrors are to be strategically erected around the site to assist with blind corners and increase natural surveillance.

#### DISABILITY ACCESS

81. The development must be constructed to comply with the Commonwealth Disability (Access to Premises – Buildings) Standard 2010.

#### CONSOLIDATION OF LOTS AND RIGHT OF CARRIAGEWAY

82. The site being consolidated into one allotment. The plan of consolidation being lodged and registered with the Land and Property Information NSW prior to the release of the Occupation Certificate or occupation of the building.
83. A Right of Carriageway over 220-222 Canterbury Road providing access over the driveway and basements to Close Street must be established.

#### SYDNEY WATER REQUIREMENTS

84. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92. Following application, a "Notice of Requirements" will be forwarded detailing water and sewage extensions to be built and charges to be paid. Please make early contact

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with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the final plan of subdivision.

## CRITICAL INSPECTIONS

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

Class 2, 3 or 4 Buildings

- 85.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 85.2. prior to covering any stormwater drainage connections, and
- 85.3. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Class 5, 6, 7, 8 or 9 Buildings

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

## ADDITIONAL INSPECTIONS

86. Section 81(A) of the EP&A Act 1979 requires that a person having the benefit of a development consent, if not carrying out the work as an owner-builder, must notify the principal contractor for the building work of any critical stage inspections and other inspections that are to be carried out in respect of the building work, as nominated in this development consent. To arrange an inspection by Council please phone 9789-9300 during normal office hours.

## COMPLETION OF DEVELOPMENT

87. Obtain an Occupation Certificate/Interim Occupation Certificate from the Principal Certifying Authority before partial/entire occupation of the development.
88. Prior to an Occupation Certificate/Subdivision certificate being issued an interim occupation certificate must be issued for the basement levels of the building on 220-222 Canterbury Road (DA-169/2015), including the driveway ramp and street access to Close Street.

## WE ALSO ADVISE:

89. Should the proposed excavation at the site result in the requirement for a significantly greater predicted inflow and subsequent dewatering volume, the NSW Office of Water should be consulted as soon as possible, and an authorisation may need to be obtained for the activity.
90. This application has been assessed in accordance with the National Construction Code.
91. You should contact Sydney Water prior to carrying out any work to ascertain if infrastructure works need to be carried out as part of your development.
92. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
  - Structural engineering work
  - Air Handling Systems
  - Final Fire Safety Certificate
  - Glazing
  - Water Proofing

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93. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
94. Private contractors should submit an application and pay an inspection fee to Council seven days prior to commencement of any works on the footpath or roadway. No work should be carried out without Council approval.
95. The applicant is to ensure that landscaping and hydraulic plans are co-ordinated. Hydraulic details such as pits, stormwater lines, detention tanks and retaining walls are to be shown on the Landscape Plan as these can effect layout of garden beds and plantings.
96. Before you dig, call "Dial before you Dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance from the nearest cross street) for underground utility services information for any excavation areas.
97. Compliance with the National Construction Code does not guarantee protection from prosecution under "The Disability Discrimination Act" and you must comply with the Commonwealth Disability (Access to Premises – Buildings) Standard 2010. Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021 199.
98. In granting this approval, we have considered the statutory requirements, design, materials and architectural features of the building. No variation to the approved design and external appearance of the building (including colour of materials) will be permitted without our approval.
99. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
100. If you are not satisfied with this determination, you may:
  - 100.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of receipt of this Notice of Determination; or
  - 100.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 or Section 97AA of the Environmental Planning and Assessment Act 1979.

**2 220-222 CANTERBURY ROAD AND 4 CLOSE STREET,  
CANTERBURY: DEMOLITION AND CONSTRUCTION OF A SIX  
AND NINE STOREY MIXED USE DEVELOPMENT OVER  
BASEMENT CARPARK**

**FILE NO:** 150/220D PT2  
**REPORT BY:** DIRECTOR CITY PLANNING  
**WARD:** EAST

<b>D/A No:</b>	<b>DA-169/2015</b>
<b>Applicant:</b>	<b>Chanine Designs</b>
<b>Owner:</b>	<b>Minh Sang Nguyen, Kim Hoang Nguyen, Kim Loan Nguyen, Tu Quyet Tran and Minh Trieu Van</b>
<b>Zoning:</b>	<b>Local Centre B2 – Canterbury local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>24 April 2015, amended plans received on 11 September and 2 October 2015</b>

**Summary:**

- This report has been prepared by an independent external planning consultant, Planning Ingenuity Pty Ltd) on behalf of Council.
- Council has received a development application for the demolition of existing buildings on the subject site and the construction of a part seven and part nine storey mixed use building comprising five commercial tenancies, 84 residential apartments, three 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 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 (CLEP 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 as 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 CLEP 2012. Sufficient grounds to justify an exception to the maximum height development standard has been submitted, such that the requirements of Clause 4.6 of CLEP 2012 have been satisfied. Subject to compliance with proposed deferred commencement conditions, the proposed floor space ratio variation is justified in the circumstances and the applicant has justified the

## INDEPENDENT HEARING AND ASSESSMENT PANEL

24 NOVEMBER 2015

220-222 CANTERBURY ROAD AND 4 CLOSE STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF A SIX AND NINE STOREY MIXED USE DEVELOPMENT OVER BASEMENT CARPARK (CONT.)

- proposal in accordance with Clause 4.6 of CLEP 2012.
- 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 15 May 2015 and 18 June 2015. four submissions were received.
  - Subject to compliance with deferred commencement conditions 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
  - The application is recommended that Deferred Commencement Consent subject to the following conditions:
    - i. Submission of amended architectural and landscape plans increasing the building setback to 3m from the rear boundary adjoining 15 Close Street (excluding basement parking levels and retaining the plaza footprint ).
    - ii. Submissions of amended plans showing potential future basement link through to 224 Canterbury Road, and necessary rights of access implemented.

### **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, DA-169/2015 for the construction of a part six and part nine storey, mixed use development containing three levels of basement parking, five commercial tenancies (total 749m<sup>2</sup>) plaza area (266m<sup>2</sup>) and 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.

A six and seven 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 6–8 Close Street, Canterbury. This adjoining approved development achieves compliance with the relevant height and floor space ratio (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 the Joint Regional Planning Panel (JRPP) on 28 May 2014 (DA 579/2013). This development is currently under construction and has an approved FSR of 3.108:1 (maximum 2.75:1 and 3:1) and height of 27.3m (max 27m). This development is

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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 exceedance of 255m<sup>2</sup> (FSR of 3.14:1 with a max of 3:1).
- **242 - 258 Canterbury Road and 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.

Proposed on the adjoining site (212-218 Canterbury Road) and assessed concurrently with this application, is a development proposal (DA-168/2015) for the construction of a 9 storey mixed use building comprising six commercial tenancies, 88 residential apartments, three levels of basement parking for 91 vehicles and a public plaza with area of 304m<sup>2</sup>, which is attached to the public plaza proposed on the subject site. It is known as Stage 2 of the development site and it has a capital investment value of \$18,919,800.

### Site Details

The subject site is identified as Lots 1 and 2 DP 229069 and Lot B DP 32847, and is commonly known as 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.

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Figure 1: Aerial photograph showing the subject site and surrounds in red and the adjoining site (the subject of DA-168/2015 dashed)

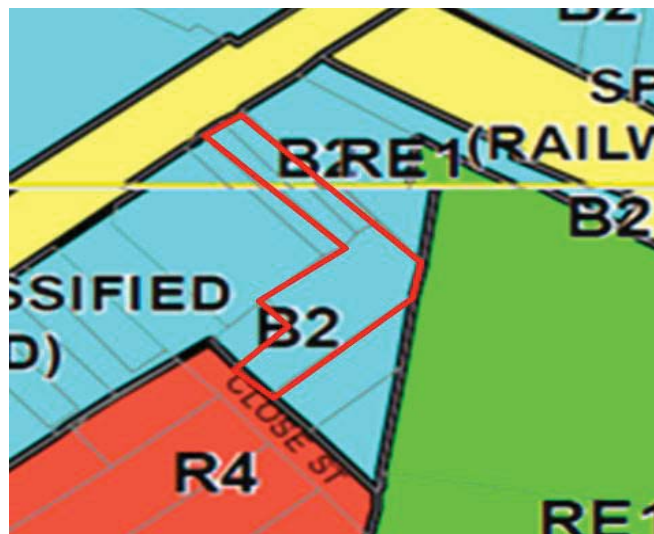


Figure 2: Zoning Map for the subject Site

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.



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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. This precinct

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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 (nine storey building with frontage to Canterbury Road and a part seven and part nine storey mixed use building with frontage to Close Street) over three levels of basement parking:
  - Basement levels - three basement levels comprising a total of 94 car parking spaces (including nine 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 commercial tenancies located around a public plaza (extension from the adjoining site) as well as 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 units on each level comprising 1 x one bedroom unit, 3 x one bedroom units with study, 2 x two bedroom units and 6 x two bedroom units with study. These levels comprise an L-shape over a common basement;
  - Level 6 comprises a total of eight units comprising 3 x one bedroom units with study, 2 x two bedroom units and 3 x two bedroom 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

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- Levels 7 and 8 comprise seven units on each level including 3 x one bedroom units with study, 1 x two bedroom unit and 3 x two bedroom 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 one bedroom units (including those with a study) and 55 x two bedroom units (including those with a study) Vehicular access is provided from Close Street and allows vehicular access through to 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:

- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Building Sustainability Index) BASIX 2004
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury 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 (SEPP 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 SEPP 2007 apply to the proposal, which are considered below.
  - (a) **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*

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*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.

**(b) 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 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 SEPP 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 which will be included as conditions of consent.

**(c) 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*

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- 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 considered by the Traffic Committee and they endorsed the application.

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 55 – Remediation of Land (SEPP 55)**  
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. Nothing in the history of the site would suggest that the site is contaminated.

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 65 – Design Quality of Residential Flat Development (SEPP 65)**  
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

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requires the submission of a design verification statement from the building designer at lodgment 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 SEPP 65 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 centre.

#### Scale

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 2.12m and 2.4m 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 numerically 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. There appears to be a disconnect between the FSR and building height development standards for the site under the LEP. 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.

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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 maximise 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 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

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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 maximise 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 CLEP 2012 and CDCP 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 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

Further to the design quality principles discussed above, the proposal has been considered against the various provisions of the Residential Flat Design Code in accordance with Clause 30 (2) (c) of SEPP 65. The proposed development is generally considered satisfactory with the exception of building depth and deep soil zones.



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Guideline	Required	Proposed	Complies
Building Depth	Max 10m – 18m – wider	14.6m-24m	No – see DCP discussion
Building Separation	Up to 4 storeys = 12m 5-8 Storeys = 18m	The buildings on the site are 9 metres apart (no habitable rooms or balconies facing each other), with habitable balconies being 18 metres apart within the site. The only adjoining building is to the Southwest which is part of this overall development. A nil side boundary setback is acceptable in this location, with the open plaza area providing adequate light and ventilation  To the east of the site is the property known as 15 Close Street which is currently zoned RE1 Public recreation. The proposed building currently has a Nil setback to this property. However is proposed to be increased to 3m as a result of deferred commencement conditions.	Yes - However further discussed in Note 1 following the RFDC Table
Street Setbacks	Consistent with existing	3m to Canterbury Road. Close St setback - 0m	See DCP discussion
Side and Rear Setbacks	Consistent with existing streetscape patterns	Nil side setbacks are consistent with Council's desired future character., except for the rear where it proposed to be increased to 3m as part of a deferred commencement condition.	Yes – however see Note 1 following the RFDC table
Deep Soil Zones	Min 25% of the open space. Exceptions may be made in urban areas where site is built out and no capacity for water infiltration.	0% provided across the site which is in a urban area and the site will be built to capacity.	No
Fences and Walls	Consistent with existing streetscape	No fencing proposed	N/A
Landscape Design	Improve amenity, streetscape and energy efficiency.	Communal open space with no deep soil on rooftop and plaza. This is allowable in urban areas.	Yes
Open Space	Between 20-30% of site area	Roof top common open space 827m <sup>2</sup> and the plaza has an area of 266m <sup>2</sup> .	Yes
Building Entry	Provide physical and visual connection between building and street. Provide safe entrance. Provide equitable entrance.	Highly visible building entry to Canterbury Road. Entry will be well lit, safe and equitable.	Yes

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Guideline	Required	Proposed	Complies
Parking	Provide underground car parking	Proposal includes underground car parking as per DCP 2012 requirements.	Yes
	Provide bicycle parking	Provision of bicycle parking to be imposed by way of condition of consent.	Yes
Pedestrian Access	Barrier free access to at least 20% of dwellings	Barrier free access provided to 100% of dwellings.	Yes
Vehicle Access	Max width of driveway is 6m	5.5m driveway to Close Street	Yes
	Located vehicle entry away from pedestrian entry	Vehicle entry away from pedestrian entry	Yes
Apartment Layout	Single aspect max depth is 8m	8m	Yes
	Min apartment size: 1 bed: 50m <sup>2</sup> min 2 bed: 70m <sup>2</sup> min 3 bed: 90m <sup>2</sup> min	Min sizes: 1 bed: >50m <sup>2</sup> 2 bed: >70m <sup>2</sup> 3 bed: >90m <sup>2</sup>	Yes
Apartment Mix	Provide an apartment mix	Acceptable apartment mix of 1 and 2 bedroom units proposed.	Yes
Building Configuration	Balconies have a minimum depth of 2m	Minimum 2m	Yes
	Ceiling Heights 2.7m habitable 2.4 non habitable	2.7m 2.4	Yes Yes
	Storage 1 bed – 6m <sup>3</sup> 2 bed – 8m <sup>3</sup> 3+ bed – 10m <sup>3</sup>	Substantial storage areas incorporated within units and designated to each unit within the basement, majority of units have designated storage areas in excess of these minimum volumes.	Yes
Acoustic Privacy	Like rooms together	Like rooms are placed together to ensure acoustic privacy is achieved.	Yes.
Daylight Access	70% of units to receive 3 hours between 9am – 3pm – can be 2 hours in dense urban areas.	71.4% (60) units achieve a minimum of two (2) hours at the winter solstice.	Yes
	Single aspect units with southern orientation limited to 10% of total (maximum 6 units)	0 single aspect units with southern orientation.	Yes
Natural Ventilation	60% of units to be naturally cross ventilated	66.6% (56) of units achieve natural cross ventilation (clearstory roof lights used on Level 6 units).	Yes

Note 1 - Building Separation

To the south of the subject site is a property known as 15 Close Street which contains a bowling club and is currently zoned RE1 Public Recreation. The proposed building currently has a nil setback to this property. The nil setback is appropriate to the RE1 zone and complies with building separation and the CDCP setbacks.

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However there is a draft LEP to rezone the bowling club site from RE1 to R4 High Density Residential. The Planning Proposal has been on public exhibition and is a matter for consideration in the assessment of this application. It is understood that the planning proposal is nearing finalisation.

The proposed nil eastern boundary setback has the potential to undermine the development potential of the bowling club site and is not an appropriate response to the interface between the B2 and R4 zones. It is however noted that the subject site shares a relatively small common boundary with the bowling club site approximately 5m in length.

Rezoning of the bowling club would allow for residential apartment development and as such building separation must be considered. Council has identified a 9m setback to the common boundary with the subject site under a draft masterplan. The masterplan also indicates a through site link adjacent to the eastern boundary of the subject site. In this regard, it is considered appropriate to recommend that the application be approved subject to a deferred commencement condition requiring a 3m setback to the common boundary with the subject site. This would create a 12m separation between the buildings and is considered to be reasonable compromise given that the LEP hasn't been finalised, but is a matter that requires consideration. A 12m building separation would achieve reasonable resident amenity and the proposed 3m setback would ensure that the future redevelopment of the bowling club site is not undermined. In addition, without a 3m setback, the east facing units would have a harsh and undesirable interface with the public through suite link that is anticipated in Council's draft masterplan.

In this regard it is recommended that the application be amended via a Deferred Commencement condition to requiring amended plans be submitted with a 3m rear setback to the common boundary with 15 Close Street.

- **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

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220-222 CANTERBURY ROAD AND 4 CLOSE STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF A SIX AND NINE STOREY MIXED USE DEVELOPMENT OVER BASEMENT CARPARK (CONT.)

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.

Table 1: CLEP 2012 - Compliance Table

Clause	Requirement	Proposal	Complies
2.6	<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.	N/A
2.7	<b>Demolition requires development consent</b> The demolition of a building or work may be carried out only with development consent.	Demolition is proposed.	Yes
4.3	<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.	No refer to C14.6 variation
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>	No Refer to C14.6 variation

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Clause	Requirement	Proposal	Complies
5.10	<p><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>	<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>	Yes
6.1	<p><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>	<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>	Yes

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Clause	Requirement	Proposal	Complies
6.2	<p><b>Earthworks</b> Consent is required for earthworks and must consider:</p> <ul style="list-style-type: none"> <li>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</li> <li>(b) the effect of the development on the likely future use or redevelopment of the land,</li> <li>(c) the quality of the fill or the soil to be excavated, or both,</li> <li>(d) the effect of the development on the existing and likely amenity of adjoining properties,</li> <li>(e) the source of any fill material and the destination of any excavated material,</li> <li>(f) the likelihood of disturbing relics,</li> <li>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</li> <li>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul>	<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>	Yes
6.4	<p><b>Stormwater management</b> Consent authority must be satisfied that the development:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</li> <li>(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.</li> </ul>	A stormwater plan has been provided and Council's engineers raise no objection to this plan.	Yes
6.6	<p><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.</p>	There are adequate services on the site for the proposed development.	Yes

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Clause	Requirement	Proposal	Complies
6.7	<p><b>Mixed use development in business zones</b></p> <p>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.</p>	This clause applies to the proposed development. This clause allows the proposal.	Yes

#### Clause 4.6 Variation

Council has received legal opinion that the extent of non-compliance to a Development Standard is not a relevant consideration in determining the reasonableness of a Clause 4.6 submission.

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 2.4m. This encroachment is created by the central lift cores accessing the roof top communal open space.

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

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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 roof top communal open space, with these facilities adding to the amenity of future residents and providing a better 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 from 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 matter 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 1 Objections to justify why compliance with the Standard is unreasonable and unnecessary in the circumstances. The objectives of the height standard are discussed below:

- (a) to establish and maintain the desirable attributes and character of an area  
The height encroachment cannot be seen from the street and the encroachment is created by the central lift core. The height of the building at the street front is in keeping with the heights of the buildings previously approved in particular with that opposite on Canterbury Road known as 2A Charles Street. In this regard the proposal maintains the desired character of the area.
- (b) to minimise overshadowing and ensure there is a desired level of solar access and public open space  
The proposed development does not unreasonable impact upon solar access to adjoining properties and public spaces.



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- (c) to support building design that contributes positively to the streetscape and visual amenity of an area

The Urban Design peer review prepared by AE Design Partnership indicated that the proposed built form will emphasise 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. In this regard it is considered that the proposal will contribute positively to the streetscape and improve the amenity of the area.

- (d) to reinforce important road frontages in specific localities

The proposed lift overrun will not form part of the streetscape presentation. With the imposition of a gateway entrance to the Canterbury Town Centre the significant building and that opposite on 2A Charles Street reinforces the importance of Canterbury Road.

As discussed above 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.

The buildings are 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 is not visible from point surrounding the site and provides appropriate lift/stair access to the roof top communal open space, without compromising the stated underlying objectives of the building height controls. The location of the communal open space on the roof top receiving uninterrupted solar access 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 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 space 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.

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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.

#### Floor Space Ratio

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 is mapped as being affected by 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.

It should be noted that a proposal which complies with the setbacks (excluding rear setback to draft LEP), height and landscaping controls envisaged for the site an FSR of approximately 4.2:1 would be generated, which is still far greater than the max FSR under the LEP. Consequently it appears that there is no correlation between the FSR standard and the other controls in the LEP and DCP.

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.

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- 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 *Wehbe v Pittwater Council* [2007] NSWLEC 827 relating to SEPP 1 Objections to justify why compliance with the Standard is unreasonable and unnecessary in the circumstances.

The objectives of the floor space ratio standard are listed below:

- (a) to provide effective control over the bulk of future development,
- (b) to protect the environmental amenity and desired future character of an area,
- (c) to minimise adverse environmental impacts on adjoining properties and the public domain,
- (d) to optimise development density within easy walk of the railway stations and commercial centres.

Justification for the proposed FSR variation is essentially identical to the justification given for the site adjoining to the north (212 - 218 Canterbury Road). In regards to objectives (a), (b) and (c), except for the proposed lift overruns, the building has been designed to the permitted building height (21m and 27m), but has non-compliant setback for the street portion of the building where a 5m setback is not achieved for the upper 5 levels (as required by the DCP). The applicant has submitted an urban design peer review that essentially concludes that the subject site will mimic the proximity to Canterbury Road (and to a similar height) of the approved building located on the opposite side of Canterbury Road. Thus creating a 'gateway' entrance. This is considered to be an appropriate urban design outcome. In addition, the building has side and rear boundary setbacks that are compliant with the DCP provisions. The proposal therefore achieves compliance with objective (a).

However, in relation to objectives (b) and (c), an improved amenity outcome for the future residents of the site and the adjacent bowling club site (which is in the process of being rezoned to R4 High Density Residential, refer to Note 1 under the DCP compliance table for discussion) would be achieved with the creation of a 3m setback to the eastern site boundary. This is less than what would be required under the SEPP 65 provisions, but is seen as a reasonable compromise given the status of the Draft

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LEP for the bowling club site, at the time of lodgement of this application. This will come at the loss floor space within the development, but the development will still significantly exceed the maximum permitted on the site, and is still significantly more than the applicant could have expected in undertaking due diligence investigations.

The envelope of the development, albeit with a justified variation to the front setback requirement, is consistent with the intent of the controls and the proposal is a building that has the bulk and related amenity impacts that is commensurate with a 7 to 9 storey building.

The site is located directly opposite the entrance to Canterbury Rail Station and within the Canterbury Town Centre. Increasing the density on a site in such an accessible location is considered reasonable particularly when the impacts created are minimal. In this regard objective (d) is satisfied.

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 the LEP and DCP.

It should be noted that a proposal which complies with the setbacks (excluding rear setback to draft LEP), height and landscaping controls envisaged for the site an FSR of approximately 4:1 would be generated, which is far greater than the max FSR under the LEP. Consequently it appears that there is no correlation between the FSR standard and the other controls in the LEP and DCP.

Further *Four2Five Pty Ltd v Ashfield Council* relates to a consideration of a clause 4.6 departure to a 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.

In regards to FSR, 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 entrance to Canterbury's southern town centre.

The proposed design will enhance the streetscape quality and provide a suitable gateway entrance to the southern portion of the Canterbury Town Centre. This is achieved by mimicking the nil setback to Canterbury Road of the approved building opposite. And in this regard the development is compatible with the envisaged streetscape and is a site specific outcome.

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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.”*

It is evident that there is no correlation between the height and floor space ratio development standards for the site. To insist on strict compliance with the FSR standard would drive a building that would be approximately one third of the proposed development. Such an outcome would be contrary to the intent for a 21m and 27m high building on the site and Council’s strategic planning objectives.

The proposed is also considered consistent with the objectives of the Draft Sydenham to Bankstown Urban Renewal Corridor, which is in its initial stages.

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.

Therefore the current proposal is a preferable outcome from an environmental planning perspective and demonstrates that there is merit in varying the development standard to achieve a better design response on the site. Having regard to the above commentary, it is considered appropriate in this instance to support the submission under Clause 4.6 of LEP 2012 to permit the proposed development.

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 (CDCP 2012)**  
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


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(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: CDCP 2012 Part 3 Business Zones – Compliance Table**

Standard	Requirement	Proposal	Complies
3.1.2 Site amalgamation and minimum frontage	Min frontage – 12m – 18m (B1/B2 zone)	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
	Min lot (Canterbury Town Centre) - 1500m <sup>2</sup>	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
	Amalgamated sites (Figure 3.1) - see below 	The subject site and the adjoining site forming Stage 2 combine to include the majority of the lots in the required amalgamation pattern. 244 Canterbury Road will become isolated as a result of this application. Agreement has not been reached with the owner of 224 Canterbury Road. Documentation to this affect has been submitted. Refer to Note 1. The lots at the southern end of this amalgamation pattern comprise 6-8 Close Street which have development consent for a shop top housing redevelopment in accordance with the LEP controls (see background section).	No refer to Note 1
3.1.4 Site Isolation	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 224 Canterbury Road Canterbury.	No refer to Note 1
3.1.5 Retention of façades	Max height >5 storeys, comprehensive redevelopment is permitted and façades do not need to be retained.	Max height >5 storeys.	N/A
3.1.6 Height	Building height - refer CLEP max height (27m).	Max height - 21 metres (Close St block) exceeds the height by 2.12m and 27 metres (Canterbury Road block) exceeds to height by 2.4m.	No refer to Cl4.6 variation

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Standard	Requirement	Proposal	Complies
	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
3.1.7 Depth/ Footprint	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.	No Refer Note 2
	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
3.1.8 Setback (B2 along Canterbury Rd)	Number of storeys at street - 1- 4 storeys	There is no setback of any of the floors such that the building is 7 storeys at the street.	No Refer Note 3
	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 frontage.	No Refer Note 3
	Do not present a flat façade along the setback line - provide articulation and variation.	There is variation in terms of the face of the building with some articulation provided by balconies and design elements.	Yes
	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. Except where it adjoins 15 Close Street	No Refer Note 6

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Standard	Requirement	Proposal	Complies
3.1.9 Building separation	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 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 (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 adequate light and ventilation.	Yes
3.1.10 Exceptions to setbacks	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
3.1.11 Public domain	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.	-
3.1.12 Car parking	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 from 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



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Standard	Requirement	Proposal	Complies
	Integrate car parking, vehicle ramps, driveways and entries, ventilation grills and screens into the overall façade 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
3.1.13 Basement parking	Basement parking and ramps <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 provided 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
	Basement parking appearance <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 façade</li> <li>Return façade 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 is integrated into the design of the development.	Yes

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Standard	Requirement	Proposal	Complies
3.2.1 Context	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
3.2.2 Street address	<p>Entries</p> <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 façade 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
	<p>Habitable rooms</p> <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

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Standard	Requirement	Proposal	Complies
3.2.3 Façade design and articulation	<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 façades 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>	Yes
	<p>Where there is no characteristic built form</p> <ul style="list-style-type: none"> <li>• Modulate façades with a scale and rhythm that reflects the intended use of the building, and the desired context as expressed on the building envelope diagrams.</li> </ul>	As above.	

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Standard	Requirement	Proposal	Complies
3.2.4 Façade details	<p>Solid and void ratio</p> <ul style="list-style-type: none"> <li>Balconies and voids not to dominate publicly visible façades.</li> <li>Use a solid to void ratio in the vicinity of 50%, with each façade measured independently. Disharmony arises when the range of solid to void is extreme, such as fully glazed façades or those with multi balcony '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 façade 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
	<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>	<p>Balconies are spread over various façades, including the front/street and the internal façades. There is a mix of painted surfaces and masonry for balcony balustrades and the balconies overlook the public plaza areas.</p>	Yes

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Standard	Requirement	Proposal	Complies
	<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>	<p>There are a variety of windows proposed along the various façades.</p>	<p>Yes</p>
<p>3.2.5 Shopfront</p>	<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>	<p>Shopfronts are proposed along the Canterbury Road and Close Street frontage of the development as well as along the façade within the public plaza area.</p>	<p>Yes</p>

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Standard	Requirement	Proposal	Complies
3.2.6 Corners, gateway sites and foreground treatments	<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 façades precedence over emphasising corner, gateway sites.</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
3.2.7 Frontage types	<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 façade 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

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Standard	Requirement	Proposal	Complies
3.2.8 Roof design	<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

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Standard	Requirement	Proposal	Complies
3.2.9 Services and utility areas	<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
3.3.1 Visual privacy	<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 absence 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 façades of the development.	Yes



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Standard	Requirement	Proposal	Complies
	<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
3.3.2 Acoustic privacy	<p>Adjoining railway or busy road</p> <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

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Standard	Requirement	Proposal	Complies
	<p>General</p> <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> <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> </li> </ul>	<p>Addressed in the Acoustic report. The proposal will comply with the BCA.</p>	<p>Yes</p>
<p>3.3.3 Open space</p>	<p>Balconies and private courtyards</p> <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>	<p>Yes</p>

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Standard	Requirement	Proposal	Complies
	<p>Private open space (POS) design</p> <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
	<p>Balconies design</p> <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 context.</li> <li>• Design balustrades to allow views and casual surveillance of street and visual privacy.</li> </ul>	<p>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 balconies.</p>	Yes

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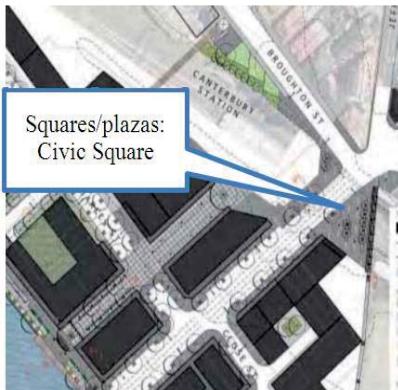
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Standard	Requirement	Proposal	Complies
	<p>Communal open space (COS)</p> <ul style="list-style-type: none"> <li>Podiums or terraces, deep-soil setback or separation between buildings:</li> <li>Min 6m dimension for COS.</li> <li>Consolidate COS into 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>. Both these roof terraces receive the required solar access.</p>	Yes
3.3.4 Internal dwelling design	<p>Room dimensions</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>	<p>These minimum dimensions have been achieved. There are various layouts to suit appropriate furniture layouts in the units.</p>	Yes
	<p>Storage:</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>	<p>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>).</p>	Yes



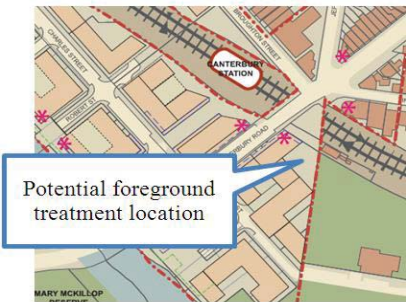
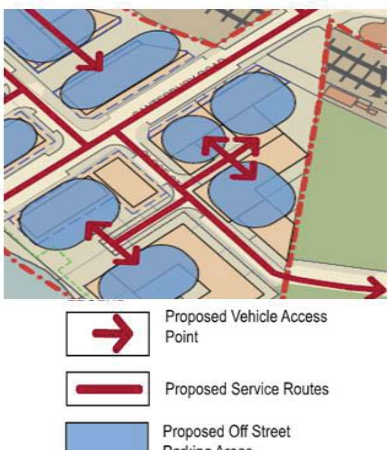



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Standard	Requirement	Proposal	Complies
3.3.5 Housing choice	<ul style="list-style-type: none"> <li>Mix of unit sizes - studio, 1, 2, 3 and 3+ beds.</li> <li>10% of units (&gt;30 units/building) - accessible/adaptable apartments.</li> <li>Commercial 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>	Unit sizes proposed are:- <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			
Aims (page P3.1.5)	<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 and places</li> <li>Create attractive waterfront along Cooks River through pedestrian and cycle ways, landscaped open spaces, opportunities for outdoor activities.</li> <li>Reinstate 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
Structure plan (Figure 3.2.1)		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

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Standard	Requirement	Proposal	Complies
<p>Specific heights in storeys (Figure 3.2.2)</p>		<p>The proposal comprises 7 and 9 storeys. This is above the 8 and 6 storey height. Whilst this is above the height in storeys listed by the DCP within the height limit specified by the LEP 9 and 7 stories can be contained within the height limit. The LEP is the overriding control in regards to height.</p>	<p>No See note 4.</p>
<p>Canterbury Town Centre public domain structure plan (Figure 3.2.3)</p>		<p>The proposal is not located on land proposed for the town square, however, a plaza is proposed at ground level.</p>	<p>Yes</p>
<p>Canterbury Town Centre corner treatment sites (Figure 3.2.4)</p>		<p>This applies to the adjoining site.</p>	<p>N/A</p>
<p>Parking and vehicle access (Figure 3.2.5)</p>	 <p>  Proposed Vehicle Access Point   Proposed Service Routes   Proposed Off Street Parking Areas         </p>	<p>The proposal involves vehicle access from Close Street. Off-street car parking is provided in the basement car park.</p>	<p>Yes</p>

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

Clause	Requirement	Proposal	Complies
Part 6.1: Access and Mobility			
6.1.5 Assessment Table:	<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 and 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
Part 6.2 – Climate, and energy and resource efficiency			
6.2.1 Site layout and building orientation	Design and orientate the building to maximise solar access and natural lighting, without unduly increasing the building's heat load.	The proposal is generally orientated to the north such that the majority of living areas and balconies have a northerly aspect.	Yes
6.2.6 Daylight and sun access (New buildings in business zones)	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
	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
6.2.6 Daylight and sun access (Existing dwellings adjoining new residential)	<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 224 would receive minimal sunlight between 9.00am and 3.00pm in mid-winter. The adjoining development to the west at 226 would receive only a minor amount of solar access at midday in midwinter.	No Refer to Note 5

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220-222 CANTERBURY ROAD AND 4 CLOSE STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF A SIX AND NINE STOREY MIXED USE DEVELOPMENT OVER BASEMENT CARPARK (CONT.)

Clause	Requirement	Proposal	Complies
6.2.7 Ventilation Residential and mixed- use)	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.	Refer to Note 2
<b>Part 6.3 Crime Prevention</b>			
6.3.2. Residential Development	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
6.3.3. Commercial / Retail / Industrial and Community Facilities	Locate public services in areas of high activity. Allow for natural surveillance and suitable streetscape appearance. Provide entries that are clearly visible from the street. Maximise the access and visibility of facilities. Use building materials that reduce opportunity for intruder access.	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



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Clause	Requirement	Proposal	Complies
6.3.4 Car Parks	<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>	<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.</p>	Yes
Part 6.8 – Vehicle Access and Parking			
6.8.3 Minimum parking and servicing requirements	<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 (20 x 0.8 = 16 spaces)</li> <li>• 2 bed: 1 space/dwelling (55 x 1 = 55 spaces)</li> <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>	<p>Residential spaces required – 80 spaces.</p> <p>Residential spaces provided – 80 spaces including 9 adaptable spaces</p>	Yes
	<p>Commercial in B2 zone</p> <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>	<p>13 commercial spaces are provided (including 1 adaptable space). Courier spaces can be provided via condition.</p>	Yes
	<ul style="list-style-type: none"> <li>• Car wash (10+ units) – 1 car wash bay</li> </ul>	<p>Can be provided via condition.</p>	Yes
	<p>Bicycle spaces</p> <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>	<p>31 bicycle spaces are provided.</p>	Yes
Part 6.9 – Waste Management			
6.9.1 Demolition & construction phase	<p>Submit a statement in relation to the waste that will be generated in the demolition and construction phase.</p>	<p>A Waste Management Plan is provided.</p>	Yes
6.9.2 Waste management plan	<p>Submit a detailed Waste Management Plan for the on-going use of the development once completed.</p>	<p>A Waste Management Plan is provided.</p>	Yes

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Clause	Requirement	Proposal	Complies
6.9.3.4 Residential flat buildings, residential in Mixed use development	<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>	<p>Rubbish – 42 bins required Recycling – 28 bins required.</p> <p>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.</p>	Yes
6.9.3.5 Non-residential development	<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>	<p>7 x rubbish and 7 x recycling bins have been provided in a separate commercial waste storage room in the basement.</p> <p>Close street will be used for garbage collection.</p> <p>This is considered sufficient for the 5 commercial tenancies.</p>	Yes

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

Note 1: Cl 3.1.2 and Cl 3.1.4 Amalgamation and Lot Isolation

The DCP requires amalgamation of lots within the Canterbury Town Centre. 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.

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220-222 CANTERBURY ROAD AND 4 CLOSE STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF A SIX AND NINE STOREY MIXED USE DEVELOPMENT OVER BASEMENT CARPARK (CONT.)

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. The property was valued by a registered land valuer at \$735,000. The applicant initially made an offer to purchase 224 for \$820,000 which was followed up with a secondary offer of \$850,000 (11.5% and 15.6% increase above property value respectively). Both offers were rejected by the adjacent property owner. The applicant also gave the adjacent land owner an ‘option’ to purchase for a substantially inflated purchase price (104% above the valued amount) with terms that settlement would occur on 31 March 2016, with a 6 month extension option. Whilst the adjacent land owner did not reject this option purchase price amount, the timeframe was rejected with a request that the purchase option expire on 31 December 2015. Given the substantial increase above the property value, the adjacent owners request is considered to be unreasonable.

Within the applicants ‘amalgamation report’ a schematic design of potential development opportunity has been demonstrated, and is considered to hold merit. However on a site that is narrow whilst the building above is achievable, parking on site cannot be achieved. In this regard, to avoid long term isolation of the lot, it is considered appropriate to require the proposed development to be amended to allow for the future construction and connection between the 2 sites. This would apply to the upper 2 basement levels and will require the strategic location of the building structure.

In this regard amended plans are required to be submitted as part of the Deferred Commencement condition clearly showing a future connection through the upper 2 basement levels to the adjoining property. In addition, the necessary rights of access will need to be created to allow for access, both during construction and occupation.

For these reasons, documentation submitted satisfactorily addresses the Planning Principle outlined in NSW Land and Environment Court judgment in *Melissa Grech v Auburn Council*[2004] NSWLEC 40.

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 metres 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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220-222 CANTERBURY ROAD AND 4 CLOSE STREET, CANTERBURY: DEMOLITION AND CONSTRUCTION OF A SIX AND NINE STOREY MIXED USE DEVELOPMENT OVER BASEMENT CARPARK (CONT.)

Note 3: Front Setback and Storeys (Cl 3.1.8)

The controls require the following:-

- Number of storeys at street: 1- 4 storeys -3m to Canterbury Road
- 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 create a significant entry to the southern portion of the Canterbury Town Centre.

The Urban Design peer review prepared by AE Design Partnership indicated that the proposed built form will emphasise 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. In this regard it is considered that the proposal will contribute positively to the streetscape and improve the amenity of the area. In addition the objectives of the control are considered satisfied

Note 4: 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 5: Solar Access (within and adjoining properties) (Cl 6.2.6)

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 224 Canterbury Road, it will not receive the required two hours of solar access to the rear portion of the building and the private open space. The building is orientated north-west with its frontage to Canterbury Road and is also positioned 3m further forward of 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. This is largely unavoidable given site

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orientation/relationships, permitted building height and nil side boundary setbacks. It is also noted that agreement to amalgamate could not be reached with the owner of 224 Canterbury Road. In this regard whilst the required minimum of two hours is not received by 224 Canterbury Road the proposal is considered satisfactory in regard solar access and its impacts are considered acceptable, given its urban context.

There would also only be limited solar access in the morning to 226, the existing residential flat building on the corner of Close Street and Canterbury Road, as a result of this proposed development. However, 226 will receive solar access from midday onwards. This adequately addresses solar access and the impacts of the development are considered acceptable.

It is noted that the solar diagrams appear to be incorrect in the position of the north point

Note 6: Rear Setback to 15 Close Street

The adjoining property to the south is the subject to a draft LEP rezoning the property from RE1 Public Recreation to R4 High Density Housing. Currently, to a property zoned RE1 Public Recreation no setback or building separation is required as there is no opportunity for residential development and the DCP does not require a setback.

However there is a draft LEP to rezone the bowling club site from RE1 to R4 High Density Residential. The Planning Proposal has been on public exhibition and is a matter for consideration in the assessment of this application. It is understood that the planning proposal is nearing finalisation.

The proposed nil eastern boundary setback has the potential to undermine the development potential of the bowling club site and is not an appropriate response to the interface between the B2 and R4 zones. It is however noted that the subject site shares a relatively small common boundary with the bowling club land approximately 5m in length.

Rezoning of the bowling club would allow for residential apartment development and as such building separation must be considered. Council has identified a 9m setback to the common boundary with the subject site under a draft masterplan. The masterplan also indicates a through site link adjacent to the eastern boundary of the subject site. In this regard, it is considered appropriate to recommend that the application be approved subject to a deferred commencement condition requiring a 3m setback to the common boundary with the subject site. This would create a 12m separation between the buildings and is considered to be reasonable compromise given that the LEP hasn't been finalised, but is a matter that requires consideration. A 12m building separation would achieve reasonable resident amenity and the proposed 3m setback would ensure that the future redevelopment of the bowling club site is not undermined. In addition, without a 3m setback, the east facing units would have a harsh and undesirable interface with the public through suite link that is anticipated in Council's draft masterplan.

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In this regard it is recommended that the application be amended via a Deferred Commencement condition to requiring amended plans be submitted with a 3m rear setback to the common boundary with 15 Close Street.

- **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 (GFA). The proposed deferred commencement conditions will alter the design of the development. On this basis, a condition has been included which requires the applicant to pay the required contribution based on the amended plans.

#### **Other Considerations**

- **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.

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- **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.
- **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).

### Referrals

- **Development Engineering**  
The stormwater plan submitted with the application has been assessed by our 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 our 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 our 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.

### Notification

The proposed development and the adjoining development were publicly exhibited and adjoining land owners were notified as per the requirements of Canterbury DCP 2012. During this period, four submissions were received raising the following concerns in relation to the proposed development:

- **Overshadowing to 224 and 226 Canterbury Road**

#### Comment

As discussed in Note 7 above, solar access to the adjoining properties do not comply with the required 2 hours sunlight in mid-winter.

The building generally complies with the envelope controls created by the height and setbacks. The height encroachment (lift overrun) does not generate any additional

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shadow on the adjoining properties. Whilst the proposed development does not comply with the 5m front setback to Canterbury Road for levels above the 4 floor the difference in the shadow cast would be marginal given permitted building height and nil side boundary setback.

- **Noise generated by occupants of new building**

Comment

The noise generated is not expected to be above that of a high density residential area for which it is zoned.

- **Extra traffic generated**

Comment

The site and the surrounding area have been zoned for high density residential development. The impact on and capacity of the area to cope with permitted development has been taken into account in the studies that have informed the planning instruments. Additionally, the proposal is considered to be consistent with the desired future character of the area as identified through the development standards and controls applicable to the land.

Council's Traffic Section has assessed the application against the requirements of the DCP and found it to be satisfactory in regards to traffic generation and impacts. The application was not required to be referred to the Traffic Committee who raised no objection to the proposal.

- **Excavation and construction noise**

Comment

Some inconveniences during the construction will occur but this can be appropriately managed via conditions. Standard conditions of consent are recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, excavation, demolition and use of any crane, hoist, plant or scaffolding.

- **Damage caused to surrounding buildings and access way by significant excavation and construction**

Comment

A condition is proposed that dilapidation reports are undertaken prior to construction commencing and at the completion. Further conditions are proposed that oblige the developer to protect adjoining buildings from collapse.

- **Blocking access to adjoining property**

Comment

A condition in regards to maintaining access to all surrounding properties at all times is maintained.



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- **These developments will contribute to the overdevelopment that is currently taking place in Canterbury, which residents are becoming very concerned about, such as the proposal to rezone and reclassify the Canterbury Bowling Club, depriving the community the space for socialising and community activities.**

Comment

Canterbury Road and the Canterbury Town Centre is an area of transition. It is surrounded by new large scale high density residential development but also contains older style three storey walk ups and two and single storey commercial and residential dwellings. The proposal is consistent with Council visions for the Canterbury Town Centre.

- **Resulting in 226 Canterbury Road being overpowered by large unit blocks from every aspect of the building, with very little privacy at all**

Comment

The impacts on privacy are unavoidable given the steep increase in density on the site. However the privacy impacts have been managed with the strategic placements of windows and balconies to create reciprocal privacy outcomes.

- **Shadow diagrams in accurate**

Comment

It is noted that the shadow diagrams appear incorrect with the north point incorrectly positioned, thus depicting shadows that are actually worse than what will result. Overshadowing has been discussed in this report.

- **No setback provided to Close Street for pedestrian safety, landscaping, street tree planting or foot path widening**

Comment

Whilst the road reserve (footpath area) is minimal in this location there is no road widening proposed or reserved for land acquisition along the Close Street frontage. The DCP requires buildings in the B2 zone to be built to the boundary (apart from those with frontage to Canterbury Road). IN this regard the application complies with the controls contained within the CDCP 2012 and the desired future character of the area.

- **Driveway access too close to boundary and will cause safety issue**

Comment

The CDCP 2012 does not require a setback to boundaries for the location of a driveway. It will be conditioned that all aspects of the driveway and car park comply with the relevant Australian Standard in regards to sight lines, dimensions etc.

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- **Affect the resale value of units at 226 Canterbury Road because of these developments**

Comment

Devaluation of property or the impact on resale is not a matter for planning consideration.

- **Negotiations with owner of 224 Canterbury Road and lot isolation**

Comment

The matter of lot isolation has been discussed within the report.

### 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 deferred commencement conditions outlined below.

### RECOMMENDATION:

THAT the Development Application, DA-169/2015, be approved as a **DEFERRED COMMENCEMENT** Consent under Section 80(3) of the Environmental Planning and Assessment Act, 1979.

- A. This consent is not to operate until the Applicant has, within 12 months, amended the development to:
1. In light of the imminent rezoning, and desired future development potential of the adjoining property at 15 Close Street, Canterbury, the development must be amended to create a 3m setback to its rear/eastern boundary. While insisting on the 3m setback this does not necessarily mean a loss of floor space however, it is up to the applicant to demonstrate how this can be achieved. The external treatment of the development shall be appropriately designed by a project architect and the final design endorsed by a separate, independent registered architect chosen by Council. The applicant shall bear the costs of achieving compliance with this condition.
  2. To avoid isolation of No. 224 Canterbury Road, amended plans are required that indicate future basement connection for the proposed upper 2 basement levels to a future basement on No. 224 Canterbury Road. Necessary rights of access are to be created for construction and occupation purposes.

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- B. The following conditions of consent will be included in the development consent issued by Council after the applicant provides information sufficient to satisfy Council in relation to the conditions of the deferred commencement consent. Additional conditions, including levying Development Contributions, will be imposed as a result of satisfying the above matters.

## PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

## 1.1. Details of:

- Structural Engineering Plan including method of shoring during excavation
- Building Specifications
- Fire Safety Schedule
- Landscape Plan
- Hydraulic Plan
- Firewall Separation
- Soil and Waste Management Plan
- Plan of Management
- Acoustic Report
- Consolidation of All Lots into One Lot
- Mechanical Ventilation of Basement Carpark (Compliance with Section 4.4 of AS 1668.2)
- BASIX Certification
- Compliance with Disability (Access to Premises – Buildings) Standards 2010
- Payment of Development Contributions

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

## 1.3. Payment to Council of:

Kerb and Gutter Damage Deposit	\$3,328.00
Certificate Registration Fee	\$36.00
Long Service Levy	\$43,044.20

Note 1: If you appoint a Council as your Principal Certifying Authority additional fees to those above will also apply.

Note 2: When the items in this condition are provided and have been assessed as satisfactory, your Construction Certificate will be posted to you.

Note 3: Development Contributions payments are payable by cash, bank cheque, or EFTPOS.

Note 4: All Council fees referred to above are subject to change. You need to refer to our website or contact our Customer Service Centre for a current schedule of fees prior to payment.

## BEFORE COMMENCING THE DEVELOPMENT

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

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- 2.3. you must give the Council at least 2 days notice of your intention to commence erection of the building (see Attachment – Notice of Commencement copy).
- 2.4. In the case of work which includes residential development, you must inform us in writing before the commencement of work of the following:
  - 2.4.1. The name and contractor or licence number of the licensee who has contracted to do or intends to do the work; or
  - 2.4.2. The name and permit number of the owner-builder who intends to do the work.

## SITE SIGNAGE

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

## DEMOLITION

4. Demolition must be carried out in accordance with the following:
  - (a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
  - (b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.
  - (c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
  - (d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
  - (e) Demolition of buildings is only permitted during the following hours:  
7.00 a.m. – 5.00 p.m. Mondays to Fridays  
7.00 a.m. – 12.00 noon Saturdays  
No demolition is to be carried out on Sundays or Public Holidays.
  - (f) Burning of demolished building materials is prohibited.
  - (g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
  - (h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
  - (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
  - (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
  - (k) During the demolition or erection of a building, a sign must be provided in a

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

#### GENERAL

5. The development being carried out in accordance with the stamped approved plans, specifications and details prepared by CD Architects, Job No. J14231-SI except where amended by the following specific conditions and the conditions contained in this Notice.
6. Renewal or provision of fencing, attributable to the proposed development being the responsibility of the developer.
7. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury City Council's Development Contributions Plan, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area. Satisfaction of the deferred commencement conditions will result in reduced gross floor area within the development. The Development Contributions payable is \$149.59 per square of GFA in the development.  
Note: The contributions payable will be adjusted, at the time of payment, to reflect Consumer Price Index increases which have taken place since the development application was determined.  
The contribution is to be paid to Council in full prior to the release of the Construction Certificate, (or for a development not involving building work, the contribution is to be paid to Council in full before the commencement of the activity on the site) in accordance with the requirements of the Contributions Plan.
8. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.

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9. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
10. All building construction work must comply with the National Construction Code.
11. Provide a Surveyor's Certificate to the Principal Certifying Authority at all floor levels indicating the finished floor level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
12. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to walls being erected more than 300mm above adjacent ground surfaces to indicate the exact location of all external walls in relation to allotment boundaries.
13. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
14. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.
15. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
16. The site must be provided with a vehicle washdown area at the exit point of the site. The area must drain to an approved silt trap prior to disposal to the stormwater drainage system in accordance with the requirements of Specification S2 of Council's Stormwater Management Manual. Vehicle tyres must be clean before leaving the site.
17. A single entry/exit point must be provided to the site which will be constructed of a minimum of 40mm aggregate of blue metal or recycled concrete. The depth of the entry/exit point must be 150mm. The length will be no less than 15m and the width no less than 3m. Water from the area above the entry/exit point should be diverted to an approved sediment filter or trap by a bund or drain located above.
18. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
19. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
20. All disturbed areas must be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
21. An application being made to Council's City Works Division for the construction of a vehicular crossing either by Council or an approved contractor complying with City Works Division standards and at the owner's cost.
22. Toilet facilities should be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
23. The implementation of adequate care during building construction to ensure that no damage is caused to any adjoining properties.
24. Erection of a hoarding/fence or other measure to restrict public access to the site and to building works, materials or equipment when building work is not in progress or the site is otherwise unoccupied.
25. Payment of an additional garbage levy for each new dwelling upon completion of work.
26. All vehicles carrying materials to or from the site having their loads covered at all times with tarpaulins or similar covers in accordance with the Roads (General) Regulation 2000, Section 11 (1) (d).

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27. Stormwater from roof areas must be linked via a temporary downpipe to a Council approved stormwater disposal system immediately after completion of the roof area.
28. No construction work outside the hours of Monday to Friday, 7.00 a.m. to 5.00 p.m. and Saturday, 7.00 a.m. to 12.00 noon, is permissible without the prior approval of Council. Noise from construction activities associated with the development should comply with the following guidelines (from NSW Environment Protection Authority Environmental Noise Control Manual Chapter 171).

Construction periods of 4 weeks and under:

The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 20dB(A) when assessed to the any sensitive noise receiver.

Construction periods greater than 4 weeks and not exceeding 26 weeks:

The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed to the any sensitive noise receiver.

29. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.

In this condition:

- a) relevant BASIX Certificate means:
  - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
  - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."

DILAPIDATION AND EXCAVATION

30. A photographic survey of the adjoining properties detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, should be submitted to the Principal Certifying Authority and Canterbury City Council if Council is not the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority and Canterbury City Council if Council is not the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage should be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition should be borne by the persons entitled to act on this Consent. In the event that access is denied the applicant is to demonstrate in writing that all reasonable steps were taken to obtain access to the adjoining property, and any assessment will then be based on what can be observed externally'.
31. A dilapidation report prepared by an Accredited Engineer, detailing the structural adequacy of all properties that share a boundary with the development site and their ability to withstand the proposed excavation, and any measures required to be

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incorporated into the work to ensure that no damage will occur during the course of the works, should be submitted to Council, or the Principal Certifying Authority with the Construction Certificate. All costs to be borne by the applicant. In the event that access is denied the applicant is to demonstrate in writing that all reasonable steps were taken to obtain access to the adjoining property, and any assessment will then be based on what can be observed externally'.

ROADS & MARITIME SERVICES

32. All buildings and structures together with any improvements integral to the future use of the site are to be wholly within the existing freehold property unlimited in height or depth along the Canterbury Road, boundary.
33. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.  
The report and any enquiries should be forwarded to:  
Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.  
Telephone 8849 2114  
Fax 8849 2766  
If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
34. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on New Canterbury Road.
35. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on New Canterbury Road during construction activities.
36. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.  
Details should be forwarded to:  
The Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.  
A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.  
Roads and Maritime has the following comments for Council's consideration in the determination of the application:
37. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2 – 2002 for heavy vehicle usage.



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## ACOUSTICS AND ENVIRONMENTAL HEALTH

38. The building be treated such that it will achieve acoustic attenuation provided for in the “Development near busy roads and rail corridors” being 35dB(A0 for bedrooms and 40dB(A) for non-bedrooms in order to satisfy requirements under Clause 102(3) of State Environmental Planning Policy (Infrastructure) 2007. And in accordance with the recommendations contained within the DA Acoustic Assessment (Report No. 20150139.1) prepared by Acoustic Logic dated 25 February 2015.
39. All activity being conducted so that it causes no interference to the existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.
40. The proposed use of the premises and/or machinery equipment installed, must not create noise so as to interfere with the amenity of the neighbourhood.  
If a noise nuisance occurs, the person in control of the premises must arrange for an acoustic investigation to be carried out (by an accredited Acoustic Engineer), obtain Principal Certifying Authority concurrence for the recommendations of the Consultant, and implement those recommendations so as to reduce the noise levels to the ambient noise level. The acoustic investigation is to be carried out by a suitably qualified acoustic consultant who has not been previously involved with the proposal.

## LANDSCAPING

41. Landscaping is to be undertaken in accordance with the landscape plans prepared by Greenland Design drawing numbers 0981A.L.01-05 Rev B dated 10 September 2015. Plant Quality and Sizes: All the tree supply stocks should comply with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003). Plant Pre-order: All scheduled plant stock should be pre-ordered, prior to issue of Construction Certificate or 3 months prior to the commencement of landscape construction works for the supply to the site on time for installation.  
Written confirmation of the order should be provided to Council’s Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation should include the date, name, address and contact details of supplier, and expected supply date.

## STORMWATER ENGINEERING

42. That the stormwater system be constructed in general, in accordance with the plans, specifications and details dated 15 April 2015, drawing number 140426-D100-111 RevB; prepared by Australian Consulting Engineers and as amended by the following conditions.
43. Certification from an accredited engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
44. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council’s stormwater system in accordance with AUS-SPEC Specification D5 “Stormwater Drainage Design”, AS/NZS3500.3 and Council’s DCP 2012, Part 6.4.
45. Full width grated drains being provided across the vehicular entrance/exit to the site where internal areas drain towards the street, and be connected to the drainage system upstream of the silt arrestor pit and in accordance with Clause 4 of Council’s DCP 2012, Part 6.4.

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46. OSD is required; three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority PCA and Canterbury City Council, if Council is not the PCA. The plans must be prepared by a practicing Civil Engineer and include levels reduced to Australian Height Datum (AHD) and full details of the hydraulic evaluation of the entire stormwater drainage system. The details shall be prepared in accordance with Council's DCP 2012, Part 6.4.
47. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1<sup>st</sup> March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.
48. Full width heavy duty vehicular crossings shall be provided at the vehicular entrances to the site at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
49. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.
50. The levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, carparks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
51. Driveways, parking and service areas are to be constructed or repaired in accordance with the appropriate AUS-SPEC #1 Specifications: C242-Flexible Pavements; C245-Asphaltic Concrete; C247-Mass Concrete Subbase; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.
52. A maintenance plan must be provided in respect of the lighting system above the public footway to address the following issues at a minimum: inspection schedule and a schedule of maintenance actions and maintenance frequency including cleaning, replacement of lighting based on expected operational life, replacement of protective coatings, amongst other cleaning/maintenance actions.
53. The lighting maintenance plan for the public footway must be provided by an electrical contractor or electrical engineer to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
54. The lighting maintenance plan for the public footway approved with the Construction Certificate must be retained on site and implemented at all times
55. The design of the vehicular access and off street parking facilities must be amended to address the relevant provisions of Australian Standards, including but not limited to

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AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking, AS 2890.2-2002 Parking Facilities - Off-Street commercial vehicles facilities, AS/NZS 2890.6-2009 Off-street parking for people with disabilities and AS 2890.3-1993 Parking Facilities - Bicycle parking facilities. The following specific issues must be addressed in the design:

56. The finished levels of the access driveways within the property must be adjusted to ensure that the levels at the boundary comply with those issued by Council.
- a) The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of *AS/NZS 2890.1-2004* for a B99 design vehicle.
  - b) Minimum Headroom of 2200mm must be provided throughout the access and parking facilities. Minimum Headroom of 2500mm must be provided above any disabled parking space(s). Note that the Headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, ducts, etc, and at any open garage door.
  - c) The vehicular access ramp must comply with the ramp grade requirements of Section 3.3 of *AS/NZS 2890.1-2004*.
  - d) Longitudinal sections must be provided along the worst case edge of all ramps within the parking facilities demonstrating compliance with the above requirements. The longitudinal sections at the entry/exit access ramp(s) must extend to the centreline of the connecting road carriageway.
  - e) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of *AS/NZS 2890.1-2004*.
  - f) The four small vehicle retail parking spaces and four small vehicle visitor parking spaces are not permitted and must be deleted.
  - g) The intersection of ramps with parking aisles and other intersection areas have been designed for use by one vehicle at a time. Appropriate traffic management measures, including redesign if needed, is required to prioritise one-way traffic movement at these intersection areas.
  - h) The swept path analysis for the loading dock must include the kerb and gutters in the laneway. In this regard the width of vehicular access to the loading dock may have to be increased to facilitate vehicular movements. The type of commercial vehicle used for the swept path must be provided.
  - i) The width of all vehicular access openings in the laneway must be determined by swept path analysis.

The design must be certified by a suitably qualified Civil Engineer and be provided prior to the issue of a Construction Certificate.

57. Where neighbouring properties and the roadway are intended to be utilised to support the excavation, the legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged with Canterbury City Council prior to the issue of a Construction Certificate. Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent. Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent. Permanent rock anchors are not permitted in Canterbury Road and Close Street and any proposed permanent or temporary rock

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anchors under New Canterbury Road will require Roads and Maritime Service concurrence. Where temporary anchors are proposed to be used in Canterbury Road and Close Street an Application must be made to Canterbury City Council for approval under Section 138 of the Roads Act 1993. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- a) Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.
  - b) Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
  - c) The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
58. As the proposed development includes significant excavation within the zone of influence of adjacent road reserves, an integrated Structural and Geotechnical Engineering report must be submitted prior to the issue of a Construction Certificate.
- a) The type and extent of substrata formations by the provision of representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum;
  - b) The appropriate means of excavation/shoring in light of the point above and proximity to adjacent property and structures. Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated;
  - c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby;
  - d) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.
  - e) Should groundwater be identified the basement must be of fully tanked construction to at least 1000 mm above the groundwater level. Retaining walls must be entirely self supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure.
  - f) Any retaining walls must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment.

The Report must be prepared by suitably qualified Structural and Geotechnical Engineers and be submitted to Canterbury City Council and the Principal Certifying Authority prior to the issue of a Construction Certificate.

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59. Details of the proposed street awning, including plans and sections, must be provided to the Principal Certifying Authority. The details must include:
- a) The street awning(s) must be setback 600mm from the kerb line.
  - b) The awnings must be entirely self-supporting; posts are not permitted.
  - c) The person or company carrying out the works will be required to carry public liability insurance to a value of ten million dollars. In this regard a Certificate of Currency must be submitted to the Principal Certifying Authority.
  - d) All stormwater is to be collected and connected to Council's street gutter. In this regard awning downpipes for drainage are to be fully concealed within or recessed into the ground floor frontage of the building. Awning gutters are to be constructed so that they are not visible from the footpath or are integral to the awning structure.
  - e) The awning(s) must be approved by the relevant Road Authority pursuant to Section 138 of the Roads Act. Note that this Consent does not give approval to construct an awning in the road.
  - f) The applicant must indicate the extent of any service adjustments necessary, and submit with the design, proof of approval by the relevant service authorities. The applicant shall bear all responsibility and costs associated with the proposed relocation of services.
  - g) The awning(s) must be designed by a Structural Engineer for Roof Category R1 in accordance with AS/NZS 1170.1: 2002, AS/NZS 1170.0: 2002, and AS/NZS 1170.3: 2011. The design must incorporate all loads including dead loads, live loads, wind load (lateral, uplift, and downward pressure), and potential impact load.
  - h) If the awning(s) is to be built over an exit that would be utilised in an emergency it must be constructed of non-combustible material.
  - i) Lighting is required and must comply with AS/NZS 1158.3.1: 2005 and AS/NZS 1158.0: 2005. Lighting must be recessed into the awning and be integral to its structure with all wiring and conduits concealed.
  - j) A maintenance plan must be provided in respect of the awning(s) to address the following issues at a minimum:
    - i. Inspection schedule of structural members, connections, and supports covering the life of the awning(s).
    - ii. Inspection schedule of non-structural components.
    - iii. Schedule of maintenance actions and maintenance frequency including cleaning, replacement of lighting based on expected operational life, replacement of protective coatings, and cleaning/maintenance of guttering and downpipes.

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

60. Development Consent does NOT give approval to undertake any works on Council property. An application must be made to Council under Section 138 of the *Roads Act 1993* for approval to construct these works.
61. The Principal Certifying Authority must ensure that the awning(s) have been constructed in accordance with this Consent and the relevant standards. Prior to the issue of an Occupation Certificate certification must be provided by a Structural Engineer that the awning(s) have been constructed in accordance with the design submitted with the Construction Certificate and National Construction Code.

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62. The maintenance plan approved with the Construction Certificate must be retained on site and implemented at all times.

## PUBLIC IMPROVEMENTS

63. All redundant vehicular crossings shall be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
64. All redundant stormwater connections must be removed and the footpath, and kerb and gutter reinstated.
65. The reconstruction of damaged sections of kerb and gutter along all areas of the site fronting Canterbury Road and Close Street to the satisfaction of Councils City Works Group is required. Work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
66. The reconstruction of damaged sections of concrete footpath paving and associated works along all areas of the site fronting Canterbury Road and Close Street to the satisfaction of Councils City Works Group is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
67. An engineering design of stormwater drainage and roadworks in the laneway, must be prepared by a qualified practicing Civil Engineer. The design must be prepared to make provision for the following:
- a) The scope of works are described in the above condition.
  - b) The design must be accompanied by detailed engineering drawings including relevant long and cross sections, hydraulic grade line analysis and location of utility services.
  - c) The plans must show existing and proposed on street parking.
  - d) Video inspection must be carried out of completed stormwater drainage works and a copy provided to Council to support the certification of the works.
  - e) The design must be in accordance with the relevant requirements of Austroads and all Australian Standards.
  - f) The applicant must consult with Council's Manager – Assets in relation to the design of all works in the public road reserve.

The application for approval of works in the road pursuant to Section 138 of the Roads Act must be accompanied by the above engineering design. Approval under the Roads Act will only be issued when the design has been approved by Council and this must be achieved prior to the issue of a Construction Certificate.

68. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that all approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with Councils Conditions of Approval under Section 138 of the Roads Act. Works-as-executed plans of the extent of roadworks, including any component of the stormwater drainage system that is to revert to Council, certified by a Registered Surveyor, together with certification by a qualified practicing Civil Engineer to verify that the works have been constructed in accordance with the approved design and relevant Australian Standards,

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- must be provided to Council prior to the issue of an Occupation Certificate. Video inspection must be carried out of completed stormwater drainage works that are to revert to Council and a copy provided to Council to support the certification of those works. The works-as-executed plan(s) must show the as built details in comparison to those shown on the plans approved with the Roadworks Permit. All relevant levels and details indicated must be marked in red on a copy of the Council stamped plans. Written notification from Council that the works approved under the Roads Act have been completed to its satisfaction and in accordance with the conditions of the Approval, must be provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.
69. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.
70. NSW Office of Water Terms of Approval
- (A) Prior to Construction
- i. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in a report provided to the Consent Authority prior to the commencement of construction.
  - ii. The design and construction of the building must prevent any take of groundwater after construction by making any below-ground levels that may be impacted by any watertable watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high watertable elevations to prevent potential future inundation.
  - iii. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
    - any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the watertable might naturally rise in the location immediately prior to the construction of the structure; and
    - any elevated watertable is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
    - where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
  - iv. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- (B) Requirements for dealing with groundwater during excavation
- i. If for any reason the take of groundwater during construction is expected,

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- then an authorisation shall be obtained for the take of groundwater as part of the activity.
- ii. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
  - iii. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
  - iv. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application.
  - v. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided. The disposal of any contaminated pumped groundwater (sometimes called “tailwater”) must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
  - vi. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.
71. All redundant stormwater kerb connections and vehicular crossings should be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant’s cost. The work is to be carried out in accordance with Council’s “Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter”.
  72. The reconstruction of the kerb and gutter along all street frontages of the site is required. Work to be carried out by Council or an approved contractor, at the applicant’s cost. The work is to be carried out in accordance with Council’s “Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter”.
  73. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting New Canterbury Road and Garnet Street is required. Work being carried out by Council or an approved contractor, at the applicant’s cost. The work is to be carried out in accordance with Council’s “Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter”.
  74. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.
- WASTE MANAGEMENT
75. The waste bin storage areas / presentation areas are to be designed and constructed in accordance with Parts 6.9.4.1 and 6.9.4.2 of Canterbury Development Control Plan



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2012.

76. Rubbish bins must only be compacted at a rate of 2:1. Recycling bins must not be compacted.
  77. Unobstructed and unrestricted access must be provided to the waste bin storage area on collection days from 5.00am. The bins must not be presented on the road.
- CRIME PREVENTION AND COMMUNITY SAFETY
78. The site is to be treated with anti-graffiti paint to deter graffiti offenders targeting the building and its perimeter. This will preserve the building and increase a sense of maintenance and ownership of the site.
  79. All access points to the building (this would include lifts and stairwells) should be restricted to residents only through a security system. Visitors to the residential complex should be provided with access via the intercom.
  80. The storage units located in the vicinity of the car spaces be fully enclosed and non-visible. This measure will deter potential offenders from breaking in as they are unable to see what contents (reward) is inside the storage unit.
  81. In addition to existing lighting, sensor spot lights be strategically placed in high pedestrian areas to increase natural surveillance and enhance feelings of personal safety.
  82. Mirrors are to be strategically erected around the site to assist with blind corners and increase natural surveillance.

## DISABILITY ACCESS

83. The development must be constructed to comply with the Commonwealth Disability (Access to Premises – Buildings) Standard 2010.

## CONSOLIDATION OF LOTS AND RIGHT OF CARRIAGEWAY

84. The site being consolidated into one allotment. The plan of consolidation being lodged and registered with the Land and Property Information NSW prior to the release of the Occupation Certificate or occupation of the building.
85. A Right of Carriageway over 220-222 Canterbury Road providing access over the driveway and basements to Close Street from 224 Canterbury Road must be established allowing for the future.
86. To avoid isolation of No. 224 Canterbury Road, future basement connection for the proposed upper 2 basement levels to a future basement on No. 224 Canterbury Road is required. Necessary rights of access are to be created for construction and occupation purposes.

## SYDNEY WATER REQUIREMENTS

87. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to “Your Business” section of Sydney Water’s web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the “e-developer” icon or telephone 13 20 92. Following application, a “Notice of Requirements” will be forwarded detailing water and sewage extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.  
The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the final plan of subdivision.

## CRITICAL INSPECTIONS

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

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Class 2, 3 or 4 Buildings

- 88.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 88.2. prior to covering any stormwater drainage connections, and
- 88.3. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Class 5, 6, 7, 8 or 9 Buildings

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

## ADDITIONAL INSPECTIONS

89. Section 81(A) of the EP&A Act 1979 requires that a person having the benefit of a development consent, if not carrying out the work as an owner-builder, must notify the principal contractor for the building work of any critical stage inspections and other inspections that are to be carried out in respect of the building work, as nominated in this development consent. To arrange an inspection by Council please phone 9789-9300 during normal office hours.

## COMPLETION OF DEVELOPMENT

90. Obtain an Occupation Certificate/Interim Occupation Certificate from the Principal Certifying Authority before partial/entire occupation of the development.
91. Prior to an Occupation Certificate/Subdivision certificate being issued an interim occupation certificate must be issued for the basement levels of the building on 220-222 Canterbury Road (DA-169/2015), including the driveway ramp and street access to Close Street.

## WE ALSO ADVISE:

92. Should the proposed excavation at the site result in the requirement for a significantly greater predicted inflow and subsequent dewatering volume, the NSW Office of Water should be consulted as soon as possible, and an authorisation may need to be obtained for the activity.
93. This application has been assessed in accordance with the National Construction Code.
94. You should contact Sydney Water prior to carrying out any work to ascertain if infrastructure works need to be carried out as part of your development.
95. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
  - Structural engineering work
  - Air Handling Systems
  - Final Fire Safety Certificate
  - Glazing
  - Water Proofing
96. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
97. Private contractors should submit an application and pay an inspection fee to Council seven days prior to commencement of any works on the footpath or roadway. No work should be carried out without Council approval.
98. The applicant is to ensure that landscaping and hydraulic plans are co-ordinated. Hydraulic details such as pits, stormwater lines, detention tanks and retaining walls are to be shown on the Landscape Plan as these can effect layout of garden beds and

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- plantings.
99. Before you dig, call “Dial before you Dig” on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance from the nearest cross street) for underground utility services information for any excavation areas.
  100. Compliance with the National Construction Code does not guarantee protection from prosecution under “The Disability Discrimination Act” and you must comply with the Commonwealth Disability (Access to Premises – Buildings) Standard 2010. Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021 199.
  101. In granting this approval, we have considered the statutory requirements, design, materials and architectural features of the building. No variation to the approved design and external appearance of the building (including colour of materials) will be permitted without our approval.
  102. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
  103. If you are not satisfied with this determination, you may:
    - 103.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of receipt of this Notice of Determination; or
    - 103.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 or Section 97AA of the Environmental Planning and Assessment Act 1979.

**3 308-320 CANTERBURY ROAD AND 6-8 CANTON STREET,  
CANTERBURY: DEVELOPMENT APPLICATION FOR THE  
CONSTRUCTION OF ADDITIONAL LEVELS ON APPROVED  
MIXED USE DEVELOPMENT AND MODIFICATION  
APPLICATION TO PROVIDE ADDITIONAL BASEMENT  
PARKING**

**FILE NO:** 150/308D PT7 & 8  
**REPORT BY:** DIRECTOR CITY PLANNING  
**WARD:** EAST

<b>D/A No:</b>	<b>DA-604/2014 &amp; DA-405/2013/A</b>
<b>Applicant: Owner:</b>	<b>Toplace Treacy Street Pty Ltd</b>
<b>Zoning:</b>	<b>Zone B5 – Business Development and Zone R4 – High Density Residential under Canterbury Local Environmental Plan 2012</b>
<b>Application Date:</b>	<b>19 December 2015, further information received on 15 September 2015</b>

**Summary:**

- The applicant has lodged a development application (DA) and corresponding Section 96 application to carry out alterations and additions to the approved development. Both applications have been assessed concurrently and the report prepared by an independent external planning consultant (DFP Planning Pty Ltd) on behalf of Council. The details of each application are discussed below.
- The subject development was determined by way of approval by the Sydney East Joint Regional Planning Panel (Development Application 405/2013) for a mixed use development at 308-310 Canterbury Road, 312-320 Canterbury Road and 6-8 Canton Street, Canterbury on 19 February 2014 which included the construction of a five storey mixed use development comprising ground floor commercial, 126 units and eight town houses including basement car parking. Demolition of the existing buildings has commenced on site.
- The site is known as 308-320 Canterbury Road and 6-8 Canton Street, Canterbury and is zoned B5 Business Development and Residential R4 under Canterbury Local Environmental plan 2012 (CLEP 2012). The site is identified as “A” on the Key Sites Map, and such development for the purposes of residential accommodation is permitted with consent but only as part of a mixed use development. The proposal retains the approved ground floor commercial uses and as such, satisfies the definition of mixed use development. This use is permissible in the subject zone.
- The applications have been assessed against the provisions contained in State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004,

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State Environmental Planning Policy 55- Remediation of Land (SEPP 65), State Environmental Planning Policy (Infrastructure) 2007, Canterbury Local Environmental Plan 2012 (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The existing development was approved with a number of minor variations to the SEPP 65 and DCP 2012 and accordingly it is necessary to have regard to the existing approval. The proposal is found to make a number of improvements to the existing approval in terms of building separation and cross ventilation. The application is found to generally comply with the requirements of these polices with the exception of building height.

- The Development Application DA-604/2014 proposal involves a breach of the building height development standard under Clause 4.3 of CLEP 2012, by a maximum of 15 metres. The application is supported by a written request prepared by the applicant under Clause 4.6 of CLEP 2012 to vary the height development standard.
- The Development Application DA-604/2014 was publically exhibited twice and adjoining land owners notified in accordance with Part 7 of the CDCP 2012. The first notification period closed on 10 February 2015 and we received submissions from fourteen households, and the second notification (exhibition of the amended plans) period closed on 2 November 2015 and we received submissions from six households. Issues raised in the submissions are provided in the body of this report.
- The Section 96(1A) Application (DA-405/2013/A) seeks to amend DA-405/2013 which approved the mixed use development that the subject DA relates. The Section 96(1A) application seeks approval to provide two additional basement levels to provide a total of 349 spaces. The additional parking spaces proposed in the Section 96(1A) application will be allocated to the additional units proposed by this DA.
- The development application has been amended in September 2015 by reducing the number of units from 220 to 194. The Section 96(1A) application was not amended and accordingly there is currently an oversupply of basement parking spaces. A condition of consent is recommended to ensure that adequate parking can be provided prior to the issue of a Construction Certificate.
- The applicant has offered to prepare a Voluntary Planning Agreement (VPA) for Council's signature that proposes a Section 88b instrument be registered on the title in favour of Council to allow the general public access to the communal open space located on 6-8 Canton Street within the proposed development.
- Notwithstanding the variation sought to the building height standard, the development application and Section 96 application are 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**

The Development Application (DA-604/2014) was lodged on 19 December 2014. The Application originally proposed the following:

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- Construction of an additional three to four storeys on top of the existing approved building, equating to a building height of between 29-30 metres;
- Increasing the amount of dwellings from 134 to 220 units (proposing 86 more units on the site);
- Deleting the approved eight town house dwellings on the two southern lots addressing Canton Street (6 and 8 Canton Street) and replacing this space with communal open space;
- Shifting the southern wing of the building (including the approved levels) further south to provide an internal building separation distance of 18m.
- The development application did not amend the number of basement car parking spaces to reflect the additional units. The amendment to the basement is proposed in the Section 96 (1A) application as discussed below.

The proposal has been significantly amended as a result of numerous meetings with Council officers with the final proposal now involving a reduced total number of additional units, and a Voluntary Planning Agreement offer relating to the general public access of a communal open space at 6-8 Canton Street within the proposed development (previously approved to accommodate eight multi dwelling housing units).

The Development Application is recommended for approval subject to the imposition of appropriate conditions.

The Section 96 Application (DA-405/2013(A)) has been lodged concurrently with the DA which seeks to increase the size of the basement to accommodate parking, storage and waste areas for the additional dwellings. The Section 96 application seeks to amend DA-405/2013 by amending Condition 4 to reference the proposed development application plans, amend Condition 9 to provide a total of 349 parking spaces. The Section 96 application seeks to add two additional basement levels and reducing the footprint of the basement to increase deep soil landscaping. The original development consent required a total of 206 parking spaces to be provided. The proposal will result in an additional 143 car parking spaces and additional storage and bin storage spaces.

Numerous meetings and discussions were held with the applicant in regards to the presentation of the building to Canterbury Road, Canton Street and Dibbs Street and to the general bulk and scale and the proposal's transition to the low density areas to the south.

In response, the Applicant submitted amended plans to Canterbury Council on 15 September 2015 which has sought to address the issues raised. The amended plans have resulted in a reduction of 26 units which has resulted in the building stepping down to the south from the corner of Canterbury Road and Canton Street and along the Canterbury Road frontage. The proposal results in the development containing a total of 194 residential units, an increase of 60 dwellings on the site compared to the approved scheme.

In addition, the Applicant has offered to allow public access to the communal open space located on the southern side of the development which would effectively create a small pocket park by way of a Voluntary Planning Agreement. This area is located on the land zoned R4

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and was the location of the approved eight town houses. The pocket park has an area of approximately 1,350m<sup>2</sup>.

### Site Details

The subject site incorporates 308-310 Canterbury Road, 312-320 Canterbury Road and 6 and 8 Canton Street in Canterbury. The Canterbury Road frontage extends 61 metres in length, the Canton Street frontage extends 91 metres and the Dibbs Street frontage extends 15 metres. The total site area is 5,906m<sup>2</sup>. The site has a significant easterly slope with the highest point along the western Canton Street boundary and the lowest point along the eastern Dibbs Street boundary. The fall across the site is 6.3 metres from west to east. There are a number of existing trees throughout the site.

The eastern part of the site is largely occupied by a two storey building formerly occupied by Bowermans Office Furniture and the western part of the site is largely occupied by a two to three storey building used by Ausland Furniture, with large surface carpark at the rear. The two sites along Canton Street are currently each occupied by a single storey residential dwelling. The buildings on the site are currently being demolished as part of the development consent DA-405/2013.

Existing development within the locality is varied. Canterbury Road is characterised by a mix of residential and commercial buildings. To the immediate south of the subject site is residentially zoned land along Dibbs Street and Canton Street which contain a mix of single and multi-dwellings and residential flat buildings. Adjacent to the eastern side of the site at 300-306 Canterbury Road is a four storey residential flat building, and the west of the site across Canton Street is a Service Station. To the north of the site across Canterbury Road are two churches, Uniting Church Fiji and the Uniting Methodist Church.

The site is located in a visually prominent site being opposite the intersection of Wonga Street and Canterbury Road and marks the intersection of the Campsie Bypass.



Subject Site Zoning

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Bowermans Office Furniture on the eastern front part of the site



Ausland Furniture of the western front part of the site



Dibbs Street Frontage



Part of the Canton Street Frontage

### Proposal

The proposed development involves the construction of an additional three to four residential levels on the existing approved mixed use development DA-405/2013. The approved development comprises ground floor commercial units, 126 residential units, eight multi dwelling housing and associated basement car parking. The mixed use development building is five storeys in height with basement parking.

The existing development consent included the construction of a two storey residential flat building on the Dibbs Street frontage which remains unchanged. The approved development included eight townhouses on 6-8 Canton Street. These townhouses are now proposed to be deleted and replaced by open space that would be available to the general public. Access to open space is the subject of the Voluntary Planning Agreement.

In detail, the proposal involves:

- Construction of an additional two to four storeys on the approved “U shaped building” but not as yet constructed building resulting in maximum building height of 30.8 metres resulting in part six, part eight part nine storey building;
- Increasing the number of residential units from 134 units/dwellings to 194 units (creating 60 additional dwellings on the site);



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- The proposed unit mix is 95 x one bedroom units, 93 x two bedroom units, 6 x three bedroom units. The units range in area from one bedroom units 46sqm to 68sqm, two bedroom units 70sqm 87sqm, three bedroom units 92sqm-110sqm;
- Removing the eight townhouse dwellings on the two southern lots that front Canton Street;
- Creation of a pocket park on the southern side of the building with an area of approximately 1350sqm. The park will remain in private ownership and ultimately the strata owners however it is proposed that an easement be registered on the site (S88B Instrument) that allows the general public to access this space. This is subject to the execution of a Voluntary Planning Agreement;
- Shifting the southern wing of the building (including the approved levels) further south to improve internal building separation;
- Small reduction in total amount of commercial space from 996.48sqm to 989.9sqm.

This development application is amending a DA and therefore requests that a condition of development consent be imposed requesting that DA-405/2013 (the original approved scheme) be amended by this application i.e. the additional units, the deletion of the townhouses and the amendment to the commercial space. Whilst this is not a common practice it is nonetheless contemplated by the Environmental Planning and Assessment Act and Regulation.

A Section 96 application has also been lodged which seeks to increase the size of the basement to provide a total of 349 car parking spaces to facilitate the increase in dwelling yield. The Section 96 application for the basement car park must be approved simultaneously to ensure that the appropriate number of car parking spaces are approved and incorporated into the approved development. The proposal provides the following built form characteristics.

#### General Improvements to original Development Application DA-405/2013

The Development Application has sought to make a number of improvements to the originally approved DA. These improvements include:

- Significant increase in the amount of deep soil landscaping by deleting the eight town houses and replacing them with open space. The deep soil zone has been increased from 7% of the site area to 15.65%. An increase of 924.6sqm. Deep soil has also been increased by reducing the footprint of the basement car park per level and providing two additional basement levels;
- A Voluntary Planning Agreement will be entered into by the developer and Council that will allow the general public to access the consolidated open space which has an area of approximately 1350sqm;
- The open space provides a buffer between the mixed use development and the existing detached dwelling houses to the south of the site in Canton Street;
- The amount of cross ventilated units has been increased from 62% to 72% and the amount of units receiving two hours of solar access between 8am and 4pm has been slightly increased from 72% to 76%;
- The separation distance between the existing units has been increased from approximately 13 metres to approximately 18 metres.

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### **Presentation to Adjoining Properties**

The ground level presentation to Canterbury Road of ground floor commercial remain unchanged. At the north eastern end of the building, two additional floors are proposed resulting in a six storey presentation to Canterbury Road.

At the north western part of the building at the corner of Canterbury Road and Canton Street, three additional storeys are provided resulting in an eight storey presentation to both Canterbury Road and Canton Street.

Along the Canton Road frontage the development is eight storeys at the intersection of Canterbury Road. Ground level shops extend along the frontage of the building. The length of the commercial premises has been increased by 3.8 metres which extends onto that part of the site zoned R4 High Density Residential. As will be discussed further in this report commercial premises are prohibited in the R4 High Density Residential Zone. To ensure the proposal is permissible with consent that part of the ground floor shop should be used as either a shop or business premises as defined in the CLEP 2012.

The proposal has an eight storey presentation to Canton Street with the first 23 metres from Canterbury Road generally being built to the boundary. After 23 metres from the intersection of Canterbury Road and Canton Street the 7<sup>th</sup> and 8<sup>th</sup> storeys are setback from Canton Street ranging from three metres to 9.375 metres.

Along the north eastern boundary of the site the proposal has a six storey interface with the adjoining building located at 300-306 Canterbury Road. The central void with a depth of 18 metres is located through the centre of the site (i.e. the inside of the "U") whilst the rear or southern wing is nine storeys in height at the north eastern end and eight storeys at the south western end. The additional storey is generated by the level change in the site. The upper two floors of the southern wing are setback generally 9.375 metres from the floors below.

Along the south eastern boundary the southern wing interfaces with 10 Canton Street (single dwelling house) and 5-7 Dibbs Street, (two storey residential flat building) the building ranges in height from eight to nine storeys with the first six to seven storeys having a setback to the boundary of 10 Canton Street of 25.29 metres and the upper two floors having a setback of 35.8 metres. The first seven storeys has a setback to the boundary of 5-7 Dibbs Street of 11.225 metres and the upper two storeys have a setback of 15.6 metres

The proposed finishes are consistent with the approved scheme.

### **Statutory Considerations**

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

- Section 96 of the Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)
- State Environmental Planning Policy (Building Sustainability Index) BASIX 2004

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- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013

### Assessment

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

- **Section 96 (1A) Environmental Planning and Assessment Act 1979**  
Section 96(1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act, 1979) imposes four tests for an application seeking consent to modify a development consent, which are detailed below.

#### Are the proposed modifications of minimal environmental impact?

The proposed amendments relate to the provision of two additional basement levels and reducing the footprint of the basement and thereby increasing deep soil landscaping. The proposed changes seek to provide additional car parking, storage areas and waste areas within the basement to accommodate for the additional units proposed under Development Application DA-604/2014. The changes proposed will not have any external implications on adjoining properties or the biophysical environment or be visible from any part of the site.

The proposed modifications will have minimal environmental impact as there will be no fundamental change to the uses and definition of the approved development; are largely internal and will not affect the approved building envelope, bulk, scale or massing; are generally compliant with the relevant planning controls; will not cause any additional overshadowing or visual massing for neighbours; and, will not cause any changes to the streetscape presentation of the development.

#### Is the proposal substantially the same development as originally approved?

Section 96(1A)(b) of the Environmental Planning and Assessment Act 1979 (EP&A Act, 1979) provides that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (b) It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all),

Consideration has been given to the context of the modifications in relation to the overall approved scheme. In this instance the proposed Section 96(1A) modifications are considered to satisfy the test for “substantially the same development”.

#### Has the Application been notified in accordance with the Regulations or a DCP?

Section 96(1A)(c) of the EP&A Act, 1979 provides as follows:

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- (a) *It ... (the consent authority) ... has as notified the application in accordance with:*
- (i) *The regulations, if the regulations so require, or*
  - (ii) *A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent.*

The Section 96 (1A) application was not publicly exhibited or notified to surrounding land owners given that the amendments satisfied the provisions of Section 7.2 (ii) in the CDCP 2012. Section 7.2 (ii) states that developments that are not likely to have a significant impact on adjoining residential properties are excluded from the requirement to notify the proposal.

Have any submissions received concerning the modifications been considered?

Section 96(1A)(d) of the EP&A Act, 1979 provides that:

- (d) It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan.

No submissions were received as the application was not notified, as per Section 7.2 (ii) of the CDCP 2012.

- **Section 96 of the Environmental Planning and Assessment Act 1979**

Section 96 of the Environmental Planning and Assessment Act, 1979 allows Council to modify development consent if:

- a) it is satisfied that the development to which the consent as modified relates is substantially the same development

Comment

The development to which the consent as modified relates is substantially the same development.

- b) it has consulted with the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval (as it relates to Integrated Development)

Comment

The application did not require any consultation with a Minister, public authority or other approval body.

- c) it has notified the Section 96 application (if required under CDCP 2012 – Notification), and
- d) has considered any submissions concerning the proposed modification,

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#### Comment

In accordance with Canterbury Development Control Plan 2012 (CDCP 2012), adjoining and nearby property owners and occupiers were not required to be advised of the proposed modifications to the development consent, and were invited to comment on the S96 application. No submissions were received.

- **State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)**

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 lodgment of the development application. This documentation has been submitted. As this application was lodged prior to the amendment to SEPP 65 in June 2015 which replaced the Residential Flat Design Code with the Residential Apartment Design Code the savings provision of SEPP 65 apply and the application must be assessed against the provisions of the Residential Flat Design Code.

In addition, SEPP 65 requires the assessment of any DA for residential flat development against ten principles contained in Clauses 9-18 and Council is required to consider the matters contained in the RFDC. An assessment of the proposal under the provisions and “Rules of Thumb” in the RFDC indicates that the proposal is consistent with the recommended design standards.

#### Context

The site is located on Canterbury Road which is expected to undergo change into the future having regard to the new planning controls that now apply to properties on Canterbury Road. The proposal however exceeds the 18m height limit along Canterbury Road by 12.3 metres and part of the site along Canton Road exceeds the height limit by 15 metres.

#### Scale

The scale of the proposed development is generally determined by the height and FSR controls. The Canterbury Local Environmental Plan contains height limits but not FSR controls for the B5 zone. The proposal complies with the FSR for that part of the site zoned R4. The building envelope controls are contained within the Development Control Plan 2012.

The proposal exceeds the height controls contained within the CLEP. The level of exceedance on the land zoned B5 is 12.8 metres whilst the height exceedance on the land zoned R4 is 15 metres. A Clause 4.6 Variation has been lodged to vary the height of the CLEP for both the 18 metre height limit for the B5 zone and the 8.5 metre height limit for the R4 zone. This will be discussed in greater detail further in this report.

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### Built Form

The proposed built form is inconsistent with the desired future character as provided in the CLEP 2012. The desired future character is for 18 metre generally five/six storey mixed use development along Canterbury Road, transitioning to two storey residential flat buildings at the northern end of Dibbs Street and Canton Street (R4 zoned land) before transitioning to two storey dwelling houses further to the south.

This proposal seeks to provide an eight storey component on the intersection of Canton Street and Canterbury Road, eight storeys along Canton Street, an open space buffer approximately 25 metres wide at the south eastern site boundary.

At the south eastern part of the building which is furthest from the corner of Canterbury Road and Canton Street with the interface to the two storey residential flat building the proposal is nine storeys in height. In this regard the proposal fails to adequately create a prominent corner element and provides additional height at the rear of the building that will be visible behind the street wall. The additional height in the southern wing adversely overshadows the communal open space that will also be available to the public.

### Density

The majority of the 60 additional units are all above the existing height limit. The exception being the additional unit on each floor that has allowed the southern wing to be shifted to the rear to provide a minimum 16.8 metre internal building separation distance.

Given the unacceptable built form outcome which is due to excessive height towards the rear of the building where the height limit is breached by between 12.8 metres and 15 metres it is concluded that there are too many dwellings on the site resulting in an unacceptable density. Notwithstanding, Council's traffic engineer has indicated that the additional traffic generated by the development can be sustained within the local road network.

### Resource, Energy and Water Efficiency

The proposal has been assessed against BASIX and adequately meets all required categories of water, thermal comfort and energy.

There is a small error in the BASIX Certificate, the Applicant will be notified prior to the determination of the application.

The RFDC requires that 60% of the units be cross ventilated. The plans submitted demonstrate that 72% of the dwellings will be cross ventilated. The approved scheme provided cross ventilation for 62% of the units. In addition, the RFDC requires that 70% of units receive direct solar access to their living spaces during winter for three hours between the hours of 9am and 3pm. In dense urban areas this may be reduced to two hours.

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The approved development was inconsistent with the solar access provisions in that the proposal allows for 72% of the dwellings to receive a minimum of two hours solar access to their living spaces and balconies between 8am and 4pm in mid-winter.

The proposal allows two hours of solar access to 76% of the units between the hours of 8am and 4pm and in this regard represents an improvement compared to the approved scheme. The proposal provides two hours of solar access to 60.3% of the units between the hours of 9am and 3pm which is inconsistent with the RFDC.

#### Landscape

The deep soil planting has been increased from 7.2% of total developed site to 15.65% or 924.6sqm. The deep soil zone has been significantly increased by the deletion of the eight townhouses and the establishment of the open space adjacent to 10 Canton Street.

#### Amenity

The proposed development will improve the level of amenity in terms of solar access and natural ventilation. Furthermore the internal separation distance between the two building wings has been increased from 12.5 metres to 16.8 metres which assists with visual and acoustic privacy.

#### Safety and Security

Should development consent be issued a management deed will need to be entered into with Council on management of the open space. This management deed will need to consider safety features such as fencing, lighting and consider whether CCTV is appropriate. It is recommended that the management deed include a detailed fixtures plan to be approved by Council to ensure that any facilities within the open space are of an appropriate standard for public use.

The security features of the building were considered to be appropriate in the approved scheme.

#### Aesthetics

The proposed colours and finishes are consistent with the approved scheme and are considered to be appropriate.

Further to the design quality principles discussed above, the proposal has been considered against the various provisions of the Residential Flat Design Code in accordance with Clause 30 (2) (c) of SEPP 65, as follows:

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Provision	Approved	Proposed	Complies
<b>Primary Development Controls</b>			
<b>Building Height</b> Objectives: - To ensure future development responds to the desired scale and character of the street and local area. - To allow reasonable daylight access to all developments and the public domain.	LEP height 18m for B5 Business zone	B5 Business Zone 30.8m to plant, (north east elevation)	No See Comment (1) below
	Approved height of 19.5m to roof plant 18m to roof	29.6m to roof, (north east elevation)	No See Comment (1) below
	LEP Height for R4 zone 8.5m Approved 8.7m	R4 Zone 23.5m for 5.4 metres in width	No See comment (1) below
<b>Building Depth</b> - 10-18 metres is generally appropriate - Developments wider than 18 metres must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	22m	22m	No, consistent with existing approval  No
<b>Building Separation</b> For buildings up to 4 Storeys (12m): - 12m between habitable rooms and balconies - 9m between habitable rooms/balconies and non-habitable rooms - 6m between non-habitable rooms  For buildings 5 to 8 Storeys (25m): - 18m between habitable rooms and balconies - 13m between habitable rooms/balconies and non-habitable rooms - 9m between non-habitable rooms	Min 12.5 provided for 4 storeys Complied	16.8 metres provided for first four storeys	Yes
	5 <sup>th</sup> storey 12.5 metres provided. Did not comply	16.8m provided balcony to balcony	No See comment (2) below
		18m provided from façade to façade.	Yes



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Provision	Approved	Proposed	Complies
<b>Street Setbacks</b> <ul style="list-style-type: none"> <li>- Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.</li> <li>- Relate setbacks to the area's street hierarchy.</li> </ul>	0 metres Ground level to level 4  Level 5, 1.5m	Setbacks to Canton, Dibbs and Canterbury Road remain unchanged from Levels G-4.  Upper level setbacks have been increased. Canton (lvl 6-7): Corner = 0m (no change) Centre = 9.91m (increased from 1.5m) South Side = 9.4m (increased from 0m)  Canterbury Road (lvl 5-7) Corner = 2m (no change)	Yes
<b>Side and Rear Setbacks</b> <ul style="list-style-type: none"> <li>- Relate side setbacks to existing streetscape patterns.</li> <li>- Test side and rear setbacks with building separation, open space and deep soil zone requirements.</li> <li>- Test side and rear setbacks for overshadowing of other parts of the development and/or adjoining properties, and of private open space.</li> </ul>	Setback to 10 Canton Street was 4 metres.	North Eastern: - North side (setback to 300-306 Canterbury Road ) (from level 5) = 28.5 metres - South side (setback to 3 Dibbs Street) = 4.3m (no change)	Yes
	The setback to 5-7 Dibbs Street was 11.2 metres.	South Eastern (lvl 6-7) - East side (setback to 5-7 Dibbs Street ) = 26.9m (increased from 11.2m) - West side (setback to 10 Canton Street) = 35.9m (increased from 4m)	Yes
<b>Floor Space Ratio</b> <ul style="list-style-type: none"> <li>- Test and desired built form outcome against proposed floor space ratio to ensure consistency with building height, building footprint, three dimensional building envelope and open space requirements.</li> </ul>	No FSR on B5 zoned land	No FSR on B5 zoned land	NA
	FSR on R4 land was 0.5	Proposed 071:1	Yes
<b>Site Configuration</b>			
<b>Deep Soil Zones</b> <ul style="list-style-type: none"> <li>- A minimum of 25 percent of the open space area of a site should be a deep soil zone; more is desirable.</li> </ul>	7%	15.65%	No, however improved compared to approved DA

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Provision	Approved	Proposed	Complies
<b>Open Space</b> <ul style="list-style-type: none"> <li>- The area of communal open space required should generally be at least between 25 and 30 percent of the site area.</li> <li>- The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m<sup>2</sup>; the minimum preferred dimension in one direction is 4 metres.</li> </ul>	24.5%		No, however improved compared to approved DA
<b>Orientation</b> Objectives: <ul style="list-style-type: none"> <li>- Optimise solar access</li> <li>- Contribute to streetscape character</li> <li>- Protect amenity of existing development</li> <li>- Improve thermal efficiency of new buildings</li> </ul>	North facing units maximised	North facing units maximised	Yes
<b>Site Amenity</b>			
<b>Safety</b> <ul style="list-style-type: none"> <li>- Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings</li> </ul>	Approval was subject to a crime risk assessment. Conditions also imposed	Consistent with approved scheme.  The VPA regarding the Section 88b instrument for the public open space must include public safety measures.	Yes, subject to conditions
<b>Visual privacy</b> Refer to building separation standards	Did not comply at 5 <sup>th</sup> Storey  Generally 12.5m	Min 16.5m other areas are 18m	Separation distances at the lower levels has been improved.
<b>Site Access</b>			
<b>Building Entry</b> Objectives: <ul style="list-style-type: none"> <li>- Create entries which provide a desirable identity to the development</li> <li>- To orient the visitor</li> <li>- Contribute to streetscape</li> </ul>	Building entries consistent with SEPP	Consistent with approval	Yes

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Provision	Approved	Proposed	Complies
<b>Apartment layout</b> <ul style="list-style-type: none"> <li>- Single-aspect apartments should be limited in depth to 8 metres from a window.</li> <li>- The back of a kitchen should be no more than 8 metres from a window.</li> </ul> Minimum apartment size: <ul style="list-style-type: none"> <li>- 1 bedroom 50m<sup>2</sup></li> <li>- 2 bedroom 70m<sup>2</sup></li> <li>- 3 bedroom 95m<sup>2</sup></li> </ul>	Condition requiring min depths to be provided	No change, the condition remains relevant.	Consistent with approval
<b>Apartment mix</b> Objectives: <ul style="list-style-type: none"> <li>- Provide a diversity of apartments which cater for different household requirements now and in the future.</li> <li>- To maintain equitable access to new housing by cultural and socio-economic groups.</li> </ul>	66x1 bedroom units 65x2 bedroom units 3x3 bedroom units 8 town houses	95 x 1 Bedroom 93 x 2 Bedroom 6 x 3 Bedroom  Total 194 Units 0 Townhouses  60 additional dwellings	Similar proportions of unit mix as the approved scheme.
<b>Balconies</b> <ul style="list-style-type: none"> <li>- Minimum depth of 2 metres</li> </ul>	Condition requiring min depths to be provided	A number of units have balconies with areas of 8.75sqm which is less than the examples on page 69 of the RFDC.	Yes, subject to conditions of consent
<b>Ceiling Heights</b> <ul style="list-style-type: none"> <li>- 2.7m for habitable rooms</li> <li>- For two storey units, 2.4 metre minimum for second storey if 50 percent or more of the apartment has 2.7 metre minimum ceiling heights</li> <li>- Attic spaces, 1.5 metre minimum wall height at edge of room with a 30 degree minimum ceiling slope.</li> </ul>	2.7m	2.7m	Yes
<b>Flexibility</b> Objectives: <ul style="list-style-type: none"> <li>- Encourage housing design which meets the broadest range of the occupants' needs possible.</li> <li>- Promote loose-fit buildings which can accommodate whole or partial changes of use.</li> </ul>	Units were generally open plan	The units are relatively open plan to assist in making the use of the units more flexible	Yes

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Provision	Approved	Proposed	Complies
<b>Ground Floor Apartments</b> <ul style="list-style-type: none"> <li>- Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.</li> <li>- Provide ground floor apartments with access to private open space, preferably as a terrace or garden.</li> </ul>	Ground level retail commercial to Canterbury Road	Unchanged	Yes
<b>Storage</b> In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: <ul style="list-style-type: none"> <li>- studio apartments 6m<sup>3</sup></li> <li>- one-bedroom apartments 6m<sup>3</sup></li> <li>- two-bedroom apartments 8m<sup>3</sup></li> <li>- three plus bedroom apartments 10m<sup>3</sup></li> </ul>	Storage provided consistent with SEPP	Capable of complying. Recommend a condition of consent to confirm	Yes
<b>Building Amenity</b>			
<b>Acoustic Privacy</b> Objective: <ul style="list-style-type: none"> <li>- Ensure a high level of amenity by protecting the privacy of residents within the residential flat buildings from within the apartments.</li> </ul>	The previous approval included an acoustic report. A condition of consent was imposed requiring the units to achieve the environmental Noise guideline goals	The proposed units will be subject to the condition of consent relating to acoustic privacy	Yes

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Provision	Approved	Proposed	Complies
<b>Daylight Access</b> - Minimum 3 hours of sunlight between 9am and 3pm in mid-winter to living rooms and private open spaces to at least 70% of apartments in development. In dense urban areas a minimum of two hours may be acceptable;	72% of units received 2 hours of sunlight between 8 and 4pm	60% (117) of units receive at least 2 hours of sunlight between 9am and 3pm  An additional 16% (31) of units receive 2 hours of sunlight between 8am and 4pm.  Does not comply, however decreases the noncompliance when compared to the approved scheme.  2 hours of solar access is available to 76% when the time of day is extended by 2 hours from 8am till 4pm.  60% of units receive 2 hours of sunlight between 9am and 3pm. Satisfactory daylight is not achieved	No, however improved compared to the approved DA
<b>Natural Ventilation</b> - Building depths 10-18 metres - which support natural ventilation 60% of residential units should have cross ventilation 25% of kitchens should have access to natural ventilation	60%	71.62% (139) of units have some form of natural ventilation	Yes
<b>Building Form</b>			
<b>Façades</b> - Promote high architectural quality in residential flat buildings. - Ensure new developments have façades which define and enhance the public domain and desired street character - Ensure the building elements are integrated into the overall building form and façade design.	building is well articulated	Proposed upper floors are articulated	Yes
<b>Roof Design</b> - Provide quality roof designs, which contribute to the overall design and performance of residential flat buildings - Integrate the design of the roof into the overall façade, building composition and desired contextual response.	Acceptable roof form	Acceptable roof form	Yes

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(1) Building Height

The discussion regarding the building height is provided in detail under the assessment of the proposal against the CLEP 2012.

(2) Building Separation

The existing approval did not comply at the 5<sup>th</sup> storey. The building separation distance has been increased by approximately 5 metres at the ground to 5<sup>th</sup> storey. The non-compliance is minor and indeed the façades are setback 18 metres which complies. Some of the balconies are 1.2m closer than 18 metres. This minor non-compliance does not affect the internal living areas and the non-compliance at the outer extent of the balcony will be barely discernible.

- **State Environmental Planning Policy (Building Sustainability Index) BASIX 2004**  
A BASIX Certificate accompanies the development application.

An amended BASIX Certificate has been prepared which meets the Energy, Water and Thermal Comfort Goals. As indicated previously there is an error where the bedroom numbers do not correlate with the plans. This matter should be rectified prior to determination.

- **State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)**  
The original DA contains conditions requiring a Detailed Preliminary Environmental Assessment after demolition of all structures and prior to any excavations works. This condition will remain valid irrespective of whether this DA is approved or not. Accordingly the provisions of SEPP 55 have been satisfied.

- **State Environmental Planning Policy (Infrastructure) 2007**  
As the subject site is located on Canterbury Road which is a Classified Road pursuant to Clause 104 and Schedule 3 of the SEPP Infrastructure 2007 the application was referred to the RMS for comment. The RMS responded to Council on 16 April 2015 and advised that they raise no objection however issues raised with the previous DA are still applicable. The conditions of development consent address the original issues raised by the RMS and these remain applicable regardless of whether consent is granted to this application.

Pursuant to Clause 102 of SEPP Infrastructure 2007 Council is required to consider the impacts from road noise. The original DA was submitted with an acoustic report and the Environmental Noise Goals required to be complied with the original DA will be applied to the new units proposed should consent be granted.

Section 96 of the Environmental Planning and Assessment Act requires the determining authority to consider whether the proposed development is substantially the same as that approved and in the case of Section 96(1A) whether the proposal will be of minimal impact.

Given the Section 96(1A) application is for amendments to the basement car park no physical change to the building as viewed from the street or adjoining properties will result. Accordingly the two additional basement levels and amended parking

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configuration will still result in a development that is substantially the same as approved. Similarly there will be no environmental impacts generated. Therefore the proposed additional basement levels and parking reconfiguration are considered to satisfy the test of Section 96(1).

- **Canterbury Local Environmental Plan 2012**

The part of the site known as 308-310 and 312-320 Canterbury Road is zoned B5 Business Development under Canterbury Local Environmental Plan 2012. This part of the site is identified as 'A' on the Key Sites Map, and as such development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use development. The proposal on this part of the site continues to contain ground floor commercial uses with upper floor residential units, and as such the shop top housing development is permissible with consent in the subject zone.

The part of the site known as 6 and 8 Canton Street is zoned R4 High Density Residential under Canterbury Local Environmental Plan 2012. Shop top housing is permissible in this zone with consent. It is noted however that the upper ground floor plans indicate that the ground level commercial space fronting Canton Street extends across to the R4 zone. Commercial premises are prohibited in the R4 zone however shops, neighbourhood shops, restaurants and business premises are permissible. To ensure that the proposal is permissible with development consent it is recommended that a condition of consent be imposed which states that the area described as commercial space on the upper ground floor plan along Canton Street be replaced with shops/business premises.

The proposal compares to the further relevant provisions within CLEP 2012 as follows:

Standard	Requirement	Proposal	Complies
Zoning	B5 Business Development and R4 Medium Density Residential	The development is permissible with development consent	Yes - See comment above regarding commercial premises in the R4 zone
Floor Space Ratio (for the R4 land)	0.75:1 (GFA of 1,085.3m <sup>2</sup> )	0.54:1 (GFA of 783.4m <sup>2</sup> )	Yes
Building Height	18m in Zone B5 8.5m in Zone R4	Max 30.8m in Zone B5 Max 23.5m in Zone R4	No No Clause 4.6 Variation is submitted. Refer to comments (1) below.

(1) Building Height

The proposal does not comply with the height standards found in CLEP 2012, the development seeks a variation to Clause 4.3 of CLEP 2012 relating to the height of buildings. The applicant has submitted a justification in accordance with Clause 4.6 of CLEP 2012 regarding the non-compliance of the development standard.

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#### Current Context to Clause 4.6 Submissions

Council has received legal advice that the extent of Clause 4.6 variation is not a relevant consideration in determining the reasonableness of any variation. In deciding whether a development standard, such as building height, should be modified, it is important to understand the current context surrounding Clause 4.6 submissions. The most recent and relevant matter before the Land and Environment Court has been that of *Four2Five Pty Ltd vs Ashfield Council*. A summary of this matter is provided below.

The issues arising out of *Four2Five Pty Ltd v Ashfield Council* involved the following appeals and judgements:

- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (*Four2Five No 1*), where the appeal against the refusal of consent was upheld, subject to conditions;
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 (*Four2Five No 2*), where an appeal was made pursuant to S. 56A of the Land and Environment Court Act 1979 on a point of law with respect to one of the deferred commencement conditions imposed by the Commissioner. This appeal was dismissed; and
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 (*Four2Five No 3*) where leave was sought to appeal the judgment in *Four2Five No 2* and ultimately dismissed.

In *Four2Five No 1*, the Court held that the proposed development in that case (which sought a variation to the maximum height standard in the B4 Zone) was consistent with the zone objectives and also in the public interest because it was consistent with the objectives of the standard. However, the Court held that consideration also needs to be given to whether there are sufficient environmental planning grounds to justify contravening the development standard.

In the appeal, the Applicant's written Clause 4.6 submission put forward the proposition that the environmental planning grounds justifying contravening the standard were the benefits arising from the additional housing and the employment opportunities that would be delivered by the development having regard to its close proximity to railways, schools, the Ashfield town centre, etc.

The Court accepted that the proposed development would provide those public benefits but noted that any development for a mixed use in the B4 zoned land would provide those same benefits. The Court therefore held in this respect:

- That the grounds advanced by the Applicant in its Clause 4.6 submission are not particular only to the proposed development site; and
- That to accept a departure from the development standard in that context would not promote the proper and orderly development of land as contemplated by the controls applicable to the B4 zoned land which is an objective of the Environmental Planning and Assessment Act 1979 (s5(a)(ii)) and which it can be assumed is within the scope of the "environmental planning grounds"



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referred to in clause 4.6(4)(a)(i) of the relevant Local Environmental Plan (LEP).

The Court subsequently upheld the appeal, granting a deferred commencement consent. The deferred commencement consent imposed conditions that (amongst other things), required the deletion of some of the units, thereby enforcing the height limit.

In *Four2Five No 2*, the Applicant sought to have the deferred commencement conditions relating to the deletion of the units removed, arguing that the Commissioner in *Four2Five No 1* had made an error of law in terms of the tests to be satisfied in a Clause 4.6 submission. The Court however upheld the Commissioner's findings with respect to the Clause 4.6 submission and dismissed the appeal.

In *Four2Five No 3*, the Applicant sought leave to appeal against the Judgement in *Four2Five No 2*, citing three grounds for appeal on a question of law. The Court refused leave to appeal, confirming the procedure and determination made by the Commissioner in *Four2Five No 1* to be correct.

#### The Variation Request

Clause 4.6 of the CLEP 2012 applies to this development as follows:

- (1) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

#### Comment

A clause 4.6 Variation request has been lodged that meets the statutory requirements.

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
    - (a) the consent authority is satisfied that;
      - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (3);
      - (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;
    - (b) the concurrence of the Director-General has been obtained.

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Comment

The concurrence of the Director General is assumed having regard to previous advice received from the Department of Planning and Infrastructure in Circular PS-08-003.

It is our opinion that it is appropriate to vary the height limit, but not to the extent proposed on the basis of the public benefit generated by allowing public access to the open space on the site and given the sites prominent location.

It is appropriate to exceed the height limit on a visually prominent site such as the subject site which marks the location of an important intersection. The site is the terminating vista of the Campsie Bypass and accordingly it is appropriate to mark the intersection of Canton Street and Canterbury Road with a taller building component. An intersection can only be treated as a marker where the development transitions down in height away from the corner.

The eight storey treatment at the intersection of Canton Street and Canterbury Road achieves the marker and the corner treatment is reinforced by the three storey height change along Canterbury Road. This results in a height variation of 12.8 metres compared to the CLEP standard at the intersection of Canton Street and Canterbury Road and exceeds the height standard by three metres for the eastern portion of the development along Canterbury Road.

The eight storey treatment to the intersection of Canton Street and Canterbury Road is only considered appropriate if the rest of the building steps down from this point and a landscaped buffer (which is accessible to the public) to the R2 zone is provided.

The current scheme provides a landscaped buffer approximately 25 metres wide to separate the built form of the proposal from the existing dwelling house of 10 Canton Street. The applicant has since offered to prepare a Voluntary Planning Agreement to allow an easement to allow the public to access this space.

Whilst the upper two floors i.e. the 7<sup>th</sup> and 8<sup>th</sup> storey along Canton Street and the 8<sup>th</sup> and 9<sup>th</sup> storey along the southwestern rear boundary are stepped back from the levels below the proposed height along Canton Street and the southern wing result in the following outcomes:

1. The south western component of the building will be three storeys higher than the six storey street wall on the eastern of the Canterbury Road façade. Therefore this component will be visually prominent and take away visual primacy from the marker building at the intersection of Canterbury Road and Canton Street.
2. The eight storey component along Canton Street does not provide the necessary transition in height towards the proposed open space and toward the low density residential zone. The proposed eight storeys along Canton Street will detract from the marker building on the intersection of Canton Street and Canterbury Road.
3. The applicant has offered to allow an easement to be registered in favour of Council to allow the open space buffer to be available to the public. However

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the proposal will significantly overshadow the open space to an extent that will seriously reduce the amenity of the space in winter. The open space will receive less than 25% solar access from 10am till 3pm at the winter solstice with the entire open space being overshadowed at 1.00pm. It is not in the public interest nor is it an appropriate public benefit to provide open space to the public that is overshadowed to the extent proposed.

Accordingly it is considered that the Clause 4.6 variation to the extent requested is inappropriate. Notwithstanding the proposal can be modified by condition of consent to achieve the following outcomes:

1. Provide a height transition from the B5 zone to the R2 zone on the adjoining site, consistent with the objectives of the height development standard and zone objectives;
2. Improve the solar access available to the open space which is to be made available to the public by registration of an easement;
3. Provide an appropriate scale of building to mark the terminating vista of The Campsie Bypass by providing a landmark building on the intersection of Canton Street and Canterbury Road.

In order to achieve these aims the following recommendation is made.

1. Delete the two upper two residential levels from the southern wing. Namely units 167 to 171 and 181 to 185.

This will result in a reduction of ten units however will still result in 50 additional units as part of this application.

The proposed amendment will result in a corner treatment to Canton and Canterbury Road which is more consistent with the objectives of the height control and zone objectives and will provide additional facilities to the public.

The proposed amendments will significantly reduce the non-compliance with the height provisions along Canton Street and towards the rear of the development.

Having regard to the above commentary, the preceding matters arising from *Four2Five Pty Ltd vs Ashfield Council*, it is considered appropriate in this instance to support the submission under Clause 4.6 of CLEP 2012 and vary the height standard to permit the proposed development.

- **Canterbury Development Control Plan 2012 (CDCP 2012)**  
An assessment of the proposal against the requirements Part 3 Business Centres (for the proposed development on land zoned B5) of Canterbury Development Control Plan 2012 (CDCP) is detailed below.

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**Part 3 – Business Centres**

Standard	Requirement	Proposed	Complies
Isolation of sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed	No Change	Consistent with approval
Building Height	Floor to ceiling height in commercial min. 3.3m	No Change	Yes
	Floor to ceiling height in residential min. 2.7m	2.7 metres	Yes
	Floor to ceiling height in car parking min. 2.8m	No Change	NA
Building Depth	Commercial component 10-24 metres	No Change	NA
	In general, an apartment building depth of 10-18 metre is appropriate	Maximum building depth is 22 metres (which is the same as was approved)	No, however improved compared to the approved DA
Building Setbacks	1-4 storeys Minimum setback of 3 metres from front street boundary <ul style="list-style-type: none"> <li>No controls for secondary frontages</li> </ul>	1-4 storey setback 3 metres from Canterbury Road boundary	Yes
		1-5 storey setback for Canton Street is 0m	No but justifiable as part of the corner treatment
	5 <sup>th</sup> storey – an additional 5m setback is required <ul style="list-style-type: none"> <li>No controls for secondary frontages</li> </ul>	Canterbury Road (lvl 5-7) Corner = 2m-3m (for the southern 33m of the building) North side = 43m (for the northern 25m of the building)	No but forms part of the corner treatment
		Canton (lvl 6-7): Northern Corner = 0m (no change) Centre = 9.91m (increased from 1.5m below) South Side = 9.4m (increased from 0m below)	Yes Yes Yes
	Side Setback - side setback on boundary with Residential zone (adjacent to 3 Dibbs Street) - establish 45 degree height plane projected 1.5 metre above the residential zone boundary and two storey height limit applies	The proposal is consistent with this setback/envelope	Yes

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Standard	Requirement	Proposed	Complies
	Rear Setback – rear setback on boundary with Residential zone (adjacent to the subject site’s 6-8 Canton Street development) - establish 45 degree height plane projected 6 metre from the residential zone boundary and two storey height limit applies	The proposal is consistent with this setback / envelope	Yes
Building Separation (as per SEPP 65)	Up to 12m height – 12m separation 12-25m height – 18m separation 25m+ height – 24m separation	Building separation from balcony to balcony is 16.8m. Building separation from façade to façade is 18m.	No (improved compared to approved scheme)
Building Configuration	At ground floor level viable shop fronts for business activities are to be created	Viable commercial tenancies have been provided at the ground floor level	Yes
Design Controls	Clearly identifiable entries, Provide main common entry.	No Change	N/A
	Habitable room window to face communal areas	No Change	N/A
	No obstruction to views from street to development and vice versa	No Change	N/A
Façades – New 3-5 storey buildings	To be in accordance with articulation controls of this DCP	Façade is in accordance with the articulation requirements, as outlined in this table.	Yes
Shopfront	Shop premises to present a suitable streetscape appearance and allowing adequate security	No Change	N/A
Corner developments – treatments	Building emphasis at particular points strengthens the legibility of the urban structure	Building tapers down providing a clear emphasis on the corner of Canterbury Road and Canton Street	Yes
Cantilevered Awning along Canterbury Road frontage	Height of between 3.2m and 4.2m from natural ground/footpath	No Change	N/A
	Width of 3 metres	No Change	N/A
Colonnade frontage along Canton Street frontage	Height of between 3.2m and 4.2m from natural ground/footpath with width of 3 metres	No Change	N/A
Articulation	Buildings should generally have a base and upper elements	The building is well articulated.	Yes
	The design of the façade, including the quality and durability of its materials, should be emphasised.	The façade is emphasised by contrasting the continuous horizontal expression of the white concrete slabs with the colourful vertical panels of the external walls that span between them. Materials used are of a high quality and are durable.	Yes

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Standard	Requirement	Proposed	Complies
	The 'façade' should have a strong sense of verticality, emphasised on the ground floor by modulation at intervals of 6-8 metres with some variation. Modulation above the ground floor may take the form of party walls, small bays, as well as variations in materials and colours.	Modulation has been provided by the stepping of the building along with increased setbacks on upper levels. Various materials and finishes will further provide articulation for the building.	Yes
	A visual finish using expressed eaves, cornice or parapet elements with shadow lines is desirable.	Shadow lines to be created through the use of building design elements. Recessed balconies create shadow and visual depth	Yes
	No blank walls are to face the public realm	No blank walls face Canterbury Road or Canton Street	Yes
	Balconies should be used in moderation and be integrated into the overall composition of the façade. They should not be implemented in a monotonous or repetitive configuration. This applies to both recessed and cantilevered balconies. Balconies may have masonry or metal balustrades. The latter should generally have a separation of the grilles and a handrail.	Balconies are integrated into the overall design of the façade. Balconies are however repetitive as they are located directly above each other. The use of sliding screens will provide visual interest. Balustrading is to be a combination of smooth concrete with paint finish and glass balustrades.	Yes
	The majority of windows shall be vertically rectangular	Majority of windows are vertically rectangular	Yes
Roof Design	Relate roof design to the desired built form and or context	Roof design is consistent with the desired built form and context of the area	Yes
	Design roofs to respond to the orientation of the site, for example, by using eaves and skillion roofs to respond to solar access.	Roof structure takes advantage of the northerly aspect to the front of the site to provide maximum solar access with eaves provided at appropriate locations for shading purposes	Yes
Service and Utility Areas	Integrated into the design of development and are not visually obtrusive	Service and utility areas integrated into the design adequately. They will not be seen from the street.	Yes
	Unscreened appliances not to be visible from the street, communal area of driveway on the site. Air con units behind balustrades, screened recesses for water heaters, meters in service cabinets.	Appliances are not visible from public areas	Yes

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Standard	Requirement	Proposed	Complies
	Communal rooftop antenna to be provided	Antenna can be conditioned	Yes
	Screen clothes drying areas from public view, storage space screened and integrated into design	No Change no clothes drying provided	NA
	Discretely locate mailboxes in front of property	No Change	NA
<b>Performance Controls</b>			
Visual Privacy	Locate and orientate new developments to maximise visual privacy between buildings	The design has addressed visual privacy through window placements. Additional setbacks have sought to alleviate the risk of overlooking to 10 Canton Street, 5-7 Dibbs Street and 3 Dibbs Street.	Yes
Private Open Space, Balconies, terraces and Courtyards	Combined private open space area should be a minimum of 10% of dwelling floor space	Balconies are greater than 10% of the unit area	Yes
	Primary 8sqm balconies for 1 bedroom dwellings and 12sqm for 2 and 3 bedroom dwellings with minimum depth of 2 metres	An existing condition of consent requires balconies to comply with these provisions.	Yes
	Full length balconies without articulation are not permitted	Articulation and building design elements incorporated to provide relief to balconies	Yes
	Primary balconies to be located adjacent to main living areas.	All primary balconies are accessible directly off living room	Yes
	Primary balconies to have minimum depth of 2 metres and be functional in dimensions	Minimum depth of 2 metres and functional in design	Yes
	Design and detail balconies in response to local climate	Balconies have been designed where achievable to have northern orientation to maximise solar access	Yes
	6m <sup>3</sup> per one bedroom dwelling 8m <sup>3</sup> per two bedroom dwelling 10m <sup>3</sup> per three bedroom dwelling	To be imposed as a condition of consent.	Yes
	Communal Area: Min. 10% of site area as communal open space (Required 590.6m <sup>2</sup> )	2,487m <sup>2</sup> (42.11%)	Yes
Internal Dwelling Space and Design	Dimensions and design of interiors to accommodate furniture typical for purpose of room	Typical furniture layout on plans	Yes
	Living room min 3.5m dimension	Minimum 3.5m	Yes

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Standard	Requirement	Proposed	Complies
	Main bedrooms min 3.5m dimension, secondary bedrooms to have minimum 3m width	Several bedrooms do not comply as some main bedrooms have minimum dimensions of 3m.	No, however is consistent with the existing approval

As noted in the above table, the proposed development does not comply with the requirements relating to building depth/footprint, building separation and room dimensions. These matters were addressed in the original DA where it was considered by the JRPP that these minor non compliances were acceptable.

### Overshadowing

	Morning	Midday	Afternoon	Impact
3 Dibbs Street	No Change	Generally no change. A little extra light to the backyard at 1.30pm	2pm – less to the backyard and more to the side 2.30 – less to the side and none to the backyard 3pm – no change	3 hours of sunlight available in the morning
5-7 Dibbs Street	No Change	No change	2pm – no change 2.30 – One window is now completely overshadowed 3pm – whole side is shaded (an additional 4 windows)	The building will continue to receive more than 3 hours of sunlight in the morning. Additional shadowing in the afternoon but is acceptable due to morning sunlight.
10 Canton Street	9-10am – more sun to the side setback 11am – Begins to overshadow windows	12 – Approximately 50 % of the rear yard receives solar access at midday 1pm – Completely overshadows the backyard	2pm – completely overshadows the backyard 3pm – similar to what currently exists	The rear yard will receive sun from 9-12 to more than 50% of the yard. The open space is overshadowed in the afternoon.

The non-compliances with the DCP are either consistent with the approved scheme or generated by the corner element which is considered to be acceptable.

### **Part 6 – General Controls**

The proposed development compares to Part 6 of CDCP 2012 as follows:



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### Part 6.1 Access and Mobility

The Disability Access Committee has provided its comments on the original DA in relation to the development. The Committee raised no objection to the development proceeding subject to the imposition of conditions of consent, and requirement that the development must be designed and constructed to comply with the Disability Discrimination Act, 1992, Disability (Access to Premises – Buildings) Standard 2010, and National Construction Code. This condition will remain relevant.

### Part 6.2 Climate and Resource Efficiency

The application meets the goals set for the BASIX Energy, Water and Thermal Comfort Goals.

#### Mixed Use Development:

Part 6.2.6(ii) of CDCP states that for new residential buildings that are of three or more storeys in height, that at least 75% of the residential dwellings' living room and private open space receive at least two hours of sunlight between 9am and 3pm in mid-winter. The approved development has 72% of dwellings receiving two hours of sunlight access between 8am and 4pm in mid-winter this has been improved with the proposed development to 76%. The JRPP approved the original DA on the recommendation of Council officers with a non-compliance with the solar access control. It is considered that given this proposal improves the amount of solar access to the units that the application is acceptable in terms of solar access.

Further, Part 6.2.7(iii) states that natural cross ventilation must be provided to at least 60% of dwellings, and natural ventilation to 25% of kitchens in multi-unit developments. The approved development resulted in 62% of the proposed dwellings having natural cross ventilation and all kitchens have natural ventilation. The number of cross ventilated units has been increased in the approved development to 72%.

In regard to the development's impact on sunlight access to its adjoining neighbours, namely the affected properties at 10 Canton Street and 3 Dibbs Street, at least two hours of sunlight access is still received into the living room windows and/or private open space areas of these properties between 9am and 3pm in mid-winter, which is generally the accepted period and time used for assessment purposes.

### Part 6.3 Crime Prevention Through Environmental Design

The proposed development will not contribute to creating opportunities for additional criminal activity and is consistent with the objectives and principles in Part 6.3 of CDCP 2012 relating to natural surveillance, access control and ownership. The applicant outlines the following features in the design of the proposed development that address the CPTED principles:

#### Residential Development:

- The upper units in the proposed mixed use development contain residential units that address the street;
- The lobby and main entrance in the mixed use development is visible from Canterbury Road;

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- The parking area does not dominate the development as it is provided at basement level;
- The proposal provides clearly delineated access points;
- Secure basement access and access to the dwellings is proposed;
- Each communal open space provides different features in terms of use and landscaping to give a sense of ownership;
- The access arrangement is appropriate to service the number of units within each block.

Commercial Development:

- Commercial entries are visible from Canterbury Road;
- Security lighting will be provided after business hours;
- Materials and finishes proposed will reduce opportunity for vandalism and intruder access.

Further, the original DA proposal was assessed by Council's Community Safety Committee who has advised that no objection is raised to the proposed development provided relevant conditions are imposed on any consent issued relating to crime prevention and community safety matters. These conditions remain for the DA.

It is recommended that a condition of consent be imposed that appropriate security measures be provided to the open space and be included in the deed to be signed by Council prior to the registration of the easement to allow public access to the open space.

Part 6.4 Development Engineering, Flood and Stormwater

There are no changes to the drainage concept in terms of discharge points and the amount of impervious surfaces have been reduced.

Part 6.6 Landscaping and Part 6.7 Preservation of Trees or Vegetation

An amended landscape plan was submitted with the application which has been deemed to be acceptable to Council's Landscape Officer. It is however recommended that a condition of consent be imposed that requires the Voluntary Planning Agreement to include a landscape plan to be submitted to Council to ensure that the open space infrastructure is of an appropriate standard for public access.

Part 6.8 Vehicle Access and Parking

The development application has been reviewed and assessed by our Team Leader – Traffic who has raised no objection to the proposal subject to appropriate conditions being imposed on any consent.

The Section 96 basement plan was not amended when the Development Application was amended by reducing the number of units from 220 units to 194 units.

Furthermore as indicated above it is the recommendation of this report than an additional ten units be removed.

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Accordingly the unit mix will be as follows:

- one bedroom units 93
- two bedroom units 85
- three bedroom units 6

Total 184

Commercial floor space 989.9sqm

The proposal compares to the relevant requirements of Part 6.8 of CDCP 2012 as follows:

Standard	Requirement	Proposal	Complies
Residential Units	93 x 1 bedroom (1 each) 85 x 2 bedroom (1.2 each, with 0.2 common) 3 x 6 bedroom (2 each) = 207, plus 17 common spaces = 224 spaces	Compliance by Condition As the current Section 96 application is for a basement to providing 329 spaces it is necessary to reduce the basement car park.	Yes
	Visitor – 37 spaces (based on 1 space per 5 units)	By condition	Yes
	One car wash bay	One car wash bay	Yes
	Resident bicycle spaces – 37 spaces	37 spaces by condition	Yes
	Visitor bicycle spaces – 19 spaces	19 by condition	Yes
Commercial Units	Commercial unit along Canton Street to be used for 'office' purposes, rate is 1 space per 40sqm (313sqm) → Total 7.825 spaces	29 spaces provided by condition	Yes
	Commercial Unit on Lower Ground Floor along Canterbury Road to be used partly as a restaurant (120 sqm at a rate of 1 space per 40sqm → 3 spaces, and partly for retail 263sqm at a rate 1 space per 30sqm → 8.77. Total 11.77 spaces.		
	Commercial Unit on Upper Ground Floor along Canterbury Road to be used partly as a restaurant (120 sqm at a rate of 1 space per 40sqm → 3 spaces, and partly for retail 180sqm at a rate 1 space per 30sqm → 6 spaces. Total 9 spaces		
	<b>Total 28.6 → 29 spaces</b>		
	One courier parking/loading area space	1 space	Yes

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Standard	Requirement	Proposal	Complies
	Bicycle parking 2 spaces for office use 2 spaces for retail use 5 spaces for restaurant Total 9 spaces	7 spaces indicated on plan – to be conditioned to 9 spaces By condition	Yes

It is considered appropriate that a condition be imposed requiring the developer/applicant to prepare a revised car parking and bicycle space allocation plan for the development, and submit it to the Principal Certifying Authority prior to the issuing of a Construction Certificate. The allocation plan must ensure car parking and bicycle spaces are correctly allocated to the dwellings within the residential component of the development and to the commercial uses on the lower and upper ground levels.

#### Part 6.9 Waste Management

The development application was referred to the Waste Services Coordinator who was satisfied with the Waste Management Statement and Waste Management Plan submitted by the applicant. However, concerns were raised in regard to the size and design of the residential and commercial waste bin holding areas, and operational matters regarding the specific garbage chute to be used by the residents of the multi dwelling housing units. These concerns have been included and imposed as conditions of consent, ensuring that the on-going and operational waste management procedures of the development is satisfactory and is in accordance with Part 6.9 of CDCP 2012.

- **Canterbury Development Contributions Plan 2013**

The provisions of our Section 94 contribution plan apply to the proposed development in that it will provide residential dwellings on the subject site. The proposed development attracts a fee contribution for community facilities, open space and recreation, and plan administration. The Section 94 fee amount is to be calculated at the time of payment, once final Construction Certificate plans have been prepared to address changes recommended in this report.

Having regard to the provisions of the Plan, the Section 94 fee amount is required to be paid prior to the issue of a Construction Certificate. A condition is to be included in any development consent issued.

#### **Referrals:**

- **GIS**

The application was reviewed by Councils Strategic GIS Officer and no objections were raised. Future addressing of the site should be 314 Canterbury Road Canterbury. The issue of address should be rectified prior to an occupation certificate being issued.

- **Waste Services**

The application was reviewed by Council's Waste Contracts Coordinator and no objections were raised, subject to the imposition of suitable conditions.

308-320 CANTERBURY ROAD AND 6-8 CANTON STREET, CANTERBURY: DEVELOPMENT APPLICATION FOR THE CONSTRUCTION OF ADDITIONAL LEVELS ON APPROVED MIXED USE DEVELOPMENT AND MODIFICATION APPLICATION TO PROVIDE ADDITIONAL BASEMENT PARKING (CONT.)

The increase in number of units will require an additional:

- 28 x 240L rubbish bins (compacted at a 2:1 ratio); and
- 37 x 240L recycling bins.

These bins will need to be collected twice weekly. The existing waste room appears to contain enough space to accommodate the extra bins. Bins are to be collected by Council contractors and must not be present on the roadway. Bins for the commercial tenancies will be stored in the commercial bin room. Existing conditions of consent address these comments.

- **Building Surveyor**

The application was reviewed by Councils building surveyor and no objections were raised, subject to the imposition of suitable conditions. The existing consent imposes a condition requiring compliance with the BCA.

- **Traffic**

The application was sent to the Roads and Maritime Services (RMS) for review and comment. The RMS raise no objection to the application, however do note that their comments from 28 November 2013, 29 November 2013 and 13 April 2015 are still applicable.

The Application was also forwarded to Council's Team Leader for Traffic and Transportation, their assessment has been based on this applications parking provision and has not taken into account the concurrent application to extend the basement. The officer notes that the supplied traffic report does not provide current traffic generation statistics for the site or from Dibbs Street. The officer however views the traffic generation as acceptable.

The proposal provides a 29 car parking space shortfall.

The proposal should provide a separate entry and exit with a median strip to separate the entry and exit.

A sight triangle 2 metres by 2.5 metres is required to be provided at the footpath crossing on Dibbs Street.

The existing conditions of consent address the issues raised.

### **Notification**

The Development Application DA-604/2014 was publically exhibited twice and adjoining land owners notified in accordance with Part 7 of the CDCP 2012. The first notification period closed on 10 February 2015 and we received submissions from fourteen households, the second notification (exhibition of the amended plans) period closed on 2 November 2015 and we received submissions from six households. Issues raised in the submissions are provided in the body of this report. The Section 96 application was not advertised.

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The issues raised in these submissions are discussed as follows:

- **Concern was raised that the traffic impacts on Dibbs Street, as the only car access point for future resident's vehicles will be too great as Dibbs Street is a small no-through road. In addition, no additional traffic report has been prepared to assess the impact of 149 extra parking spaces. Access should be via Canton Street and traffic lights should be readjusted here. In addition, the additional traffic report that has been prepared uses traffic surveys from 2013. A new set of traffic lights should be place at the Dibbs Street, Canterbury Road intersection or access should be via Canton Street.**

Comment

Council's traffic engineer determined that the traffic movements for the 220 units could be accommodated within the local traffic system. The proposal will be reduced to 184 units which further reduces the traffic demand. The RMS have raised no issue with the proposal. Accessing the site from Dibbs Street will not impact on any through traffic.

- **A traffic report has been prepared by Apex Engineers, on behalf of a resident regarding the traffic impacts of the development. The report assessed the existing Dibbs Street traffic conditions, which has current lengthy queues in the peak hours. The proposal will result in a greater demand on surrounding congested streets.**

Comment

See point above

- **Concern that a future development on the Corner of Dibbs and Canterbury Road will have no other option but obtaining vehicle access from Dibbs Street further exasperating the traffic issues.**

Comment

Traffic for future developments will be assessed on its merits by Council. Any future development applications will need to have regard to the new traffic situation post this development.

- **The parking provided will not be able to satisfy demand and as a result will cause overflow to park on street, which is currently used by existing residents.**

Comment

The car parking provision will comply with Council's DCP requirement. A condition of consent will be imposed ensuring that the proposal will provide parking spaces consistent with Council's car parking requirements.

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- **Concern regarding rubbish bin collection locations on Dibbs Street**

Comment

Rubbish bins will not be left on the street for collection. All collection will occur on site by Council contracted garbage disposal companies. Council's waste officer has assessed the proposal and deemed the waste facilities to be acceptable.

- **Concern that the proposal is out of character with the locality, particularly in regard to height**

Comment

The proposed amendment to the height will reduce the non-compliance with the height but create corner element to Canterbury Road and Canton Street. There will be a public benefit of concentrating the development towards the corner to allow a larger open space buffer to be established along the southern boundary. Furthermore this open space will be available to the public as part of the VPA offer.

- **Concern regarding overshadowing to Dibbs Street residents.**

Comment

The proposal will maintain three hours of sunlight to the properties in Dibbs Street. Furthermore the recommended reduction of two floors along the southern wing will reduce the impact of shadows.

- **Concern for additional noise and vibrations from extra excavation**

Comment

Condition 41A of the consent requires a dilapidation report to be prepared for the adjoining properties at 3 Dibbs Street, 5-7 Dibbs Street and 10 Canton Street. This condition will continue to apply to the new basement excavation proposed in the Section 96 application. The dilapidation report will ensure that if any damage occurs to adjoining properties it can be identified early before it worsens and if any damage occurs that adjoin assets are repaired to pre development standard.

- **Construction access being from Dibbs Street**

Comment

Construction access from Dibbs Street will assist in alleviating through traffic disruption on Canton Street. Conditions 18-39 relate to the construction program which aim to minimise the nuisance or impact of construction on surrounding properties.

- **Residents are still awaiting the Environmental Impact Assessment that was required as a condition in the JRPP hearing**

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Comment

Condition 62 requires a detailed Preliminary Environmental Site Assessment to be undertaken and submitted to the PCA prior to any excavation being undertaken. The PCA must furnish Council with a copy of this document. If this report has not been prepared prior to excavation then the applicant will be in breach of the condition and Council should commence action.

- **Isolation of 3 Dibbs Street**

Comment

The proposal does not alter the relationship of the development to 3 Dibbs Street compared to the approved scheme.

- **Hours of construction should be between 8am to 3:30pm on Monday to Friday and 9am to 12pm on Saturday.**

Comment

Condition 17 imposes Construction hours of 7am till 5pm Monday to Saturday, no mechanical work after 12 noon on Saturday and no work is to be undertaken on Sundays or public holidays.

- **The use of noise attenuation control and dust control measures should be undertaken in construction.**

Comment

A sediment and erosion control plan has been approved with the existing approval. Equipment noise is difficult to control and the most effective measure is restricting the hours of operation. Furthermore conditions 18 to 39 relate to the construction program and aim to minimise the impact of the construction of surrounding properties.

- **The parking provided will not be able to satisfy demand and as a result will cause overflow to park on street, which is currently used by existing residents. There should be 1 hour limits placed on Dibbs Street, with parking permits available for existing residents.**

Comment

The proposal will comply with Council's DCP for parking. Residents can recommend local parking restrictions to Council's Local Traffic Committee but these restrictions have not been recommended by Council's traffic engineer.

- **Concern regarding rubbish bin collection locations on Dibbs Street. Collection should be from within the basement.**

Comment

Rubbish bins will not be left on the street for collection. All collection will occur on site by Council contracted garbage disposal companies. This will be a condition of



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consent. Council's waste officer has assessed the proposal and deemed the waste facilities to be acceptable.

- **Details of exhaust systems for the basement have not been provided.**

Comment

Ventilation of basement parking is governed by the BCA. A condition of consent requires compliance with the BCA.

- **There are insufficient details regarding the works that are occur to the boundary of 3 Dibbs Street (i.e. fencing/walls)**

Comment

This application does not propose to make any substantive changes to the ground level compared to the approved scheme with the exception of the deletion of the townhouses. Dividing fences are governed by the Dividing Fences Act, however given that the open space area will now be accessed by the general public it is appropriate for the dividing fences to be upgraded. In this regard a condition of consent is recommended that boundary fencing be upgraded to a minimum of 1.8 lapped and capped timber fencing.

- **Concern that the proposal is not consistent with development standards and as a result is out of character with the locality, particularly in regard to height and bulk.**

Comment

This was addressed in detail under the discussion of the Clause 4.6 variation. Furthermore the recommendation for the reduction of the two floors on the southern wing will reduce the extent of the height non-compliance.

- **Concern regarding overshadowing to Dibbs Street and Canton Street residents.**

Comment

The solar access diagrams indicate that solar access to the adjoining properties will be maintained between 9am and 12 noon at the winter solstice. The recommended reduction in height of two storeys on the southern wing will assist in reducing the length of the shadows.

- **Additional noise concerns from additional residents and balconies facing the street.**

Comment

Whilst it recommended that 50 additional units will be provided on the site the accumulative noise generated compared to background noise levels of Canterbury Road will be negligible. The acoustic report that was approved as part of the original DA will assist in insulating the building in terms of noise. This will assist in minimising noise impacts on adjoining properties.

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- **Storage of drying clothes and storage on balconies.**

Comment

This matter is generally dealt with by the strata by laws. This matter is not a consideration for assessment under the Environmental Planning and Assessment Act. If structures are added to the balconies this can only be undertaken with the approval of the body corporate and Council in some cases.

- **Concern for additional noise and vibrations from extra excavation**

Comment

See discussion above.

- **Hours of construction are currently being breached, with works occurring before 7am.**

Comment

If work is being undertaken outside the prescribed hours Council and the PCA should be notified to take the appropriate action.

### **Conclusion**

The development application and Section 96 application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979 and all relevant State Environmental Planning Policies, development control plan, codes and policies.

The proposal results in a breach of the height limit by up to three storeys. However if the ten additional units on the upper two floors of the southern wing are deleted a corner marker building will be achieved on the intersection of Canton Street and Canterbury Road marking the terminating vista from The Campsie Bypass. The deletion of the two floors will ensure that a height transition is provided from the corner element to the adjoin R4 zone to the south.

The public interest is served as the proposal concentrates the development on the corner in lieu of eight townhouses which is now proposed to be used for open space and made available to the public. This is subject to the execution of a Voluntary Planning Agreement being executed between the developer and Council regarding public access to the communal open space and the specifications of infrastructure within the open space (including security and maintenance measures).

The further reduction of the ten units improves solar access to the open space and adjoining properties.

Approval of the Section 96(1A) to increase the basement car park to provide additional car parking spaces to service the additional units proposed in the Development application should occur simultaneously with the approval of the DA. This will ensure that car parking is provided which is consistent with CDCP 2012.

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### **PART A : RECOMMENDATION FOR SECTION 96 APPLICATION DA-405/2013/A**

THAT Development Consent DA-405/2013 be **MODIFIED** as follows:

- The Addition of Condition 1.1(a)  
Pursuant to Section 80A(1)(b) of the Environmental Planning and Assessment Act 1979, prior to the issue of any construction certificate, development consent DA-405/2014/A shall be modified in accordance with Clause 97 of the Environmental Planning and Assessment Regulation 2000, to be consistent with all alterations and additions authorised by this development consent (DA 604/2014) and to incorporate all conditions of this development consent.
- The Addition of Condition 1.1(b)  
A Voluntary Planning Agreement be prepared by the Applicant that requires the communal open space located on 6-8 Canton Street to be burdened by a Section 88B instrument in favour of Council to allow the general public access to the space. The Voluntary Planning Agreement shall be executed prior the issuing of a Construction Certificate furthermore the S88b instrument shall be registered with the Land Titles Office Prior to the issue of an Occupation Certificate. The developer shall prepare the Voluntary Planning Agreement at no cost to Council which provides the management conditions of this open space at no cost to Council. The deed shall include but not be limited to the following:
  - Times to which the space will be available to the public;
  - Maintenance shall be undertaken by the strata at no cost to Council;
  - The fixtures within the open space shall be of a quality to be suitable for the use by the general public;
  - Measures to reduce the opportunities for crime;
  - Details of boundary fencing;
  - Public indemnity insurance at no cost to Council.
- Amending Condition 1.3 as follows:  
Payment to Council of:
 

Kerb and Gutter Damage Deposit	\$12,662.00
Section 94 Contributions	\$To be advised at time of payment
Certificate Registration Fee	\$36.00
Long Service Levy	\$To be advised at time of payment
- The Deletion of Condition 1.4
- Amending the Table in Condition 4 as follows:  
The development being carried out in accordance with the plans, specifications and details set out in the table below except where amended by the following specific conditions and the conditions contained in this Notice:

Drawing No.	Drawing Title	Prepared by	Received by Council on
J142233 DA 000 Rev E	Cover Sheet	Chanine Design	15/9/15
J142233 DA 001 Rev E	Site Plan/Site Analysis	Chanine Design	15/9/15
J142233 DA 100 Rev A	Basement 3 Plan	Chanine Design	15/9/15
J142233 DA 101 Rev A	Basement 2 Plan	Chanine Design	15/9/15

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J142233 DA 102 Rev A	Basement 1 Plan	Chanine Design	15/9/15
J142233 DA 103 Rev A	Lower Ground level plan	Chanine Design	15/9/15
J142233 DA 104 Rev E	Upper Ground level	Chanine Design	15/9/15
J142233 DA 105 Rev E	Level 1 Plan	Chanine Design	15/9/15
J142233 DA 106 Rev E	Level 2 Plan	Chanine Design	15/9/15
J142233 DA 107 Rev E	Level 3 Plan	Chanine Design	15/9/15
J142233 DA 108 Rev E	Level 4 Plan	Chanine Design	15/9/15
J142233 DA 109 Rev E	Level 5 Plan	Chanine Design	15/9/15
J142233 DA 110 Rev E	Level 6 Plan	Chanine Design	15/9/15
J142233 DA 111 Rev E	Level 7 Plan	Chanine Design	15/9/15
J142233 DA 112 Rev E	Roof Plan	Chanine Design	15/9/15
J142233 DA 200 Rev E	Canterbury Road Elevation	Chanine Design	15/9/15
J142233 DA 201 Rev E	Canton Street Elevation	Chanine Design	15/9/15
J142233 DA 202 Rev E	South East Elevation	Chanine Design	15/9/15
J142233 DA 203 Rev E	North East Elevation	Chanine Design	15/9/15
J142233 DA 300 Rev E	Section A	Chanine Design	15/9/15
J142233 DA 301 Rev E	Section B	Chanine Design	15/9/15
J142233 DA 302 Rev E	Section C	Chanine Design	15/9/15
J142233 DA 400 Rev A	Adaptable Unit Layouts	Chanine Design	15/9/15

- The Addition of Condition 4.1(a)  
Units 167-171 and 181-185 inclusive including the fire stairs adjacent to these units shall be deleted.
- Amending Condition 9 as follows:  
A total of 329 off street car parking spaces being provided in accordance with the approved DA plans. Car parking within the development shall be allocated as follows:
  - 224 residential spaces, with thirteen (17) of which retained as common property.
  - 37 residential visitor spaces
  - Twenty-nine (29) commercial spaces
  - One (1) car wash bay
  - One (1) courier space
 If the development is to be strata subdivided, the carpark layout must respect the above allocation.
- Amending Condition 15 as follows:  
The development is to be levied in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury City Council's Section 94 Contributions Plan 2005, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.  
A monetary contribution shall be paid to Canterbury City Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is to be calculated at the time of payment. **Note:** The rates applying to each contribution element are subject to indexing using the Consumer Price

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Index The Contributions payable will be adjusted, at the time of payment, to reflect CPI increases which have taken place since the DA was determined.

Council's Section 94 Contributions Plan 2005 may be inspected at Council's Administration Centre, 137 Beamish Street, Campsie or from Council's website [www.canterbury.nsw.gov.au](http://www.canterbury.nsw.gov.au). A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

- Amending Condition 41 as follows:

- Provide on-podium beds and raised planter box construction details.
- The Canton Street frontage is to be reconfigured to provide 2 public entries, a minimum of 3m wide, into the public park space from Canton Street and planting changed to allow for full passive surveillance with the entire width of the park interior visible from the street.
- Provide facilities to the public park space including tables, barbecues, shade structures and Australian Standard complied playground equipment supported with appropriate seating in a location visible from the street.
- Provide lighting to the pathways and steps throughout the public park space.
- Provide a Detailed Maintenance Schedule including:
  - a. replacement strategy for failures in plant materials and built works,
  - b. maintenance schedule for watering, weeding and fertilizing during the establishment period
- An amended landscape plan to address the issues outlined above is to be submitted to Council or certifier prior to the issue of the Construction Certificate.
  - The landscaping must be completed according to the submitted landscape plan (drawn by Site Image Landscape Architects, job no. SS14-2940, drawing no. 000, 101, 102 and 501 issue 2, submitted to council on 12<sup>th</sup> November 2015) except where amended by the conditions of consent.
  - All the tree supply stocks shall comply with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003).
  - All scheduled plant stock shall be **pre-ordered**, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
  - An automatic watering system is to be installed in common areas at the applicant's cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer's specification and current Sydney Water guidelines.
  - The Landscaping works shall be maintained to Council's approval.

- Amending Condition 47 - 51 as follows:

47. The stormwater system be constructed in general, in accordance with the plans, specifications and details in drawing numbers, D15, D02, and D03, Revision A and D01, D04, D05, D06, D07, D08, D09, D10, D11, D12, D13, and D14,

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Revision B; prepared by Australian Consulting Engineers Pty Ltd and as amended by the following conditions.

48. The on-site detention design must be supported by detailed hydraulic calculations. In this regard hydraulic calculations on drawing number D15 are for a different site, 453-459 Canterbury Road Canterbury, and there is an arithmetic error regarding the calculation of the area bypassing the on-site detention facility. The correct calculations must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. Certification from an accredited engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
49. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's DCP 2012, Part 6.4.
50. The design of the on-site detention facility and rainwater tank must be amended to address the following issues:
  - a) Only roof water is permitted to drain to the rainwater tank.
  - b) Stormwater from the on-site detention tank must not be capable of entering the rainwater tank for all storms including when the on-site detention facility is overflowing.

The amended design must be certified by a qualified practicing civil engineer and be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

OSD is required; three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority PCA and Canterbury City Council, if Council is not the PCA. The plans must be prepared by a practicing Civil Engineer and include levels reduced to Australian Height Datum (AHD) and full details of the hydraulic evaluation of the entire stormwater drainage system. The details shall be prepared in accordance with Council's DCP 2012, Part 6.4.

51. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1<sup>st</sup> March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.
  - 51(a) A Geotechnical/Civil Engineering report must be prepared which addresses (but is not limited to) the following:
    - a) The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to

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- 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum;
- b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated;
  - c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site);
  - d) The existing groundwater levels in relation to the basement structure, where influenced;
  - e) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by a consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting.

- 51(b) The basement must be tanked to at least 1000 mm above the groundwater level. Alternatively ground water may be drained by the subsoil drainage system of the basement where a licence to do so is obtained from the NSW Office of Water. The licence must be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate. Note that a licence to temporarily drain ground water for construction purposes does not permit the permanent draining of groundwater.

- The Deletion of Condition 65
- The Addition of Condition 104(a)

A lapped and capped timber fence 1.8 metres in height shall be erected along all common boundaries with Private Property. Details of the fencing shall be incorporated in the amended Landscape Plan submitted with the Voluntary Planning Agreement.

**PART B :****RECOMMENDATION FOR DEVELOPMENT APPLICATION DA-604/2014**

THAT Development Application DA-604/2014 be **APPROVED** subject to the following:  
PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

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- Protection from termites
  - Building Specifications
  - Fire Safety Schedule
  - Landscape Plan
  - Hydraulic Plan
  - Firewall Separation
  - Section 73 Compliance Certificate
  - Soil and Waste Management Plan
  - Consolidation of All Lots into One Lot
  - Mechanical Ventilation of Basement Carpark (Compliance with Section 4.4 of AS 1668.2)
  - BASIX Certification
  - Compliance with Disability (Access to Premises – Buildings) Standards 2010.
  - Compliance with Conditions regarding Waste Management
- a) Pursuant to Section 80A(1)(b) of the Environmental Planning and Assessment Act 1979, prior to the issue of any construction certificate, development consent DA-405/2014/A shall be modified in accordance with Clause 97 of the Environmental Planning and Assessment Regulation 2000, to be consistent with all alterations and additions authorised by this development consent (DA-604/2014) and to incorporate all conditions of this development consent.
- b) A Voluntary Planning Agreement be prepared by the Applicant that requires the communal open space located on 6-8 Canton Street to be burdened by a Section 88B instrument in favour of Council to allow the general public access to the space. The Voluntary Planning Agreement shall be executed prior the issuing of a Construction Certificate furthermore the S88b instrument shall be registered with the Land Titles Office Prior to the issue of an Occupation Certificate. The developer shall prepare the Voluntary Planning Agreement at no cost to Council which provides the management conditions of this open space at no cost to Council. The deed shall include but not be limited to the following
- Times to which the space will be available to the public
  - Maintenance shall be undertaken by the strata at no cost to Council
  - The fixtures within the open space shall be of a quality to be suitable for the use by the general public
  - Measures to reduce the opportunities for crime
  - Details of boundary fencing
  - Public indemnity insurance at no cost to Council.
- 1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
- 1.3. Payment to Council of:
- |                                |                                    |
|--------------------------------|------------------------------------|
| Kerb and Gutter Damage Deposit | \$12,662.00                        |
| Section 94 Contributions       | \$To be advised at time of payment |
| Certificate Registration Fee   | \$36.00                            |
| Long Service Levy              | \$To be advised at time of payment |



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Note 1: If you appoint a Principal Certifying Authority other than Council, the fees shown in this item do not apply, however other fees will apply.

Note 2: When the items in this condition are provided and have been assessed as satisfactory, your Construction Certificate will be posted to you.

Note 3: Section 94 contribution payments are payable by cash, bank cheque, or EFTPOS.

Note 4: All Council fees referred to above are subject to change. You need to refer to our website or contact our Customer Service Centre for a current schedule of fees prior to payment.

## BEFORE COMMENCING THE DEVELOPMENT

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

## SITE SIGNAGE

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

## GENERAL

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

Drawing No.	Drawing Title	Prepared by	Received by Council on
J142233 DA 000 Rev E	Cover Sheet	Chanine Design	15/9/15
J142233 DA 001 Rev E	Site Plan/Site Analysis	Chanine Design	15/9/15
J142233 DA 100 Rev A	Basement 3 Plan	Chanine Design	15/9/15
J142233 DA 101 Rev A	Basement 2 Plan	Chanine Design	15/9/15
J142233 DA 102 Rev A	Basement 1 Plan	Chanine Design	15/9/15
J142233 DA 103 Rev A	Lower Ground level plan	Chanine Design	15/9/15
J142233 DA 104 Rev E	Upper Ground level	Chanine Design	15/9/15
J142233 DA 105 Rev E	Level 1 Plan	Chanine Design	15/9/15
J142233 DA 106 Rev E	Level 2 Plan	Chanine Design	15/9/15

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J142233 DA 107 Rev E	Level 3 Plan	Chanine Design	15/9/15
J142233 DA 108 Rev E	Level 4 Plan	Chanine Design	15/9/15
J142233 DA 109 Rev E	Level 5 Plan	Chanine Design	15/9/15
J142233 DA 110 Rev E	Level 6 Plan	Chanine Design	15/9/15
J142233 DA 111 Rev E	Level 7 Plan	Chanine Design	15/9/15
J142233 DA 112 Rev E	Roof Plan	Chanine Design	15/9/15
J142233 DA 200 Rev E	Canterbury Road Elevation	Chanine Design	15/9/15
J142233 DA 201 Rev E	Canton Street Elevation	Chanine Design	15/9/15
J142233 DA 202 Rev E	South East Elevation	Chanine Design	15/9/15
J142233 DA 203 Rev E	North East Elevation	Chanine Design	15/9/15
J142233 DA 300 Rev E	Section A	Chanine Design	15/9/15
J142233 DA 301 Rev E	Section B	Chanine Design	15/9/15
J142233 DA 302 Rev E	Section C	Chanine Design	15/9/15
J142233 DA 400 Rev A	Adaptable Unit Layouts	Chanine Design	15/9/15

- 4.1(a) Units 167-171 and 181-185 inclusive including the fire stairs adjacent to these units shall be deleted.
- 4.1. The developer/applicant is to prepare a revised car parking and bicycle spaces allocation plan for the development, and submit it to the Principal Certifying Authority prior to the issuing of a Construction Certificate. The allocation plan must ensure car parking and bicycle spaces are correctly allocated to the dwellings within the residential component of the development, and to the commercial uses on the lower and upper ground levels.
- 4.2. The Cantilevered Awning along the Canterbury Road frontage is to have a width of 3 metres.
- 4.3. Each of the residential units in the mixed use development must comply with the minimum amount of storage as required in Part 3.3.4(v) of CDCP 2012. Each of the residential units must have minimum dimensions of 2 metres and must comply with minimum areas as per the Residential Design Flat Code.
- 4.4. All balconies adjacent to the neighbouring property at 300-306 Canterbury Road be installed with fixed side privacy screens to a total height of 1800mm, and all balconies along the southern elevation of Building B be installed with privacy screens to a total height of 1800mm using a combination of fixed and moveable and covering a minimum of two thirds of the length of the balconies. Details shall be provided with the application for the Construction Certificate.
5. Finishes and materials including the treatment of external walls, windows, doors and balustrades being in accordance with the Architectural Drawings prepared by Chanine Design and received by Council on 15 September 2015. The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the external appearance of the building without the approval of Council.
6. The specific fit-out of the three commercial units, including any associated signage, being the subject of a separate approval.
7. All car parking associated with the development must be accommodated on site.
8. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 – 2004.

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9. A total of 329 off street car parking spaces being provided in accordance with the approved DA plans. Car parking within the development shall be allocated as follows:
- 224 residential spaces, with thirteen (17) of which retained as common property.
  - 37 residential visitor spaces
  - Twenty-nine (29) commercial spaces
  - One (1) car wash bay
  - One (1) courier space

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

10. All disabled parking space dimensions, cross-falls, vertical clearances for access paths and above spaces are to be in accordance with the requirements of AS2890.6.
11. Resident and visitor car parking shall be clearly signposted at the entry to the car parking area.
12. All bicycle spaces are to be provided in accordance with AS2890.3.
13. Renewal or provision of fencing, attributable to the proposed development being the responsibility of the developer.
14. The bathroom and ensuite window(s) being translucent glass.
15. The development is to be levied in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury City Council's Section 94 Contributions Plan 2005, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area. A monetary contribution shall be paid to Canterbury City Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is to be calculated at the time of payment. **Note:** The rates applying to each contribution element are subject to indexing using the Consumer Price Index. The Contributions payable will be adjusted, at the time of payment, to reflect CPI increases which have taken place since the DA was determined. Council's Section 94 Contributions Plan 2005 may be inspected at Council's Administration Centre, 137 Beamish Street, Campsie or from Council's website [www.canterbury.nsw.gov.au](http://www.canterbury.nsw.gov.au). A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.
16. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
17. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 a.m. - 5.00 p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays.
18. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
19. All building construction work must comply with the National Construction Code.
20. Provide a Surveyor's Certificate to the Principal Certifying Authority at all floor levels indicating the finished floor level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
21. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to walls being erected more than 300mm above adjacent ground surfaces to indicate the exact

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- location of all external walls in relation to allotment boundaries.
22. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
  23. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.
  24. The site must be provided with a vehicle washdown area at the exit point of the site. The area must drain to an approved silt trap prior to disposal to the stormwater drainage system in accordance with the requirements of Specification S2 of Council's Stormwater Management Manual. Vehicle tyres must be clean before leaving the site.
  25. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
  26. A single entry/exit point must be provided to the site which will be constructed of a minimum of 40mm aggregate of blue metal or recycled concrete. The depth of the entry/exit point must be 150mm. The length will be no less than 15m and the width no less than 3m. Water from the area above the entry/exit point shall be diverted to an approved sediment filter or trap by a bund or drain located above.
  27. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
  28. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
  29. All disturbed areas must be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
  30. An application being made to Council's City Works Division for the construction of a vehicular crossing either by Council or an approved contractor complying with City Works Division standards and at the owner's cost.
  31. Toilet facilities shall be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
  32. The implementation of adequate care during building construction to ensure that no damage is caused to any adjoining properties.
  33. Erection of a hoarding/fence or other measure to restrict public access to the site and to building works, materials or equipment when building work is not in progress or the site is otherwise unoccupied.
  34. Payment of an additional garbage levy for each new dwelling upon completion of work.
  35. All activity being conducted so that it causes no interference to the existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.
  36. All vehicles carrying materials to or from the site having their loads covered at all times with tarpaulins or similar covers in accordance with the Roads (General) Regulation 2000, Section 11 (1) (d).
  37. No construction work outside the hours of Monday to Friday, 7.00 a.m. to 5.00 p.m. and Saturday, 7.00 a.m. to 12.00 noon, is permissible without the prior approval of Council. Noise from construction activities associated with the development shall comply with the following guidelines (from NSW Environment Protection Authority Environmental Noise Control Manual Chapter 171).  
Construction periods of 4 weeks and under:

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The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 20dB(A) when assessed to the any sensitive noise receiver.

Construction periods greater than 4 weeks and not exceeding 26 weeks:

The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed to the any sensitive noise receiver.

38. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.

In this condition:

- a) relevant BASIX Certificate means:
  - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
  - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."

## VEHICULAR ENTRY / EXIT POINTS

39. Separate entry and exit driveways, separated by a median of minimum 1.0m in width must be provided.
40. A sight triangle 2.0m x 2.5m is required to be provided at the footpath crossing on Dibbs Street, to comply with AS 2890.1.

## LANDSCAPING

41. The following landscaping conditions are to be complied with:
  - Provide on-podium beds and raised planter box construction details.
  - The Canton Street frontage is to be reconfigured to provide 2 public entries, a minimum of 3m wide, into the public park space from Canton Street and planting changed to allow for full passive surveillance with the entire width of the park interior visible from the street.
  - Provide facilities to the public park space including tables, barbecues, shade structures and Australian Standard complied playground equipment supported with appropriate seating in a location visible from the street.
  - Provide lighting to the pathways and steps throughout the public park space.
  - Provide a Detailed Maintenance Schedule including:
    - c. replacement strategy for failures in plant materials and built works,
    - d. maintenance schedule for watering, weeding and fertilizing during the establishment period
  - An amended landscape plan to address the issues outlined above is to be submitted to Council or certifier prior to the issue of the Construction Certificate.
    - The landscaping must be completed according to the submitted landscape plan (drawn by Site Image Landscape Architects, job no. SS14-2940, drawing no. 000, 101, 102 and 501 issue 2, submitted to council on 12<sup>th</sup> November 2015) except where amended by the conditions of consent.
    - All the tree supply stocks shall comply with the guidance given in the

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- publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003).
- All scheduled plant stock shall be **pre-ordered**, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
  - An automatic watering system is to be installed in common areas at the applicant's cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer's specification and current Sydney Water guidelines.
  - The Landscaping works shall be maintained to Council's approval.
42. The existing tree *Melaleuca linarifolia* (common name Snow in Summer) is located on an adjacent property and therefore consent is required by Council's Tree Preservation Officer as well as the owner prior to its removal. Any pruning or removal which has to be completed by the applicant would require a separate application to be made to the Council's Tree Preservation Officer regarding the pruning of overhanging branches onto the development site. Work may only be undertaken if written approval has been granted. Written approval for any pruning must also be gained from the owners of the neighbouring property on which the tree is located on.
43. The existing street trees, 6 x *Callistemon* sp. (common name Bottlebrush and numbered Tree 1,2,5,6,7,9 on the submitted arborist report written by Arboreport Vegetation Management Consultants) and 1 x *Melaleuca decora* (common name White Feather Honey Myrtle and numbered on the submitted Arborist report as Tree 8) are to be retained and protected during construction. A tree protection zone (TPZ) of 2m must be observed for each tree. A tree protection barrier is to be erected around the perimeter of the required TPZ prior to the commencement of any site works. This barrier must be a minimum 1800mm high chain link fabric (with standard 50mm pitch) on 2400mm star pickets driven 600mm into the ground so that the fencing cannot be breached. A 600mm x 450mm prohibition sign complying with AS1319, and stating 'TREE PROTECTION ZONE – KEEP OUT' must be attached to the barrier. The barrier is to be well maintained during construction. No building material storage or construction activity shall be allowed to encroach within this TPZ.
44. The existing street tree, *Callistemon* sp. (common name Bottlebrush) growing along Dibbs Street, is to be retained and protected during construction. A tree protection zone (TPZ) of 2m must be observed for each tree. A tree protection barrier is to be erected around the perimeter of the required TPZ prior to the commencement of any site works. This barrier must be a minimum 1800mm high chain link fabric (with standard 50mm pitch) on 2400mm star pickets driven 600mm into the ground so that the fencing cannot be breached. A 600mm x 450mm prohibition sign complying with AS1319, and stating 'TREE PROTECTION ZONE – KEEP OUT' must be attached to the barrier. The barrier is to be well maintained during construction. No building material storage or construction activity shall be allowed to encroach within this TPZ.
45. The garden beds of 300-306 Canterbury Road that border the subject development site

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need to be protected from damage.

46. The existing property vegetation is to be retained or removed as follows:

Tree No.	Botanical Name	Common Name	Action	Details/ Tree Protection Zone (TPZ)
T3	<i>Eucalyptus racemosa</i>	Scribbly Gum	Ok to remove and replace	See below for replacement tree details
T4	<i>Eucalyptus racemosa</i>	Scribbly Gum	Remove and replace	See below for replacement tree details
T10	<i>Eucalyptus robusta</i>	Swamp Mohogany	Ok to remove and replace	See below for replacement tree details
T11	<i>Melaleuca linarifolia</i>	Snow in Summer	Ok to remove and replace	See below for replacement tree details
T12	<i>Melaleuca linarifolia</i>	Snow in Summer	Ok to remove and replace	See below for replacement tree details
T13	<i>Melaleuca linarifolia</i>	Snow in Summer	Ok to remove and replace	See below for replacement tree details
T14	<i>Grevillea robusta</i>	Silky Oak	Remove	Tree is dead
T15	<i>Melaleuca linarifolia</i>	Snow in Summer	Ok to remove and replace	See below for replacement tree details
T16	<i>Melaleuca linarifolia</i>	Snow in Summer	Ok to remove and replace	See below for replacement tree details
T17	<i>Melaleuca linarifolia</i>	Snow in Summer	Ok to remove and replace	See below for replacement tree details
T18	<i>Cinnamomum camphora</i>	Camphor tree	Ok to remove	Weed species
T19	<i>Grevillea robusta</i>	Silky Oak	Ok to remove and replace	See below for replacement tree details
T20	<i>Corymbia citriodora</i>	Lemon scented Gum	Ok to remove and replace	See below for replacement tree details
T22	<i>Grevillea robusta</i>	Silky Oak	Ok to remove and replace	See below for replacement tree details
T23	<i>Grevillea robusta</i>	Silky Oak	Ok to remove and replace	See below for replacement tree details
T24	<i>Lophostemon confertus</i>	Brushbox	Remove and Replace	See below for replacement tree details
T25	<i>Grevillea robusta</i>	Silky Oak	Ok to remove and replace	See below for replacement tree details

46.1. The trees noted to be removed and replaced are to be min 75ltr container size trees as proposed on the submitted landscape plan (drawn by Carmichael Studios, drawing no SK01-SK04 and submitted to Council on 26<sup>th</sup> September 2013).

## STORMWATER ENGINEERING

47. The stormwater system be constructed in general, in accordance with the plans, specifications and details in drawing numbers, D15, D02, and D03, Revision A and D01, D04, D05, D06, D07, D08, D09, D10, D11, D12, D13, and D14, Revision B; prepared by Australian Consulting Engineers Pty Ltd and as amended by the following conditions.

48. The on-site detention design must be supported by detailed hydraulic calculations. In

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- this regard hydraulic calculations on drawing number D15 are for a different site, 453-459 Canterbury Road Canterbury, and there is an arithmetic error regarding the calculation of the area bypassing the on-site detention facility. The correct calculations must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. Certification from an accredited engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
49. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's DCP 2012, Part 6.4.
50. The design of the on-site detention facility and rainwater tank must be amended to address the following issues:
- a) Only roof water is permitted to drain to the rainwater tank.
  - b) Stormwater from the on-site detention tank must not be capable of entering the rainwater tank for all storms including when the on-site detention facility is overflowing. The amended design must be certified by a qualified practicing civil engineer and be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. OSD is required; three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority PCA and Canterbury City Council, if Council is not the PCA. The plans must be prepared by a practicing Civil Engineer and include levels reduced to Australian Height Datum (AHD) and full details of the hydraulic evaluation of the entire stormwater drainage system. The details shall be prepared in accordance with Council's DCP 2012, Part 6.4.
51. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1<sup>st</sup> March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.
- 51(a) A Geotechnical/Civil Engineering report must be prepared which addresses (but is not limited to) the following:
- The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum;
  - The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by the method of excavation and potential settlements affecting nearby



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- footings/foundations/buildings shall be discussed and ameliorated;
- The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site);
  - The existing groundwater levels in relation to the basement structure, where influenced;
  - Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.
- The geotechnical report must be prepared by a consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting.
- 51(b) The basement must be tanked to at least 1000 mm above the groundwater level. Alternatively ground water may be drained by the subsoil drainage system of the basement where a licence to do so is obtained from the NSW Office of Water. The licence must be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate. Note that a licence to temporarily drain ground water for construction purposes does not permit the permanent draining of groundwater.
52. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.
53. A full width heavy duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 6 metres at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
54. The levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, carparks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
55. Driveways, parking and service areas are to be constructed or repaired in accordance with the appropriate AUS-SPEC #1 Specifications: C242-Flexible Pavements; C245-Asphaltic Concrete; C247-Mass Concrete Subbase; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.
56. The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
57. A driveway longsection scaled at 1:25 (both vertical and horizontal) is to be submitted indicating the appropriate grades, lengths, transitions and height clearances above the driveway. The existing street levels are to be included in the design of the driveway (The existing street levels include kerb & gutter, footpath and boundary line levels which cannot be altered). The driveway widths, grades, lengths and transitions shall be

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in accordance with Australian Standard AS 2890.1 - 2004 "Off-street Parking Part 1 - Carparking Facilities".

#### PUBLIC IMPROVEMENTS

58. All redundant vehicular crossings shall be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
59. The reconstruction of the kerb and gutter along all areas of the site fronting Canterbury Road, Dibbs Street and Canton Street is required. Work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
60. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting Canterbury Road, Dibbs Street and Canton Street is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
61. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.

#### WASTE MANAGEMENT

62. The waste bin storage rooms are to be designed and constructed in accordance with Part 6.9.4. of CDCP 2012. Bins must not be placed in front of each other and it must be ensured that they are easily accessible for movement by collectors.
63. The access door to both the commercial and residential waste bin holding area must be at least 1.2 metres in width.
64. Unrestricted and unobstructed access must be provided to the waste bin storage rooms on collection days from 5.00am.
65. The garbage rooms must include water supply and drain (that is connected to the sewer system).
66. The owner of the development must indemnify Council's waste collection contractor against damage that may result from their entry onto the property to collect waste bins. Council's standard indemnity form shall be completed and returned to Council prior to the site being occupied.

#### DISABILITY ACCESS

67. The development must be constructed to comply with the Commonwealth Disability (Access to Premises – Buildings) Standard 2010.
68. A continuous accessible path of travel is to be provided from the street alignment to the building entries, and from the underground carpark, to and within each of the adaptable units, and to and within all common areas of the buildings, including landscaped areas and the residential garbage room. It must not contain a step or other impediment, and must have an unobstructed width of at least 1000mm, and vertical clearance of 2000mm. Vegetation in landscaped areas should not overhang an accessible path of travel.
69. The Disability (Access to Premises – Buildings) Standards require a fully accessible lift (AS1735.12). If the lift travels more than 12 metres it is to have minimum floor

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- dimensions of 1400mm X 1600mm. However, as this is a residential development, with the accessible units on the upper floors, lifts that provide adequate space for a paramedic stretcher with minimum dimensions of 2100 mm X 550 mm, should be provided for the benefit of every resident who may have to be evacuated in a horizontal position. Circulation space in front of lift doors is to be at least 1550 mm.
70. The Business Plan for the building is to detail measures to be taken for the evacuation of residents from the adaptable units in the event that the lifts are out of service.
71. Access to the Mail Room is to be re-designed so that the landing at the door has a maximum gradient of 1:40; and the latch-side clearance on the inside and outside of the door complies with AS1428.1 (2009). The doorway is to provide a minimum clear opening of 850 mm, when the door is fully open. Letter boxes for adaptable units are to be located between 900 mm and 1100 mm above the finished floor level.
72. The operative part of the intercom is to be located at a height between 900 mm and 1100 mm above the surface.
73. The minimum vertical clearance in the accessible parking spaces and adjacent shared areas is to be 2500mm, and the path of travel from the building entry to accessible parking spaces is to have a minimum vertical clearance of 2200mm.
74. The main entries to the building are to be at-grade, with the entry paths to have maximum crossfalls of 1:40.
75. Paving in the entry foyers and the common areas is to be non-slip in wet and dry conditions.
76. All glazed doors and side panels on a continuous accessible path of travel are required to have a transom or luminance strip at a height between 900mm and 1100mm above the floor level. The strip is to be at least 75 mm wide for the full width of the door or side panel and provide a luminance contrast of at least 30% to its surroundings, when viewed from either the inside or the outside the door. Entry doorways are to provide a minimum clear width of 850 mm, when the door, or a single leaf, is fully open.
77. Steps are to have equal height risers and are to comply with AS1428.1 (2009). Handrails are required on both sides of the steps. Tactile Ground Surface Indicators (TGSI's) are required at the top and base of these steps, to comply with AS1428.4.1.
78. Ramps are to comply with AS1428.1 (2009), with a maximum gradient of 1:14. Ramps with gradients between 1: 20 and 1:14 are to have compliant handrails on each side, and TGSI's at the top and base to comply with AS1428.4.1.
79. Adaptable Units
- 79.1. All glazed doors and panels within adaptable units are required to have a transom or luminance strip at a height between 900mm and 1100mm above the floor level. The strip is to provide a luminance contrast of at least 30% to its surroundings, when viewed from either the inside or the outside the door.
- 79.2. Entry doorways to the Units are to provide a minimum clear width of 850 mm, when the door is fully open. Internal and external latch-side clearances for all doors are to comply with AS1428.1 (2009).
- 79.3. The terrace or balcony levels are to be the same as the internal floor levels of the adaptable units in the post-adaptation stage, with the tracks of the sliding doors to be recessed level with the unit floor, to avoid a trip hazard. Alternately, a threshold ramp may be installed, with a maximum length of 280 mm, a maximum height of 35 mm, and a maximum gradient of 1:8.
- 79.4. Wet areas in the bathroom, kitchen and balcony/terrace are to have surfaces that are non-slip, in wet and dry conditions.

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80. Corridors are to have a minimum width of 1000 mm, but must be wider at the entrances to adaptable units, to comply with AS1428.1 (2009).

## ACOUSTICS

81. The roller door to the basement car park is to be acoustically treated to comply with the relevant Australian standards.
82. Carry out all recommendations in Part 5.3 of the 'DA Acoustic Assessment' as prepared by Acoustic Logic (dated 6 September 2013).

## ROADS AND MARITIME SERVICES

83. A concrete median is to be constructed on Canterbury Road at the intersection of Canterbury Road and Dibbs Street to stop illegal right turn movements from and to Canterbury Road.
- 83.1. The design and construction of the concrete median on Canterbury Road shall be in accordance with the Australian Standards and RMS's requirements. Details of further requirements can be obtained from the RMS's Project Services Manager, Traffic Projects Section, Parramatta (Ph 02 8849 2144).
- 83.2. A certified copy of the design plans shall be submitted to the RMS for consideration and approval prior to the release of a Construction Certificate by Council and commencement of road works.
- 83.3. The RMS fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the road works.
- 83.4. All works associated with the proposed development shall be at no cost to the RMS.
84. The proposed development should be designed such that road traffic noise from Canterbury Road is mitigated by durable materials in order to satisfy the requirements for habitable room under Clause 102 – (Impact of Road Noise or Vibration on Non-Road Development) of State Environmental Planning Policy (Infrastructure) 2007.
85. The developer is to submit detailed documents and geotechnical reports relating to the excavation of the site and support structures to RMS for approval in accordance with Technical Direction (GTD 2012/001).
86. Stormwater discharge from the subject site into the Roads and Maritime Services system must not exceed pre-development discharge. In this regard, detailed plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime Services prior to the commencement of any works. Details shall be forwarded to: Sydney Asset Management, PO Box 973, PARRAMATTA CBD NSW 2124. A plan checking fee may be payable and a performance bond may be required before the Roads and Maritime Services approval is issued. With regard to civil works, please contact Roads and Maritime Services Project Engineer, External Works on (02) 8849 2114.
87. The layout of the car parking areas and access driveways associated with the subject development (including grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1-2004.
88. All road works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime Services.

## SYDNEY WATER REQUIREMENTS

89. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to "Your Business" section of Sydney Water's web site at

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www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92.

Following application, a “Notice of Requirements” will be forwarded detailing water and sewage extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the final plan of subdivision.

## CRITICAL INSPECTIONS

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

Class 2, 3 or 4 Buildings

90.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and

90.2. prior to covering any stormwater drainage connections, and

90.3. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Class 5, 6, 7, 8 or 9 Buildings

90.4. prior to covering any stormwater drainage connections, and

90.5. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

90 (a) A lapped and capped timber fence 1.8 metres in height shall be erected along all common boundaries with Private Property. Details of the fencing shall be incorporated in the amended Landscape Plan submitted with the Voluntary Planning Agreement.

## ADDITIONAL INSPECTIONS

91. Section 81(A) of the EP&A Act 1979 requires that a person having the benefit of a development consent, if not carrying out the work as an owner-builder, must notify the principal contractor for the building work of any critical stage inspections and other inspections that are to be carried out in respect of the building work, as nominated in this development consent. To arrange an inspection by Council please phone 9789-9300 during normal office hours.

## COMPLETION OF DEVELOPMENT

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

93. The future street numbering for the development is to be 314 Canterbury Road, Canterbury. It is advised that the applicant/developer collaborate with Council’s Mapping and GIS Services for addressing of both the residential and commercial units within the development prior to an occupation certificate being issued. I can be contacted on 9789 9507, or by email: [michaelcz@canterbury.nsw.gov.au](mailto:michaelcz@canterbury.nsw.gov.au).

## WE ALSO ADVISE:

94. This application has been assessed in accordance with the National Construction Code.

95. You should contact Sydney Water prior to carrying out any work to ascertain if infrastructure works need to be carried out as part of your development.

96. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:

- Structural engineering work
- Air Handling Systems
- Final Fire Safety Certificate

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- Glazing
  - BASIX completion
  - Water Proofing
97. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
98. Private contractors shall submit an application and pay an inspection fee to Council seven days prior to commencement of any works on the footpath or roadway. No work shall be carried out without Council approval.
99. The applicant is to ensure that landscaping and hydraulic plans are co-ordinated. Hydraulic details such as pits, stormwater lines, detention tanks and retaining walls are to be shown on the Landscape Plan as these can affect layout of garden beds and plantings.
100. Before you dig, call “Dial before you Dig” on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance from the nearest cross street) for underground utility services information for any excavation areas.
101. Compliance with the National Construction Code does not guarantee protection from prosecution under “The Disability Discrimination Act” and you must comply with the Commonwealth Disability (Access to Premises – Buildings) Standard 2010. Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021 199.
102. In granting this approval, we have considered the statutory requirements, design, materials and architectural features of the building. No variation to the approved design and external appearance of the building (including colour of materials) will be permitted without our approval.
103. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
104. If you are not satisfied with this determination, you may:
- 104.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of receipt of this Notice of Determination; or
  - 104.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 or Section 97AA of the Environmental Planning and Assessment Act 1979.