

**INDEPENDENT COMMISSION AGAINST CORRUPTION****STATEMENT IN THE MATTER OF: Operation Dasha**

**PLACE:** Bankstown  
**NAME:** George Gouvatsos  
**ADDRESS:** c/- 66 to 72 Rickard Rd Bankstown NSW  
**OCCUPATION:** Manager Development Assessment  
**TELEPHONE NO:** 02 9789 9434  
**DATE:** 14.6.17

**States: -**

- 
1. This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in Court as a witness. The statement is true to the best of my knowledge and belief, and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.
  2. I am 54 years of age.
  3. I commenced my employment with Canterbury City Council ("CCC") in 1985 and have held various planning roles until being appointed to the role of Manager Development Assessment approximately 17 years ago.
  4. In my role as Manager Development Assessment at CCC I managed the staff that were responsible for processing development applications, conducting building inspections and issuing construction certificates. I had three team leaders that

Signature

Witness

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reported to me being Team Leader Development Operations, Team Leader Planning and Team Leader Building Certification. I reported to the Director of City Planning. Spiro Stavis ("Spiro") for the whole time that he was in this position with Council.

5. As Manager Development Assessment I generally review all assessment reports that go before the City Development Committee ("CDC") of CCC. The process for review is that the report is written by the assessing town planner and reviewed by their Team Leader. It is usual practice that if any specific issues are identified during the assessment the planner would discuss these with their Team Leader or myself during the process. As a result of this consultation there are not usually any surprises at the time the assessment reports are reviewed. Once I have reviewed the assessment report and provided any feedback required I forward the report to Spiro for review and approval.

**51 Penshurst Road Roselands**

6. In relation to a development application for a property at 51 Penshurst Road Roselands, my recollection is that the original application was relatively straight forward and that it was given deferred commencement with the architect's consent to allow the owner an opportunity to obtain an easement. I recall this matter because the owner queried why we had put the condition requiring the drainage easement at the time he lodged an application for a modification to the stormwater drainage plans. I recalled that I looked into the matter in case an error had been

Signature \_\_\_\_\_

Witness \_\_\_\_\_

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made and satisfied myself that the deferred condition was accepted by his architect at the time the consent was issued.

7. In regard to the outcome of the assessment for the modification application for 51 Penshurst Road Roselands, my recollection is that the applicant had been unable to obtain the drainage easement over the property and once this was demonstrated to the planner and CCC's engineers assessed the plans for the proposed modification the application was approved. I do not recall having any substantial involvement in the assessment of the modification or attending any meetings with the applicant / owners.
8. I do recall that Councillor Michael Hawatt made an enquiry in relation to the modification application for 51 Penshurst Road Roselands as to the progress of our assessment. I recall this as I was asked to collate the information to respond back to Spiro who in turn would respond to Councillor Hawatt's request.
9. I have been shown email correspondence from 11 May 2015 from Spiro to myself asking me to provide an update on the progress of 51 Penshurst Road, Roselands and an email I sent to planner Jade Shepherd and engineer Paul Richardson enquiring about the progress of that application. This accords with my recollection of my involvement regarding the request made by Councillor Hawatt, however, I believe I would have provided a response back to Spiro explaining the reason why the application had been held up. I recall at the time the engineering assessments were behind due to the volume of work and limited resources in that area.

Signature \_\_\_\_\_

Witness \_\_\_\_\_



**STATEMENT IN THE MATTER OF: Operation Dasha**  
**NAME: George Gouvatsos**

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**ANNEXURE 1 : I HAVE BEEN SHOWN AN EMAIL DATED 11 MAY  
2015 AT 1:12PM FROM SPIRO STAVIS TO MYSELF RE 51  
PENSURST RD PROGRESS**

10. I have been shown an email from Spiro to Councillor Hawatt dated 12 May 2015 which outlines the reason for the delay in assessment for the application relating to 52 Penshurst Road, Roselands. This is consistent with my recollection of the reason for the delay in the assessment. The email stated that the matter had been prioritised. I would say this was not unusual given that a Councillor had made an enquiry and the matter was in fact delayed. On occasions when Councillors made these types of enquiries it was usually the case that some priority was given to the assessment of the subject application to try and move that assessment along.

**ANNEXURE 2 : I HAVE BEEN SHOWN AN EMAIL DATED 12 MAY  
2015 3:48PM FROM SPIRO STAVIS TO MICHAEL HAWATT RE  
PROGRESS 51 PENSURST RD ROSELANDS**

11. I normally attend the CDC meetings. I cannot recall specifically whether I attended the CDC meeting for 51 Penshurst Road Roselands on 11 June 2015. I cannot recall whether Councillor Hawatt made a declaration of interest in relation to 51 Penshurst Rd Roselands. In most cases planning staff assessing an application would not be aware of any pecuniary or non pecuniary interests that a

Signature \_\_\_\_\_

Witness \_\_\_\_\_

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Councillor held in regard to a particular application as they do not make their declaration until Council votes on the application by which time the planning staff have already made their recommendations on the matter.

12. I have been shown an email dated 3 August 2015 at 2:03PM from Spiro forwarding on a request from Councillor Hawatt regarding 51 Penshurst Road Roselands. I do not recall receiving or responding to this enquiry. An email I received on 5 August 2015 at 10:58PM from Spiro indicates that he went straight to the staff members assessing the application in order to obtain information to quickly respond to the Councillors request and I was copied into the email to be kept informed of the request. This practice was not unusual given the workload in the planning area at the time and the need to respond to Councillor requests quickly.

**ANNEXURE 3 : I HAVE BEEN SHOWN AN EMAIL DATED 3 AUGUST 2015 AT 2:03PM FROM SPIRO STAVIS TO MYSELF RE 51 PENSHERST RD ROSELANDS**

**ANNEXURE 4 : I HAVE BEEN SHOWN AN EMAIL DATED 5 AUGUST 2015 AT 10:58PM FROM STAVIS TO MYSELF FORWARDING HAWATT REQUEST CONCERNING 51 PENSHERST ROAD**

13. I have been shown an email dated 27 October 2015 at 9:04AM from Spiro Stavis to myself forwarding an enquiry from Councillor Hawatt regarding the progress of the assessment of 51 Penshurst Rd Roselands. I do not recall receiving this request

Signature \_\_\_\_\_

Witness \_\_\_\_\_

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but my normal practice would have been to make enquiries with the staff, collate the information and send Spiro a response. Due to the high workload of the area and frequent requests from Councillors, sometimes 3 or 4 per day in addition to our normal work, there is nothing that stands out to me about this particular request.

**ANNEXURE 5 : I HAVE BEEN SHOWN AN EMAIL DATED 27  
OCTOBER 2015 AT 9:04AM FROM SPIRO STAVIS TO MYSELF RE 51  
PENSURST RD ROSELANDS**

14. In relation to the final assessment report on the s96 application for modification of stormwater drainage at 51 Penshurst Road Roselands, I do not recall reviewing the final report. Andrew Hargreaves, who was the Team Leader supervising Felicity Eberhart had the delegation to approve the recommendations in the report so there was no reason for the report to have come to me for review.

**23 Willeroo Street Lakemba**

15. In regard to a development application for 23 Willeroo Street Lakemba I recall the applicant appealed to the Land and Environment Court. I had limited involvement in the matter and I recall that Andrew Hargreaves was managing the Court process therefore I have refreshed my memory from a number of CCC records relating to the matter.

Signature \_\_\_\_\_

Witness \_\_\_\_\_



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16. I have been shown an email dated 24 July 2015 at 5:45PM from Spiro Stavis to myself forwarding an enquiry from Councillor Hawatt regarding 23 Willeroo Street, Lakemba. I do not have a specific recollection of discussing this Councillor request with Spiro. 23 Willeroo Street Lakemba was an isolated site (i.e. the site frontage was not wide enough but the required frontage could not be achieved because there were residential flat buildings on either side of the site). I cannot recall Spiro suggesting a course of action in regard to the issues raised in Councillor Hawatt's request.

**ANNEXURE 6 : I HAVE BEEN SHOWN AN EMAIL DATED 24 JULY  
2015 AT 5:54PM FROM SPIRO STAVIS TO MYSELF RE 23 WILLEROO  
STREET LAKEMBA**

17. The application for 23 Willeroo Street Lakemba went to a Class 1 appeal in the Land and Environment Court and CCC whereby the applicant entered into a s34 conciliation process. Andrew Hargreaves had carriage of managing the s34 process. This process involved a number of amended plans being submitted to CCC on a "without prejudice" basis by the applicant to seek a resolution as to what Council would accept. I was not involved in the detailed review of the without prejudice plans or communications with the applicants. I approved the invoices for the consultants and solicitors engaged by CCC in this process.

Signature \_\_\_\_\_

Witness \_\_\_\_\_

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18. In terms of the number of opportunities given to applicants to submit amended “without prejudice” plans, the Courts at that stage were quite lenient on that issue so it was difficult for CCC to determine when to terminate the s34 conciliation process. We were more of a mind to work with the applicants to try and get a resolution. This could include allowing them to submit amended “without prejudice” plans on a number of occasions until we reached a resolution.
19. In relation to 23 Willeroo Street Lakemba a recall a point in the process whereby Andrew Hargreaves told me that his view was that the s34 process should be terminated and CCC should proceed to a hearing. I recall our consultants and solicitors also gave CCC that advice. Andrew Hargreaves had the authority to make the decision on that issue but would have discussed the matter with me for the purpose of keeping me informed.
20. I have been shown an email dated 22 January 2016 at 8:54AM from Spiro to myself regarding the s34 conference for 23 Willeroo Street Lakemba and this has refreshed my memory of these events. I recall that I did not attend the meeting referred to in this email between Spiro and Talal El Badar. I do recall Spiro told Andrew Hargreaves that he wanted to look at the plans before the s34 process was terminated, I think I became aware of this through email correspondence rather than conversations with Spiro. I was supportive of Andrew Hargreave’s view as there had been a number of opportunities given to the applicants to amend the plans already.

Signature—

Witness



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**ANNEXURE 7 : I HAVE BEEN SHOWN AN EMAIL DATED 22  
JANUARY 2016 AT 8:54AM FROM SPIRO TO MYSELF AND RE S34  
CONFERENCE FOR TALAL EL BADAR**

21. I have been shown an email dated 22 January 2016 at 3:05pm between Spiro and Andrew Hargreaves into which I have been copied. It was my understanding that Spiro wanted to continue the s34 conciliation process to avoid the costs associated with a hearing. I do not recall having any conversations with Spiro about this and I think my understanding of his views was gained from email correspondence.

**ANNEXURE 8 : EMAIL DATED 22 JANUARY 2016 3:05PM FROM  
STAVIS TO HARGREAVES ET AL RE AVOIDING HEARING ON 23  
WILLEROO ST**

22. I believe that Spiro involved himself in this matter because there was a level of Councillor interest. It was not unusual at CCC for the Director of City Planning to take a more active role in matters where there had been a level of interest by Councillors and for those matters to be escalated.
23. I have been shown the final assessment report for 23 Willeroo Street Lakemba dated June 2016. I can state that as Andrew Hargreave's supervisor I would have reviewed this report, however, the ultimate sign off rested with Spiro. I cannot

Signature \_\_\_\_\_

Witness \_\_\_\_\_

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recall requesting Andrew Hargreaves to make any amendments to the report and I don't know if Spiro asked him to.

**ANNEXURE 9 : REPORT FINAL 23 WILLEROO ST LAKEMBA JUNE  
2016**

Signature—

Witness

dwaE70

From: Spiros@canterbury.nsw.gov.au  
Sent: 11/05/2015 1:12:24 PM  
TO: Evar@canterbury.nsw.gov.au, George@canterbury.nsw.gov.au  
Subject: Fwd: 51 Penshurst Road Roselands - Councillor Hawatt Request

George,

Story please?

Spiro Stavis | Director City Planning  
City of Canterbury 137 Beamish St Campsie NSW 2194  
T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au (  
mailto:Evar@canterbury.nsw.gov.au) | www.canterbury.nsw.gov.au

>>> "mi chael " <mi chael @ [REDACTED] 11/05/2015 12:32 PM >>>

Hi Spiro

The owners of the above property have been waiting for over 1 month for the engineers storm water response and the DA with council for 12 weeks.  
Can you have a look at find out why the delays.

Thanks

Cr Michael Hawatt



dwaE6E

From: Georgeg@canterbury.nsw.gov.au

Sent: 11/05/2015 1:14:30 PM

TO:

Andrewh@canterbury.nsw.gov.au, Jades@canterbury.nsw.gov.au, Paul ri@canterbury.nsw.gov.au

Subject: Fwd: 51 Penshurst Road Roselands - Councillor Hawatt Request

Jade/Paul,

Can you please provide a response to this enquiry.

George

dwa2EB4

From: Spiros@canterbury.nsw.gov.au  
Sent: 12/05/2015 3:48:55 PM  
TO: Evar@canterbury.nsw.gov.au, Georgeg@canterbury.nsw.gov.au, mi chae [REDACTED]  
Subject: Re: Fwd: 51 Penshurst Road Roselands - Council or Hawatt Request

Dear Michael,

I refer to your enquiry about the subject site and advise that we have spoken to the development engineer and have prioritised this referral to allow for the applicant to address any stormwater issues that may arise.

The development engineer has undertaken a preliminary assessment of the stormwater design and identified some fundamental issues that need to be addressed.

A response will be provided back to the applicant by the end of this week.

We have spoken to the applicant and conveyed this information to him and he is fully aware of the status of his DA.

We are currently assessing a high number of complex DAs, which all require stormwater referrals and we are trying to manage these within our current resources, of the one development engineer, which is proving challenging.

I trust this addresses your enquiry. Please let me know if you need any further information.

Regards

Spiro Stavis | Director City Planning  
City of Canterbury 137 Beamish St Campsie NSW 2194  
T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au (mailto:Evar@canterbury.nsw.gov.au) | www.canterbury.nsw.gov.au

>>> "mi chael " <mi chael [REDACTED]> 11/05/2015 12:32 PM >>>

Hi Spiro

The owners of the above property have been waiting for over 1 month for the engineers storm water response and the DA with council for 12 weeks. Can you have a look at find out why the delays.

Thanks

Cr Michael Hawatt

dwa2288

From: Spiros@canterbury.nsw.gov.au  
Sent: 3/08/2015 2:03:40 PM  
TO: Evar@canterbury.nsw.gov.au, George@canterbury.nsw.gov.au  
Subject: 51 Penshurst Rd Roselands - cnrl Hawatt Request

George

For response please.

Regards

Spiro Stavis | Director City Planning  
City of Canterbury 137 Beamish St Campsie NSW 2194  
T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au |  
www.canterbury.nsw.gov.au

Sent from my iPhone

Hi Spiro  
51 Penshurst Rd Roselands re storm water pump out connection.  
Can you see how to help?  
Thanks  
Michael Hawatt



**Andrew Hargreaves - Fwd: 51 Penshurst Rd Roselands - cnrl Hawatt Request**

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**From:** "George Gouvatsos" <[georgeg@canterbury.nsw.gov.au](mailto:georgeg@canterbury.nsw.gov.au)>  
**To:** Andrew Hargreaves <[andrewh@canterbury.nsw.gov.au](mailto:andrewh@canterbury.nsw.gov.au)>  
**Date:** 5/08/2015 10:58 PM  
**Subject:** Fwd: 51 Penshurst Rd Roselands - cnrl Hawatt Request

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FYI

Sent from my iPhone

Begin forwarded message:

**From:** "Spiro Stavis" <[spiros@canterbury.nsw.gov.au](mailto:spiros@canterbury.nsw.gov.au)>  
**Date:** 5 August 2015 9:53:50 pm AEST  
**To:** Paul Richardson <[Paulri@canterbury.nsw.gov.au](mailto:Paulri@canterbury.nsw.gov.au)>  
**Cc:** George Gouvatsos <[Georgeg@canterbury.nsw.gov.au](mailto:Georgeg@canterbury.nsw.gov.au)>, Eva Rahme <[Evar@canterbury.nsw.gov.au](mailto:Evar@canterbury.nsw.gov.au)>  
**Subject:** Re: 51 Penshurst Rd Roselands - cnrl Hawatt Request

Paul

Please prepare a response for me to councillor.

Regards

**Spiro Stavis | Director City Planning**  
**City of Canterbury 137 Beamish St Campsie NSW 2194**  
**T: 9789 9487 | F: 9789 1542 | [spiros@canterbury.nsw.gov.au](mailto:spiros@canterbury.nsw.gov.au)**  
**| [www.canterbury.nsw.gov.au](http://www.canterbury.nsw.gov.au)**

Sent from my iPhone

On 4 Aug 2015, at 6:42 pm, Paul Richardson <[Paulri@canterbury.nsw.gov.au](mailto:Paulri@canterbury.nsw.gov.au)> wrote:

Spiro,  
I'll see if I can knock this one off tonight. If not, it will be tomorrow morning.  
The answer will be that the submitted plans do not satisfy the Deferred Commencement Condition.  
As to the Applicants questioning of Council's acceptance of the Application without evidence of the ability to obtain an easement:  
The Applicant presented drainage by gravity to an easement in the submitted plans. Review of the Application identified that the Applicant had not explored acquisition of an easement. The Applicant's Architect then specifically requested that "*we will accept a Deferred Commencement approval subject to acquisition of a water drainage easement from the down stream properties*" (letter dated 22 May 2015 from Gus Fares Architects Pty Ltd).  
Regards,  
Paul Richardson

>>> "Spiro Stavis" <[spiros@canterbury.nsw.gov.au](mailto:spiros@canterbury.nsw.gov.au)> 4/08/2015 6:22 PM

ANNEXURE 4

Page 2 of 2

E15-0078-37-26

&gt;&gt;&gt;

Dear Michael,

I refer to your enquiry about the subject stormwater plans and advise as follows;

Following the issue of a Deferred commencement consent, we received stormwater plans for this DA on Thursday and they have been referred to our Development engineer to review and advise the applicant as to whether they address the terms of the deferred commencement consent .

I have asked the Development Engineer to prioritise this assessment.

I trust this addresses your enquiry.

Regards

**Spiro Stavis | Director City Planning**  
**City of Canterbury 137 Beamish St Campsie NSW 2194**  
**T: 9789 9487 | F: 9789 1542 | [spiros@canterbury.nsw.gov.au](mailto:spiros@canterbury.nsw.gov.au)**  
**| [www.canterbury.nsw.gov.au](http://www.canterbury.nsw.gov.au)**

Sent from my iPhone

Sent from my iPhone

Hi Spiro  
51 Penshurst Rd Roselands re storm water pump out connection.  
Can you see how to help?  
Thanks  
Michael Hawatt



# *City of Canterbury*

*City of Cultural Diversity*

## Memo from Development Engineer

**TO:** Jade Shepherd  
**DATE:** 5 August 2015  
**FILE NO:** 690/51D  
**APPLICATION:** DA-41/2015  
**LOCATION:** 51 Penshurst Road, Roselands  
Demolition and construction of multi-dwelling development with basement parking

**I refer to the attached application for demolition and construction of multi-dwelling development with basement parking at 51 Penshurst Road, Roselands.**

Reference is made to Consent 41/2015 and to letters dated 22<sup>nd</sup> May 2015 and 28<sup>th</sup> July 2015 from Gus Fares Architects Pty Ltd and Talal El Badar respectively.

The most recent plans, specifications and details received by Council; drawing number 5516 of 7 sheets, Revision C, prepared by Global Project Engineers Pty Ltd do not satisfy the Deferred Commencement Conditions of the Consent primarily because a pumped system is proposed in lieu of the required gravity drainage system and as a consequence the drainage easement also required by the Deferred Commencement Conditions has not been obtained.

The proposed development must have gravity drainage in accordance with Clause 6.4.7(ii) and Table 6.4.2 of Appendix H of Canterbury Councils DCP 2012.

I therefore advise that the Deferred Commencement Conditions have not been satisfied.

As to the Applicants questioning of Council's acceptance of the Application without evidence of the ability to obtain an easement:

1. The Applicant presented drainage by gravity to an easement in the originally submitted stormwater plans.
2. Council made a request to produce documentary evidence of the ability to obtain an easement.

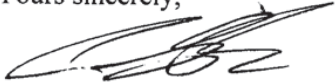


ANNEXURE 4

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3. The Applicant's Architect then specifically requested that "*we will accept a Deferred Commencement approval subject to acquisition of a water drainage easement from the down stream properties*" (letter dated 22 May 2015 from Gus Fares Architects Pty Ltd).

Yours sincerely,



Paul Richardson  
**DEVELOPMENT ENGINEER**

dwa1FD3

From: Spiros@canterbury.nsw.gov.au  
Sent: 27/10/2015 9:04:14 PM  
TO: Evar@canterbury.nsw.gov.au, Georgeg@canterbury.nsw.gov.au  
Subject: 51 Penshurst Rd Roselands - Cnllr Hawatt Request

George

For response please.

Regards

Spiro Stavis | Director City Planning  
City of Canterbury 137 Beamish St Campsie NSW 2194  
T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au |  
www.canterbury.nsw.gov.au

Sent from my iPhone

Hi Mike, I don't think he's telling you the whole story but I will advise you asap. Spiro

Hi Spiro  
Re 51 Penshurst Rd Roselands all info requested was sent 8 weeks ago and waiting.  
Any news?  
Michael

dwa7242

From: Spiros@canterbury.nsw.gov.au  
Sent: 24/07/2015 5:45:12 PM  
TO: Evar@canterbury.nsw.gov.au, Georgeg@canterbury.nsw.gov.au  
Subject: 23 Willeroo St Lakemba. - Councilor Hawatt Request

George

This is the one we spoke about today. Please prepare response as discussed.

Regards

Spiro Stavis | Director City Planning  
City of Canterbury 137 Beamish St Campsie NSW 2194  
T: 9789 9487 | F: 9789 1542 | spiros@canterbury.nsw.gov.au |  
www.canterbury.nsw.gov.au

Sent from my iPhone

Hi Spiro

Can you let me know the issues associated with a site at 23 Willeroo St Lakemba. I am told that its an isolated site with units on both sides. This should be assessed on its merit not on the current DCP with the setbacks which makes it unworkable.

Thanks

Michael Hawatt



## Re: CITY OF CANTERBURY ATS TALAL EL BADAR

ANNEXURE 7

**From:** Spiro Stavis <spiros@canterbury.nsw.gov.au>  
**To:** georgeg@canterbury.nsw.gov.au  
**Cc:** andrewh@canterbury.nsw.gov.au, evar@canterbury.nsw.gov.au  
**Date:** Fri, 22 Jan 2016 08:54:46 +1100

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Thanks George.

Danny McNamara was not privy to the meeting Andrew and I had and should not have been relied upon to give advice.

I still want to review before the s34 is terminated. Please instruct the lawyers.

Regards

**Spiro Stavis | Director City Planning**  
**City of Canterbury 137 Beamish St Campsie NSW 2194**  
**T: 9789 9487 | F: 9789 1542 | [spiros@canterbury.nsw.gov.au](mailto:spiros@canterbury.nsw.gov.au) | [www.canterbury.nsw.gov.au](http://www.canterbury.nsw.gov.au)**

Sent from my iPhone

On 21 Jan 2016, at 9:21 AM, George Gouvatsos <[Georgeg@canterbury.nsw.gov.au](mailto:Georgeg@canterbury.nsw.gov.au)> wrote:

Spiro

Please see below Andrew's response about this matter.

Following your and Andrew's Without Prejudice meeting with Talal on 5 January 2016, amended plans were provided that addressed some of the concerns, particularly in regard the "study nook" (due to its easy conversion into a third bedroom). These plans were reviewed by our planning consultant (Danny McNamara) who advised that while the plans do improve the building they do not go far enough to enter into a S34 Agreement. In light of these plans being the third set of Without Prejudice plans they've lodged it was agreed that we could not enter into a s34 Agreement and to proceed to a Hearing.

It should be noted that Talal has only engaged with us about making amendments to the design since he commenced proceedings and not during the DA stage, when we requested amended plans

Had Talal provided amended plans that addressed the issues raised by you and Andrew on 5 January 2016 and went some way to address our Contentions it is likely that we'd be in a stronger position to enter into a s34 Agreement.

George

"Spiro Stavis" <[spiros@canterbury.nsw.gov.au](mailto:spiros@canterbury.nsw.gov.au)> 20/01/2016 5:14 PM  
>>>

George

See below. Did they submit amended drawings after my meeting with them? If so I want to personally review before terminating the s34 conference. Instruct the solicitors accordingly.

Regards

**Spiro Stavis | Director City Planning**  
**City of Canterbury 137 Beamish St Campsie NSW 2194**

T: 9789 9487 | F: 9789 1542 | [spiros@canterbury.nsw.gov.au](mailto:spiros@canterbury.nsw.gov.au) | [www.canterbury.nsw.gov.au](http://www.canterbury.nsw.gov.au)

Sent from my iPhone

Begin forwarded message:

From: Talal El Badar <[talal@talal-elbadar.com](mailto:talal@talal-elbadar.com)>

Date: 20 January 2016 at 5:07:13 PM AEDT

To: Spiro Stavis <[spiros@canterbury.nsw.gov.au](mailto:spiros@canterbury.nsw.gov.au)>

Subject: Fwd: CITY OF CANTERBURY ATS TALAL EL BADAR

From: Maria Lopes On Behalf Of Peter Jackson

Sent: Tuesday, 19 January 2016 2:17 PM

To: '[vc@conomoslegal.com.au](mailto:vc@conomoslegal.com.au)' <[vc@conomoslegal.com.au](mailto:vc@conomoslegal.com.au)>

Subject: CITY OF CANTERBURY ATS TALAL EL BADAR

CITY OF CANTERBURY ATS TALAL EL BADAR

23 WILLEROO STREET, LAKEMBA

LAND AND ENVIRONMENT COURT PROCEEDINGS NO. 15/10718

Our ref PMJ:MML:150757

Good afternoon Vasili

I am instructed by Council to respond to your client's most recent set of "without prejudice" drawings as follows:

§ There has been a number of small changes to the plans promoting improvements to the design, including but not limited to landscaping being provided adjacent to the driveway entry and changes to the building material and modulation of the front façade.

§ Each of the above changes generally approve the appearance of the proposed development.

§ However, the modifications to the plans do not go far enough to address concerns previously raised throughout the s34 process regarding the scale of the proposed development and the inherent constraints of the isolated site.

§ The depth of the proposed building beyond the DCP maximum 25 metre footprint is unacceptable without the ability to provide deep soil courtyards to accommodate major canopy trees and thereby better articulate the building mass.

§ Additional landscaping/deep soil treatment is required when buildings exceed the 25m maximum footprint depth to a maximum permitted 35m building depth.

§ The requirement that a 2-storey building envelope be contained within the front 65% of the site only. Despite various suggestions that some variation may be

ANNEXURE 7

E15-0078-037-012-0001

permitted to transition between the footprint of the adjoining building forms no such modification has been proposed.

§ The ability to include deep soil planting, or any form of landscaping, is significantly compromised by the proposed basement parking configuration for development upon the site.

§ The large building footprint compromises side boundary setbacks and limits opportunities for landscaping, particularly along the southern side boundary.

In the circumstances, Council is of the opinion that the 'without prejudice' amended drawings are unacceptable and, accordingly, will be seeking to terminate the s34 process and have the matter listed for a defended hearing.

Regards,

Peter Jackson | Partner

**Re: Proceeding to a Hearing for 23 Willeroo St, Lakemba**

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**From:** Spiro Stavis <spiros@canterbury.nsw.gov.au>  
**To:** andrewh@canterbury.nsw.gov.au  
**Cc:** evar@canterbury.nsw.gov.au, georgeg@canterbury.nsw.gov.au  
**Date:** Fri, 22 Jan 2016 15:05:31 +1100

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I want to avoid a prolonged costly hearing if possible.

Regards

**Spiro Stavis | Director City Planning**  
**City of Canterbury 137 Beamish St Campsie NSW 2194**  
**T: 9789 9487 | F: 9789 1542 | [spiros@canterbury.nsw.gov.au](mailto:spiros@canterbury.nsw.gov.au) | [www.canterbury.nsw.gov.au](http://www.canterbury.nsw.gov.au)**

Sent from my iPhone

On 22 Jan 2016, at 2:23 PM, Andrew Hargreaves <[Andrewh@canterbury.nsw.gov.au](mailto:Andrewh@canterbury.nsw.gov.au)> wrote:

Hi Spiro,

Following my attendance and giving instructions at the S34 Conference on 4 Nov 2015, the applicant lodged Without Prejudice (WP) plans to us on 20 Nov 2015. Our planning consultant (Danny McNamara, who gave evidence at the s34 Conference) considered these WP plans and advised that while positive modifications were made they do not satisfy our Contentions.

A second set of WP plans were lodged with us on 7 Dec 2015. These plans (also reviewed by Daniel McNamara) again made positive improvements to the design but again left some Contentions outstanding. In response to this second set of WP plans, Talal el Badar was advised (via solicitors) on 21 Dec 2015 that without sufficient changes being made we may be unable to reach a S34 Agreement.

Following this you and I met with Talal and his designer on 5 Jan 2016. Attached are my minutes of that WP meeting. Following this meeting we received a third set of WP plans on 12 Jan 2016. Following these WP plans being provided to us and Daniel McNamara, I sent Daniel a copy of the minutes of our WP meeting to assist in his understanding of our position. Daniel responded on 19 Jan 2016 that while the applicant has continued (as part of the WP process) to make improvements to their design, there are several Contentions remaining outstanding. I agreed with this position and instructed Pikes to proceed to a Hearing.

Having not engaged with us as part of the DA process, the applicant has now, following their appeal, made three sets of WP plans which still do not satisfy our Contentions. A Hearing would seem the most timely way to resolve this matter.

Would you prefer that we hold off on proceeding to a Hearing to allow you to review the WP plans?

**Andrew Hargreaves | Team Leader - Development Assessment Operations**  
**City of Canterbury 137 Beamish St Campsie NSW 2194**  
**T: 9789 9515 | [andrewh@canterbury.nsw.gov.au](mailto:andrewh@canterbury.nsw.gov.au) | [www.canterbury.nsw.gov.au](http://www.canterbury.nsw.gov.au)**  
<mime-attachment>

>>> "Spiro Stavis" <[spiros@canterbury.nsw.gov.au](mailto:spiros@canterbury.nsw.gov.au)> 22/01/2016 >>>  
Thanks George.

Danny McNamara was not privy to the meeting Andrew and I had and should not have been relied upon to give advice.

I still want to review before the 34 is terminated. Please instruct the lawyers.

Regards

Spiro Stavis | Director City Planning

City of Canterbury [137 Beamish St Campsie NSW 2194](#)

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Sent from my iPhone

On 21 Jan 2016, at 9:21 AM, George Gouvatsos <[Georgeg@canterbury.nsw.gov.au](mailto:Georgeg@canterbury.nsw.gov.au)> wrote:

Spiro

Please see below Andrew's response about this matter.

Following your and Andrew's Without Prejudice meeting with Talal on 5 January 2016, amended plans were provided that addressed some of the concerns, particularly in regard the "study nook" (due to its easy conversion into a third bedroom). These plans were reviewed by our planning consultant (Danny McNamara) who advised that while the plans do improve the building they do not go far enough to enter into a S34 Agreement. In light of these plans being the third set of Without Prejudice plans they've lodged it was agreed that we could not enter into a s34 Agreement and to proceed to a Hearing.

It should be noted that Talal has only engaged with us about making amendments to the design since he commenced proceedings and not during the DA stage, when we requested amended plans

Had Talal provided amended plans that addressed the issues raised by you and Andrew on 5 January 2016 and went some way to address our Contentions it is likely that we'd be in a stronger position to enter into a s34 Agreement.

George

"Spiro Stavis" <[spiros@canterbury.nsw.gov.au](mailto:spiros@canterbury.nsw.gov.au)> 20/01/2016 5:14 PM  
>>>

George

See below. Did they submit amended drawings after my meeting with them? If so I want to personally review before terminating the s34 conference. Instruct the solicitors accordingly.

Regards

Spiro Stavis | Director City Planning

City of Canterbury 137 Beamish St Campsie NSW 2194

T: 9789 9487 | F: 9789 1542 | [spiros@canterbury.nsw.gov.au](mailto:spiros@canterbury.nsw.gov.au) | [www.canterbury.nsw.gov.au](http://www.canterbury.nsw.gov.au)

Sent from my iPhone

Begin forwarded message:

From: Talal El Badar [REDACTED]

Date: 20 January 2016 at 5:07:13 PM AEDT

To: Spiro Stavis <[spiros@canterbury.nsw.gov.au](mailto:spiros@canterbury.nsw.gov.au)>



Subject: Fwd: CITY OF CANTERBURY ATS TALAL EL BADAR

From: Maria Lopes On Behalf Of Peter Jackson

Sent: Tuesday, 19 January 2016 2:17 PM

To: '[vc@conomoslegal.com.au](mailto:vc@conomoslegal.com.au)' <[vc@conomoslegal.com.au](mailto:vc@conomoslegal.com.au)>

Subject: CITY OF CANTERBURY ATS TALAL EL BADAR

CITY OF CANTERBURY ATS TALAL EL BADAR

23 WILLEROO STREET, LAKEMBA

LAND AND ENVIRONMENT COURT PROCEEDINGS NO. 15/10718

Our ref PMJ:MML:150757

Good afternoon Vasili

I am instructed by Council to respond to your client's most recent set of 'without prejudice' drawings as follows:

§ There has been a number of small changes to the plans promoting improvements to the design, including but not limited to landscaping being provided adjacent to the driveway entry and changes to the building material and modulation of the front façade.

§ Each of the above changes generally approve the appearance of the proposed development.

§ However, the modifications to the plans do not go far enough to address concerns previously raised throughout the s34 process regarding the scale of the proposed development and the inherent constraints of the isolated site.

§ The depth of the proposed building beyond the DCP maximum 25 metre footprint is unacceptable without the ability to provide deep soil courtyards to accommodate major canopy trees and thereby better articulate the building mass.

§ Additional landscaping/deep soil treatment is required when buildings exceed the 25m maximum footprint depth to a maximum permitted 35m building depth.

§ The requirement that a 2-storey building envelope be contained within the front 65% of the site only. Despite various suggestions that some variation may be permitted to transition between the footprint of the adjoining building forms no such modification has been proposed.

§ The ability to include deep soil planting, or any form of landscaping, is significantly compromised by the proposed basement parking configuration for development upon the site.

§ The large building footprint compromises side boundary setbacks and limits opportunities for landscaping, particularly along the southern side boundary.

In the circumstances, Council is of the opinion that the 'without prejudice' amended drawings are unacceptable and, accordingly, will be seeking to terminate the s34 process and have the matter listed for a defended hearing.

Regards,

Peter Jackson | Partner

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## Planning Matters - 14 June 2016

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<b>ITEM 5.15</b>	<b>23 Willeroo Street, Lakemba - Demolition and Construction of Multi Dwelling Development with Basement Parking</b>
<b>FILE</b>	<b>DA-107/2015</b>
<b>ZONING</b>	<b>R4 High Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>13 March 2015</b>
<b>APPLICANT</b>	<b>Hamec Pty Ltd</b>
<b>OWNERS</b>	<b>Talal El Badar</b>
<b>AUTHOR</b>	<b>City Development</b>

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### ISSUE

- This Development Application seeks consent to demolish the existing structures on site and construct a two-storey multi-dwelling housing development comprising five x two bedroom dwellings over a single basement level car park.
- In August 2015 the applicant filed an appeal to the NSW Land and Environment Court on the basis of a deemed refusal, before we had an opportunity to complete an assessment of the proposal.
- The matter has been to a Section 34 Conciliation Conference and amended plans were lodged with us on four separate occasions, however none addressing our Contentions. Rather than proceeding to a Hearing it has been our preference to accept a fifth set of Without Prejudice plans, which are the subject of this report.
- The amended plans were renotified which attracted no submissions.
- The amended plans retain some non-compliances to our controls, namely with respect to site width, building depth and setbacks, deep soil zones and car parking. However, these non-compliances are “point encroachments” which do not represent an overdevelopment or cumulatively impact unreasonably on the local amenity.
- It is recommended council request that the Court awards us costs to cover our legal and consultant fees in defending the appeal and review of the amended plans.
- As council is not the determining authority for this matter (the Land and Environment Court is) it is recommended that the proposal be supported, subject to our recommended conditions of consent, for the Court to determine.

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### BACKGROUND

- On 13 March 2015, DA-107/2015 was lodged for the demolition of existing structures on site and the construction of a two-storey multi-dwelling housing development comprising five dwellings over a single basement level for car parking.

- On 15 July 2015, after carrying out a preliminary assessment, we requested amended plans. Issues raised included non-compliance with Canterbury Development Control Plan 2012 including the number of storeys, building depth, setbacks, private open space, landscaping, car parking, internal dwelling design, housing choice, privacy, vehicular access, waste and stormwater.
- On 18 August 2015, the applicant appealed to the Land and Environment Court against the deemed refusal of this development application.
- A conciliation conference under Section 34 of Land and Environment Act was held on 4 November 2015.
- On 25 November 2015 amended plans were received but did not satisfy our contentions, primarily in relation to unacceptable bulk, setbacks, private open space, landscaping, car parking, vehicular access, waste and stormwater.
- On 7 December 2015 amended plans were received but did not satisfy our contentions.
- On 5 January 2016 a Without Prejudice meeting took place where we advised the development should comply with our height and landscape controls, and setbacks should be improved (particularly the side boundary) to allow better compliance with landscaping controls.
- On 12 January 2016 amended plans were received but did not address our concerns and we requested the application be further amended.
- On 8 February 2016 amended plans were received and were the subject of a Without Prejudice meeting on 10 February 2016, where we advised the amendments did not adequately address our concerns and that further changes were required to reduce the northern pergola to unit 5 from a heavy masonry construction to a light weight structure.
- On 7 March 2016 amended plans and additional information were received which are the subject of this report. The amendments satisfactorily address the contentions of the court proceedings and allow us to recommend to the court that we now support the proposal.

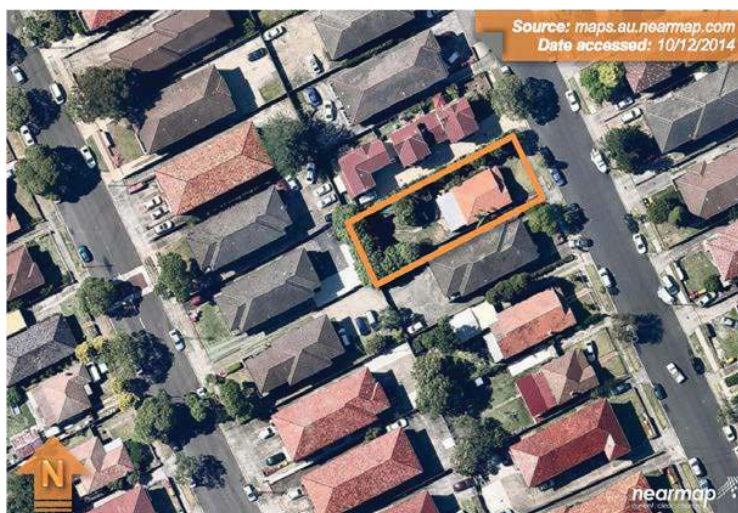
**Site Details**

The site at 23 Willeroo Street is located on the western side of Willeroo Street between Canterbury Road and Myee Street, Lakemba. The R4 High Density Residential zoned property has a frontage to Willeroo Street of 15.24m and an overall site area 650.3m<sup>2</sup>. The site is rectangular in shape with a depth of 42.67m.

The site has a cross fall of 600mm from the south-western corner to the north-eastern corner at the site's frontage to Willeroo Street. Currently on the site is a single storey brick dwelling and two detached outbuildings, which are proposed to be demolished to accommodate the multi-dwelling housing.

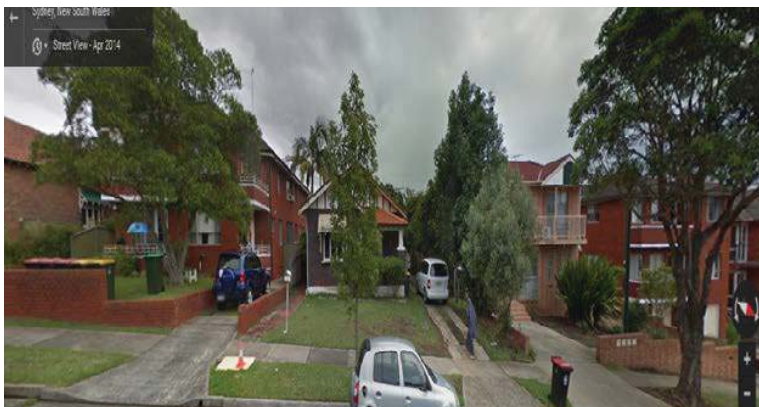


## ANNEXURE 9



Aerial view of site

The property to the north comprises a two storey town house and the property to the south comprises a two storey residential flat building (RFB). Opposite the site are two storey older style RFBs. To the west comprises a residential flat building.



Site, view from street showing existing dwelling to be demolished  
Adjoining townhouse at 21 Willeroo to the right, RFB at 25 Willeroo Street to the left



Street view of development opposite the site

**Proposal**

The amended proposal seeks consent to carry out the following works:

- Demolish all existing buildings on the site but retain significant trees at the rear and along the northern boundary of the site and a single street tree;

- Construct a two storey multi-dwelling housing development comprising five x two bedroom dwellings with basement car parking for six vehicles.

The following images depict the proposed south-eastern elevation facing Willeroo Street (left image) and the north-west elevation as viewed from the rear (right image). Both images show the development as currently proposed.



A more detailed breakdown of the proposal is provided in the following table:

Level	Proposed
Basement	<ul style="list-style-type: none"> <li>Car parking for six vehicles</li> <li>Bicycle parking rack</li> <li>Residential storage area for each unit</li> <li>Bins storage area</li> </ul>
Ground floor and first floor level	<ul style="list-style-type: none"> <li>Five x two bedroom dwellings, each comprising a master bedroom with ensuite bathroom, a study nook and a bathroom on the first floor. Open plan living, dining and kitchen, and a combined laundry and bathroom are located on the ground floor.</li> <li>Pedestrian and vehicular access</li> <li>Communal bin enclosure</li> <li>Landscaping</li> </ul>

### Statutory Considerations

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

- State Environmental Planning Policy 55 - Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013

## REPORT

### Assessment

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



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

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

Given the history of the use of the land for non-contaminating activities, namely residential purposes, it is unlikely that the subject site would be contaminated and as such, no further investigations are required to be undertaken. It is considered that the subject premises are suitable for the proposed end use.

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

This policy aims to facilitate the effective delivery of infrastructure, including providing appropriate consultation with relevant public authorities about certain development during the assessment process.

Willeroo Street is not a classified road and therefore does not require assessment under clause 102 of the SEPP. The subject site does not contain more than 75 dwellings and does not constitute 'traffic generating development' under Clause 104 of the SEPP.

Further, the proposal is not located adjacent to any easement for electricity purposes, does not include a pool, the placement of power lines underground or the penetration of ground within 2 metres of an underground electricity power line or an electricity distribution pole, or 10 metres from any part of an electricity tower, and does not trigger any of the requirements under this SEPP.

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

BASIX Certificate No. 600308M\_02 dated 18 February 2016 accompanies this application. The Certificate makes a number of energy and resource commitments in regard to landscaping, provision of a central hot water heating system, natural lighting and thermal comfort. These commitments have been shown on the DA plans and satisfy the requirements of the SEPP.

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

This site is zoned R4 High Density Residential under CLEP 2012. The controls applicable to this application are:

Standard	Requirement	Proposal	Complies
Zoning	R4 High Density	Multiple dwelling development permissible with consent	Yes
FSR	0.75:1	0.69:1	Yes
Building height	8.5m	7.1m	Yes

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

The proposed development performs against the requirements of CDCP 2012 as follows:

Standard	Requirement	Proposal	Complies
<b>Residential Neighbourhoods</b>			
Isolation of Sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed	Neighbouring properties will not be isolated and are capable of being reasonably developed	Yes
Minimum Frontage	20m	15.24m	No – see comment [1] below
Height	Any parts of a basement or sub-floor area that project more than 1m above ground level comprise a storey	No part of the basement projects more than 1m above existing ground level	Yes
	Basement parking suitability	Basement permitted for multi dwelling housing in R4 zone	Yes
	8.5m	7.1m	Yes
	7.2m	6.01m	Yes
Depth/ Footprint	25m (max)	32.2m	No – see comment [2] below
Setbacks	Front: 6m	6m	Yes
	Side: 4m	1.1m/2m ground floor south  5.9m ground floor north 4.15m first floor	No – see comment [3] below Yes Yes
	2m - side boundaries 5m - front & rear boundaries.	Southern (side) 1m Western (rear) 4.48m  Northern (side) 2.24m Western (front) 6.1m	No – see comment [4] below Yes Yes
Building separation	5m separation between buildings that are on one site	Building occupies one footprint	N/A
Deep soil	<ul style="list-style-type: none"> <li>- Maximises deep soil for canopy planting;</li> <li>- Gives ground floor dwellings access to ground level courtyards;</li> <li>- Allows ground floor dwellings to address the street.</li> </ul>	<ul style="list-style-type: none"> <li>- Maximises the amount of deep soil for canopy planting;</li> <li>- Gives ground floor dwellings access to ground level courtyards;</li> <li>- Allows front ground floor dwelling to address the street.</li> </ul>	Yes
<b>Design controls</b>			
Street Address	Clearly identifiable entries	Clear entries	Yes
	Easily identify the main entrance	Main common and alternate entries to ground floor where appropriate	Yes
	Living room windows should face the street	Windows facing street	Yes
	Provide sight lines between the site and the public domain.	No obstruction to views to the street	Yes

## ANNEXURE 9

Standard	Requirement	Proposal	Complies
Façade Design and Articulation	Avoid long flat walls; indentations minimum 1m to “break up” the building; use appropriate external finishes.	Indentations are 0.9m south  1.3m north Suitable external finishes are used.	No – see comment [5] below Yes Yes
Roof Design	No steep pitched roofs. Emphasise building articulation with shape and alignment of roof.	Shallow roof pitch proposed, roof design articulated by north and south facing smaller hipped sections	Yes
Roof form	Roof design should reflect the street address and orientation	Roof design relates to building and site orientation	Yes
Fences	Side fences 1.8m Fences forward of building line 1.2m. Screen walls around private open space may be up to 1.8m provided screens are 50% transparent.	1.8m side, rear fence 1.8m front fence for courtyard of Unit 1. Condition to comply with 50% transparency.	Yes Yes – subject to condition
Service and Utility Areas	Integrated into the design of development and are not visually obtrusive. Unscreened appliances not to be visible from the street, communal area or driveway on the site (air con. units behind balustrades, screened recesses for water heaters, meters in service cabinets).	Service and utility areas integrated into the design of the development (i.e. air con, hot water units adequately screened), garbage bins screened. A condition of consent to enforce this requirement.	Yes
Clothes Drying	Provide suitable clothes drying facilities	Clothes drying facilities provided and screened	Yes
Mailboxes	Locate mailboxes in an appropriate but easily accessible location	Mailboxes discretely located at the front of the property	Yes
<b>Performance controls</b>			
Visual Privacy	Locate and orientate new developments to maximise visual privacy between buildings – if preferred orientations are not achievable use high sill windows or <600mm wide	Privacy mitigation measures have been incorporated into the design or by locating window sills to 1.6m above floor level. South-facing windows serving stairways are elongated vertically but do not create privacy issues by virtue of wall indentations and transitory use of these internal stairs	Yes
Open Space	40m <sup>2</sup> per dwelling	All units achieve a private open space of least 40m <sup>2</sup>	Yes
Internal Dwelling Space and Design	Primary living areas and principal bedrooms minimum width 3.5m	All main bedrooms are 3.5m wide	Yes
	Secondary bedrooms minimum width 3m	All secondary bedrooms are 3m wide	
	Minimum 8m <sup>3</sup> storage per dwelling	11m <sup>3</sup> storage per dwelling provided in basement	Yes

Standard	Requirement	Proposal	Complies
Housing Choice	10% of dwellings to be provided as accessible or adaptable units to suit residents with special needs	One dwelling provided as accessible. Impose as a condition of consent.	Yes
<b>Climate and Resource Efficiency</b>			
Daylight and sun access	At least two hours of sunlight between 9.00am and 3.00pm on 21 June should be received daily by indoor living areas and at least half of the principal area to each dwelling's private open space.	All dwellings enjoy northern elevation living room windows that permit suitable solar penetration	Yes
	At least two 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 on adjoining property	All dwellings enjoy north facing private open space	Yes
Ventilation	Natural cross ventilation to 60% dwellings	100%	Yes
	Natural ventilation to 25% of kitchens	100%	Yes
<b>Crime Prevention</b>			
Avoid blind corners	Avoid blind corners in pathways, stairwells, hallways and car parks.	Blind corners avoided, unit 4 discrepancy identified	No – see comment [6] below
Entry Points	Provide clearly visible entries	Entries clearly visible	Yes
Fencing	Fencing to be open in design to maximise natural surveillance	Front fence is open style and will be conditioned to reinforce	Yes
Lighting	Entrances and pathways to be well-lit after dark	To be imposed as conditions of consent	Yes
<b>Parking and Vehicle Access</b>			
Resident Parking	1.2 spaces per 2 bed unit (six spaces total required including one to be common property)	Five spaces provided	No – see comment [7] below
Visitor Parking	One space per five dwellings	One space provided	Yes
Bicycle Parking	Residents: One space per five dwellings (one space required) Visitors: one space per ten dwellings (one space required)	Adequate space within the basement has been allocated to accommodate two bicycle parking spaces	Yes

As demonstrated in the table above, the proposal generally complies with the relevant controls in CDCP 2012 with the following exceptions that are discussed below.

[1] Minimum Frontage

The site has a frontage of 15.24m as opposed to the minimum requirement of 20m, which represents a 23.8% departure. This site is deemed to be isolated due to it being “sandwiched” between a two storey Residential Flat Building and a two storey multi-unit development and cannot be consolidated with either adjoining property to achieve the site width required by our DCP.

The objectives of this control are to ensure there is adequate garden area around dwellings and adequate vehicle access and parking. The proposal achieves the minimum requirements for private open space per dwelling, and satisfies the requirements for access and provides a high level of amenity for future occupants without unreasonable loss of amenity (such as from overlooking or overshadowing) to neighbours.

The proposal constitutes a reasonable response to the site with no detrimental impacts to adjoining properties or the streetscape.

[2] Depth/ Footprint

The proposal has a depth of 32.2m where a maximum 25m control applies. The objectives for depth/footprint are to promote improved levels of residential amenity and preserve sunlight, privacy and general amenity, and to ensure that new buildings have a scale and mass that is visually compatible with the desired character of the zone. It is noted that a depth of 35m would be permissible if 6m x 6m deep soil courtyards were provided along the side boundaries, which is not achieved by this development.

The dwellings comprise good residential amenity achieved by generous floor to ceiling heights at ground floor level, dual frontages to enhance solar access and cross-flow ventilation, and privacy is achieved using high sill level windows. The proposal also suitably preserves sunlight to adjoining properties. The scale and mass of the proposal is visually compatible with the surrounding built environment, and is easily absorbed into the existing urban fabric.

[3] Setbacks

The building is setback between 1.1m and 2m on the ground floor, and 2m to 2.4m on the first floor from the southern boundary, representing a departure of 40% to 72.5%. On the north side of the development the setbacks vary from 4.6m on the ground floor to 4.2m on the first floor, which comply. The objectives for setbacks seek to contribute to the green landscape by retaining adequate space for new trees and conserving any existing trees that are visually prominent, and to provide sufficient separation between buildings to limit the visual, environmental and the likely impacts of new development.

Although the setback of the building from the southern side boundary does not comply numerically, the objectives are achieved in that new planting (including Lilli Pillis obtaining a height of 6m) are to be established along this side boundary.

The setback of the proposal results in shadows being cast on the lower level of the adjoining property between 12pm and 3pm in mid-winter. However, the submitted shadow diagrams show a minimum three hours of sunlight is received to the north-facing windows on this property in mid-winter and comply with our solar access controls. In visual terms, the appearance of bulk of the proposal when viewed from the south is satisfactorily reduced by modulating the façade, and using fenestration to 'break up' the span of wall. The setback of the proposal satisfies the objectives of our setback controls.

[4] Deep Soil

The southern (side) and western (rear) basement setbacks do not achieve the minimum required deep soil zones. A 1m south side setback represents a 50% departure to the control, and the 4.48m western setback represents a 10.4% departure. At the rear of the property adequate landscaping is being retained so as to achieve a reasonable dominance of landscaping, and the new planting along the southern boundary also achieves reasonable provision of deep soil for Lilli Pillis to achieve a mature height of 6m. This landscaping will soften the appearance of the building and satisfies our controls for deep soil.

[5] Façade Design and Articulation

The proposed indentations along the north boundary comply at 1.3m, however are limited to 0.9m along the southern wall. Despite being less than the 1m guideline, the 0.9m indentation successfully modulates the façade vertically and produces a roofline variation which further modulates the form. The indentation is located centrally to the building which increases the visual effectiveness of this architectural measure, and overall successfully reduces the appearance of bulk.

[6] Avoid blind corners

The pedestrian entry from ground level to the basement accessed from the southern side of the building protrudes 0.6m from the main footprint of the building and provides a blind spot within the site where an intruder may hide and surprise an occupant arriving home. As the indentation is necessary for the purposes of architecturally modulating the building, a condition of consent is included to require a convex mirror within the landscape adjoining the front door of unit 4 so as to eliminate the blind corner.

[7] Resident Parking

The development provides basement parking for up to six cars – five resident parking spaces, (one space per dwelling) and one visitor space. The DCP requires six resident parking spaces (1.2 spaces per two bedroom dwelling) and one visitor car space. On this basis resident parking provisions are deficient by 16% by not providing an additional car space that would be allocated to common property for shared use by all residents.

Although it would be preferable that the proposal provides all six spaces, each dwelling would have one space which is considered a suitable quantum of parking for this small development. The site is within walking distance of public transport, being 1km from the train station (14 minutes walk) and some 200 metres from buses on Canterbury Road.

While it remains open to us to stay opposed to this development based on this non-compliance with our DCP, our successful defence on this ground alone is considered difficult.

**Part 6.4 – Development Engineering Flood and Stormwater**

The stormwater plan submitted with the application has been assessed by our Development Engineer and no objection was raised subject to conditions being attached to any consent granted.



**Part 6.6 – Landscaping**

The application has been reviewed by our Landscape Architect and was found to satisfy the requirements of Part 6.6 of the CDCP 2012. Conditions relating to landscaping have been recommended.

**Part 6.7 – Preservation of trees and vegetation**

Our Landscape Architect has assessed the proposal in relation to all trees to be retained (trees numbered 7 to 10 and 12 to 16 along the northern boundary and rear of the site respectively), and the street tree, and has placed conditions regarding their protection during the course of construction.

**Part 6.8 – Vehicle Access and Parking**

The quantum of parking on site has been addressed in the Residential Neighbourhoods section of this report and is considered to be satisfactory.

**Part 6.9 – Waste Management**

The application has been reviewed by our Waste Services Coordinator and was found to satisfy the requirements of Part 6.9 of the CDCP 2012.

- **Canterbury Development Contributions Plan 2013**

The proposal seeks consent to demolish a dwelling house and erect five two bedroom units. These new dwellings attract a development contribution of \$49,847.13. A condition of consent will apply for these fees to be paid.

**Other Considerations**

- **National Construction Code**

The development application has been reviewed and assessed by our Building Officer who has raised no objection to the proposal subject to appropriate conditions being imposed, including that full compliance with the National Construction Code is achieved.

- **Proposed Excavation Works**

The proposed development involves excavation of approximately 4m and construction works in close proximity to the neighbouring property to the south. It is recommended that a condition be imposed that requires the submission of a report by an accredited engineer detailing the structural adequacy of the adjoining property at 25 Willeroo Street to withstand the excavation works proposed.

An additional condition requiring the applicant to provide a dilapidation report for the adjoining properties (21 Willeroo Street and 25 Willeroo Street) prior to the issue of the Construction Certificate is also recommended. Should any damage to adjoining properties result from the proposed excavation works at the subject site, the applicant will be required to rectify all damages.

- **Sediment and Erosion Control**

Standard conditions are 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.

- **Likely Impacts from the Development**

The development itself is reasonable and does not pose a negative impact onto the local environment. However, as there are a number of point encroachments beyond our controls, particularly with regard to building setback, consideration should be given as to the impact this proposal may have on the local amenity, particularly with regard to overlooking and overshadowing.

Despite these non-compliances the building is designed in such a way that the shadow it casts onto the southern adjoining property still allows the neighbour to enjoy good access to mid-winter sun. The first floor is occupied by bedrooms, which are not considered to be habitable rooms, and there are no balconies that overlook the neighbours property.

Given the overall treatment of the building its impact, despite some non-compliance from our DCP, is reasonable.

- **Suitability of the site for this development**

The site is located within a high density residential zone. The proposed development is permissible in the subject site's current zoning. The proposal has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act, 1979 and, as demonstrated throughout this report, despite some departures from our DCP, does not represent an unreasonable loss of amenity to neighbours. The application has been assessed by our officers and the issues the original design posed have now been satisfied by way of amended plans to the extent that the proposal is now worthy of support. Despite the narrow site width and minor non-compliances with some of our controls, the overall design response is suitable for this site.

- **The Public Interest**

The public interest was taken into consideration whilst assessing this development application. It is considered that the current proposal, subject to conditions, will not have a negative impact on the residential amenity of the neighbourhood and is therefore considered to be acceptable.

**Notification**

The development application was notified to all adjoining land owners and occupiers in accordance with Part 7 of the Canterbury Development Control Plan 2012 and no submissions were received. Following the appeal being lodged with Land and Environment Court and the submission to us of this current version of amended plans, the amended development was renotified. During this renotification period no submissions were received.

**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 codes and policies.

The development application has been "deemed refused" by the applicant and is the subject of an appeal to the Land and Environment Court. We have engaged in a Conciliation Conference as part of the appeal and the applicant has provided amended "without prejudice" plans, which are the subject of this report.

Our Local Environmental Plan permits this type of development in the zone and the amended design is broadly consistent with our Development Control Plan, though some departures are sought. These departures do not represent an unreasonable loss of amenity to either future occupants of the development or to neighbours. In this regard the proposal is considered to be a suitable development for the site.

While it remains open to us to stay opposed to this development based on its minor departures from our Development Control Plan, our successful defense of the appeal on these grounds would be difficult.

It is recommended that we support the current design and resolve to enter into a S34 Agreement with the applicant permitting the Court to issue a consent subject to the following conditions.

## POLICY IMPACT

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The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

## FINANCIAL IMPACT OF RECOMMENDATIONS

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This report has no implications for the Budget.

## RECOMMENDATION

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- A. Council request the Land and Environment Court to award us costs.
- B. Council enter into a S34 Agreement with the applicant and the Court be advised that the following conditions of consent are to be imposed should development application DA-107/2015 be approved:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- 1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
  - 1.1. Details of:
    - Structural Engineering Plan
    - Building Specifications
    - Fire Safety Schedule
    - Landscape Plan
    - Hydraulic Plan
    - Firewall Separation
    - Soil and Waste Management Plan
    - BASIX Certification
    - Ventilation of basement in accordance with AS 1668.2
    - One dwelling being made adaptable
  - 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
Section 94 Contributions	\$49,847.13
Certificate Registration Fee	\$36.00
Long Service Levy	\$4503.45

## ANNEXURE 9

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

Construction Certificate Application Fee	\$5,024.00
Inspection Fee	\$1,785.00
Occupation Certificate Fee	\$492.00

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

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

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

Note 4: Section 94 contribution payments are payable by cash, bank cheque, or EFTPOS.

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

## BEFORE COMMENCING THE DEVELOPMENT

2. Before the erection of any building in accordance with this Development Consent;
  - 2.1. detailed plans and specifications of the building must be endorsed with a Construction Certificate by the Council or an Accredited Certifier, and
  - 2.2. you must appoint a Principal Certifying Authority (either Canterbury 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.

## INSURANCE

3. If it is intended to engage a builder or licensed contractor to do the work where it is valued over \$20,000 and is not a multi storey building then this person must take out home building insurance with a private insurer. The builder or person doing the work must also satisfy Council that they have taken out an insurance policy by producing evidence of the insurance certificate or other documentation. Further information on insurance requirements is available from the Department of Fair Trading (NSW Consumer Protection Agency) on 1800 802 055.

## SITE SIGNAGE

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

## DEMOLITION

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

- (a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
- (b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.
- (c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
- (d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
- (e) Demolition of buildings is only permitted during the following hours:  
7.00 a.m. – 5.00 p.m.                      Mondays to Fridays  
7.00 a.m. – 12.00 noon                      Saturdays  
No demolition is to be carried out on Sundays or Public Holidays.
- (f) Burning of demolished building materials is prohibited.
- (g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
- (h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
- (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
- (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
- (k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
- (l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).
- (m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
- (n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of Australian Standard AS2601-2001: Demolition of Structure. Note: For further advice you may wish to contact the Global Lead Advice and Support Service on 9716 0132 or 1800 626 086 (freecall), or at [www.lead.org.au](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

6. The development being carried out in accordance with the following plans, specifications and details except where amended by the conditions specified in this Notice.

Drawing No.	Revision No.	Prepared By	Dated	Date Received
14-131 Sheet No 01	F	Hamec	February 2016	7 March 2016
14-131 Sheet No 02	F	Hamec	February 2016	7 March 2016
14-131 Sheet No 03	F	Hamec	February 2016	7 March 2016
14-131 Sheet No 11	F	Hamec	February 2016	7 March 2016
14-131 Sheet No 12	F	Hamec	February 2016	7 March 2016
C01-A	C	Leading Engineers	25 February 2016	7 March 2016
C02-A	C	Leading Engineers	25 February 2016	7 March 2016
C03-A	C	Leading Engineers	25 February 2016	7 March 2016
LD 01	C	Kerrie Allsop	February 2016	7 March 2016

- 6.1. The northern pergolas must be a light weight (eg: timber) structure and not masonry. Details must be shown on the Construction Certificate plans.
- 6.2. Fences within the front boundary must not exceed 1.2 metres, except the screen wall for the courtyard for Unit 1 which may be up to 1.8 metre high provided it incorporates screens with 50% transparency.
7. The existing boundary treatment between the subject site and the adjoining properties is to be retained, or replaced (if damaged during the construction process) at the applicant's expense. Any repairs or replacement must be made before the issue of any occupation certificate. Any damage caused during the works period is to be made good within 24 hours of damage.
8. 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. The amount of the contribution (as at the date of this consent) has been assessed as \$49,847.13. The amount payable is based on the following components:

Contribution Element	Contribution
• Community Facilities	\$4,508.85
• Open Space and Recreation	\$44,068.57
• Plan Administration	\$1,269.71

Note: The contributions payable will be adjusted, at the time of payment, to reflect Consumer Price Index increases which have taken place since the development application was determined. The contribution is to be paid to Council in full prior to the release of the Construction Certificate, (or for a development not involving building work, the contribution is to be paid to Council in full before the commencement of the activity on the site) in accordance with the requirements of the Contributions Plan.

9. Six (6) off-street car spaces and two (2) bicycle parking spaces being provided in accordance with the submitted plans. This will comprise:



- 9.1. Five (5) residential car parking spaces
- 9.2. One (1) visitor car parking space
- The car spaces being allocated and marked according to this requirement. The carpark layout must respect the above allocation.
10. Signage being erected for visitor car spaces to notify and allow people to use the designated spaces.
11. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
12. 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.
13. All building construction work must comply with the National Construction Code.
14. 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.
15. Provide a Surveyor's Certificate to the Principal Certifying Authority indicating the finished floor level and roof to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
16. 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."
17. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
18. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
19. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
20. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.
21. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
22. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
23. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.

24. 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. 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.

## DILAPIDATION AND EXCAVATION

26. A report prepared by an accredited engineer including the method of shoring during excavation and detailing the structural adequacy of No. 25 Willeroo Street to withstand the excavation works shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.
27. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property, all necessary repair or suitable agreement for such repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner prior to the issue of an Occupation Certificate.
28. The applicant shall prepare a Dilapidation Report/photographic survey prepared by an appropriately qualified consultant for adjoining properties, 21 and 25 Willeroo Street, Lakemba detailing the physical condition of the property, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items and be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. On completion of the excavation and building works and prior to the issue of an Occupation Certificate, a certificate from an appropriately qualified engineer stating to the effect that no damage has resulted to adjoining properties is to be submitted to the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as practical and prior to occupation of the development. All costs associated in achieving compliance with this condition shall be borne by the person entitled to act on this consent.
29. Any new information which comes to light during demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the Principal Certifying Authority immediately.

## CRIME PREVENTION

30. Convex mirrors are to be provided to eliminate the blind corner leading to the front door of unit 4.
31. The basement car park shall be painted the colour 'white'. This measure will increase lux levels and light reflection.
32. The site shall 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.
33. The storage units located in the vicinity of the car spaces shall 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.

34. Directional signage shall be provided throughout the development. The signage should be clear, legible and useful, to aid people in finding their way throughout the area.

## WASTE

35. The waste bin storage area is to be designed and constructed in accordance with clause 6.9.4.1 and 6.9.4.2 of Canterbury Development Control Plan 2012.
36. 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.

## ENGINEERING

37. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The submitted design must be amended to make provision for the following:
- 37.1. The design must be generally in accordance with the plans, specifications and details received by Council on 7 March 2016; project number 1441 drawing number C03-A and C02-A revision C, prepared by Leading Engineers.
- 37.2. The Onsite Detention System volume must be increased by 10%, and the Orifice plate opening must not exceed 75mm Diameter.
- 37.3. Stormwater system must be designed to accommodate subsurface stormwater runoff from subsoil, seepage, and soil retaining structures.
- 37.4. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
- 37.5. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- 37.6. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
38. 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.
39. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Part 6.4 of Canterbury Council's DCP 2012.
40. The street alignment levels are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, carparks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
41. The submitted layout plans provide an option that potentially utilises neighbouring properties and the roadway for support. The legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged Canterbury 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.

Where temporary anchors are proposed to be used in Willeroo Street an Application must be made to Canterbury City Council for approval under Section 138 of the Roads Act 1993, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- 41.1. 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.
- 41.2. Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
- 41.3. The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
42. Where rock anchors or other temporary retaining measures are to encroach on adjoining properties, including the roadway, the Principal Certifying Authority must ensure that the permission of the relevant landowner has been obtained. In this regard a copy of the owner's consent for private property and Section 138 Approval pursuant to the Roads Act for roads must be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.
43. The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities". In this regard, the submitted plans must be amended to address the following issues:
  - 43.1. The finished levels within the property must be adjusted to ensure that the levels at the boundary comply with those issued by Council for the full width of the vehicle crossing. The longitudinal profile must comply with the Ground Clearance requirements of *AS/NZS 2890.1-2004*.
  - 43.2. The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
  - 43.3. A minimum of 2200mm Headroom must be provided throughout the access and parking facilities. Note that Headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
  - 43.4. All gates if any must be inward opening within its own boundary, and must not obstruct the pedestrian pathway.
  - 43.5. A longitudinal section along the worst case outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
  - 43.6. The maximum gradient of the associated access driveway across a property line shall be 1:20 (5%) for at least 6m as per Australian Standard AS 2890.1 - 2004 Section 3.3(a). Note: the proposed driveway entry must maintain the existing boundary level.
  - 43.7. The Engineer must certify that the access and parking complies with current Australian Standards including AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking, AS 2890.2-2002 Parking Facilities - Off-Street commercial vehicles facilities, AS/NZS 2890.6-2009 Off-street parking for people with disabilities and AS 2890.3-1993 Parking Facilities - Bicycle parking facilities.

The design must be certified by a suitably qualified Civil Engineer with NER registration with the Institution of Engineers Australia and be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

ENGINEERING - PRIOR TO AND DURING CONSTRUCTION

44. 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.
45. If Groundwater is encountered, it must not be captured by the drainage system of the basement. In this regard the basement must be tanked to at least 1000 mm above measured groundwater levels.
46. A Work Permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's City Works Department for details.
47. A full width heavy duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 3.7metres at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
48. Driveways, parking and service areas are to be constructed or repaired in accordance with the appropriate AUS-SPEC #1 Specifications: C242-Flexible Pavements; C245-Asphaltic Concrete; C247-Mass Concrete Subbase; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.

## ENGINEERING - PRIOR TO OCCUPATIONAL CERTIFICATE

49. That the stormwater system be constructed in general, in accordance with the plans, specifications and details submitted with the Construction Certificate and as amended by the following conditions.
50. Certification from an accredited engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
51. A Works-as-Executed plan must be submitted to Canterbury 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 1st March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.
52. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that Operation and Management Plans has been prepared and implemented for the OSD and basement pump out facilities. The Plan must set out the following at a minimum:
  - 52.1. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
  - 52.2. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

The Plan must be prepared by a suitably qualified professional and provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.
53. The Operation and Management Plan for the OSD and basement pump out facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.



## PUBLIC IMPROVEMENTS

54. All redundant vehicular crossings shall be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
- 54.1. The reconstruction of the kerb and gutter along all areas of the site fronting Willeroo Street is required. Work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
- 54.2. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting Willeroo 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".

## LANDSCAPING

55. The landscaping must be completed according to the submitted landscape plan (drawn by Kerrie Allsop Landscape Design, drawing no. HA/14 LD01 issue C, submitted to council on 7 March 2016) except where amended by the conditions of consent.
56. 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).
57. 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.
58. 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.
59. The existing street tree is to be retained and protected during demolition and construction. A tree protection zone (TPZ) of 2 metre radius (measured from the edge of the tree trunk) must be observed. A tree protection barrier is to be erected around the perimeter of the TPZ prior to the commencement of any site works. This barrier must be a minimum 1800mm high chain link fabric (with standard 50mm pitch) on 2400mm star pickets driven 600mm into the ground so that the fencing cannot be breached. A 600mm x 450mm prohibition sign complying with AS1319, and stating 'TREE PROTECTION ZONE – KEEP OUT' must be attached to the barrier. The barrier is to be well maintained during construction. No building material storage or construction activity shall be allowed to encroach within this TPZ.
60. Existing property trees 7 – 10 and 12 - 16 as notated on the Landscape Plan are to be retained and protected during construction. A suitable 1 metre radius protective barrier must be erected around each tree's trunk prior to construction. This barrier must be well maintained during construction. No building material or construction activity shall be allowed to encroach within this tree protection zone.
61. All other existing property trees may be removed to accommodate construction.

62. The proposed planting to all podium levels should comply with the following as required in the CDCP 2012 Part 6.6: Landscape: Raised planters:
- Use masonry or concrete construction;
  - Provide drainage for each planter box, and coordinate drainage details with hydraulics plan; and
  - Provide waterproofing to each planter box.
- Minimum soil depth:
- 100-300mm for turf
  - 300-450mm for groundcovers;
  - 500-600mm for small shrubs;
  - 600-750mm for medium shrubs;
  - 750-900mm for small trees with approximate soil area of 3.5m x 3.5m;
  - 1000mm for medium trees with approximate soil area of 6m x 6m; and
  - 1300mm depth for large trees with approximate soil area of 10m x 10m.
63. An amended landscape plan to address the issues outlined below is to be submitted to Council or the certifier prior to the issue of the Construction Certificate:
- 63.1. Amend the plan so that all new canopy trees are a minimum 75litre pot size and are planted in garden beds rather than turfed areas.
- 63.2. The landscape plan is to include adequate soil depths to all on podium beds and raised planter boxes and provide this information on the plan.
- Provide a Construction Details including:
- 63.3. Standard constructions and details drawings (eg. Sections through mass planting beds, tree planting and mulching details, paths, steps and retaining walls and planting on podium)
- 63.4. Detailing and location of edge treatments (e.g. Concrete, brick, timber).
- Provide a Maintenance Schedule including:
- 63.5. replacement strategy for failures in plant materials and built works,
- 63.6. maintenance schedule for watering, weeding and fertilizing during the establishment period
- 63.7. A maintenance period of 12 months is to be specified for this application. During this maintenance period, the landscaping must be maintained in accordance with the details specified on the submitted landscape plan.

## SYDNEY WATER REQUIREMENTS

64. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. For help either visit Sydney Water's web site at [www.sydneywater.com.au/BuildingDeveloping/DevelopingYourLand](http://www.sydneywater.com.au/BuildingDeveloping/DevelopingYourLand), Water Servicing Coordinators, or telephone 13 20 92. Following application, a "Notice of Requirements" will be forwarded detailing water and sewage extensions to be built 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

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

65.3. 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

65.4. prior to covering any stormwater drainage connections, and

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

66. 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

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

WE ALSO ADVISE:

68. This consent does not permit the subdivision of the property, as it was not proposed as part of the Development Application. The subdivision of the development must be the subject of a fresh Development Application.
69. This application has been assessed in accordance with the National Construction Code.
70. 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.
71. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
  - Air handling systems
  - Final fire safety certificate
  - Glazing
  - Waterproofing
  - BASIX completion
72. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
73. 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.
74. 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.
75. Compliance with the National Construction Code does not guarantee protection from prosecution under "The Disability Discrimination Act". Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021 199.
76. 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.

## ATTACHMENTS

[Click here for attachments](#)

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- A. Locality Plan
- B. Elevations

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**EXTRAORDINARY COUNCIL  
RESOLUTION - 14 JUNE 2016**

**ITEM 5.15                      23 WILLEROO STREET, LAKEMBA - DEMOLITION AND CONSTRUCTION OF MULTI  
DWELLING DEVELOPMENT WITH BASEMENT PARKING**

**(33)**                      MOVED AND RESOLVED BY THE ADMINISTRATOR

That

- A. Council request the Land and Environment Court to award us costs.
- B. Council enter into a S34 Agreement with the applicant and the Court be advised that the following conditions of consent are to be imposed should development application DA-107/2015 be approved:

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
  - 1.1. Details of:
    - Structural Engineering Plan
    - Building Specifications
    - Fire Safety Schedule
    - Landscape Plan
    - Hydraulic Plan
    - Firewall Separation
    - Soil and Waste Management Plan
    - BASIX Certification
    - Ventilation of basement in accordance with AS 1668.2
    - One dwelling being made adaptable
  - 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
Section 94 Contributions	\$49,847.13
Certificate Registration Fee	\$36.00
Long Service Levy	\$4,503.45
  - 1.4. If you appoint Council as your Principal Certifying Authority, the following fees are payable:
 

Construction Certificate Application Fee	\$5,024.00
Inspection Fee	\$1,785.00
Occupation Certificate Fee	\$492.00

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

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Service Payments Act 1986).

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

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

Note 4: Section 94 contribution payments are payable by cash, bank cheque, or EFTPOS.

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

**BEFORE COMMENCING THE DEVELOPMENT**

2. Before the erection of any building in accordance with this Development Consent;
  - 2.1. detailed plans and specifications of the building must be endorsed with a Construction Certificate by the Council or an Accredited Certifier, and
  - 2.2. you must appoint a Principal Certifying Authority (either Canterbury 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.

**INSURANCE**

3. If it is intended to engage a builder or licensed contractor to do the work where it is valued over \$20,000 and is not a multi storey building then this person must take out home building insurance with a private insurer. The builder or person doing the work must also satisfy Council that they have taken out an insurance policy by producing evidence of the insurance certificate or other documentation. Further information on insurance requirements is available from the Department of Fair Trading (NSW Consumer Protection Agency) on 1800 802 055.

**SITE SIGNAGE**

4. A sign shall be erected at all times on your building site in a prominent position stating the following:
  - 4.1. The name, address and telephone number(s) of the principal certifying authority for the work, and
  - 4.2. The name of the person in charge of the work site and a telephone



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number at which that person may be contacted during and outside working hours, and

- 4.3. That unauthorised entry to the work site is prohibited.

**DEMOLITION**

5. Demolition must be carried out in accordance with the following:
- (a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
  - (b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.
  - (c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
  - (d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
  - (e) Demolition of buildings is only permitted during the following hours:

7.00 a.m. – 5.00 p.m.	Mondays to Fridays
7.00 a.m. – 12.00 noon	Saturdays

No demolition is to be carried out on Sundays or Public Holidays.
  - (f) Burning of demolished building materials is prohibited.
  - (g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
  - (h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
  - (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
  - (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
  - (k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
  - (l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).

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

**GENERAL**

6. The development being carried out in accordance with the following plans, specifications and details except where amended by the conditions specified in this Notice.

<b>Drawing No.</b>	<b>Revision No.</b>	<b>Prepared By</b>	<b>Dated</b>	<b>Date Received</b>
14-131 Sheet No 01	F	Hamec	February 2016	7 March 2016
14-131 Sheet No 02	F	Hamec	February 2016	7 March 2016
14-131 Sheet No 03	F	Hamec	February 2016	7 March 2016
14-131 Sheet No 11	F	Hamec	February 2016	7 March 2016
14-131 Sheet No 12	F	Hamec	February 2016	7 March 2016
C01-A	C	Leading Engineers	25 February 2016	7 March 2016
C02-A	C	Leading Engineers	25 February 2016	7 March 2016
C03-A	C	Leading Engineers	25 February 2016	7 March 2016
LD 01	C	Kerrie Allsop	February 2016	7 March 2016

- 6.1. The northern pergolas must be a light weight (eg: timber) structure and not masonry. Details must be shown on the Construction

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Certificate plans.

- 6.2. Fences within the front boundary must not exceed 1.2 metres, except the screen wall for the courtyard for Unit 1 which may be up to 1.8 metre high provided it incorporates screens with 50% transparency.
7. The existing boundary treatment between the subject site and the adjoining properties is to be retained, or replaced (if damaged during the construction process) at the applicant's expense. Any repairs or replacement must be made before the issue of any occupation certificate. Any damage caused during the works period is to be made good within 24 hours of damage.
8. 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. The amount of the contribution (as at the date of this consent) has been assessed as \$49,847.13. The amount payable is based on the following components:

Contribution Element	Contribution
• Community Facilities	\$4,508.85
• Open Space and Recreation	\$44,068.57
• Plan Administration	\$1,269.71

Note: The contributions payable will be adjusted, at the time of payment, to reflect Consumer Price Index increases which have taken place since the development application was determined. The contribution is to be paid to Council in full prior to the release of the Construction Certificate, (or for a development not involving building work, the contribution is to be paid to Council in full before the commencement of the activity on the site) in accordance with the requirements of the Contributions Plan.

9. Six (6) off-street car spaces and two (2) bicycle parking spaces being provided in accordance with the submitted plans. This will comprise:
- 9.1. Five (5) residential car parking spaces
- 9.2. One (1) visitor car parking space
- The car spaces being allocated and marked according to this requirement. The carpark layout must respect the above allocation.
10. Signage being erected for visitor car spaces to notify and allow people to use the designated spaces.
11. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
12. 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.
13. All building construction work must comply with the National Construction Code.
14. Provide a Surveyor's Certificate to the Principal Certifying Authority prior

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- 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.
15. Provide a Surveyor's Certificate to the Principal Certifying Authority indicating the finished floor level and roof to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
16. 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."
17. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
18. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
19. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
20. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.
21. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
22. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
23. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
24. 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. A single entry/exit point must be provided to the site which will be

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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.

**DILAPIDATION AND EXCAVATION**

26. A report prepared by an accredited engineer including the method of shoring during excavation and detailing the structural adequacy of No. 25 Willeroo Street to withstand the excavation works shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.
27. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property, all necessary repair or suitable agreement for such repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner prior to the issue of an Occupation Certificate.
28. The applicant shall prepare a Dilapidation Report/photographic survey prepared by an appropriately qualified consultant for adjoining properties, 21 and 25 Willeroo Street, Lakemba detailing the physical condition of the property, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items and be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. On completion of the excavation and building works and prior to the issue of an Occupation Certificate, a certificate from an appropriately qualified engineer stating to the effect that no damage has resulted to adjoining properties is to be submitted to the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as practical and prior to occupation of the development. All costs associated in achieving compliance with this condition shall be borne by the person entitled to act on this consent.
29. Any new information which comes to light during demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the Principal Certifying Authority immediately.

**CRIME PREVENTION**

30. Convex mirrors are to be provided to eliminate the blind corner leading to the front door of unit 4.
31. The basement car park shall be painted the colour 'white'. This measure will increase lux levels and light reflection.
32. The site shall 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.
33. The storage units located in the vicinity of the car spaces shall be fully enclosed and non-visible. This measure will deter potential offenders from

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breaking in as they are unable to see what contents (reward) is inside the storage unit.

34. Directional signage shall be provided throughout the development. The signage should be clear, legible and useful, to aid people in finding their way throughout the area.

**WASTE**

35. The waste bin storage area is to be designed and constructed in accordance with clause 6.9.4.1 and 6.9.4.2 of Canterbury Development Control Plan 2012.
36. 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.

**ENGINEERING**

37. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The submitted design must be amended to make provision for the following:
- 37.1. The design must be generally in accordance with the plans, specifications and details received by Council on 7 March 2016; project number 1441 drawing number C03-A and C02-A revision C, prepared by Leading Engineers.
- 37.2. The Onsite Detention System volume must be increased by 10%, and the Orifice plate opening must not exceed 75mm Diameter.
- 37.3. Stormwater system must be designed to accommodate subsurface stormwater runoff from subsoil, seepage, and soil retaining structures.
- 37.4. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
- 37.5. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- 37.6. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
38. 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.
39. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Part 6.4 of Canterbury Council's DCP 2012.
40. The street alignment levels are to be obtained by payment of the



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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.

41. The submitted layout plans provide an option that potentially utilises neighbouring properties and the roadway for support. The legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged Canterbury 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. Where temporary anchors are proposed to be used in Willeroo Street an Application must be made to Canterbury City Council for approval under Section 138 of the Roads Act 1993, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:
- 41.1. 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.
  - 41.2. Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
  - 41.3. The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
42. Where rock anchors or other temporary retaining measures are to encroach on adjoining properties, including the roadway, the Principal Certifying Authority must ensure that the permission of the relevant landowner has been obtained. In this regard a copy of the owner's consent for private property and Section 138 Approval pursuant to the Roads Act for roads must be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.
43. The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities". In this regard, the submitted plans must be amended to address the following issues:
- 43.1. The finished levels within the property must be adjusted to ensure

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that the levels at the boundary comply with those issued by Council for the full width of the vehicle crossing. The longitudinal profile must comply with the Ground Clearance requirements of *AS/NZS 2890.1-2004*.

- 43.2. The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
- 43.3. A minimum of 2200mm Headroom must be provided throughout the access and parking facilities. Note that Headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
- 43.4. All gates if any must be inward opening within its own boundary, and must not obstruct the pedestrian pathway.
- 43.5. A longitudinal section along the worst case outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
- 43.6. The maximum gradient of the associated access driveway across a property line shall be 1:20 (5%) for at least 6m as per Australian Standard AS 2890.1 - 2004 Section 3.3(a). Note: the proposed driveway entry must maintain the existing boundary level.
- 43.7. The Engineer must certify that the access and parking complies with current Australian Standards including AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking, AS 2890.2-2002 Parking Facilities - Off-Street commercial vehicles facilities, AS/NZS 2890.6-2009 Off-street parking for people with disabilities and AS 2890.3-1993 Parking Facilities - Bicycle parking facilities.

The design must be certified by a suitably qualified Civil Engineer with NER registration with the Institution of Engineers Australia and be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

**ENGINEERING - PRIOR TO AND DURING CONSTRUCTION**

- 44. 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.
- 45. If Groundwater is encountered, it must not be captured by the drainage system of the basement. In this regard the basement must be tanked to at least 1000 mm above measured groundwater levels.
- 46. A Work Permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's City Works Department for details.
- 47. A full width heavy duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 3.7metres 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".

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48. Driveways, parking and service areas are to be constructed or repaired in accordance with the appropriate AUS-SPEC #1 Specifications: C242-Flexible Pavements; C245-Asphaltic Concrete; C247-Mass Concrete Subbase; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.

**ENGINEERING - PRIOR TO OCCUPATIONAL CERTIFICATE**

49. That the stormwater system be constructed in general, in accordance with the plans, specifications and details submitted with the Construction Certificate and as amended by the following conditions.
50. Certification from an accredited engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
51. A Works-as-Executed plan must be submitted to Canterbury 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 1st March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.
52. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that Operation and Management Plans has been prepared and implemented for the OSD and basement pump out facilities. The Plan must set out the following at a minimum:
- 52.1. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
- 52.2. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.
- The Plan must be prepared by a suitably qualified professional and provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.
53. The Operation and Management Plan for the OSD and basement pump out facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

**PUBLIC IMPROVEMENTS**

54. All redundant vehicular crossings shall be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
- 54.1. The reconstruction of the kerb and gutter along all areas of the site

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fronting Willeroo Street is required. Work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".

- 54.2. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting Willeroo 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".

LANDSCAPING

55. The landscaping must be completed according to the submitted landscape plan (drawn by Kerrie Allsop Landscape Design, drawing no. HA/14 LD01 issue C, submitted to council on 7 March 2016) except where amended by the conditions of consent.
56. 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).
57. 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.
58. 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.
59. The existing street tree is to be retained and protected during demolition and construction. A tree protection zone (TPZ) of 2 metre radius (measured from the edge of the tree trunk) must be observed. A tree protection barrier is to be erected around the perimeter of the TPZ prior to the commencement of any site works. This barrier must be a minimum 1800mm high chain link fabric (with standard 50mm pitch) on 2400mm star pickets driven 600mm into the ground so that the fencing cannot be breached. A 600mm x 450mm prohibition sign complying with AS1319, and stating 'TREE PROTECTION ZONE – KEEP OUT' must be attached to the barrier. The barrier is to be well maintained during construction. No building material storage or construction activity shall be allowed to encroach within this TPZ.
60. Existing property trees 7 – 10 and 12 - 16 as notated on the Landscape Plan

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are to be retained and protected during construction. A suitable 1 metre radius protective barrier must be erected around each tree's trunk prior to construction. This barrier must be well maintained during construction. No building material or construction activity shall be allowed to encroach within this tree protection zone.

61. All other existing property trees may be removed to accommodate construction.
62. The proposed planting to all podium levels should comply with the following as required in the CDCP 2012 Part 6.6: Landscape: Raised planters:
  - Use masonry or concrete construction;
  - Provide drainage for each planter box, and coordinate drainage details with hydraulics plan; and
  - Provide waterproofing to each planter box.

Minimum soil depth:

  - 100-300mm for turf
  - 300-450mm for groundcovers;
  - 500-600mm for small shrubs;
  - 600-750mm for medium shrubs;
  - 750-900mm for small trees with approximate soil area of 3.5m x 3.5m;
  - 1000mm for medium trees with approximate soil area of 6m x 6m; and
  - 1300mm depth for large trees with approximate soil area of 10m x 10m.
63. An amended landscape plan to address the issues outlined below is to be submitted to Council or the certifier prior to the issue of the Construction Certificate:
  - 63.1. Amend the plan so that all new canopy trees are a minimum 75litre pot size and are planted in garden beds rather than turfed areas.
  - 63.2. The landscape plan is to include adequate soil depths to all on podium beds and raised planter boxes and provide this information on the plan.

Provide a Construction Details including:

  - 63.3. Standard constructions and details drawings (eg. Sections through mass planting beds, tree planting and mulching details, paths, steps and retaining walls and planting on podium)
  - 63.4. Detailing and location of edge treatments (e.g. Concrete, brick, timber).

Provide a Maintenance Schedule including:

  - 63.5. replacement strategy for failures in plant materials and built works,
  - 63.6. maintenance schedule for watering, weeding and fertilizing during the establishment period
  - 63.7. A maintenance period of 12 months is to be specified for this application. During this maintenance period, the landscaping must be maintained in accordance with the details specified on the

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submitted landscape plan.

**SYDNEY WATER REQUIREMENTS**

64. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. For help either visit Sydney Water's web site at [www.sydneywater.com.au/BuildingDeveloping/DevelopingYourLand](http://www.sydneywater.com.au/BuildingDeveloping/DevelopingYourLand), Water Servicing Coordinators, or telephone 13 20 92. Following application, a "Notice of Requirements" will be forwarded detailing water and sewage extensions to be built 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**

65. Class 2, 3 or 4 Buildings
- 65.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 65.2. prior to covering any stormwater drainage connections, and
- 65.3. 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
- 65.4. prior to covering any stormwater drainage connections, and
- 65.5. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
66. 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**

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

**WE ALSO ADVISE:**

68. This consent does not permit the subdivision of the property, as it was not proposed as part of the Development Application. The subdivision of the development must be the subject of a fresh Development Application.
69. This application has been assessed in accordance with the National Construction Code.
70. 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



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- development.
71. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
  - Air handling systems
  - Final fire safety certificate
  - Glazing
  - Waterproofing
  - BASIX completion
72. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
73. 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.
74. 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.
75. Compliance with the National Construction Code does not guarantee protection from prosecution under "The Disability Discrimination Act". Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021 199.
76. 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.