



# **AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING**

**2 November 2020 - 6.00pm**

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## ORDER OF BUSINESS

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### APOLOGIES AND DECLARATIONS

### CONFIRMATION OF MINUTES OF PREVIOUS MEETING

#### CANTERBURY WARD

- 1**      **236-240 Georges River Road, Croydon Park**  
Demolition of existing structures and construction of a five storey shop top housing development with basement parking and associated Strata subdivision 3
- 2**      **253-255 Homer Street, Earlwood**  
Internal and external modification to existing commercial premises for use as a funeral home and associated signage 103

#### ROSELANDS WARD

- 3**      **310-312 King Georges Road, Beverly Hills**  
Construction of a three storey mixed development comprising one office premises and a 12 room boarding house over one storey of parking 147

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## Canterbury Bankstown Local Planning Panel - 02 November 2020

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<b>ITEM 1</b>	<b>236-240 Georges River Road, Croydon Park</b>
	<b>Demolition of existing structures and construction of a five storey shop top housing development with basement parking and associated Strata subdivision</b>
<b>FILE</b>	<b>DA-578/2016 – Canterbury</b>
<b>ZONING</b>	<b>B2 Local Centre and SP2 Infrastructure</b>
<b>DATE OF LODGEMENT</b>	<b>15 December 2016</b>
<b>APPLICANT</b>	<b>Urbanlink Architects</b>
<b>OWNERS</b>	<b>Georges River Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$19,663,360.00</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

This matter is reported to Council's Local Planning Panel as the application seeks consent for a development for which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies and is four or more storeys in height, the design seeks a proposed variation to the building height exceeding 10% above the development standard, and more than 10 unique submissions were received during the advertising periods (collectively).

Development Application No. 578/2016 proposes

The application has been assessed against the relevant planning legislation, including the following:

- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55).
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65).
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007).
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX).
- Canterbury Local Environmental Plan 2012 (CLEP 2012).
- Canterbury Development Control Plan 2012 (CDCP 2012).

Based on Council's assessment, the proposal complies with the relevant controls with the exception of the following:

- Clause 4.3 – Height of Buildings within CLEP 2012. The proposed variation is 10.3%. The applicant has requested the variation on a number of grounds, particularly those found in Clause 4.6 of the CLEP. Council has considered this request and considers the variation worthy of support.
- Commercial tenancy depth, front setback and overshadowing controls outlined within CDCP 2012.

For the reasons outlined within the assessment report, variation to the abovementioned controls is considered acceptable on merit in this circumstance.

The application was advertised twice during the assessment phase for a period of 21 days. A total of 13 objections were received during the first round of advertising (25 January -15 February 2017) and a total of 3 objections were received during the second round (24 June – 14 July 2020). The matters are addressed within the body of the report.

## **POLICY IMPACT**

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This matter has no direct policy implications.

## **FINANCIAL IMPACT**

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This matter has no direct financial implications.

## **RECOMMENDATION**

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It is recommended that the application be approved, subject to conditions of consent contained in Attachment B.

## **ATTACHMENTS**

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- A. Assessment Report
- B. Conditions of Consent

## **DA-578/2016 ASSESSMENT REPORT**

### **Summary:**

- The application was lodged on 15 December 2016. The original proposal sought consent for the demolition of existing structures and construction of a 6 storey shop top housing development, comprising 55 apartments with basement parking.
- The application was publicly advertised for 21 days between 18 January 2017 and 15 February 2017. A total of 13 objections were received.
- On 28 April 2017, Council issued a letter to the Applicant which outlined a number of key issues with the design including, but not limited to, lack of support from Sydney Water, non-compliances with requirements outlined within State Environmental Planning Policy 55- Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy 65 – Design Quality of Residential Development (SEPP 65), CLEP 2012, CDCP 2012 as well as matters raised by Council's internal referrals.
- Information to respond to Council's letter was received 16 July 2019.
- On 19 August 2019, a further letter was issued to the Applicant advising that Council could not support the application given the number of non-compliances sought. The amended design still did not adequately address the relevant requirements of the Infrastructure SEPP, SEPP 65, CLEP 2012 and CDCP 2012.
- On 10 October 2019, a further letter was issued by Council containing matters raised by Council's Traffic Team.
- A meeting with the Applicant and Architect was held on 10 October 2019, of which the Applicant advised that the matters raised would be addressed.
- Amended plans were submitted by the Applicant on 6 December 2019.
- On 20 February 2020, a further letter was issued by Council which raised a number of issues with the amended design including, but not limited to, insufficient information (including insufficient information to address contamination issues requested in Council's original letter), inaccuracy of plans, non-compliances with maximum building height, building separation, setbacks, floor to ceiling heights, landscape, apartment design guide, natural ventilation and general design controls as well as matters raised by Council's Development Engineer, Traffic Engineer and Waste Services Officers. The Applicant was provided until close of business 19 May 2020 to amend the design.
- On 16 March 2020, Council met with the Applicant to run through the letter. Council was advised that all the matters raised would be addressed and provided in a consolidated manner by 19 May 2020.
- On 4 June 2020, Council received the additional information.
- The application was re-notified for 21 days between 24 June 2020 and 14 July 2020. Three submissions were received by Council.
- On 10 August 2020, a further letter was issued to the Applicant advising that the application could not be supported given the lack of information and number of non-compliances to key development controls sought.

- Additional information (except for the detailed site investigation report and remediation action plan) was submitted to Council on 17 August 2020. The Applicant was provided until close of business 28 September 2020 to provide the remaining reports.
- The Applicant was advised that the application would be reported to the Local Planning Panel for determination based on the most recent set of documentation submitted.
- The proposed amended design has addressed several matters previously raised with Council. In summary, the amended design comprises 20 apartments less than originally sought and has been reduced a storey in height. The design does seek variation to some controls including building height, building separation, building depth of commercial tenancies, front setback and overshadowing. For the reasons outlined within this report, the proposed variations are considered acceptable on merit, in this instance.

The application is recommended for approval, subject to conditions of consent.

### **SITE & LOCALITY DESCRIPTION**

The subject site is irregular in shape and comprises three allotments (Lot 3 Sec 3 in DP 853, Lot 4 Sec 3 in SP 853 and Lot 5 Sec 3 in DP 853). The site has a frontage to Georges River Road of 49.275m and a combined site area of 2,238.3m<sup>2</sup> (by title). The majority of the site is zoned B2 Local Centre, however a portion of the front boundary (fronting Georges River Road) is zoned SP2 Infrastructure (approximately 329.3sqm). The site currently comprises a BP Service Station with associated structures. The site is burdened by a 2.44m wide easement for sewage that runs through part of the site.

In terms of surrounding land uses, a three storey shop top housing development directly adjoins the site to the west. Single storey commercial premises directly adjoin the east of the site. A Development Application (DA) (361/2015) for the properties to the east (230-234 Georges River Road, Croydon Park) for the Demolition of existing structures and the construction of a mixed use development containing two commercial tenancies, 35 residential apartments and basement level car parking, was recently approved.

To the north of the site, on the opposite side of Georges River Road is R1 Zoned land comprising single storey detached dwellings, which is located within the Burwood Council Local Government Area. Directly adjoining the site to the south is R4 High Density Residential zoned land. The rear private open space area of two detached dwellings directly adjoin the site to the south. The existing properties to the south primarily consist of detached single storey dwellings as well as older style two-three storey walk up residential flat buildings.



**Figure:** Aerial Map (subject site highlighted)  
**Source:** NearMap 2020



**Figure:** Zoning Map  
**Source:** Planning Portal 2020



**Figure:** Subject Site

### **PROPOSED DEVELOPMENT**

The Applicant seeks development consent for the removal of trees, demolition of existing structures and the construction of a five (5) storey shop top housing development comprising 4 x commercial tenancies on the ground floor and 35 residential apartments above as well as 2 levels of basement parking and Strata subdivision. The proposed development is detailed below:

#### **Basement 02**

- 2 x lifts and stair wells plus an additional lift shaft.
- 34 x residential car parking spaces (including 10 x tandem spaces and 4 x accessible parking spaces).
- 8 x bicycle spaces.
- 2 x motorcycle spaces.
- Storage.

#### **Basement 01**

- 2 x residential lifts, 1 x commercial lift and stair wells.
- 14 x commercial car parking spaces including 1 x accessible car parking space.
- 1 x courier space.
- 16 x residential car parking spaces including 4 x tandem spaces and 7 x visitor parking spaces (incorporating 1 x accessible visitor parking space).
- 4 x bicycle spaces.
- 1 x car wash bay.
- Residential waste room.
- Storage.

### Ground Floor

- 2 x residential lifts, 1 x commercial lift and stair wells.
- 4 x business/retail premises including 1 x potential restaurant use.
- 2 x residential lobbies.
- Separate residential and commercial bin holding room.
- Bulky waste storage area.
- 2 x bathrooms.
- Loading zone.
- Landscaping.

### Level 01

- 2 x residential lifts and stair wells.
- 3 x one bedroom apartments including 1 x adaptable apartment with associated private open space area.
- 4 x two bedroom apartments with associated private open space area. One of the apartments comprise a study.
- 2 x three bedroom apartments with associated private open space area.

### Level 02

- 2 x residential lifts and stair wells.
- 3 x one bedroom apartments including 1 x adaptable apartment with associated private open space area.
- 4 x two bedroom apartments with associated private open space area. One of the apartments comprise a study.
- 2 x three bedroom apartments with associated private open space area.

### Level 03

- 2 x residential lifts and stair wells.
- 5 x one bedroom apartments including 1 x adaptable apartment with associated private open space area.
- 3 x two bedroom apartments with associated private open space area.
- 1 x three bedroom apartment with associated private open space area.

### Level 04

- 2 x residential lifts and stair wells.
- 5 x one bedroom apartments including 1 x adaptable apartment with associated private open space area.
- 3 x two bedroom apartments with associated private open space area.

### Rooftop

- 1 x lift and stair well.
- Communal open space area including BBQ facilities, seating and clothes drying area.

Strata title subdivision is also proposed.

### **Statutory Considerations**

When determining this application, the relevant matters listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 must be considered. 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 65 – Design Quality of Residential Apartment Development (SEPP 65).
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007).
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX).
- Canterbury Local Environmental Plan 2012 (CLEP 2012).
- Canterbury Development Control Plan 2012 (CDCP 2012).
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

### **SECTION 4.15 ASSESSMENT**

The development application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act, 1979 and the following key issues have emerged:

#### **Environmental planning instruments [section 4.15(1)(a)(i)]**

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

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, we must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, we must be satisfied that the land will be remediated before the land is used for that purpose.

A Stage 1 Site Investigation Report was submitted with the DA. Based on the result of the Stage 1 report, A Stage 2 Detailed Site Investigation Report and RAP (Remedial Action Plan) was requested. A Stage 2 report and RAP was submitted to Council on 28 September 2020. Council's Environmental Health Officer reviewed the documentation and raised no objection subject to conditions of consent.

In light of the above, the site will be suitable for the proposal after remediation and subsequently the requirements outlined in Clause 7 of SEPP 55 are satisfied.

##### **State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (SEPP 65)**

This policy applies to residential apartment development and is required to be considered when assessing this application. Residential apartment development is defined under SEPP 65 as development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component. The development must consist of the erection of a new building, the conversion of an existing building or the substantial redevelopment or refurbishment of an existing building. The building must also be at least 3 or more storeys and contain at least 4 or more dwellings. Residential apartment development does not include boarding houses or serviced apartments.

SEPP 65 aims to improve the design quality of residential apartment development across NSW and provides an assessment framework, the Apartment Design Guide (ADG), for assessing 'good design'. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from a qualified designer (registered architect) at lodgement of the development application that addresses the design quality principles contained in SEPP 65 and demonstrates how the objectives in Parts 3 and 4 of the ADG have been achieved. Such a statement has been provided by UrbanLink.

In addition, SEPP 65 requires the assessment of any DA for residential apartment development against the nine design quality principles and to consider the matters contained in the ADG.

#### Principle 1: Context and Neighbourhood Character

In terms of use of general design, Council is supportive of the proposed materials and finishes palette and considers them to be complementary to the existing and desired future character of the locality.

The site is consistent with the objectives of the zone as the development consists of a shop top housing development that incorporates ground floor retail/business uses that will provide for a range of uses to meet the day-to-day needs of persons who live, work and visit the area.

The proposal is compatible with the existing and future character of the area and will contribute to the quality and identity of the immediate locality.

#### Principle 2: Built Form and Scale

The proposed development is generally compliant with the building envelope controls. The scale of the development is consistent with that envisaged by the planning controls and newly approved development in the immediate vicinity. The development is of a suitable bulk and scale for the locality and has been designed to minimise potential adverse impacts on the lower density residential development to the south of the site through incorporating deep soil landscaping along the rear boundary and siting the development as far towards the northern boundary as possible.

The façade has been articulated to address the street frontage as much as possible given the constraint relating to the Sydney Water easement that runs through the site. Appropriate articulation has been achieved through incorporating changes in the built form, appropriate landscaping and mixed palette of building materials and finishes. These elements also contribute to reducing the overall bulk and mass of the building.

#### Principle 3: Density

As outlined within the body of this report, the proposed design generally complies with the applicable development standards. Any variation proposed has been considered as part of this assessment and is considered acceptable on merit. Overall, the design is considered to achieve a high level of amenity for residents.

Furthermore, the proposed density is an appropriate response to the desired future character and built form of the locality.

#### Principle 4: Sustainability

A BASIX Certificate has been submitted to Council with this development application, which details the resource, energy and water efficiency measures that will be incorporated into this proposal.

The development is acceptable with respect to the applicable natural ventilation and solar access requirements. The development incorporates an appropriate mix of dwelling sizes consisting of one, two and three bedroom apartments, and will therefore provide a range of choice for future residents.

#### Principle 5: Landscape

The proposal incorporates landscaping at ground level, level 2 as well as on the rooftop as part of the communal open space area. The proposed deep soil area complies with the minimum requirements specified within the ADG.

Further, all the proposed apartments have access to private open space, in the form of balconies. The proposal satisfies the relevant landscaping requirements of the ADG and CDCP 2012.

#### Principle 6: Amenity

The proposed apartments will have considerable internal amenity as the design meets the minimum solar access and ventilation requirements. Their size, floor to ceiling height and room dimensions satisfy, and in some cases, exceed the minimum standards outlined within the ADG. As such, they will provide adequate space to meet the needs of future occupants.

Storage is provided within all units with additional storage within the allocated basement car parking spaces. The outdoor private balconies are of sufficient size to meet the recreational needs of future occupants. Lift access has been provided from the basement throughout the building, thereby providing full accessibility for all residents and visitors.

#### Principle 7: Safety

The applicant has considered Crime Prevention Through Environmental Design (CPTED) principles as outlined in CDCP 2012 in the design of the project. The proposal provides increased activation and passive surveillance of the surrounding streets and private open space areas on the site. Residential entry and lobby areas are to be secured and well lit.

#### Principle 8: Housing Diversity and Social Interaction

The proposed design incorporates various dwelling sizes and includes adaptable units promoting diversity, affordability and access to housing choice.

#### Principle 9: Aesthetics

The application is accompanied by a Design Verification Statement and confirms that the development satisfies the general design principles contained within SEPP 65.

The articulation of external facades and general compliance with the relevant built form standards reduces the perceived bulk of the building, whilst maintaining internal and external amenity. These elements contribute to the desired future character of the locality and enhance the existing surrounding streetscapes.

## Apartment Design Guide

Further to the design quality principles discussed above, the proposal has been considered against the various provisions of the Apartment Design Guide in accordance with Clause 28 (2) (c) of SEPP 65.

This consideration includes an assessment of the objectives of Parts 3 and 4 of the ADG. The applicant's designer provided a design verification statement at lodgement to demonstrate that the objectives have been achieved.

An assessment of the proposed development in regard to the following 'Design Criteria' controls of the ADG is demonstrated in the table below:

It is important to note that the calculations that rely on a site area have been undertaken based on the site area excluding the SP2 zoned land (i.e. 329.3sqm) given this portion of the land cannot be developed.

Section	Design Criteria	Proposed	Complies
<b>Part 3 Siting the Development</b>			
<b>3D Communal and Public Open Space</b>	Communal open space has a minimum area equal to 25% of the site (477.25sqm).	The rooftop comprises a 504sqm communal open space area which equates to 26% of the site area.	Yes
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	At least 50% of the principal usable park of the communal open space receives 2 hours solar access between 9am-3pm on 21 June.	Yes

Section	Design Criteria	Proposed	Complies												
<b>3E Deep Soil Zones</b>	<p>Deep soil zones are to meet the following minimum dimensions:</p> <table border="1"> <thead> <tr> <th>Site Area</th> <th>Minimum Dimensions</th> <th>Deep Soil Zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m<sup>2</sup></td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m<sup>2</sup> - 1,500m<sup>2</sup></td> <td>3m</td> </tr> <tr> <td>Greater than 1,500m<sup>2</sup></td> <td>6m</td> </tr> <tr> <td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table>	Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)	Less than 650m <sup>2</sup>	-	7%	650m <sup>2</sup> - 1,500m <sup>2</sup>	3m	Greater than 1,500m <sup>2</sup>	6m	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	<p>A deep soil area is located along the entire rear of the site. However, not all the nominated area meets the minimum 6m requirement and therefore the entire area has not been included in the calculations.</p> <p>Notwithstanding this, the deep soil area that contains a minimum 6m dimension equates to 133.6m<sup>2</sup> or 7% of the site area.</p> <p>The deep soil area included in the calculations is located within the lowest portion of the site (south-western corner) which is considered appropriate as it will also assist in screening the basement parking area that protrudes above the ground level at this point.</p>	Yes
Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)													
Less than 650m <sup>2</sup>	-	7%													
650m <sup>2</sup> - 1,500m <sup>2</sup>	3m														
Greater than 1,500m <sup>2</sup>	6m														
Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m														
<b>3F Visual Privacy</b>	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building Height</th> <th>Habitable Rooms &amp; Balconies</th> <th>Non-habitable Rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table>	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p><b>Eastern Boundary</b></p> <ul style="list-style-type: none"> <li>- <b>Level 1:</b> 2.6m however privacy screen incorporated.</li> <li>- <b>Level 2:</b> 1.5m however privacy screen incorporated.</li> <li>- <b>Level 3:</b> 1.5m however privacy screen incorporated.</li> <li>- <b>Level 4:</b> 1.5m however blank wall to blank wall. Condition of consent to incorporate privacy screen to part of balcony associated with apartment 407 to improve visual outlook.</li> <li>- <b>Roof top:</b> 8.1m however condition minimum 1m deep planter along</li> </ul>	Yes – via condition of consent.
Building Height	Habitable Rooms & Balconies	Non-habitable Rooms													
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 storeys)	9m	4.5m													
Over 25m (9+ storeys)	12m	6m													

Section	Design Criteria	Proposed	Complies
	<p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (See Figure 3F.2 of ADG). Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p> <p>Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5)</p>	<p>perimeter to improve visual privacy and avoid direct overlooking.</p> <p><b>Western Boundary</b></p> <ul style="list-style-type: none"> <li>- <b>Level 1:</b> 6m</li> <li>- <b>Level 2:</b> 6.1m</li> <li>- <b>Level 3:</b> 6.3m</li> <li>- <b>Level 4:</b> 7m, however highlight window incorporated.</li> <li>- <b>Roof top:</b> 1.8m-7.1m however planter along perimeter included in design to improve visual privacy and avoid direct overlooking.</li> </ul> <p><b>South Boundary</b></p> <ul style="list-style-type: none"> <li>- <b>Level 1:</b> 9m</li> <li>- <b>Level 2:</b> 9m</li> <li>- <b>Level 3:</b> 9.7m</li> <li>- <b>Level 4:</b> 13.7m</li> <li>- <b>Roof top:</b> 17m</li> </ul> <p><b>Within the site</b></p> <ul style="list-style-type: none"> <li>- The balconies associated with apartment 408 and 401 do not comply with the 6m separation requirement. However, this could be rectified through conditioning a solid wall along the western elevation of the rear balcony associated with apartment 408.</li> <li>- The bedroom window of apartment 108 and balcony of apartment 109 does not comply with the minimum 12m separation requirement. However, this could be rectified through conditioning a privacy screen along the eastern elevation of the rear balcony associated</li> </ul>	<p>Yes – via condition of consent.</p> <p>Yes</p> <p>Yes – via condition of consent.</p>

Section	Design Criteria	Proposed	Complies
		<p>with apartment 109.</p> <ul style="list-style-type: none"> <li>- The bedroom window of apartment 208 and balcony of apartment 209 does not comply with the minimum 12m separation requirement. However, this could be rectified through conditioning a privacy screen along the eastern elevation of the rear balcony associated with apartment 209.</li> <li>- The separation distances between apartments 101 and 104, 201 and 204, 301 and 304, 307 and 308, 401 and 408, 406 and 407 do not comply with the minimum distances for habitable/non-habitable windows to blank walls. Highlight windows have been applied to the relevant windows that don't comply and privacy screening can be conditioned for the balconies that don't comply. This is considered acceptable in this instance as the non-compliances are to blank walls, rather than other windows</li> </ul>	
<b>3J Bicycle and Car Parking</b>	For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements as set out in the table below. Otherwise, the CDCP controls apply.	Refer to CDCP 2012 assessment.	N/A

Section	Design Criteria	Proposed	Complies
	The car parking needs for a development must be provided off street.	All parking is provided within the proposed basement.	Yes
<b>Part 4 Designing the Building</b>			
<b>4A Solar and Daylight Access</b>	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	27 of the 35 apartments (77%) receive at least 2 hours solar access to living rooms and private open space between 9am-3pm on 21 June.	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	5 of the 35 apartments (14%) do not receive any solar access.	Yes
<b>4B Natural Ventilation</b>	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	21/35 apartments (60% of total apartments) comply with the natural ventilation requirement.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	All apartments included in the design have a maximum depth of 18m.	Yes

Section	Design Criteria	Proposed	Complies								
<b>4C Ceiling Heights</b>	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1"> <thead> <tr> <th colspan="2"><b>Minimum Ceiling Height for Apartment and Mixed Use Buildings</b></th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>If located in mixed used areas</td> <td>3.3m for ground and first floor to promote future flexibility of use</td> </tr> </tbody> </table> <p>These minimums do not preclude higher ceilings if desired.</p>	<b>Minimum Ceiling Height for Apartment and Mixed Use Buildings</b>		Habitable rooms	2.7m	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<p><u>Commercial</u></p> <p>The floor to ceiling heights for the proposed ground floor tenancies range between 3.3m-4m which meet the minimum floor to ceiling heights specified ADG.</p> <p>Although the heights don't meet the suggested 4m floor to ceiling heights in Figure 4C.1, the variety of heights enable flexibility of use within the site. At least one of the 4 tenancies (tenancy 4) provides the 4m floor to ceiling height to enable the use of a restaurant at a later date, if required. This is the same tenancy earmarked on the plans as a restaurant.</p> <p>Furthermore, the proposed floor to ceiling heights of the ground floor are consistent with the approved heights of the development to the east.</p> <p><u>Residential</u> 3.1m floor to floor</p>	<p>Yes</p> <p>Yes</p>		
	<b>Minimum Ceiling Height for Apartment and Mixed Use Buildings</b>										
Habitable rooms	2.7m										
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use										
<b>4D Apartment Size and Layout</b>	<p>Apartment are required to have the following minimum internal areas:</p> <table border="1"> <thead> <tr> <th>Apartment Type</th> <th>Minimum Internal Area</th> </tr> </thead> <tbody> <tr> <td>1 bedroom</td> <td>50m<sup>2</sup></td> </tr> <tr> <td>2 bedroom</td> <td>70m<sup>2</sup></td> </tr> <tr> <td>3 bedroom</td> <td>90m<sup>2</sup></td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p>	Apartment Type	Minimum Internal Area	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<p>Each apartment complies with the minimum area requirement.</p>	<p>Yes</p>
Apartment Type	Minimum Internal Area										
1 bedroom	50m <sup>2</sup>										
2 bedroom	70m <sup>2</sup>										
3 bedroom	90m <sup>2</sup>										

Section	Design Criteria	Proposed	Complies															
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	This requirement can be conditioned.	Yes – via condition of consent															
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	The apartments with open plan layouts comply with the maximum 8m habitable room depth.	Yes															
	Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space). +	Each master bedroom complies with the minimum 10sqm requirement (excluding wardrobe space).	Yes															
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m (excluding wardrobe space).	Yes															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul>	All living rooms or combined living/dining rooms comply with the minimum width requirements.	Yes															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of cross through apartments is at least 4m.	Yes															
<b>4E Private Space Balconies</b>	<p>All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m<sup>2</sup></td> <td>-</td> </tr> <tr> <td>1 bedroom apartments</td> <td>8m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>2 bedroom apartments</td> <td>10m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>12m<sup>2</sup></td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p>	Dwelling type	Minimum Area	Minimum Depth	Studio apartments	4m <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m	All primary balconies comply with the minimum area and depth requirements.	Yes
Dwelling type	Minimum Area	Minimum Depth																
Studio apartments	4m <sup>2</sup>	-																
1 bedroom apartments	8m <sup>2</sup>	2m																
2 bedroom apartments	10m <sup>2</sup>	2m																
3+ bedroom apartments	12m <sup>2</sup>	2.4m																

Section	Design Criteria	Proposed	Complies										
<b>4F Common Circulation and Spaces</b>	The maximum number of apartments off a circulation core on a single level is eight.	Max 5 apartments located off a single circulation core.	Yes										
<b>4G Storage</b>	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m<sup>3</sup></td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m<sup>3</sup></td> </tr> <tr> <td>2 bedroom apartments</td> <td>8m<sup>3</sup></td> </tr> <tr> <td>3+ bedroom apartments</td> <td>10m<sup>3</sup></td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling type	Storage size volume	Studio apartments	4m <sup>3</sup>	1 bedroom apartments	6m <sup>3</sup>	2 bedroom apartments	8m <sup>3</sup>	3+ bedroom apartments	10m <sup>3</sup>	<p>The storage areas within the basement are not allocated to specific apartments and therefore compliance is unable to be determined.</p> <p>Notwithstanding this, it is noted that at least 50% of the required storage is located within the apartment and there are 35 storage cages within the basement. Therefore, the remaining storage space required to achieve compliance can be conditioned.</p>	Yes – via condition of consent
Dwelling type	Storage size volume												
Studio apartments	4m <sup>3</sup>												
1 bedroom apartments	6m <sup>3</sup>												
2 bedroom apartments	8m <sup>3</sup>												
3+ bedroom apartments	10m <sup>3</sup>												

In addition to the above, Part 4H of the ADG provides design guidance to ensure adequate acoustic privacy is provided to occupants of dwellings. Objective 4H-2 states the following:

*Internal apartment layout separates noisy spaces from quiet spaces, using a number of the following design solutions:*

- *rooms with similar noise requirements are grouped together*
- *doors separate different use zones*
- *wardrobes in bedrooms are co-located to act as sound buffers*

It is noted that the design of the development has tried to meet the objective of Part 4H-2 of the ADG. However, there are some instances where the design of the apartments does not strictly meet the objective of Part 4H-2 as the living room of one apartment backs onto a bedroom of another (refer to relationship between apartment 105 and 106 as an example). It is noted that the objective provides mitigation measures for where physical separation cannot be achieved. In response to this, the Acoustic Report prepared by Acoustic Noise and Vibrations Pty Ltd dated 17 August 2020 has considered acoustic performances of party walls and floor construction elements to ensure adequate noise privacy is maintained in these instances. These recommended mitigation measures are considered appropriate. The recommendations outlined within Part 7 of the Acoustic Report will be enforced via condition of consent.

On this basis, the design is in keeping with the objective of Part 4H and the design is acceptable based on merit in this instance.

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

State Environmental Planning Policy (Infrastructure) 2007 aims to facilitate the effective delivery of infrastructure, including providing appropriate consultation with relevant public authorities about certain development during the assessment process.

The subject site is located on Georges River Road which is a classified road for the purposes of the SEPP. In accordance with Section 138 of the Roads Act 1993, the application was referred to Roads Maritime Services (RMS) for concurrence given the application comprises removal of existing vehicular crossings and construction of a new combined vehicular crossing along Georges River Road. RMS granted concurrence subject to conditions, which would be incorporated into the consent, should this application be recommended for approval. The conditions of consent include a condition that state that in the event of road widening, the landscaped area, awning, tables and chairs, paving etc will be removed (and relocated if necessary) in favour of road widening at no cost to Transport for NSW (TfNSW)

Furthermore, in accordance with the annual traffic volume data published on the RMS traffic volume viewer, Georges River Road has an average daily traffic count of approximately 23,4000 vehicles.

In addition to the above, Clause 101 and 102 of the SEPP states that a consent authority must not grant consent to a development that has a frontage to a classified road or a road with an annual average daily traffic volume of more than 20,000 vehicles unless it has considered the following:

Clause 101

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

Clause 102

- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—
  - (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
  - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.**

The design maintains vehicular access from Georges River Road which is as per existing condition. The safety, efficiency and ongoing operation of Georges River Road will not be adversely impacted by the proposal given the following:

- Vehicular access has been designed in accordance with the relevant Australian Standards.
- Standard construction practices will be followed to ensure no dust or emissions from the development of the building will affect the operation of Georges River Road.
- Council's Traffic and Transport Division has reviewed the application (including the traffic report submitted) and is satisfied that the development will not adversely impact existing traffic conditions along Georges River Road and the surrounding road network. Both RMS and Council's Traffic and Transport Division raise no objection to the proposal from a traffic impact perspective, subject to conditions of consent.

In terms of traffic noise, the application was accompanied by an Acoustic Report prepared by Acoustic Noise and Vibration Solutions Pty Ltd dated 17 August 2020. The report concluded that through the incorporation of appropriate glazing and external wall and roof materials, as recommended within Part 6 of the report, the development will meet the relevant noise criterion. Such requirements could be incorporated into the conditions of consent, should the application be approved.

The report also recommends that an acoustic assessment of all proposed mechanical plant and equipment once the development has been constructed should be undertaken and no open external air conditioning units are to be located within 3m from any boundary. Such requirements could be incorporated into the conditions of consent, should the application be approved.

In terms of air quality, a roadside air quality assessment report prepared by GHD dated 5 November 2018 accompanied the application. The report concludes that the worst-case road emissions at the kerb of the site are predicted to be below the relevant criteria for all road traffic emissions and no additional measures are required to be incorporated into the development to ameliorate any impacts from vehicle emissions. It is noted that this report refers to an older design of the development, however given the setbacks to the primary frontage remains unchanged and the revised design results in a reduction on the number of apartments proposed, the conclusions of the report are still considered applicable.

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

BASIX Certificate No.687370M\_06 dated 10 August 2020 accompanies this application. The Certificate makes several energy and resource commitments in regard to ventilation, provision of central hot water heating system for each apartment, natural lighting and thermal comfort. These commitments have been shown on the DA plans, when relevant.

In light of the above, the requirements of the BASIX SEPP have been adequately addressed.

### Canterbury Local Environmental Plan 2012 (CLEP 2012)

This site is zoned B2 Local Centre under CLEP 2012. The objectives of the B2 Zone are as follows:

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

The proposal is consistent with the objectives of the zone primarily given the site is located within an accessible area and the ground floor comprises four tenancies which can be used for a range of retail, business, entertainment and community uses that serve the needs of people who work, live or visit the local area.

The CLEP 2012 controls applicable to this application are as follows:

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 2 Permitted or Prohibited Development</b>			
2.1-2.8 Zoning	B2 Local Centre and SP2 Infrastructure	<p>The design comprises a mixed use development consisting of a shop top housing development as well as commercial/restaurant use.</p> <p>Shop top housing is permissible in B2 Zone. Furthermore, some commercial uses as well as restaurant uses are permissible in the B2 zone.</p> <p>Only roads are permissible within the SP2 Zone. As outlined earlier within this report, the RMS raised no objection to the proposed outdoor dining and landscaping within this zone pending a condition is incorporated into any consent advising that it is removed should the road widening occur not at the cost of TfNSW.</p>	Yes – Subject to Conditions
<b>Part 4 Principal Development Standards</b>			
4.3 Height of Buildings	18m	<p>Lift Overrun: Max 19.85m (RL 36.500 – 16.65).</p> <p>Stairwell: Max 18.71m (RL 35.500 – 16.79).</p>	No – refer to comment below
4.4 Floor Space Ratio	N/A	N/A	N/A

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 5 Miscellaneous Provisions</b>			
5.10 Heritage	<p>The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>The site is not identified as being a Heritage Item.</p> <p>However, the site is within proximity to a Local Heritage Item (Item No. I219 – “former electrical substation) located on the northern side of Georges River Road at 185 Georges River Road (Burwood LGA).</p> <p>The proposed development is not considered to impact the heritage significance of this item and therefore a heritage impact assessment/management report has not been requested.</p>	N/A
<b>Part 6 Local Provisions</b>			
6.1 Acid Sulfate Soils	<p>An Acid Sulfates Soils Management Plan is required for works on Class 5 land within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p>	<p>The site is identified as comprising class 5 soil within 500m of Class 4 land.</p> <p>A Geotechnical Report prepared by STS GeoEnvironmental Pty Ltd dated August 2020 accompanies the application. The report concludes that despite the mapping, it is unlikely that acid sulfate soils will be present given the geomorphic criteria needed for their presence. Furthermore, based on observations undertaken during drilling it is concluded that the proposed construction will not intercept any ASS.</p> <p>On this basis, the requirements of Clause 6.1 have been satisfied.</p>	Yes

Provision/ Standard	Requirement	Proposal	Complies
6.2 Earthworks	<p>Before granting consent to development including earthworks, the following must be considered:</p> <ul style="list-style-type: none"> <li>(a) drainage patterns and soil stability</li> <li>(b) the likely future use or redevelopment of the land,</li> <li>(c) quality of the fill or the soil to be excavated, or both,</li> <li>(d) effect of development on existing and likely amenity of adjoining properties,</li> <li>(e) the source of any fill material and the destination of any excavated material,</li> <li>(f) the likelihood of disturbing relics,</li> <li>(g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</li> <li>(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul>	<p>A Geotechnical Report prepared by STS GeoEnvironmental Pty Ltd dated August 2020 accompanies the application.</p> <p>Drilling was undertaken at the site to assist with the assessment. The report provides recommendations on construction methodologies to minimise any potential impacts on neighbouring properties during construction, foundation design as well as further investigation. The report notes that during construction, should the subsurface conditions vary from those inferred within the report, the authors of the report are to be contacted to determine if any changes should be made to the recommendation. Furthermore, it is also recommended that the exposed bearing surfaces for footings should be inspected by a geotechnical engineer to ensure the allowable pressure given have been achieved.</p> <p>In addition to the above, the site is suitable for the proposal from a contamination perspective, subject to conditions of consent.</p>	Yes – subject to conditions of consent

Provision/ Standard	Requirement	Proposal	Complies
6.4 Stormwater Management	<p>Consent must not be granted unless:</p> <p>(a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration.</p> <p>(b) Includes on-site detention if practical as an alternative means of water supply.</p> <p>(c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.</p>	<p>The application was referred to Councils Development Engineer who raised no objection to the design, subject to the inclusion of a deferred commencement condition, should the application be approved.</p>	Yes
6.6 Essential Services	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the disposal and management of sewage,</p> <p>(d) stormwater drainage or on-site conservation,</p> <p>(e) suitable vehicular access.</p>	<p>Council's Traffic Team raised no objection to the proposed design.</p> <p>The proposed design makes provision for disposal and management of sewage and supply of water.</p> <p>In terms of electricity supply, the Applicant provided a letter from Ausgrid which outlined that the development could Install 400A direct distributor from S.8988, panel 4. This requirement would mean a substation is not required.</p> <p>Council's Development Engineer raised no concern regarding the proposed stormwater drainage design, subject to the inclusion of a deferred commencement condition requiring the registration of the stormwater easement as well as demonstrating that the easement will not compromise the approved development application on the adjacent land.</p>	Yes

As demonstrated above, the proposal is generally consistent with the objectives and development standards of CLEP 2012. Further discussion is provided below with respect to the contravention to the height of buildings development standard contained in Clause 4.3, and the associated Clause 4.6 variation submission to seek flexibility in the application of this development standard. The assessment below is based on the current design submitted to Council.

### **The proposed variation**

The proposal complies with the development standards contained in CLEP 2012, except for Clause 4.3 – Height of Buildings. The non-compliance building height derives from the provision of lift and stairwell access to the rooftop communal open space area.

Pursuant to Clause 4.6 of CLEP 2012, the applicant has made a submission seeking a variation to the provisions contained in Clause 4.3 of CLEP 2012. The Clause 4.6 submission details the extent of the variation as follows:

- 18m – Building Height maximum
- 19.810m – Maximum Building Height proposed (based on Applicant’s calculation). This results in a 1.81m (10.05%) variation.

Based on Council’s assessment, the degree of variation between Council and the Applicant is not agreed upon. The applicant’s calculation is based on the NGL RL of 16.69 indicated on Section 01 (Drawing No. A3100). Council’s assessment included overlaying the roof design over the survey plan and calculating the maximum height by utilising the existing natural ground level points provided on the survey and the RLs of the highest point on the architectural plans. Given the lift overrun doesn’t land on a marked existing point, an average of the two nearest points was undertaken. In this regard, Council’s assessment determined the extent of the variation as follows:

- 19.85m – Maximum Building Height proposed
- 1.85m – 10.3% degree of contravention

An assessment of the development against Clauses 4.6(2), (3) and (4) of CLEP 2012, including extracts from the applicant’s submission, is provided below:

**1. *The objectives of this clause are as follows:***

- a. to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- b. to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

- 2. Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.**

**Comment:**

The development standard to be varied is Clause 4.3, Height of Building, which is not expressly excluded from the operation of Clause 4.6.

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

- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,**

The Applicant's written request states that compliance with the building height standard is unnecessary or unreasonable as follows:

- *The development is consistent with the standard and zone objectives, even with the proposed variation,*
- *There are no significant adverse impact arising from the proposed non-compliance,*
- *Important planning goals are better achieved by the approval of the variation.*
- *The proposal is consistent with the objective of CLEP 2012 outlined within Clause 1.2(2) of CLEP 2012 as it provides additional residential space to contribute to the range of housing types in Canterbury. The design of the development enhances the Croydon Park B2 local centre zone by providing high quality commercial/retail space and a pedestrian concourse which has the potential to deliver an attractive outdoor café and dining experience. The development is not antipathetic to any of the other Aims of the plan.*
- *Approval of the variation will give better effect to the aims of SEPP 65. In particular:*
  - *The proposed variation will provide more sustainable housing in social and environmental terms and better achieve urban planning policies (clause 2(3)(a)(i)).*
  - *Approval of the proposed variation will provide an extended mix of housing types to meet population growth (clause 2(3)(f)).*
  - *Approval of the proposed variation will support housing affordability by providing a well-located compact housing that will be a better choice for families in a public transport accessible location (clause 2(3)(g)).*

**Comment:**

Based on Council's calculation of the proposed building height, it is agreed that the height breach is solely contained to the lift overrun and stair access to the rooftop communal open space. The subject site slopes approximately 4.13m from the north-eastern corner to the south-western corner of the site. The location of the lift overrun, and stairs is located towards

the centre of the site, however closer towards the western boundary. Therefore, the proposed location of services is located within a lower section of the site. The height variation can therefore somewhat be contributed to its location given the lift access is required to be provided to a level floor level to facilitate accessibility.

The design comprises communal open space area that meets the minimum 25% requirement specified within the ADG. However, given the north-south orientation of the site, majority of the landscaped area provided on the ground floor (which could be designed and utilised as communal open space) is in shadow given its southerly orientation. Furthermore, it is Council's preference to have a deep soil landscaped area on the ground floor to the rear of the site to provide for an improved presentation of the site to the lower density residential properties located to the south given the change in levels and density. To place landscaped area along the northern elevation or side boundaries of the development would be uncharacteristic of existing and future development along Georges River Road. Subsequently, the rooftop communal open space is provided to ensure such area receives adequate solar access and contribute to positive amenity impacts for future residents.

As outlined by the Applicant, the proposed variations are limited to structures located on the rooftop (i.e. lift overrun and stairs). All other parts of the building, including habitable floor space, roof slab, parapets and planter boxes associated with the rooftop communal open space are below the 18m building height standard.

The lift overrun and stairs are setback from the lower levels and are primarily isolated to the middle to southern portion of the rooftop design. Subsequently, despite the minor height variations, the design maintains the 5 storey presentation along the street frontages which is consistent with the character envisaged for this zone.

It is also acknowledged that the building envelope is concentrated to the north of the site, away from the lower density zone (R4 High Density Residential Zone) which comprises an 8.5m height and 0.75:1 FSR development standard. This subsequently maintains an improved visual bulk and amenity to these properties.

In addition to the above, the proposed design, including the proposed variation, is somewhat contributed to the location of the Sydney Water easement that runs through the site. The proposal has tried to achieve a compliant and appropriate design that works around of the constraint of the easement.

Given the above and the context of the site, the written request has therefore adequately addressed that compliance with the development standard is unnecessary or unreasonable in the circumstances of this case.

***b) that there are sufficient environmental planning grounds to justify contravening the development standard.***

The Applicant's written request gives the following reasons that there are sufficient 'environmental planning grounds' to justify contravening the development standard:

- *The additional height for the lift overrun provides significant amenity for all residents by providing equitable access to each level of the development and to the rooftop communal open space.*
- *To require strict compliance would not provide any material planning benefit and would in fact be counterproductive as it would result in the loss of additional high quality residential space within the locality. To insist on strict compliance would thwart and preclude the redevelopment of the land in an orderly and economic manner, which is contradictory to Clause 1.2(2)(a) of CLEP 2012, and not allow the site to reach its full development potential.*
- *The non-compliant element of the lift and stair overruns will have no significant adverse impact on adjoining properties with regard to visual impacts or overshadowing. The additional shadow cast by the non-complaint parts of the lift and stair overruns fall onto the roof of the proposed building itself, demonstrated by the submitted shadow diagrams.*
- *The variation does not introduce any additional privacy impacts beyond those of a compliant built form as it relates only to lift and stair overruns. No habitable floor space exceeds the height limit and the development is consistent with other building envelope controls.*
- *The height variation, when viewed in context of the overall development, is set back from the street and is recessive in design. It will therefore not appear as an incongruous feature on the streetscape. As such, removing the variation would have no material impact on the front façade of the proposed building.*
- *The proposed development meets the objectives of the height of buildings development standard and meets the objectives of the B2 – Local Centre zone (as further detailed in Section 7 below).*
- *The proposed development achieves the Objects in Section 1.3 of the EPA Act. Specifically, that the proposed developed promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3g).*
- *The variation has no perceptible impact on the streetscape as the development appears as a contemporary unified and coherent form. The variation allows for a logical front façade design approach to be taken.*
- *To require strict compliance would therefore result in an unreasonable burden on the development with no demonstrable built form or amenity benefits.*

**Comment:**

Council generally accepts the reasons provided by the Applicant. It is acknowledged that the proposed variation does not contribute to any additional overshadowing of the proposed properties within the site or on adjoining properties as the shadow is cast within the boundaries of the communal open space itself or the roof of the lower levels of the development.

Council does not completely agree with the statement that the height variation does not result in additional privacy impacts as the lift and stair access (which exceed the building height standard) provide access to the rooftop communal open space area. The communal area, in its current form does not comply with the minimum building separation controls (to the eastern and western boundaries) which in turn is considered to result in some visual

impacts. Despite this, Council considers the non-compliance can be mitigated through design by ensuring that adequate planting is provided along the boundary of the communal open space area to ensure persons using the space cannot stand on the boundary and directly overlook into adjoining properties, thus providing a visual buffer. With the inclusion of this condition, it is considered that the proposed variation would not result in any additional adverse privacy impacts.

The following alternative locations for the placement of communal open space were considered by Council:

- Within the southern area of the site or along the southern elevation on different levels of the development. This was not considered appropriate as it would mean that the area would not receive adequate solar access and could potential result in further privacy impacts to the lower density residential zoning to the south of the site.
- Within the northern area of the site. This would result in a greater setback to Georges River Road and consequently, a design that is inconsistent with the character of the area.
- Within the side setbacks. Similar to the above, this would result in a design that was uncharacteristic of the B2 zoned land as a zero side setback is usually encouraged. Furthermore, given the orientation of the site and the permitted building heights and setbacks permitted on adjoining properties, solar access provisions would unlikely be achieved.

Therefore, the proposed location of the communal open space on the rooftop is considered to be the preferred design. The rooftop communal open space is recessed within the building footprint and will have minimal impact on the streetscape given the height of the building and the location of the breach within the site. Furthermore, despite the variation, the design presents as a 5 storey development.

It is noted that the rooftop communal open space design is consistent with the recently approved development to the east of the site at 230-234 Georges River Road (DA-361/2015). That application was granted a variation to the building height standard (maximum 3.06m variation), by the LPP, resulting from the lift overrun, fire escape stairwell and communal open space balustrade.

In addition to the above, Council agrees that the additional height does not result in any substantial additional amenity impacts on adjoining development, when compared to a design that complies with the maximum 18m building height standard. This is primarily a result of the orientation of the site and the development controls applicable to the site.

Notwithstanding the above, Council does not agree with the Applicant's statement that a compliant design *would thwart and preclude the redevelopment of the land in an orderly and economic manner, which is contradictory to Clause 1.2(2)(a) of CLEP 2012, and not allow the site to reach its full development potential.*

In light of the above, the written request has demonstrated that there are sufficient environmental planning grounds to support the proposed variation to building height.

- 4. Development consent must not be granted for development that contravenes a development standard unless:**
- a. the consent authority is satisfied that:**
    - i. the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and**

**Comment:** As detailed above, the written request has adequately addressed the matters required in subclause 3 above.

- ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and**

The objectives for building height seek:

- (a) to establish and maintain the desirable attributes and character of an area,*
- (b) to minimise overshadowing and ensure there is a desired level of solar access and public open space,*
- (c) to support building design that contributes positively to the streetscape and visual amenity of an area,*
- (d) to reinforce important road frontages in specific localities.*

**Comment:**

It is considered that the proposal is consistent with the objectives of the development standard for the following reasons:

- The part of the development that breaches the 18m maximum building height standard is recessed a minimum of 11m from the nearest side boundary (western boundary), 14.5m from the current northern boundary (Georges River Road) and 21.5m from the rear boundary (southern boundary). Therefore, the development presents as a 5 storey development from the adjoining streetscapes/properties. The 5 storey design is in keeping with the future desired character of the streetscape and locality.
- The bulk of the development has been concentrated to the middle of the site and therefore the additional overshadowing cast by the height exceedance is located within the site (primarily within the rooftop area of the development) and subsequently will not result in any adverse overshadowing on residential properties within the site or adjoining properties as well as the public open space.

The objectives for the B2 Local Centre Zone seek:

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

**Comment:**

For the reasons set out within this report, the proposed development, including the variation, is not inconsistent to the objectives of the zone. The proposal comprises ground floor business tenancies which can be used for a range of business and retail uses permitted within the B2 zone, compatible with the “shop top housing” definition. Such uses will encourage employment opportunities whilst also serving the needs of people who live in, work in and visit the local area. The site is accessible by the NSW bus network whilst also comprises enough parking on site to comply with the minimum requirements.

As shown above and in line with this report, the proposed variation to the building height development standard is consistent with the objectives of the zone and development standard. Accordingly, approval of such variation would be in the public interest.

***b. the concurrence of the Secretary has been obtained.***

**Comment:**

The concurrence of the Secretary is assumed having regard to previous advice received from the Department of Planning and Environment in Circular PS 18-003 ‘Variations to development standards’, dated 21 February 2018.

**Conclusion**

As outlined above, it is considered that there are sufficient environmental planning grounds to justify a contravention to the height of buildings development standard, in this instance.

**Proposed Environmental Planning Instruments [section 4.15(1)(a)(ii)]****Draft Consolidated Local Environmental Plan**

On 30 June 2020 the Canterbury Bankstown Local Planning Panel endorsed the Planning Proposal (PP\_2019\_CBANK\_005) to proceed to the Department of Planning, Industry and Environment for finalisation and making. The Planning Proposal seeks to produce a single set of planning rules and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan. The Planning Proposal however does not propose any change to the planning or development provisions relating to this site.

As the Planning Proposal has been exhibited it must be considered under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. The Draft CBLEP also seeks to insert a saving provision “If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies, and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced”.

The proposed development will not impact the Draft CBLEP and are considered consistent with the CBLEP.

**Development control plans [section 4.15(1)(a)(iii)]****Canterbury Development Control Plan 2012 (CDCP 2012)**

The application was submitted to Council on 15 December 2016. At the time of lodgement, CDCP 2012 (amendment 2) was applicable and therefore the assessment below has been undertaken against the controls outlined within CDCP 2012 (amendment 2). It is noted that a number of amendments to the CDCP 2012 have been gazetted since lodgement of the DA, however in accordance with Part A1.9 of CDCP (amended 5, the current amendment), *if an application has been made before the commencement of the DCP in relation to land to which the DCP applies, and the application has not been finally determined before that commencement, the application must be determined as if the DCP had not commenced.*

Control	Requirement	Proposed	Complies
3.1.2 Site Amalgamations	Where comprehensive redevelopment is proposed; <ul style="list-style-type: none"> <li>In B1 or B2 zone a min frontage of at least 12m, and preferably 18m will provide for development and car parking design that is more efficient.</li> <li>Except as set above, min site area or amalgamation is not required.</li> </ul>	The site has a frontage to Georges River Road of 49.275m and therefore amalgamation is not required.	Yes
3.1.3 Major Development Sites	A major development site must contain land area greater than 2000m <sup>2</sup> ; <ul style="list-style-type: none"> <li>Major development site may be able to accommodate increased height over that specified in the CLEP and the CDCP.</li> <li>An increase in height beyond that specified in part 3.1.6 must not exceed one storey and must not exceed of 15% of the overall site area.</li> <li>The density bonuses do not apply to the mater planned sites of Campsie Civic Centre Precinct, Canterbury Road Corridor and Undercliffe Bridge Precinct.</li> </ul> <p>To avoid creating the appearance of an additional storey should not be located at the front of the site, unless to accentuate a corner that is acceptable.</p> <p>Incorporate design measure (including setbacks and stepping down levels) to minimise the impacts of height and bulk.</p>	The site comprises a site area of 2,238.3sqm. Although the site satisfies this requirement, this control has been repealed from the recent CDCP 2012 gazetted 20.09.2019. To approve a development which exceeds the maximum building height permitted within CLEP 2012 and consider a control which is now omitted from the CDCP 2012 would result in a development that is inconsistent with the future desired character of the area. Therefore, no further consideration against this control is provided.	N/A

Control	Requirement	Proposed	Complies
3.1.4 Avoid Isolating Undeveloped Sites	New development should not result in the isolation of neighbouring property that would be narrower or smaller than the required and could not be able to accommodate redevelopment.	The existing shop top housing development to the west is under strata title and therefore cannot be amalgamated. Furthermore, the site to the west has a width of 16.55m which complies with the minimum width specified within Part 3.1.2 of CDCP 2012 which was applicable at the time of lodgement of this DA. The properties to the east have been approved for a shop top housing development (DA-361/2015).	Yes
3.1.5 Retention of Traditional Facades	Pre-1950 shop front facades are to be maintained in the parts of the B2 Zone where building height is five storeys or less (infill development is permitted behind so that the traditional main street character of the centres is maintained).	The site is an existing service station and therefore does not comprise any traditional façade.	N/A
3.1.6 Height	Floor to ceiling heights: <ul style="list-style-type: none"> <li>• Provide a minimum 3.3m floor to ceiling height for the ground floor.</li> <li>• Provide a minimum 2.7m floor to ceiling height for residential floors.</li> <li>• Minimum car parking floor to ceiling height 2.8m.</li> <li>• The floor to ceiling height may need to be increased to meet the requirements of the intended use, however, the maximum building height will still need to be complied with.</li> </ul>	The proposed floor to ceiling heights comply with the provisions of the ADG, which overrides our DCP ceiling height controls.	N/A

Control	Requirement	Proposed	Complies
3.1.7 Depth/ Footprint	<p>Residential:</p> <ul style="list-style-type: none"> <li>• Maximum 18m depth from glass line to glass line.</li> <li>• Light source is not to include a light well when calculating the 18m depth.</li> <li>• Upper levels are setback to limit the depth of residential floors above deeper commercial or retail floors.</li> </ul> <p>Commercial and retail:</p> <ul style="list-style-type: none"> <li>• Maximum depth 24m.</li> <li>• Minimum depth 10m.</li> <li>• Maximum length of any wall 50m, longer length may be considered if a deep soil, landscaped indent is provided, minimum 9m by 9m (a greater indent area may be required for facing windows and balconies).</li> <li>• Courtyard development may be appropriate for deep blocks or blocks where basement or semi-basement parking is possible.</li> <li>• Supermarket or cinemas may be considered with greater depth with a retail, or active frontage at street level or on any public domain frontage.</li> </ul>	<p><b>Residential:</b> All apartments have a maximum depth of 18m.</p> <p><b>Commercial:</b> All tenancies comply with the minimum and maximum depth except for tenancy 2 which comprises a maximum depth of 25m.</p> <p>No wall length is greater than 50m.</p>	<p>Yes</p> <p>No – refer to comment [1] below</p> <p>Yes</p>

3.1.8  
Setback

Comply with the street level setback, number of storeys at the street level, and upper level setback in the following table.

	Number of storeys at the street and setback	Upper level setback
B2 Zone (except Campsie Civic Centre Precinct, Canterbury Town Centre and Roselands Shopping Centre)	1-3 storeys Build to front boundary	Greater than four storeys – 5 m (all storeys to be set back this distance including the fourth storey)

Variations may be acceptable on the secondary street, on corner sites, to allow for outdoor display areas and outdoor dining.

If required on the envelope diagram, set the ground floor back for a colonnade.

Storeys 1-3 built to boundary, where possible, except for apartments 204 and 205 on Level 02 (3<sup>rd</sup> storey) that are setback 2.4m.

Level 03 (4<sup>th</sup> storey) – main building line setback 5m

Level 04 (5<sup>th</sup> storey) and rooftop – the building line, including balcony is setback back 5m

No – see comment [2] below

Yes

Yes

Control	Requirement	Proposed	Complies
3.1.8 Setback (continue)	<p>Side setback</p> <ul style="list-style-type: none"> <li>• Do not provide a side setback in the B1 or B2 zone when the desired character is for a continuous street frontage, unless below clauses apply.</li> </ul> <p>On boundary with residential zone – rear setback</p> <ul style="list-style-type: none"> <li>• Establish a 45° height plane projected at 6 m from the residential boundary.</li> <li>• Provide minimum 6m setback to the residential zone boundary.</li> <li>• A two-storey limit on the boundary with residential zone applies. (Refer to Figure 3.5 in the CDCP).</li> </ul>	<p>No side setback proposed. Balconies adjoining side boundary are to comprise a solid boundary wall for privacy reasons.</p> <p>The development complies with the building height plane control that applies to the rear of the site.</p>	<p>Yes - via condition of consent</p> <p>Yes</p>
3.1.9 Building Separation	<p>Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to visual privacy have no effect in the assessment of residential apartment development applications.</p> <p>Clause 3.1.9 of the CDCP is therefore not relevant to the assessment of this application and visual privacy matters have been assessed only in relation to Part 3F of the ADG (as detailed in the table above).</p>		

Control	Requirement	Proposed	Complies
3.1.12 – 3.1.14 Car Parking	<p><b>Residential</b></p> <p>1 Bedroom: 1 space per dwelling (16 spaces)</p> <p>2 Bedroom: 1.2 space per dwelling (16.8 (17) spaces)</p> <p>3 Bedroom: 2 spaces per dwelling (10 spaces)</p> <p>Visitor: 0.2 spaces per dwelling (7 spaces)</p> <p>One Car Wash Bay</p> <p><b>Commercial (including restaurant)</b></p> <p>1 space per 40sqm (13.3 (13) spaces)</p> <p><b>Bicycle</b></p> <p><u>Residential</u></p> <p>1 space per 5 dwellings (7 spaces)</p> <p><u>Residential Visitor</u></p> <p>1 space per 10 dwellings (3.5 spaces)</p> <p><u>Staff</u></p> <p>1 space per 300sqm (1.8 (2) spaces)</p> <p><u>Patrons</u></p> <p>1 space per 500sqm over 1000sqm (0 spaces)</p> <p><b>Total:</b> 50 parking spaces plus one car wash bay for residential, 13 parking spaces for commercial and 13 bicycle parking spaces.</p>	<p>The basement parking area provides provision for:</p> <ul style="list-style-type: none"> <li>- 50 residential parking spaces (including 7 x visitor spaces) plus one car wash bay. Tandem spaces would be conditioned so they relate to same unit.</li> <li>- 15 commercial parking spaces (including 1 x courier). The commercial spaces would be allocated as 20% for employee parking and 80% visitor parking via condition of consent, should the application be supported.</li> <li>- The commercial spaces are adequately separated from residential parking by virtue of car parking layout and roller door.</li> <li>- A total of 13 bicycle spaces are incorporated into the basement parking layout. Should the application be supported the distribution of bicycle spaces between residential and commercial uses will be conditioned as required.</li> </ul>	Yes – via condition of consent
3.2.1 Context	<p>New built form and character:</p> <ul style="list-style-type: none"> <li>• Building form and design do not have to mimic traditional features but should reflect these in a contemporary design.</li> </ul>	<p>The design of the proposed development is contemporary using flat roof and colours of materials and does not mimic traditional features.</p>	Yes

Control	Requirement	Proposed	Complies
3.2.2 Street Address	<p>Entries:</p> <ul style="list-style-type: none"> <li>• Locate entries so they relate to the existing street, subdivision pattern, street tree planting and pedestrian access network – for example ensure entries are not obscured by street trees or landscaping.</li> <li>• Provide an awning over the entry to contribute to the legibility of the development and the public domain.</li> <li>• Provide accessible entries for all potential use such as the transporting of furniture.</li> <li>• Provide entries to upper levels in business centres, from the street front facade to encourage activities on the ground floor and service activities to rear of the buildings.</li> </ul> <p>Habitable rooms:</p> <ul style="list-style-type: none"> <li>• Face habitable rooms towards the street, private open space, communal space, internal driveway or pedestrian ways in order to promote positive social interaction and community safety.</li> </ul>	<p>The proposed entry points relate to the existing street, and an awning is provided over the main pedestrian entry points, in particular the residential entry points. Appropriate signage could be conditioned to ensure entry points are clearly marked and distinguished from commercial entry points.</p> <p>Habitable rooms are orientated towards the street and the rear to promote positive social interaction. Access to the rooftop communal open space will be restricted to residents only.</p>	<p>Yes – via condition of consent</p> <p>Yes – via condition of consent</p>

Control	Requirement	Proposed	Complies
3.2.3 Façade Design and Articulation 3.2.4 Façade Details	<p>Interpretation:</p> <ul style="list-style-type: none"> <li>• Façade controls apply to facades that are visible from the street - that may include an upper storey that faces a side boundary, or a façade that faces an internal driveway.</li> <li>• The dimensions of a façade are measured between the outermost walls, and do not include any uncovered balcony or terrace which projects beyond the line of the wall.</li> </ul> <p>General:</p> <ul style="list-style-type: none"> <li>• Avoid long spans of blank walls along street frontages and address both street frontages with façade treatment, and articulation of elevations on corner sites.</li> <li>• Incorporate contrasting elements in the façade - use a harmonious range of high quality materials, finishes and detailing:               <ul style="list-style-type: none"> <li>○ Define a base, middle and top related to the overall proportion of the building,</li> <li>○ Express key datum lines using cornices, change in materials or change in setback,</li> <li>○ Express the variation in floor to floor height, particularly at lower levels,</li> </ul> </li> </ul>	<p>The design of the proposed building is articulated through the inclusion of balconies, a variety of colours and materials and landscaping.</p> <p>No long span of blank wall proposed.</p> <p>Contrasting elements are provided in the façade using different setbacks, materials and decorative features.</p> <p>The use of materials along with window size and type also provides for adequate vertical and horizontal elements.</p>	<p>Yes</p> <p>Yes</p>

Control	Requirement	Proposed	Complies
3.2.3 Façade Design and Articulation 3.2.4 Façade Details (Continued)	<ul style="list-style-type: none"> <li>○ Articulate building entries with awnings, porticos, recesses, blade walls and projecting bays,</li> <li>○ Use a variety of window types to create a rhythm or express building uses and use recessed balconies and deep windows to create shadows, adding visual depth to the façade,</li> <li>○ Detail balustrades to reflect the type and location of the balcony and its relationship to the façade,</li> <li>○ Incorporate architectural features which give human scale at street level, including entrances, awnings, colonnades, pergolas and fences,</li> <li>○ Use colour, variation in the types of materials and arrangement of façade elements and materials to articulate different parts of a building façade - a material palette can include brickwork, rendered masonry, sheet materials, glazing, sandstone and treated metals and timbers,</li> <li>○ Incorporate horizontal and/or vertical elements, such as indentations in the façade plane, string courses and bandings, window openings and building entrances.</li> <li>• Express building layout or structure in the façade - architectural features such as columns, beams, floor slabs, balconies, wall opening and fenestration, doors, balustrades, roof forms and parapets are elements that can be revealed or concealed and organised into simple or complex patterns.</li> <li>• Design facades to reflect the orientation of the site using elements such as sun shading devices, light shelves and bay windows.</li> <li>• Modulate the wall alignment with a step in of at least 1m.</li> </ul>		

Control	Requirement	Proposed	Complies
3.2.3 Façade Design and Articulation 3.2.4 Façade Details (Continued)	<p><b>Solid and void ratio:</b></p> <ul style="list-style-type: none"> <li>• Do not allow balconies and voids to dominate publicly visible facades (excluding glass shop fronts and colonnades in business centres).</li> <li>• Use a solid to void ratio in the vicinity of 50%, with each facade measured independently. Disharmony arises when the range of solid to void is extreme, such as fully glazed facades or those with multi-balcony 'egg crates'.</li> <li>• Voids include fenestration, balconies, porches and loggias.</li> <li>• Do not include shopfronts in the 50% solid to void ratio calculation.</li> <li>• Balconies</li> <li>• Use balconies in moderation and integrate them into the overall composition of the façade - do not use a monotonous or repetitive configuration of balconies.</li> <li>• Where possible place balconies facing an internal courtyard and do not place all balconies on an external façade.</li> <li>• Use balcony types that respond to the street context, building orientation and residential amenity.</li> <li>• Use lightweight materials and construction for balconies:               <ul style="list-style-type: none"> <li>○ Support verandas and balconies with slender metal or timber frames, rather than concrete columns or masonry piers,</li> <li>○ Construct balcony balustrades with glass panels, open metal framing, board or sheet cladding, rather than entirely of masonry, or break up significantly blank walls of masonry with panels.</li> </ul> </li> </ul>	<p>Balconies of the proposed development are primarily orientated towards the north of the site (Georges River Road) to improve natural surveillance and obtain solar access (where possible).</p> <p>The balconies are integrated within the design of the building and there is adequate variety in balconies configuration along each street front. Further, the use of a variety of materials and colours also ensures the proposed balconies do not appear to be monotonous when viewed from the adjoining streets as well as contribute to appropriate solid to void ratios.</p>	Yes

Control	Requirement	Proposed	Complies
3.2.3 Façade Design and Articulation 3.2.4 Façade Details (Continued)	<ul style="list-style-type: none"> <li>Locate and proportion windows to minimise scale and bulk of new building:</li> <li>Large windows are most-effective when they are located at the corners of a building, or if they are designed as projecting bay windows,</li> <li>Screen major windows with blinds, louvre screens, awnings or pergolas.</li> <li>Do not use dormer windows.</li> </ul>	<p>Large openings are integrated along the northern elevation of the development.</p> <p>Appropriate window treatment has been (louvre screening) to improve privacy, where required. This requirement would be enforced via condition of consent, if the application was approved.</p>	<p>Yes</p> <p>Yes – via condition of consent</p>
3.2.5 Shopfront	Windows on the street frontage are transparent (not mirrored) to provide visibility between interior and exterior spaces, allow for surveillance of the street and provide interest for pedestrians.	Windows associated with the ground floor commercial/retail premises are transparent to facilitate natural surveillance in and out of the site.	Yes
3.2.7 Frontage Types	<p>Provide the frontage type identified on the relevant public structure diagrams.</p> <p>Where there is no specific requirement identified on the diagrams, match the frontage type to the characteristic frontage type in the street.</p> <p>Cantilevered Awning:</p> <ul style="list-style-type: none"> <li>The façade of the building is built to the front street boundary. An awning cantilevered from the building facade just underneath the first floor overhangs the footpath by 3m. The footpath is covered so that pedestrians are able walk underneath the awning.</li> <li>Awning height is in the range of 3.2m - 4.2m from natural ground level.</li> <li>Place awning so that it complements the height, depth and form of the desired character or existing pattern of awnings, and provides enough protection from sun and rain.</li> </ul>	<p>A cantilevered awning is provided along the Georges River Road frontage.</p> <p>The awning height varies from 3.4-4.2m along the frontage and comprises a depth of 3m.</p> <p>A condition of consent would be imposed, if the application was supported, to ensure the awning is constructed in a way that will enable easy removal, without compromising the structural integrity of the building, should the proposed road widening occur in the future.</p>	Yes – via condition of consent

Control	Requirement	Proposed	Complies
3.2.8 Roof Design	<p>Emphasise building articulation with the shape and alignment of the roof.</p> <p>Relate roof design to the size and scale of the building, the building elevations and three dimensional building form – including the design of any parapet or terminating elements, and the selection of roof materials.</p> <p>Relate roof design to the desired built form and context.</p>	The proposed roof design is consistent with the design of other commercial/mixed use development along this portion of Georges River Road.	Yes
3.2.8 Roof Design (Continued)	<p>Roof terraces are permitted with consent in all business zones except the B1 Zone.</p> <p>A management strategy is required and must be approved by Council as part of the development application, for any proposed roof terrace.</p> <p>Supplement open space on roof terraces by providing space and appropriate building systems to support the desired landscape design, incorporating shade structures and windscreens to encourage use of roof top open space.</p> <p>Demonstrate that roof terrace has been designed to protect the privacy, solar access and amenity of adjoining buildings. Measures to minimise overlooking of adjoining properties include screening or planting between properties and preventing rooftop users from standing at the edge of roof terraces that look into adjoining properties through planting and screens.</p> <p>Allow for views and casual surveillance of streets and public open space from roof terraces.</p>	<p>The proposal comprises a roof terrace for communal open space.</p> <p>No rooftop management strategy was submitted however the Applicant confirmed the following:</p> <ul style="list-style-type: none"> <li>- The common outdoor area is only used between the hours of 7.00am and 10.00pm;</li> <li>- No amplified or live music is permitted;</li> <li>- All common areas, including corridors, the stairwells, and entrance lobbies, and the rooftop open space will be cleaned by a professional contractor at least once per week;</li> <li>- Rooftop landscaped will be maintained at a minimum of frequency of once a fortnight.</li> </ul> <p>This detail is sufficient for the purposes of this assessment. Should the application be supported, a condition of consent will be imposed to ensure a Plan of Management is submitted to Council incorporating the above, prior to the issuing of an Occupation Certificate.</p>	Yes – via condition of consent

Control	Requirement	Proposed	Complies
3.2.9 Services and Utility Areas	<p>Integrate services and utility areas with the design of the whole development – coordinate materials with those of the building and integrate with landscaping.</p> <p>Facilities should not be visually obtrusive and should not detract from soft-landscaped areas that are located within the required setbacks or building separations.</p> <p>Appliances that are fitted to the exterior of a building, and enclosures for service meters, should not detract from the desired architectural quality of new building, or the desired green character of streetscapes.</p> <p>Service authorities and the applicable Australian Standards outline technical requirements for the location and installation of appliances and meters.</p>	<p>All proposed services and utility areas are incorporated within the design of the development.</p> <p>The acoustic report submitted states that the basement parking is unable to be ventilated naturally and is therefore required to be mechanically ventilated. The design now incorporates provision for mechanical ventilation.</p>	Yes – via condition of consent

Control	Requirement	Proposed	Complies
3.2.9 Services and Utility Areas (Continued)	<p>Unscreened appliances and meters should not be attached to any facade that would be visible from a street, driveway or a principal communal area within the site:</p> <ul style="list-style-type: none"> <li>• Screen air conditioning units behind balcony balustrades,</li> <li>• Provide screened recesses for water heaters rather than surface mounting them on exterior walls,</li> <li>• Locate meters in service cabinets.</li> </ul>	All proposed services and utility areas are incorporated within the design of the development.	Yes
	Provide communal rooftop antennas rather than multiple individual antennas.	Antenna can be conditioned	Yes
	Co-ordinate and integrate building services, such as drainage pipes, with overall façade and balcony design.	Drainage pipes etc are integrated within the overall façade.	Yes
	<p>Mailboxes:</p> <ul style="list-style-type: none"> <li>• Design and provide discretely located mailboxes at the front of the property in accordance with Australia Post standards.</li> </ul>	The mailboxes are located adjacent to the entrances for the residential components.	Yes
	<p>Siting solar hot water systems:</p> <ul style="list-style-type: none"> <li>• Locate the system so it is not visible from the street or other public places.</li> <li>• Use colour that is consistent with the colour of roof materials.</li> <li>• Locate the water storage tank so it is separated from the solar collectors and can be situated on a less visually obtrusive part of the roof, or within the building (for example, within the roof space or laundry).</li> </ul>		
3.3.1 Visual Privacy	<p>Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to visual privacy have no effect in the assessment of residential apartment development applications.</p> <p>Clause 2.3.1 of the CDCP is therefore not relevant to the assessment of this application and visual privacy matters have been assessed only in relation to part 3F of the ADG (as detailed in the table above).</p>		

Control	Requirement	Proposed	Complies
3.3.2 Acoustic Privacy	<p>Address all requirements in <i>'Development Near Rail Corridors and Busy Roads (Interim Guideline)'</i> which has been published by the NSW Department of Planning.</p> <p>Comply with <i>'A Guide to Working in and Around Rail Corridors'</i> and requirements of the Rail Infrastructure Corporation and State Rail Authority <i>'Interim Guidelines for Applicants – Consideration of Rail Noise and Vibration in the Planning Process'</i>.</p> <p>Design the layout of lower levels facing the road or rail to:</p> <ul style="list-style-type: none"> <li>• Locate the position of windows facing the noise source and ensure that total unprotected window area is minimal (and following Building Code) so as to limit the amount of airborne noise entering the built fabric,</li> <li>• Ensure that the detailing of the window types addressing the corridors are designed and constructed to attenuate excessive noise - (double and triple glazing and insulated to manufacturers standards),</li> <li>• Ensure that balcony parapet walls are constructed of solid masonry or materials of similar sound attenuating qualities.</li> </ul> <p>When designing the public spaces fronting busy roads and the rail corridor at ground level, consider the use of elements such as moving water and screens to achieve sound attenuation.</p>	<p>Acoustic privacy has been assessed against the requirements of SEPP 2007 earlier within this report.</p> <p>Notwithstanding the requirements of SEPP 2007, Council also requested that the acoustic report consider potential noise impacts associated with the basement exhaust system and roller door. The acoustic report concluded that with consideration of the recommendations outlined within the report, the design will achieve compliance with noise requirements. Should the application be supported, the recommendations will be imposed via condition of consent.</p>	Yes – subject to conditions of consent
3.3.3 Open Space	<p>Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to open space and balconies have no effect in the assessment of residential apartment development applications.</p> <p>Clauses 2.3.3 and 2.3.4 of the CDCP are therefore not relevant to the assessment of this application and open space and balcony matters have been assessed only in relation to part 4E of the ADG (as detailed in the table above).</p>		

Control	Requirement	Proposed	Complies
3.3.4 Internal Dwelling Space and Design (Including storage)	<p>Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to apartment size and layouts have no effect in the assessment of residential apartment development applications.</p> <p>Clause 2.3.5 of the CDCP is therefore not relevant to the assessment of this application and matters have been assessed only in relation to part 4D of the ADG (as detailed in the table above).</p>		
3.3.5 Housing Choice	<p>Include a mix of unit sizes, such as studio, one, two, three and three plus bedroom apartments.</p> <p>Provide 10% of residential units, in each building with more than 30 units, as accessible and adaptable apartments.</p> <p>Design for flexible apartment configurations that support commercial uses on the ground floor in order to adapt to potential changes in the future.</p> <p>Promote housing choice by:</p> <ul style="list-style-type: none"> <li>• Providing private gardens or terraces which are directly accessible from the main living spaces of the apartment and support a variety of activities:</li> <li>• Maximising the number of accessible and visitable apartments on the ground floor.</li> <li>• Supporting a change or partial change in use, such as a home office accessible from the street.</li> </ul>	<p>The proposal comprises a mix of apartments comprising, one bedroom two bedroom and three bedroom apartments. Further, 4 of the 35 apartments proposed (11.4%) are accessible and capable of being adaptable.</p>	Yes
6.1.1-6.1.4 Access and Mobility	<p>An Access Report prepared by Vista Access Architects Pty Ltd dated 14 May 2020 accompanied the application. In terms of provisions relating to access for persons with a disability, the report concludes that by compliance with the requirements of the report, the development complies with the relevant requirements of the Access Code of Disability (Access to Premises-Building) Standards 2010, the Access relevant sections of Building Code of Australia 2015 and the essential criteria of AS4299 – Adaptable Housing. The recommendations of the report would be included as a condition of consent, should the application be recommended for approval.</p>		Yes – via condition of consent

Control	Requirement	Proposed	Complies
6.2.1 Internal Layout	Design and orientate the building to maximise solar access and natural lighting, without unduly increasing the building's heat load.	The building has been designed to ensure as many apartments as possible benefit from the northerly aspect.	Yes
	Site the building and outdoor space to avoid shadows cast from nearby buildings.	Primary balconies for each apartment are located along the external façade to maximise solar access. Further, given the constraints of the site, a roof-top communal space is proposed to provide adequate open space for future residents.	Yes
	Locate communal open space to optimise solar access to apartments.	Communal open space is located on the roof-top to optimise solar access to apartments.	Yes
	Consider providing adequate external clothes drying areas for all residents in the building.	The balconies provided to each apartment comply with the minimum dimension and size requirement and therefore, the area can incorporate external clothes drying areas. Notwithstanding this, a dedicated clothes drying area is incorporated within the rooftop communal open space design.	Yes

Control	Requirement	Proposed	Complies
6.2.2 Internal Layout	<p>Configure the building to maximise solar access to rooms that are occupied during the day (such as living areas, offices, waiting rooms and lunchrooms). Locate service areas to the south and west of the building.</p> <p>Facilitate daylight access to living rooms and private open spaces on the ground level.</p> <p>Limit the depth of single aspect apartments to 8m (from a window) to gain full benefit of solar and daylight access.</p> <p>Provide areas for clothes to be dried through natural ventilation.</p> <p>Increase opportunities for solar access in ground floor units, particularly in denser areas by:</p> <ul style="list-style-type: none"> <li>• Providing higher ceilings and taller windows,</li> <li>• Choosing trees and shrubs that provide solar access in winter and shade in summer.</li> </ul>	<p>The building has been configured to maximise the number of apartments comprising a northerly orientation.</p> <p>As outlined within the ADG section of this report, combined living/dining areas comprise a depth of no more than 8m from a window.</p>	Yes
6.2.3 Window and Glazing	<p>Place more windows on the northern side than on other sides of the building, so that there are more windows gaining heat than there are losing heat in winter months, and sun penetration is reduced in summer.</p> <p>Minimise east-facing and west-facing glazed areas to reduce low summer sun penetration into the building, where this does not compromise the creation of active street frontage and casual surveillance.</p>	<p>Placement of windows on the northern elevation has been incorporated into the design.</p>	Yes

Control	Requirement	Proposed	Complies												
6.2.4 Shading and Glare	<p>Use shading devices to allow direct sunlight to enter and heat a building in winter and prevent direct sunlight entering and heating the building in summer.</p> <p>Use shading devices such as eaves, awnings, shutters, louvres, pergolas, balconies, colonnades and external planting; provide horizontal shading to north-facing windows and vertical shading to east or west windows</p>	Shading devices in the form of screens have been incorporated within the design, particularly along the northern elevation.	Yes												
6.2.5 Insulation and Thermal Mass	<p>Maximise thermal mass in floor and walls in northern rooms of the building.</p> <p>Use insulation in the roof, ceiling, walls and floors to deflect heat and prevent the building from heating up in summer, and to contain heat and prevent the building from cooling down in winter, as follows:</p> <table border="1"> <thead> <tr> <th></th> <th>Other Min R-value</th> <th>Industrial Min R-value</th> </tr> </thead> <tbody> <tr> <td>Roof</td> <td>2.0</td> <td>2.5</td> </tr> <tr> <td>Wall</td> <td>1.0</td> <td>1.5</td> </tr> <tr> <td>Floor</td> <td>1.0</td> <td>1.0</td> </tr> </tbody> </table>		Other Min R-value	Industrial Min R-value	Roof	2.0	2.5	Wall	1.0	1.5	Floor	1.0	1.0	This has been addressed in the BASIX Certificate.	Yes
	Other Min R-value	Industrial Min R-value													
Roof	2.0	2.5													
Wall	1.0	1.5													
Floor	1.0	1.0													
6.2.6 Daylight Access and Sun Access (Adjoining Development)	Existing residential dwellings adjoining the site: At least 2 hours sunlight between 9am and 3pm on 21 June shall be retained for existing indoor living areas and at least 50% of the principal portion of existing private open space.	Refer to comment [3] below.	No – refer to comment [3] below												
6.2.6 Daylight Access and Sun Access	<p>Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to solar and daylight access, have no effect in the assessment of residential apartment development applications.</p> <p>Clause 6.2.6 of the CDCP is therefore not relevant to the assessment of this application and matters have been assessed only in relation to part 4A of the ADG (as detailed in the table above).</p>														
6.2.7 Ventilation	<p>Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to natural ventilation, have no effect in the assessment of residential apartment development applications.</p> <p>Clause 6.2.7 of the CDCP is therefore not relevant to the assessment of this application and matters have been assessed only in relation to part 4B of the ADG (as detailed in the table above).</p>														

Control	Requirement	Proposed	Complies
6.2.8 – 6.2.11 Heating, Cooling, Water Heating, Appliances, Lighting and Water Saving Devices	<p>Provide heating/cooling systems to target only those spaces that need heating or cooling – use zone system and isolate those areas that are difficult to heat, such as warehouse floors.</p> <p>Consider the installation of active solar energy systems.</p> <p>In residential and mixed use buildings: Allow entries to open into lobbies or vestibules that are isolated from areas within the apartment, Provide gas bayonets to living areas, Provide reversible-ceiling fans for improving air movement in summer and for distributing heated air in winter, Provide or plan for future installation of solar collectors and photovoltaic panels.</p>	This has been addressed in the BASIX Certificate.	Yes
6.3.1- 6.3.5 Crime Prevention	Site and Building Layout: Address the street, or both streets and corners	The building and dwellings are orientated towards Georges River Road.	Yes
	Site and Building Layout: Position habitable rooms with windows adjacent to the main communal area.	No apartments are proposed on the roof-top terrace and therefore no windows are orientated towards the roof-top communal open space area. However, should the application be recommended for approval, a condition of consent would be imposed to ensure the roof-top terrace has restricted access to residents only and is operated in accordance with the management plan.	Yes – via condition of consent
	Site and Building Layout: Avoid blind corners in pathways, stairwells, hallways and car parks.	The design of the ground floor and hallways on upper floors do not create blind corners.	Yes
	Access Control: Access to the individual units be clearly marked and apparent to visitors.	The entry is to be clearly numbered with the dwellings accessible through that entry.	Yes – via condition of consent

Control	Requirement	Proposed	Complies
	Access Control: Install intercom, code or card locks or similar to main entries to buildings, including are parks.	Intercoms and controlled access measures (e.g. roller doors) to be installed at the residential building entry point, main entry point to basement car park and entry point to residential component of basement car park.	Yes – via condition of consent
	Access Control: Concealment points be eliminated.	The layout of each floor eliminates potential concealment points through facilitating passive surveillance as well as restricting access in areas.	Yes
	Mixed Land Uses: Located shops and business on lower floors and residences on upper floors.	The design comprises ground floor business premises with residences located above.	Yes
	Ownership: Dwellings and communal areas to provide sense of ownership.	Sense of ownership is achieved using design features, building materials and site layout.	Yes
6.4 Development Engineering, Flood and Stormwater	<p>Council's Development Engineer raised no objection to the design subject to the following:</p> <p><i>As the stormwater management system include a provision for a stormwater easement being proposed on adjacent land. A deferred commencement would be included in the consent (if approval of the DA was recommended) regarding the registration of the easement as well as demonstrating that the easement will not compromise the approved development application on the adjacent land.</i></p>		Yes – via condition of consent.

Control	Requirement	Proposed	Complies
6.6 - 6.7 Landscaping and Tree Preservation	<p>Landscaping has been incorporated into the design to soften the building design, soften the visual impact of sealed areas, as well as provide additional screening to adjoining properties.</p> <p>The planting and location of planting does not contribute to any blind spots and still facilitates passive surveillance, where required. Planting is proposed within side boundaries (where possible) as well as along the rear boundary and around the perimeter of the rooftop communal open space to reduce opportunities for overlooking.</p> <p>In terms of tree preservation, the application was accompanied by arborist report which supported the removal of the 9 existing trees on the site and such trees are to be replaced. The landscape design does provide provision for replacement trees. It is noted that the arborist report is dated 2015, however the revised design does not change in terms of tree retention/removal and therefore the assessment is still relevant. Council's Landscape Officer who reviewed the original design had no issue with the proposed tree removal.</p> <p>Notwithstanding the above, the landscape plans submitted do not reflect the architectural plans submitted for Level 3. Should the application be supported, a condition of consent will be imposed to ensure revised landscape plans that reflect the approved architectural plans are submitted prior to the issuing of any Construction Certificate.</p>		Yes – via condition of consent.
6.8 Vehicle Access and Parking	<p>An assessment of the application against the parking generation rates contained within CDCP 2012 is provided earlier within this report.</p> <p>The application was also referred to Council's Transport and Parking division who raised no objection to the amended design.</p>		Yes
6.9 Waste Management	<p>The application was also referred to Council's Waste division who raised no objection subject to conditions of consent.</p>		Yes – via condition of consent.
Part 7 - Notification	See notification discussion below.		

As outlined above, the proposal results in variations to some controls contained within CDCP 2012. These matters are discussed in further detail below:

### **[1] Depth**

Control 3.1.7(iv) of CDCP 2012 specifies that commercial tenancies are to comprise a maximum depth of 24m. Tenancy 2 on the ground floor comprises a maximum depth of 25m thereby resulting in a 1m or 4.2% variation.

The objectives of Control 3.1.7 of CDCP 2012 are as follows:

Objectives:

*O1. Natural daylight is available in all parts of the building so that artificial light is not necessary during daylight hours:*

- O2. Narrow cross-section buildings on upper levels are appropriate width to allow for dual aspect apartments, natural ventilation and daylight access.*
- O3. An appropriate level of depth is available to create viable building spaces for retail and commercial use.*

Despite the minor non-compliance with the maximum depth control, the design is not inconsistent with the objectives for the following reasons:

- Tenancy 2 is dual orientated to the north and south and therefore direct solar access will be obtained via the northerly aspect and daylight will still be provided to the rear of the tenancy via the glass windows located along the southern elevation.
- The variation will not impact compliance of the residential apartments located on the upper levels with the maximum 18m depth requirement.
- The minor 1m variation will not impact on the viability of the retail or business use within tenancy 2.

In light of the above, the proposed variation is considered acceptable, on merit, in this instance.

## **[2] Setback**

Part 3.1.8 of CDCP 2012 outlines the minimum setback controls for development in the business zone. As outlined in the table above, the proposed design seeks variation to the following setback control:

- i. Storeys 1-3 build to front boundary;*

Apartments 204 and 205 on Level 2 (3<sup>rd</sup> storey) are setback approximately 2.4m from the front boundary. The objectives of Part 3.1.8 of CDCP 2012 are as follows:

- O1. Establish the desired spatial proportions of the street and define the street edge.*
- O2. The traditional street building wall is maintained where this is the existing or desired future character.*
- O3. Minimise building size and bulk by setting back upper storeys.*
- O4. Minimise amenity impacts on adjoining properties.*
- O5. Increased setbacks along Canterbury Road provide for possible future implementation of street parking and assist in reducing traffic noise impacts*

The design of the entire development is atypical to existing and future shop top housing development in the B2 zone given the Sydney Water easement that runs through the site. The design of the development has had to accommodate this element. Despite the technical non-compliance on the 3<sup>rd</sup> storey, the objectives of the control are still achieved given the following:

- The ground floor and 2<sup>nd</sup> storey of the development is built to the front boundary where possible which defines the street edge.
- The variation is located above the proposed awning in the middle of the development and therefore will not be highly visible for pedestrians and traffic travelling along Georges River Road.
- The variation does assist in breaking up the bulk of the development.
- The apartments receive adequate solar access.

In light of the above, the proposed variation is considered acceptable, on merit, in this instance.

### **[3] Daylight Access and Sun Access (Adjoining Development)**

Part 6.2.6(iii) of CDCP 2012 requires the following:

*Siting and form of new developments shall protect existing neighbouring dwellings:*

- *At least 2 hours sunlight between 9.00am and 3.00pm on 21 June shall be retained for existing indoor living areas and at least 50% of the principal portion of existing private open space, or*
- *If a neighbour currently receives less than 2 hours sunlight, then siting and form of proposed buildings shall be adjusted to maintain existing sunlight.*

It is noted that the solar access summary below considers the overshadowing cast by the approved development to the east of the site as part of the “existing environment” given that has been approved.

In summary, although the solar access documentation submitted does not clearly indicate the location of windows serving internal living areas on adjoining properties, Council’s assessment found that adequate solar access is maintained to all windows orientated to the proposed site and on this basis, it is considered that adequate solar access to the internal living areas of all adjoining properties will be retained.

In terms of private open space, the proposal will result in non-compliance to the minimum solar access controls to 5 of the 9 adjoining properties. An aerial map with the property numbers is provided for easy reference. Further detail is provided below:



<b>1 Clyde Street</b>	Solar access is retained to the windows along the northern elevation between 2-3pm. Therefore, a minimum 2hours solar access will be retained to all windows located the elevation impacted by the proposal	The rear private open space already receives less than 2 hours solar access to 50% of the area. However, the proposal overshadows it further between 2-3pm.	<b>No Private Open Space</b> –
<b>3 Clyde Street</b>	Solar access is retained to the windows along the northern elevation between 10am-12noon. Therefore, a minimum 2hours solar access will be retained to all windows located the elevation impacted by the proposal.	The rear private open space already receives less than 2 hours solar access to 50% of the area. However, the proposal overshadows it further between 11-3pm.	<b>No Private Open Space</b> –
<b>5 Clyde Street</b>	Solar access is retained to the windows along the northern elevation between 10am-12noon. Therefore, a minimum 2hours solar access will be retained to all windows located the elevation impacted by the proposal.	The proposed development results in further overshadowing of the rear private open space which results in less than 50% of the rear receiving solar access at all hours between 9am-3pm on 21 June.	<b>No Private Open Space</b> –
<b>7 Clyde Street</b>	Solar access is retained to the windows along the northern elevation between 9am-11am Therefore a minimum 2hours solar access will be retained to all windows located the elevation impacted by the proposal.	Solar access is retained to at least 50% of the principal private open space between 10am-1pm and therefore complies.	Yes
<b>9 Clyde Street</b>	The windows along the northern elevation are already in shadow between 9am-3pm on 21 June and the proposal does not impact it further. The eastern elevation maintains solar access between 12-2pm.	The proposed development results in further overshadowing of the rear private open space which results in less than 50% of the rear receiving solar access at all hours between 9am-3pm on 21 June.  However, at least 2 hours solar access is maintained to the solar panels of this dwelling.	<b>No Private Open Space</b> –
<b>11 Clyde Street</b>	The eastern elevation maintains solar access between 12-2pm.	Solar access is retained to at least 50% of the principal private open space between 9am-2pm and therefore complies.	Yes

The objectives of Part 6.2.6 of CDCP 2012 are as follows:

- O1. Habitable rooms have daylight access, and other areas of development have reasonable access to daylight.*
- O2. Natural ambient lighting to minimise the need for artificial lighting during daylight hours.*
- O3. Residents and other building occupiers have the ability to adjust the quantity of daylight to suit their needs.*
- O4. Adverse overshadowing to all buildings and outdoor areas is controlled to minimise negative impacts.*

When considering the proposed variation to the minimum solar access provisions, reference is made to the Planning Principle for impact on adjoining properties (Davies v Penrith City Council [2013]) as this would form part of any consideration should the matter be considered in Court. The Principle outlines that the following questions are relevant to the assessment of impacts on neighbouring properties:

- How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?
- How reasonable is the proposal causing the impact?
- How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?
- Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?
- Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal

Consideration of the proposal against the above questions is provided below:

- ***How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?***

As outlined in the table above, adequate solar access will be maintained to windows on adjoining development orientated to the subject site. The design will impact on the solar access provided to the private open space of 5 adjoining properties. However, it is important to note that of those 5 properties, the private open space of 3 of them (being 1, 3 and 9 Clyde Street) is already overshadowed by existing development. Therefore, there was already an existing non-compliance to the minimum solar access control at these properties.

Further consideration regarding how much sunlight is maintained/lost at each affected property is provided below:

- **1 Clyde Street:** The rear private open space is currently in shadow at all times on June 21 except at 2pm. At 2pm less than 50% of the private open space currently receives solar access. The proposed development results in further overshadowing of the small area that currently receives solar access at 2pm.
- **3 Clyde Street:** The rear private open space is currently in shadow at 9am, 10am and 3pm on June 21. Less than 50% of the space currently receives solar access between 11am-2pm on June 21. The proposed development results in further overshadowing of the private open space area between 11am-2pm.

- **5 Clyde Street:** Although the proposal results in further overshadowing of the rear private open space, solar access is maintained to a portion of the area between 9am-11am.
- **9 Clyde Street:** Similar to 5 Clyde Street, the proposal results in further overshadowing of the rear private open space. It is noted that less than 50% of the private open space receives solar access throughout the day by virtue of the approved development to the east and other structures adjoining the site. However, a portion of the private open space receives solar access between 10am-2pm on 21 June.
- **2 Hampton Street:** Solar access to the rear private open space is retained throughout the day however greater than 50% of the area receives solar access between 11am-12pm. At other times, the area is less than 50%.

- ***How reasonable is the proposal causing the impact?***

The design of the proposed development has been amended during the assessment process to comply with the minimum rear setback and building separation controls (and in some instances exceeds the minimum requirement). Although the proposal still seeks a minor variation to the building height development standard, the shadow cast by the proposed height variation falls within the subject site and does not impact on the solar access provided to adjoining properties. On this basis, there has been a substantial attempt by the Architect to minimise potential adverse overshadowing impacts on adjoining properties.

The proposed non-compliance in this instance is considered to result primarily from the following:

- The higher topography of the subject site compared to the topography of the lower density zone (R4 high density) to the rear (south),
- The controls applicable to the subject site that allows a far greater density to that of the adjoining lower density residential area to the south,
- The orientation of the sites as well as the orientation of the private open spaces of the adjoining developments to the south. The subject development is located to the north of the lower density residential properties at the rear. The dwellings to the rear are orientated to the east and west and therefore the private open space associated with the adjoining dwellings are consequently located directly behind the subject site.

In light of the above, the development is considered to be reasonable.

- ***How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?***

The impacted properties are lower density residential properties which are vulnerable. However, as outlined above, the design of the proposal has been revised to try and maintain reasonable solar access, where possible.

As mentioned above, existing non-compliances with the solar access controls applies at 3 of the 5 adjoining properties, resulting from existing developments adjoining the sites.

In order to avoid the further impact, the proposed development would need to be redesigned substantially given the topography of the subject site. It is likely that the redesign required would result in a design that is unreasonable and uncharacteristic of the existing and desired future character of development in the B2 zone.

- ***Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?***

No. As mentioned above, the design has been revised to reduce the impact on neighbouring properties as much as possible. The design complies with the building envelope controls except for the maximum building height standard within CLEP 2012. However, as outlined earlier within this report, the variation to the height standard is only attributed to the lift core and fire stairs. The shadow from the variation falls within the subject site itself and does not impact on adjoining properties.

It is considered that the impact primarily arises from the topography of the subject site, the controls applicable to the subject site and the orientation of the subject site when compared to the neighbouring properties, particularly the ones to the south.

- ***Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal***

As outlined within this report, the design achieves a high level of compliance with applicable planning controls with the exception of maximum building height, front setback, commercial building depth and overshadowing controls.

The location of the non-compliances within the building footprint would not impact on the level of solar access afforded to adjoining properties as the depth and front setback non-compliances are located within the centre of the building footprint. Furthermore, the design still complies with the minimum building separation and setback controls to the south of the site.

In terms of non-compliance with the maximum building height control, the overshadowing impact associated with this is maintained within the subject site.

In addition to the above considerations, it is noted that the development to the rear is zoned R4 High Density residential and the properties to the south have not been redeveloped to the maximum potential envisaged by the zone. Any future design associated with the redevelopment of the R4 properties would need to consider the existing approved overshadowing environment when determining compliance with the minimum solar access requirements contained within the Apartment Design Guide (amongst other controls as well).

In light of the above, the design has considered the objectives of the control and the considerations undertaken as part of the assessment are consistent with the planning principle for impact on adjoining properties (*Davies v Penrith City Council* [2013]). For the reasons mentioned above, the proposed non-compliance with the overshadowing control, particularly in regard to solar access provided to adjoining private open space areas, is considered acceptable on merit, under the circumstances.

### Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

The Canterbury Development Contributions Plan 2013 applies to the site. A calculation of the contributions applicable is provided in the table below:

Contribution Element 2013	Contribution
Community Facilities	\$ 40,953.88
Open Space and Recreation	\$ 400,304.97
Plan Administration	\$ 11,517.73
TOTAL PAYABLE:	\$452,776.58

#### **Planning agreements [section 4.15(1)(a)(iiia)]**

There are no planning agreements or draft planning agreements that are relevant to the subject proposal pursuant to Section 7.4 of the Environmental Planning and Assessment Act 1979.

#### **The regulations [section 4.15(1)(a)(iv)]**

The proposed development is consistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

#### **The likely impacts of the development [section 4.15(1)(b)]**

The key potential impacts of the development have been discussed through-out this report. Apart from those matters already addressed, the following likely impacts are considered:

- **National Construction Code**

Council's Building Surveyor has reviewed the application and raises no objection, subject to conditions of consent.

- **Noise associated with pedestrian concourse**

Council requested that the Applicant consider the potential noise impacts associated with the pedestrian concourse at ground level. The Acoustic report prepared by Acoustic Noise and Vibrations Pty Ltd dated 17 August 2020 subsequently addressed this concern and concluded the following:

*"In order for the operation of the pedestrian concourse to meet the noise criteria outlined, we recommend that the soffit of the awning is to be lined with noise absorption material with an RC greater than or equal to 0.8, as shown in Figure 7 – Proposed Awning with Noise Absorption Material".*

The above recommendation will be included as a condition of consent should the application be supported.

- **Proposed excavation works**

The proposed development involves excavation and construction works in close proximity to property boundaries and neighbouring properties. Should the application be approved, relevant conditions requiring the applicant to provide a dilapidation report for the adjoining properties, prior to the issue of the Construction Certificate could be included on any consent issued. Should any damage to adjoining properties result from the proposed excavation works at the subject site, the applicant would be required to rectify all damages.

- **Sediment and Erosion Control**

Standard conditions could be included regarding the installation and maintenance of the sediment and erosion control measures as part of the pre and during construction phase of the development, should the application be supported.

The development will involve excavation of part of the site to accommodate the development. Any excavated material not utilised elsewhere on the property, will require proper disposal and transport in accordance with the Waste Avoidance and Recovery Act, and the Protection of the Environment Operations Act. A condition will be imposed in this regard.

- **Referrals**

Referral	Comments Received
Building Surveyor	No objection – subject to conditions
Development Engineer	No objection – subject to conditions
Resource Recovery	No objection – subject to conditions
Traffic	No objection
Environmental Health	No objection – subject to conditions
Urban Design	Comments considered and either conditioned or justified as part of this report.
Tree Management	No objection – subject to conditions
Ausgrid	No objection – subject to conditions
Roads and Maritime Services	No objection – subject to conditions
Sydney Water	<p>Concern raised within response received 24 August 2020. Particularly the following:</p> <ul style="list-style-type: none"> <li>• <i>Sydney Water has a critical waste water main located in easement within the boundaries of the proposed development site. It appears that the proposed development will be built over the existing waste water main and easement.</i></li> <li>• <i>Due to the potential risk of damage to the waste water asset, as well as the building resulting in impaired maintenance access to the asset, Sydney Water objects to this proposal in its current form.</i></li> <li>• <i>Alternative building design options that comply with Sydney Water's requirements may be available. Should the developer wish to explore potential options, then a Water Servicing Coordinator should be engaged to lodge a Building Plan Feasibility application with Sydney Water.</i></li> </ul>

	<ul style="list-style-type: none"> <li><i>This advice is not formal approval of our servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided once the development is referred to Sydney Water for a Section 73 application</i></li> </ul> <p>A requirement for a S73 application is imposed via condition of consent, should the application be supported.</p>
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### **Suitability of the site [section 4.15(1)(c)]**

The proposed development is permitted with consent on the subject site and represents a built form that is compatible with the existing and future character of the locality. The application has been assessed under Section 4.15 of the Act, and as demonstrated throughout the body of this report, the proposal generally complies with the relevant development controls. The proposed variations to the relevant CLEP 2012 and CDCP 2012 controls regarding building height, commercial building depth, front setback and overshadowing, have been assessed on merit and are acceptable for the reasons outlined within the body of the report.

### **Submissions [section 4.15(1)(d)]**

The application was advertised/notified twice, each for a period of 21 days. A total of 13 objections were received during the first round of advertising (25 January -15 February 2017) and a total of 3 objections were received during the second round (24 June – 14 July 2020). The matters raised in the objections is provided below:

*Objection: Query as to why the subject DA was advertised prior to the advertising of the proposed development on the adjoining property.*

*Comment: This is not a matter for consideration under the planning requirements. Both applications were publicly advertised in accordance with the relevant notification provisions.*

*Objection: Raised concern that the subject DA was assessed quickly with the prospect of it being handed over to solicitors and for consideration through legal means.*

*Comment: This assumption is incorrect. The application has been assessed in accordance with the relevant planning legislation. The report has been prepared to be considered by the Local Planning Panel, pursuant to the relevant delegations.*

*Objection: The current LEP provisions are out of date and should provide provision for a 6 storey development which is reflect of similar developments within the locality.*

*Comment: Council's Strategic Department has considered the 18m building height development control suitable for the subject site when preparing the Canterbury Local Environmental Plan 2012.*

*Objection: Requested a copy of the Clause 4.6 variation statement.*

*Comment: This was made available to the public during the public notification period for review.*

*Objection: The application has not adequately addressed contamination issues on the site.*

Comment: Further information was requested from the Applicant to address the relevant contamination and remediation controls outlined within State Environmental Planning Policy 55 – Remediation of Land. Such information was provided and reviewed by Council’s Environmental Health Officer who raised no objection, subject to conditions of consent.

*Objection: Concern that contaminated groundwater will leach into adjoining properties.*

Comment: As noted above, further information has been requested from the Applicant to address the relevant contamination and remediation controls outlined within State Environmental Planning Policy 55 – Remediation of Land. Such information was provided and reviewed by Council’s Environmental Health Officer who raised no objection, subject to conditions of consent.

*Objection: The proposed building height is not in keeping with the character of the area.*

Comment: The overall building height has been reduced from 6 storeys to 5 storeys. The design still seeks a minor variation to the building height (1.81m) by virtue of the lift overrun and fire stairs. A clause 4.6 variation statement has been submitted for the variation. Based on Council’s assessment of the variation statement, the proposed minor height breach is considered acceptable in this instance.

*Objection: The proposed height and scale will have adverse privacy and overshadowing impacts on the existing residential properties to the south.*

Comment: Adequate privacy will be retained to the adjoining properties by virtue of adequate building separation coupled with mitigation measures (i.e. privacy screens and high sill windows). In terms of overshadowing impacts, the proposal will result in overshadowing impacts to the principal private open space of 5 adjoining properties. Based on Council’s assessment, the overshadowing impacts primarily result from the topography of the site, orientation of the site as well as building controls applicable. Adequate solar access will be maintained to the windows serving living rooms of adjoining properties. On this basis, the proposed variation to the solar access provision contained within Canterbury Development Control Plan 2012 is considered acceptable in this instance.

*Objection: The proposed development will result in adverse parking impacts on the local street network.*

Comment: The design incorporates car parking that meets the minimum requirements. Furthermore, Council’s Traffic Team has reviewed the application, along with NSW Roads and Maritime Services, who raises no concerns with the proposal from a traffic and parking perspective.

*Objection: The application has understated the existing traffic flow and therefore the potential traffic impacts are not correctly reflected in the information submitted.*

Comment: Council's Traffic Team has reviewed the application, along with NSW Roads and Maritime Services, who raises no concerns with the proposal from a traffic and parking perspective.

*Objection: The information submitted is incomplete.*

Comment: Council agrees that insufficient information was originally submitted as part of the application. The Applicant has provided the additional information requested.

*Objection: The proposed development will result in adverse traffic impacts on the local road network.*

Comment: Council's Traffic Team has reviewed the application, along with NSW Roads and Maritime Services, who raises no concerns with the proposal from a traffic and parking perspective.

*Objection: There are no other 6 storey developments within the immediate locality.*

Comment: The design has been reduced from a 6 storey to a 5 storey development.

*Objection: The development results in isolation of adjoining property to the south.*

Comment: The subject site is zoned B2 Local Centre and the land directly adjoining the property to the south is zoned R4 High Density Residential. Given the different zoning of the sites, the proposal does not isolate these sites.

*Objection: The proposed vehicular access along Georges River Road will result in adverse safety impacts for pedestrians and motorists travelling along Georges River Road.*

Comment: The proposed vehicular access point along Georges River Road has been reviewed by Council's Traffic Team and Roads and Maritime Services who has raised no objection, subject to conditions of consent.

*Objection: The number of balconies comprising a southerly orientation will result in adverse privacy impacts to existing residential properties located to the south of the site.*

Comment: The building (including balconies) comply with the minimum building separation controls outlined within the Apartment Design Guide as well as the minimum setback controls outlined within the Canterbury Development Control Plan 2012. Compliance with such controls is considered to maintain adequate privacy to the properties located to the south of the site. Furthermore, majority of the balconies orientated south are off bedrooms which are less intrusive uses.

*Objection: Insufficient information has been provided to determine the potential overshadowing impacts on adjoining properties.*

Comment: Insufficient information was originally submitted in terms of overshadowing. The additional overshadowing documentation requested from the Applicant. Based on Council's assessment of the additional shadow documentation, Council accepts the level of solar access maintained to adjoining properties.

*Objection: The design comprises insufficient parking to cater for the proposed number of apartments and commercial area.*

Comment: The design complies with the minimum parking requirements specified within the Canterbury Development Control Plan 2012 for the business and residential uses on the site. Therefore, sufficient parking is included in the design to cater for the development.

*Objection: The height of the subject site land is substantially higher than the land of the residential properties to the south and therefore the development will result in direct overlooking issues.*

Comment: The topography of the site is noted. To ensure minimum privacy impacts resulted from the proposal, the Applicant was required to ensure the southern elevation of the development complied with the minimum building separation and setback controls. This was achieved.

*Objection: The subject site currently has established trees located along the southern boundary which provide for additional screening for the adjoining residential properties. Removal of these trees will result in further loss of privacy, which is not acceptable.*

Comment: The amended proposal does incorporate a deep soil area along the southern boundary of the site that includes the planting of trees. The deep soil area meets the minimum area requirements outlined within the Apartment Design Guide.

*Objection: Why was Burwood Council not notified of the adjoining development to the east, but it was for this DA?*

Comment: Burwood Council was notified of the subject Application during the notification period.

*Objection: The application should be accompanied by shadow diagrams for summer months, no just winter for completeness*

Comment: The Canterbury Development Control Plan 2012 only requests overshadowing diagrams to be submitted for the winter equinox given this is the worst case scenario for overshadowing impacts.

*Objection: The application is deficient of an assessment of traffic impacts.*

Comment: Council's Traffic Team has reviewed the application, along with NSW Roads and Maritime Services, who raises no concerns with the proposal from a traffic and parking perspective.

*Objection: There is no indication as to whether recycled water will be used for maintenance of the proposed landscaped area.*

Comment: The applicable water requirements are contained within the BASIX Certificate. The design achieves a pass for the water target contained within the BASIX Certificate submitted.

*Objection: None of the diagrams include properties on the Burwood Council side of the road.*

Comment: This is not generally required. It would usually be required for the overshadowing plans. However, given the properties on the Burwood Council side of the road are located to the north, the subject development will not advertise impact these properties.

*Objection: There is minimal setback to Georges River Road and it appears the development goes up to the road edge.*

Comment: The development is permitted to be built to the boundary for the first three storeys. This is a consistent approach in town centres across the city.

*Objection: The application does not consider the future road widening that affects the site.*

Comment: The building has been designed to consider the future road widening that affects the front of the site. Majority of the elements included in the area nominated for future road widening (i.e landscaping, seating, etc) can be removed via condition of consent, should the application be approved.

*Objection: The plans comprise reference to the incorrect address which raises concern regarding how many other elements of the proposal are incorrect.*

Comment: The amended plans submitted do incorporate the correct property address.

*Objection: What measures does the developer have to mitigate noise impacts from the rooftop open space.*

Comment: The Applicant confirmed the following in terms of noise mitigation measures for the rooftop space: *The common outdoor area is only used between the hours of 7.00am and 10.00pm; and No amplified or live music is permitted.* Furthermore, a rooftop management strategy is conditioned to be provided prior to the issuing of any Occupation Certificate.

*Objection: What pecuniary interests do Councilors and Senior Officers at CBCity have in this development?*

Comment: Councillors do not have a role in the determination of development applications and there are no conflict of interests from staff.

*Objection: The development is prohibited in the B2 Zone.*

Comment: The development is defined as a shop top housing development which is permissible in the B2 zone, with consent.

*Objection: The variation request to vary the building height standard is incompetent and unsupportable and fails to meet the requirements of Clause 4.6 of CLEP 2012. The building height has not been calculated correctly and the proposed breach results in adverse overshadowing impacts on adjoining properties.*

Comment: Council has calculated the maximum building height of the development and believes it is 0.04m higher than that claimed by the Applicant, which is marginal. A clause 4.6 variation statement has been submitted for the variation. For the reasons outlined within the planning report, the proposed height breach is supported in this instance.

*Objection: The shadow diagrams provided, and associated assessment contained within the SEE are deficient and do not enable a detailed and proper assessment of the potential impacts.*

Comment: Insufficient information was originally submitted in terms of overshadowing. The additional overshadowing documentation requested from the Applicant. Based on Council's assessment of the additional shadow documentation, Council accepts the level of solar access maintained to adjoining properties.

*Objection: The design fails to meet the rear setback controls.*

Comment: The revised design complies with the minimum building separation controls contained in the Apartment Design Guide and the minimum rear setback controls contained in Canterbury Development Control Plan 2012.

*Objection: No details of any new proposed fencing were provided.*

Comment: Correct, and therefore it is considered that no new fencing is proposed.

*Objection: The design is deficient in storage space for the proposed apartments.*

Comment: Based on Council's assessment, the design comprises sufficient storage areas to achieve compliance with the minimum storage space requirements. Should the application be approved, compliance with the storage volume requirements would be enforced via condition of consent.

*Objection: The design does not comply with the minimum waste management controls contained within CDCP 2012.*

Comment: Council's Waste Department reviewed the amended design and raises no objection, subject to conditions of consent.

*Objection: The rooftop communal open space will result in adverse privacy and noise impacts and is not permitted in accordance with CDCP 2012. The location of planter beds along the perimeter of the rooftop area will make maintenance difficult.*

Comment: Council is generally supportive of the rooftop communal open space design. The design is not considered to result in any significant adverse privacy impacts and the location of the planter beds will be used to mitigate opportunity for overlooking. Furthermore, a rooftop management strategy is conditioned to be provided prior to the issuing of any Occupation Certificate.

*Objection: The design does not comply with minimum solar access provisions contained within the Apartment Design Guide.*

Comment: The amended design complies with the minimum solar access provisions contained within the Apartment Design Guide.

*Objection: Inadequate information has been supplied for Council to satisfy itself of a suitable drainage design being provided.*

Comment: Council's Development Engineer has reviewed the proposal and is acceptable of the stormwater design, subject to conditions of consent, should the application be approved.

*Objection: How will Council make a decision directly affecting the community without local representation?*

Comment: The application will be reported to the Local Planning Panel for determination. The Panel includes a community representative.

*Objection: The apartments are poorly designed and are not in keeping with the historic character of the area.*

Comment: The site is not located within a Heritage Conservation area. The design has been revised substantially since the original lodgement. The proposed apartment design achieves a high level of compliance with the relevant design controls outlined within the Apartment Design Guide, Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012 and are therefore considered acceptable.

*Objection: Construction of this development in conjunction with the approved development to the east of the site will decrease the level of southerly breezes to properties on the northern side of Georges River Road. This will likely result in an increased burden on power resources and increase greenhouse emissions.*

Comment: This is not a planning consideration pursuant to 4.15 of the Environmental Planning and Assessment Act 1979.

*Objection: The development is unnecessary and there are already completed development in the surrounding suburbs that stand empty.*

Comment: The viability of the development is a consideration of the Applicant. Council does not provide comment on this for each individual development.

*Objection: The design will result in laundry hanging from verandahs which is unsightly.*

Comment: The design has been revised to incorporate more solid balustrades which will screen unsightliness. Furthermore, a dedicated clothes drying area has been incorporated within the rooftop communal open space area for future residents to use.

#### **The public interest [section 4.15(1)(e)]**

The proposed development would not contravene the public interest. The development appropriate responds to the applicable environmental instruments and development controls, and the proposed development would contribute to housing diversity within the Canterbury-Bankstown LGA. The matters raised in public submissions have been satisfactorily addressed.

**CONCLUSION**

The development application has been assessed pursuant to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 and all relevant development control plans, codes and policies.

The proposed variations to the building height, commercial tenancy depth, front setback and overshadowing controls have been considered on merit and are determined to be acceptable in the instances of this case. The design of the proposed development is compatible with the future and desired local character of the area and represents a quality development that will positively contribute to the streetscape and the local built environment.

**RECOMMENDATION**

It is recommended that the application be approved, subject to the conditions set out in Attachment B.

## Notice of Determination of a Development Application

Environmental Planning and Assessment Act, 1979. Section 4.18(1)(a)

### Development Application No. DA-578/2016

#### **PART A – DEFERRED COMMENCEMENT CONDITION**

This development consent is not to operate until the applicant satisfies Council, within a period of twelve months of the date of this Consent, as to the matters set out in the following deferred commencement condition:

- A1. A drainage easement (measuring minimum 1.5m wide) must be obtained through the adjoining property at 230-234 Georges River Road, Croydon Park.

A copy of the easement registered in the NSW Lands Title Office must be forwarded to Council within the said twelve month period.

Plans and documentation demonstrating that the easement will not compromise the approved development application at 230-234 Georges River Road, Croydon Park must be forwarded to Council within the said twelve (12) month period.

#### **CONDITIONS OF CONSENT**

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No. DA-578/2016, submitted by Urbanlink Architects, accompanied by the drawings as listed in the table below, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

Drawing No.	Drawing Title	Revision	Dated	Prepared by
A2100	Floor Plan – Basement 2	M	17.08.2020	UrbanLink
A2101	Floor Plan – Basement 1	N	02.10.2020	UrbanLink
A2102	Floor Plan – Ground Floor	N	02.10.2020	UrbanLink
A2103	Floor Plan – Level 01	M	17.08.2020	UrbanLink
A2104	Floor Plan – Level 02	M	17.08.2020	UrbanLink
A2105	Floor Plan – Level 03	M	17.08.2020	UrbanLink
A2106	Floor Plan – Level 04	M	17.08.2020	UrbanLink
A2107	Floor Plan – Rooftop COS	M	17.08.2020	UrbanLink
A3000	Elevations – North	M	17.08.2020	UrbanLink
A3001	Elevations - South	M	17.08.2020	UrbanLink
A3002	Elevations – West	M	17.08.2020	UrbanLink

A3003	Elevations – East	M	17.08.2020	UrbanLink
A3100	Sections – Section 01	M	17.08.2020	UrbanLink
A3101	Sections – Section 02	M	17.08.2020	UrbanLink
A3102	Sections – Section 03	M	17.08.2020	UrbanLink
A3200	Detail Sections – Section North Façade Part 1	M	17.08.2020	UrbanLink
A3201	Detail Sections – Section North Façade Part 2	M	17.08.2020	UrbanLink
A4400	Materials	M	17.08.2020	UrbanLink
L/00	Cover Sheet	D	17.08.2020	Discount Landscape Plans
L/01	Proposed Landscape Plan – Ground Level	E	17.08.2020	Discount Landscape Plans
L/02	Proposed Landscape Plan – Level 01	D	17.08.2020	Discount Landscape Plans
L/03	Proposed Landscape Plan – Level 03	D	17.08.2020	Discount Landscape Plans
L/04	Proposed Landscape Plan – Roof Terrace	D	17.08.2020	Discount Landscape Plans
12MB6878/D02	Ground Floor Drainage Plan	F	17.08.2020	United Consulting Engineers Pty Ltd
12MB6878/D03	Easement Drainage Plan	F	17.08.2020	United Consulting Engineers Pty Ltd
12MB6878/D04	Basement 1 Drainage Plan	F	17.08.2020	United Consulting Engineers Pty Ltd
12MB6878/D05	Basement 2 Drainage Plan	F	17.08.2020	United Consulting Engineers Pty Ltd
	Waste Management Plan	2	August 2020	Dickens Solutions Pty Ltd
-	NSW RMS Concurrence Letter		9 February 2017	NSW Roads and Maritime Services

The development plans shall be amended as follows:

- a) The proposed landscaped plan for Level 3 is to be amended to reflect the approved architectural plan for Level 3.
- b) The eastern elevation of the south facing balcony associated with apartment 109 is to comprise a privacy screen measuring a maximum height of 1.8m when measured from the finished floor level.
- c) The eastern elevation of the south facing balcony associated with apartment 109 is to comprise a privacy screen measuring a maximum height of 1.8m when measured from the finished floor level.
- d) The eastern elevation of the south facing balcony associated with apartment 209 is to comprise a privacy screen measuring a maximum height of 1.8m when measured from the finished floor level.
- e) The eastern elevation of the primary north facing balcony associated with apartment 307 is to comprise a privacy screen measuring a maximum height of 1.8m when measured from the finished floor level.

- f) The window along the eastern elevation of the primary balcony associated with 406 must be deleted and replaced with a solid wall.
  - g) The eastern elevation of the south facing balcony associated with apartment 407 is to comprise a privacy screen measuring a maximum height of 1.8m when measured from the finished floor level.
  - h) The western elevation of the south facing balcony off the bedrooms associated with apartment 408 is to comprise a privacy screen measuring a maximum height of 1.8m when measured from the finished floor level.
  - i) A planter measuring a minimum 1m in depth is to be located along the entire length on the eastern boundary of the roof top.
  - j) Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.
  - k) Storage within each dwelling must be provided as follows:
    - a. Minimum 4m<sup>3</sup> in studio apartments;
    - b. Minimum 6m<sup>3</sup> in one bedroom apartment;
    - c. Minimum 8m<sup>3</sup> in two bedroom apartments;
    - d. Minimum 10m<sup>3</sup> in three+ bedroom apartments;
    - e. At least 50% of the required storey is to be located within the apartment.
- 3) The subject property is affected by Road Widening Order under Section 25 of the Roads Act 1993, as published in Government Gazette 3 October 1958, as shown in pink colour on the aerial attachment to the letter referred to in Condition 2 above 'Aerial – "X" and DP 445848". All buildings and structures together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Georges River Road boundary.
- 4) In the event of road widening, the landscaped area, awning, tables and chairs, paving etc located within the SP2 zoned area will be removed (and relocated if necessary) in favour of road widening at no cost to Transport for New South Wales.
- 5) In the event that an electrical substation is required to cater for the proposed development, the location of the substation must not impact on the streetscape appearance of the site and is to be integrated within the design of the building.

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

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

- 6) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.

- 7) All the recommendations stated within the Acoustic Report prepared by Acoustic Noise and Vibrations Pty Ltd dated 17 August 2020 forms part of the development consent. All recommended design changes/details outlined in the report are to be reflected on amended plans prior to the issuing of any Construction Certificate.
- 8) All the recommendations stated within the Geotechnical Report prepared by STS GeoEnvironmental Pty Ltd dated August 2020 forms part of the development consent. All recommended design changes/details outlined in the report are to be reflected on amended plans prior to the issuing of any Construction Certificate.
- 9) All recommendations stated within the Access Report prepared by Vista Access Architects Pty Ltd dated 15 May 2020 forms part of the development consent. All recommended design changes/details outlined in the report are to be reflected on amended plans prior to the issuing of any Construction Certificate.
- 10) Prior to demolition, the entire site (includes any structures) is to be assessed for hazardous materials, especially asbestos. A Hazardous Materials (HAZMAT) Report is to be prepared by a Type "A" inspection body accredited by NATA. All recommendations contained within this report are to be implemented and a clearance certificate issued by an appropriately qualified Occupational Hygienist is to be submitted to Council prior to the issue of a construction certificate.
- 11) Intercoms and controlled access measures (e.g. roller doors, swipe door access) to be installed at the residential building entry points, main entry point to basement car park and entry point to residential component of basement car park.
- 12) Landscaping shall be installed in accordance with the approved landscape plan.
- 13) Communal rooftop antennas are to be provided rather than individual antennas.
- 14) The redundant driveways on Georges River Road boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Marsden Road shall be in accordance with Roads and Maritime Services, Manager Developer Works, State Wide Delivery, Parramatta (telephone 9598 7798).  
  
Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.  
  
A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.
- 15) In accordance with AS 2890.1-2004 (Parking Facilities, Part 1: Off-street car parking), the driveway shall be a minimum of 5.5m in width for a minimum distance of 6m from the property boundary.

- 16) All vehicles are to enter and leave the site in a forward direction.
- 17) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Georges River Road during construction activities.
- 18) All demolition and construction vehicles are to be contained wholly within the site and construction vehicles must enter the site before stopping. A construction zone will not be permitted on Georges River Road.
- 19) A Construction Traffic Management Plan detailing construction vehicles routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.
- 20) Sight distances from the proposed vehicular crossings to vehicles on Georges River Road are to be in accordance with the Austroads 'Guide to Traffic Engineering Practice, Part 5: Intersections at Grade, Section 6.2 – Sight Distances' and AS 2890. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists.
- 21) The design must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.
- 22) The Detailed Site Investigation prepared by Trace Environmental, titled Updated Detailed Site Investigation, dated 14 September 2020, reference 99.76 Rev0, and all the recommendations stated within the report forms part of the development consent.
- 23) Prior to the issue of a Construction Certificate, the site is to be remediated in accordance with:
  - i. The approved Remedial Action Plan, prepared by Trace Environmental, titled Remedial Action Plan, dated 14 September 2020, reference 99.76 Rev0;
  - ii. State Environmental Planning Policy No. 55 - Remediation of Land;
  - iii. The guidelines in force under the *Contamination Land Management Act 1997*. The applicant must engage an appropriately qualified and experienced environmental consultant to supervise all aspects of site remediation and validation.Any variations to the approved Remediation Action Plan must be submitted to and approved in writing by a NSW EPA Accredited Site Auditor and Council prior to the continuing of such work.
- 24) Prior to issue of the Construction Certificate, the proponent must submit a detailed validation report to Council and the principal certifying authority. The validation report must be prepared in accordance with:

- i. 'State Environmental Planning Guideline (SEPP) 55 – Remediation of Land' (Department of Urban Affairs and Planning and NSW EPA, 1998);
- ii. Relevant EPA Guidelines, noting in particular the 'Guidelines for Consultants Reporting of Contaminated Sites' (NSW Office of Environment and Heritage, 2011); and
- iii. National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013).

The validation report must be prepared, or reviewed and approved by an appropriately qualified environmental consultant.

The validation report must verify that the land is suitable for the proposed use(s), and that the remediation and validation of the site has been undertaken in accordance with the approved Remedial Action Plan, prepared by Trace Environmental, titled Remedial Action Plan, dated 14 September 2020, reference 99.76 Rev0.

- 25) Where the Validation Report identifies the need for the implementation of an ongoing environmental management plan, the plan must be submitted to Council and the principal certifying authority. The ongoing environmental management plan must be prepared in accordance with:
- I. NSW Contaminated Land Planning Guidelines;
  - II. Relevant EPA endorsed guidelines; and
  - III. National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013).

The ongoing environmental management plan must be prepared, or reviewed and approved by a suitably qualified environmental consultant.

The ongoing environmental management plan must be submitted to, and approved by, Council prior to the issue of a Construction Certificate.

The ongoing environmental management plan must describe the nature and location of the contamination and prescribe how the contaminants will be managed/monitored and the responsible parties for this management/monitoring in the long-term.

The ongoing environmental management plan must specifically outline the construction details, and the requirements of management and monitoring of the containment cell to ensure it is maintained appropriately, its integrity remains intact, and to avoid migration of contamination. The ongoing environmental management plan must also include a contingency plan in the event that the systems fail.

- 26) The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber

paling, sheet metal or other suitable material unless the type of material is stipulated in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.

- 27) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.
- 28) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with Council's Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 29) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

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

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

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

- 30) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 31) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 32) This condition has been levied on the development in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development 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 \$452,776.58. The amount payable is based on the following components:

Contribution Element	Contribution
2013	
• Community Facilities	\$ 40,953.88
• Open Space and Recreation	\$ 400,304.97
• Plan Administration	\$ 11,517.73

Note: The contributions payable may be adjusted, at the time of payment, to reflect Consumer Price Index increases (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

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.

The Development Contributions Plan 2013 may be inspected at Council's Campsie Customer Service Centre, 137 Beamish Street, Campsie or from Council's website [www.cbccity.nsw.gov.au](http://www.cbccity.nsw.gov.au). A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

- 33) The development is to be carried out in accordance with the commitments shown in the BASIX Certificate. The BASIX commitments approved with the development application are to be reflected in the construction certificate plans and specifications.
- 34) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 35) Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plans approved within Condition 2 of this consent. The final plans shall be certified by the design engineer that it complies with Council's Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.
- 36) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

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

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

- 37) An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 38) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 39) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

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

This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the constructions site;
- c) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- e) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.
- f) Proposed route for transportation of bulk and excavation materials to and from the development site.

The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "State Road" via "Regional Roads", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided **no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.**

An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council to rectify damages to public property adjacent to the site as a consequence of building works shall be lodged with Council prior to release of any Construction Certificate. Damage will be rectified as required by Council to remove unsafe conditions. All damage must be rectified upon completion of work to the satisfaction of Council.

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

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

- 40) Prior to the issue of any Construction Certificate for this development, the Principal Certifying Authority must approve a Site Operations Management Plan (SOMP). This Plan must address the measures that will be implemented for the ongoing management of operations on and around the construction site, the protection of adjoining properties, and other requirements as specified below.

This plan shall include details of the following:

- a) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b) Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- d) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.

- e) Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

A number of the above matters may require separate approval from Council, particularly those relating to works on or adjacent to Council property. These may be covered by separate conditions of consent contained in this Determination Notice. Appropriate approvals will need to be obtained prior to the approval of this plan.

The approved Site Operations Management Plan is to be implemented prior to the commencement of any works on the site, and an approved copy provided to Council for information. Ongoing compliance with the matters detailed in the SOMP shall be monitored by the appointed Principal Certifying Authority.

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

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.

- n) Subdivision is proposed.
- o) A Swimming pool is proposed.
- p) A Heavy duty Vehicular Footway Crossing (VFC) at the property boundary. All existing and / or new infrastructure located on Council's land in front of the development site is to be provided in accordance with Council's Engineering Standard STD DWG N° S-004. All costs associated in achieving compliance with this condition must be borne by the person having the benefit of this Determination Notice. All work must be completed prior to the issue of any Occupation Certificate

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

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

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

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

In determining a Works Permit, Council can impose conditions and require inspections by Council Officers.

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

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

The commencement of any works on public land, including the footway or public road, may incur an on the spot fine of not less than \$1100 per day that work continues without a Works Permit and/or a Roadway/Footpath Building Occupation Permit.

All conditions attached to the permit shall be strictly complied with prior to occupation of the development. Works non-conforming to Council's specification (includes quality of workmanship to Council's satisfaction) shall be rectified by the Council at the applicant's expense.

- 42) Portable water servicing should be available via a 150mm CI/CL watermain (laid in 1958) on Georges River Road.
- 43) Amplifications or alterations to the portable water network may be required complying with the Water Services Association of Australia (WSAA) code - Sydney Water edition.
- 44) Wastewater servicing should be available via a 225mm VC wastewater main (laid in 1924) on Georges River Road.
- 45) Amplifications or extensions to the wastewater network may be required complying with the Water Services Association of Australia (WSAA) code - Sydney Water edition.
- 46) 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 repairs 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.
  - i. The applicant shall prepare a dilapidation report/photographic survey prepared by an appropriately qualified consultant for the adjoining properties at 230-234 Georges River Road, 242-244 Georges River Road, 1, 3 and 5-7 Clyde Street and 2 Hampton Street, Croydon Park detailing the physical condition of the properties, both internally and externally, including items such as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
- 47) A vacant land charge form is to accompany any Construction Certificate (CC) application for the removal of all domestic garbage and recycling bins.  
<https://www.cbccity.nsw.gov.au/council/forms/waste-recycling>
  - i. A design certificate and detailed plans are to accompany any CC application which demonstrate that the waste storage room has been designed to be constructed in accordance with the following requirements:
  - ii. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - iii. The floors must be finished so that is non-slip and has a smooth and even surface.
  - iv. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
  - v. The walls must be constructed of solid impervious material.

- vi. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
  - vii. Walls, ceiling and floors must be finished in a light colour.
  - viii. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - ix. A self-closing door openable from within the room.
  - x. Must be constructed to prevent the entry of birds and vermin.
  - xi. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
  - xii. Any doorways must be 2m wide.
  - xiii. Designed to fit 6 x 660L recycling bins
  - xiv. Designed to fit 8 x 660L garbage bins
- 48) A design certificate and detailed plans are to accompany any CC application which demonstrate that the bin carting route from the waste storage room to nominated collection point has been designed to be constructed in accordance with the following requirements:
- i. Direct and less than 10 metres,
  - ii. Minimum 2m wide hard surface;
  - iii. Non-slip, free from obstacles and steps;
  - iv. Not within a driveway or carpark, this is considered a conflict point for vehicles and collection staff; and
  - v. A maximum grade of 1:30 (3%);
  - vi. Layback installed at the nominated collection point.
- 49) A design certificate and detailed plans are to accompany any CC application which demonstrate that the bulky waste storage room has been designed to be constructed in accordance with the following requirements:
- i. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - ii. The floors must be finished so that is non-slip and has a smooth and even surface.
  - iii. The walls must be constructed of solid impervious material.
  - iv. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
  - v. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
  - vi. Walls, ceiling and floors must be finished in a light colour.
  - vii. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - viii. A self-closing door openable from within the room.
  - ix. Must be constructed to prevent the entry of birds and vermin.
  - x. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
  - xi. Any doorways must be 2m wide.
  - xii. Designed with a minimum floor space of 4m<sup>2</sup>

- 50) A design certificate and detailed plans certified by a traffic engineer are to accompany the CC application that confirms that the development can be accessed and serviced by a Heavy Rigid Vehicle. The plans are to specifically demonstrate that the path of travel for the waste collection vehicle to the nominated collection area (which includes all entrance/exit, internal driveways, vehicle ramps, loading docks and basement) has been designed in accordance with AS2890.2-2004 for a Heavy Rigid Vehicle.

The design certificate is also to confirm that the internal driveway, cross over, entry/egress points have been designed to meet the following loading requirements (as per AS2890.2-2004 for a Heavy Rigid Vehicle):

- i. 30 tonne GVM
- ii. Turning circle of 25 metres
- iii. Length of 12.5 metres
- iv. Clearance height of 4.5 metres (6m if using hook lift bins)

### **CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION**

- 51) The building work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building / subdivision work has been issued by the council or an accredited certifier, and
  - b. the person having benefit of the development consent has:
    - i. appointed a principal certifying authority for the building / subdivision work, and
    - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - c. the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
    - ii. notified the principal certifying authority of any such appointment, and
    - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building / subdivision work.

- 52) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system in Georges River Road are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be submitted via email to the following address:

[Suppiah.THILLAI@rms.nsw.gov.au](mailto:Suppiah.THILLAI@rms.nsw.gov.au)

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

- 53) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to the commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquires should be forwarded to:

[Suppiah.THILLAI@rms.nsw.gov.au](mailto:Suppiah.THILLAI@rms.nsw.gov.au)

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

- 54) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
- 55) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 56) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 57) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.

- 58) A compliance certificate must be must be obtained from Sydney Water under section 73 of the Sydney Water Act 1994. An assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to the mains.

A section 73 Compliance Certificate must be completed before an occupation certificate will be issued. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to [sydneywater.com.au/section73](http://sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

- 59) Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.

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

- 60) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 61) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 62) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- a. in the case of work for which a principal certifying is required to be appointed:
    - i. the name and licence number of the principal contractor, and
    - ii. the name of the insurer by which the work is insured under Part 6 of the Act,
  - b. in the case of work to be done by an owner-builder:
    - i. the name of the owner-builder, and

- ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

- 64) Written notice must be given to adjoining residents seven (7) days prior to the commencement of demolition advising of the commencement date.

Written notice is to be given to Council for inspection prior to demolition. Such written notice is to include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolisher.

The following inspections must be undertaken by Council:

- (i) A pre-commencement demolition inspection when all site works required as part of this consent are installed on the site and prior to demolition work commencing; and
- (ii) A final demolition inspection when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.

Payment of an inspection fee at Council's current rate will be required prior to inspection. Council requires 48 hours notice to carryout inspection.

Prior to demolition work, a sign must be erected at the front of the property with the demolishers name, licence number and contact phone number.

Demolition work may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no demolition work is to be carried out at any time on a Sunday or a public holiday.

All demolition work must be carried out in accordance with Australian Standard 2601-2001 - The demolition of structures.

Where asbestos containing materials are to be removed, demolition is to be carried out by contractors who have a current SafeWork NSW licence in asbestos removal.

An asbestos clearance certificate issued under the Work Health and Safety Act 2011 must be submitted to Council after the completion of demolition work.

Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority.

Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.

A copy of the final demolition inspection report is to be submitted to the principal certifier prior to the commencement of building work.

## **CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

- 65) Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
- 66) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 67) The “as constructed” minimum clearances to Ausgrid’s Infrastructure must not be encroached by the building development. It is the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.
- 68) Any excavation works carried out on site should be closely monitored to ensure no signs of potential acid sulfate soil or actual acid sulfate soil are observed. Indicators may include grey to greenish blue clays, unusual gold-yellow mottling or 'rotten egg' odours. If any of these indicators are observed, excavation of the site must be stopped, and Council is to be notified immediately. A suitably qualified environmental consultant must be contracted to further assess the site.
- 69) All excavations must be kept free from the accumulation of water.

- 70) The decommissioning and removal of the underground petroleum storage system must be supervised by a duly qualified person, and undertaken in accordance with, but not limited to:
- (a) *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*;
  - (b) AS 4976-2008, 'The removal and disposal of underground petroleum storage tanks'; and
  - (c) UPSS Technical Note: Decommissioning, Abandonment and Removal of UPSS (NSW EPA, 2010)

A validation report must be prepared by a duly qualified person in accordance with the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*. The validation report must be provided to Council no later than 60 days after the underground petroleum storage systems removal and remediation.

- 71) In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

Council may also request that a NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a Site Audit Report and Site Audit Statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.

- 72) Prior to the ground floor slab being poured, an identification report by a Registered Surveyor must be submitted to the principal certifying authority verifying that the proposed buildings finished ground floor level and siting to the property boundaries conforms to the approved plans.
- 73) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 74) An identification report by a registered surveyor must be submitted to the principal certifier prior to the ground floor slab being poured to verify the buildings wall setback and floor level conform to the approved plans.
- 75) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.

- 76) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 77) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a. protect and support the adjoining premises from possible damage from the excavation, and
  - b. where necessary, underpin the adjoining premises to prevent any such damage.
- 78) All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 79) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 80) The wastewater from the car wash bay shall be collected and disposed of, in accordance with the requirements contained in Council's Development Engineering Standards.
- 81) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 82) The awning located along the Georges River Road frontage must be constructed in such a way that will enable easy removal, without compromising the structural integrity of the building, should the proposed road widening occur at a future date.
- 83) Requirements of the approved WMP shall be complied with during all site preparation works, demolition (if proposed) and throughout all construction works. When implementing the WMP the developer is to ensure:

- i. The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*
- ii. All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*
- iii. Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
- iv. All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it
- v. Records are required regarding the details and location of the disposal of all demolition and construction waste (including excavated material), description of waste and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal, waste vehicle rego, and confirmation of the waste disposal facility. Records/ details are also to be kept of person removing the waste.
- vi. All materials and resources that are to be stored on site during construction works are contained on the site, The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses
- vii. The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works

## **CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

- 84) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 85) An identification report by a registered surveyor must be submitted to the principal certifier to verify the buildings wall and roof eaves setback, floor level and height conform to the approved plans.
- 86) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 87) Prior to the issuing of any Occupation Certificate, a Plan of Management must be submitted to Council for the roof top communal open space. The Plan of Management is to incorporate, but not limited to, the following details:

- i. The common outdoor area is only used between the hours of 7.00am and 10.00pm;
  - ii. No amplified or live music is permitted;
  - iii. All common areas, including corridors, the stairwells, and entrance lobbies, and the rooftop open space will be cleaned by a professional contractor at least once per week;
  - iv. Rooftop landscaped will be maintained at a minimum of frequency of once a fortnight.
  - v. The rooftop communal area will be accessible only to residents of the building (and their guests).
  - vi. No corporate/commercial functions or events are to be held on the rooftop communal open space area.
- 88) Prior to the issue of any Occupation Certificate a design verification from a qualified designer shall be submitted to the Principal Certifying Authority. The design verification is a statement in which the qualified designer verifies that the development has been constructed as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 89) Any fill imported onto the site must be virgin excavated natural material or excavated natural material, classified as such in accordance the 'Waste Classification Guidelines' (NSW EPA, 2014) or excavated natural material meeting the requirements of the Excavated Natural Material Exemption (NSW EPA, 2014).  
Certificates verifying that imported fill is virgin excavated natural material or excavated natural material must be provided to Council prior to the issue of an Occupation Certificate.
- All imported fill must be compatible with the existing soil characteristics of the site.
- 90) All soils and material(s), liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014* and related guidelines, in particular the 'Waste Classification Guidelines' (NSW EPA, 2014), prior to off-site disposal.

The waste classification report, including the results of testing, must be compiled, or reviewed and approved by an appropriately qualified and certified consultant, and must be submitted to and approved by the Principal Certifying Authority before off-site disposal. A copy of the waste classification report must be submitted to Council prior to issuing of an Occupation Certificate.

All waste material(s) must be disposed of at an appropriately licensed waste facility for the specific waste. Receipts for the disposal of the waste must be submitted to Council within seven (7) days of the waste being disposed.

All waste must be transported by a contractor licenced to transport the specific waste, and in vehicles capable of carting the waste without spillage and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site.

- 91) If the Duty to Report contamination to the NSW EPA under Section 60 of the *Contaminated Land Management Act 1997* is triggered, Council must be notified within seven (7) days of the notification to the NSW EPA.
- 92) The acoustic report submitted in support of this application prepared by Acoustic Noise & Vibration Solutions P/L, titled, Acoustic Report, report number 2015-602 Rev 5, dated 17 August 2020 and all the recommendations stated within the report, form part of the development consent.

The Principal Certifying Authority shall obtain a report from an appropriately qualified acoustic consultant, not previously involved with the development, stating that the recommendations outlined in the above stated report have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupation Certificate. A copy of the report is to be submitted to Council prior to the issue of any Occupation Certificate.

- 93) Following occupation of the building/premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not previously identified arises (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the situation. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.
- 94) The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the 'Assessing Vibration: A Technical Guideline' (NSW Department of Environment and Conservation, 2006).
- 95) Music and other amplified sound played on the premises must not give rise to offensive noise as defined under the provisions of the Protection of the Environment Operations Act 1997. The sound level output must not exceed five (5) dB(A) above the ambient background level at the boundary of the premises.

Speakers must not be installed and music must not be played in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed to direct the playing of music towards the outdoor areas associated with the premises.

- 96) The waste storage rooms must be provided with smooth and impervious walls and floors and coved at the intersection of the floor and walls. Floor areas must be graded and drained to a floor waste gully connected to the sewer. Waste storage rooms must be well ventilated and proofed against pests. The area or room must be provided with water service hose connectors to enable easy cleaning. Open waste storage areas must be appropriately covered and bunded. The ground must be paved with impervious material and must be graded and drained to a waste water disposal system according to Sydney Water's requirements. A hose tap connected to a water supply must be provided.

All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*. All waste generated must be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts must be made available to Council on request.

- 97) Any activity carried out in accordance with this approval must not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the *Protection of the Environment Operations Act 1997* and Regulations.
- 98) The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 99) Any lighting of the premises must be installed in accordance with AS/NZS 4282-2019, 'Control of the obtrusive effects of outdoor lighting', to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 100) No approval is granted or implied for the use of the retail and commercial tenancies. Separate development consent is to be obtained for the use of these premises, unless the use qualifies as 'exempt development'.
- 101) 65 off street car spaces being provided in accordance with the submitted plans. This shall comprise:
- i. 50 residential spaces including 7 residential visitor spaces. The tandem residential car parking spaces are to be allocated to the same apartment as part of any subdivision.
  - ii. 1 car wash bay associated with the residential use.

- iii. 15 business / retail spaces including 1 courier space. The business/retail spaces are to be allocated 20% for employee parking and 80% visitor parking.
  - iv. of the above, 6 car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.
- 102) 13 bicycle spaces being provided in accordance with the submitted plans. This shall comprise:
- i. 7 residential bicycle spaces.
  - ii. 4 residential visitor bicycle spaces.
  - iii. 2 staff bicycle spaces.
- 103) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 104) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 105) Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 106) The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.
- 107) A section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the principal certifier before an occupation certificate will be issued.
- 108) 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 to the affected person/s as soon as practical and prior to the occupation of the development. All costs associated with achieving compliance with this condition shall be borne by the applicant.

- 109) Appropriate way findings signage is to be erected within the site.
- 110) The residential entry points are to be clearly numbered with the dwellings accessible through that entry.
- 111) Access to the rooftop communal open space must be restricted to residents of the building (and their guest) only.
- 112) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 113) Prior to the issue of any Occupation Certificate (OC), an authorised Council waste officer is to inspect and approve all waste management facilities to ensure they comply with the development approval, Waste Management Plan. Specifically, the path of travel for all waste, from unit to point of waste collection, waste storage room sizing, access to water and sewer connections, finished materials, access and door way dimensions, truck turntables, and that all waste facilities are fit for purpose.
- 114) Prior to the issue of any OC, the developer is to enter into a formal agreement with Council for the utilisation of Council's Domestic Waste Collection Service. This is to include Council being provided an easement for unimpeded access to and from the waste collection locations for council and its contractors to enter and exit for the purpose of waste and recycling collection. The development is also required to indemnify council and its contractors against claims for loss or damage or wear and tear of access roads or to other parts of the building. A positive covenant shall be placed on the property title, such as section 88B certificate.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Council's Waste Management collection requirements.

The provision of Council's waste collection service will not commence until formalisation of the agreement.

- 115) Prior to the issue of any OC, the owner is to enter into a formal agreement with a licenced private waste contractor to service the commercial portion of the development. The contract is to ensure the removal of all waste from the development site.

Prior to entering into an agreement for a private commercial waste collection service, the owner is to ensure that:

- (a) The service is functional and meets the operational needs of the development
- (b) The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.

A copy of the contract is to be forwarded to Council prior to the issue of any OC.

- 116) Prior to the issue of any OC, a traffic engineer is to inspect and approve all waste vehicle access and manoeuvring/turning movements to ensure they comply with the development approval and design certificate, and that the development can be accessed and serviced by a Heavy Rigid Vehicle. Specifically, the path of travel for the waste collection vehicle to the nominated collection area (which includes all entrance/exit, internal driveways, vehicle ramps, loading docks and basement) has been designed in accordance with AS2890.2-2004.

## **ONGOING USE**

- 117) The ongoing management section of the WMP are to be included in the by-laws of the strata property. This will ensure that the approved WMP is fully implemented and followed by residents and property managers.
- 118) The development must operate in full compliance with Council's Waste Management collection requirements.
- 119) The nominated on-site collection point is to be utilised to facilitate the collection of waste and recycling bins for the development. The on-site collection point is always to be kept clear of obstructions so not to restrict the collection of waste and recycling bins.

No items (either permanent or temporary) are to be placed within the areas nominated in the HRV swept path plans, including buffer zones.

- 120) The temporary bin holding area will be required to be of sufficient size to allow the temporary storage of all allocated bins for the development. Developments proposing a temporary holding area will require a caretaker to transfer all allocated bins from the bin storage area to the temporary holding area the day before the designated collection day and return them once emptied.
- 121) All businesses must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal and be able to show the waste collection contract if it is requested by a Council Enforcement Officer.
- 122) Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection system and must clearly identify everyone's role and responsibility. This is to include:
- (a) Responsibility for cleaning and maintaining waste storage bins and containers
  - (b) Responsibility for cleaning and maintaining waste storage room
  - (c) Responsibility for the transfer of bins to the nominated collection point
  - (d) Method of communication to new tenants and residents concerning the developments waste management system.
  - (e) Cleaning up and management of bulky waste

Where the development incorporates strata title subdivision, the by-laws are to clearly set out the management responsibilities for the developments waste and recycling system.

- 123) Any bin carting aid is to remain onsite at all times. The building is to maintain sufficient funds to maintain, service and replace the carting aid as necessary.
- 124) No waste storage bins are to be located or placed outside the approved waste storage room at any time except for collection purposes.
- 125) Signage can be provided by Council that clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin. The signs provided must be maintained by the site manager.

-END-



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## Canterbury Bankstown Local Planning Panel - 02 November 2020

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<b>ITEM 2</b>	<b>253-255 Homer Street, Earlwood</b>
	<b>Internal and external modification to existing commercial premises for use as a funeral home and associated signage</b>
<b>FILE</b>	<b>DA-885/2019 – Canterbury</b>
<b>ZONING</b>	<b>B2 Local Centre</b>
<b>DATE OF LODGEMENT</b>	<b>30 October 2019</b> – Additional information received 16 March 2020, 17 March 2020, 18 June 2020, 1 October 2020
<b>APPLICANT</b>	<b>Mario Mourad</b>
<b>OWNERS</b>	<b>M Kiriazis and V Kiriazis</b>
<b>ESTIMATED VALUE</b>	<b>\$150,000.00</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

This matter is reported to Canterbury-Bankstown Local Planning Panel due to Council receiving 10 or more unique submissions by way of objection.

Development Application No. DA-885/2019 proposes the change of use of two existing commercial tenancies into a funeral home, with associated internal and external modifications including signage.

The subject tenancy is located within the B2 Local Centre in Earlwood, fronting Homer Street with rear access provided via Homer Lane. Surrounding development consists of a mix of commercial/retail and residential with lower density residential development to the north, and medium/high density residential development south-east of the site. The remainder of the town centre is located to the west of the site further along Homer Street and Clarke Streets.

DA-885/2019 has been assessed against the relevant plans, policies and controls including Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012, and the key topics for consideration are permissibility and suitability of the use within the

subject site, parking, vehicular access, façade, proximity to residential properties, loading and unloading, and screening of unsightly views for adjoining properties.

The subject application was notified on two occasions, the latter of which was also advertised in accordance with Council's Community Participation Plan (adopted after the initial notification period) requiring the proposal to also be advertised.

The application was notified for a period of 14 days from 4 November 2019 to 18 November 2019. Sixteen unique submissions were received during this period including one petition containing 103 signatures.

On the second occasion, the proposal was advertised for a period of 21 days from 1 April 2020 to 21 April 2020. Six submissions were received during this period, five of which updated their concerns from the first notification period.

These submissions raised concerns primarily relating to:

- Insufficient information;
- Permissibility;
- Operation / use of the premises, including loading/unloading;
- Capacity, noise concerns;
- Mortuary and place of worship concerns;
- Insufficient parking;
- Façade, streetscape character;
- Surrounding impacts;
- Traffic generation.

## **POLICY IMPACT**

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There are no direct policy implications.

## **FINANCIAL IMPACT**

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There are no direct financial implications.

## **RECOMMENDATION**

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It is recommended that the application DA-885/2019 be approved subject to the attached conditions.

## **ATTACHMENTS**

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- A. Assessment Report
- B. Conditions of Consent

## **DA-885/2019 ASSESSMENT REPORT**

### **BACKGROUND**

- The two properties known as 253 and 255 Homer Street are separated by a dividing wall and are situated on one lot. Separate uses have been operating out of the two properties over time.
- On 22 July 1983, consent was given for the shop at 253 Homer Street to be used for retail of plants, caneware, ceramic goods and books under DA-1274. This shop was approved with one car parking space at the rear, accessed from Homer Lane.
- On 23 March 1988, consent was given for 253 Homer Street change of use to an upholstery shop under DA-3648. This consent approved two car parking spaces in the rear, one for the residential component and one for the shop.
- On 14 May 1990, consent was granted for a change of use at 253 Homer Street to an Accountant's office and alterations to shop front under DA-4910. The consent also included the use of three car parking spaces at the rear of the site.
- On 25 October 1993, consent was granted for 253 Homer St to change the residential use for an extension to the Accountant's office under DA-6909/93. Although three car parking spaces were considered suitable in a stacked arrangement, only two car parking spaces were required and conditioned.
- The shop at 255 Homer St has been used as a chemist with no allocated parking spaces.

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 253-255 Homer Street, EARLWOOD NSW 2206. The site is a regular allotment that is zoned B2 Local Centre.

The site is legally defined as Lot 11 in DP 15229 and contains two attached premises, just west of the intersection of Wardell Road and Homer Street at the eastern end of the Earlwood town centre. Existing on the site are two attached premises, separated by a partition wall. The building comprises a ground floor level fronting Homer Street, and stairs at the rear of the building to access the lower ground floor level to the rear, facing Homer Lane. The site slopes to the rear, giving access to the ground level at Homer Lane.

The site has a 13.765m frontage to Homer Street and a rear boundary to Homer Lane. The existing development on the site consists of a single storey building with two shops divided by a partition wall.

Surrounding development consists of a mix of commercial/retail and residential with lower density residential development to the north, and medium/high density residential development south-east of the site. The remainder of the town centre is located to the west of the site further along Homer Street and Clarke Streets.

The proposed use that is the subject of this development currently operates from 212 Homer Street which is located to the south-west of the subject site. However, the subject proposal does not seek approval for a mortuary. Acropolis Funeral Services Pty Ltd will continue to use 212 Homer St for mortuary services, until such time that the lease expires 5 years from 14<sup>th</sup> October 2016. The Applicant has also provided documentation confirming full and unencumbered access to a mortuary facility 'Kenneally's Funerals' located at 3/12 Gallipoli Street, Smeaton Grange.



Figure 1: Aerial of subject site in blue. Source: NearMap 2020



Figure 2: Subject site image showing attached commercial premises at 253-255 Homer St

### **PROPOSED DEVELOPMENT**

The Development Application proposes internal and external alterations to the ground floor shops to combine into one and the use of premises as a funeral home, with associated signage. Parking is proposed to be provided via the rear access from Homer Lane.

The proposed use involves office uses for the coordination of funerals and viewings for a maximum 15 people attending a viewing and 3 staff members.

The proposed hours of operation are limited to 8:30am to 7:00pm (7 days a week).

Four parking spaces are proposed to be provided at the rear of the site which includes a loading/unloading space that will be covered by a carport.

A transfer station wagon is proposed to load/unload coffins at the subject site, equivalent in size to a B99 vehicle (5.066m length, 1.863m width). Longer funeral hearse vehicles will not be used at the subject site, and transfer vehicle will not be present on site during the viewing/visiting hours. The southern-most car parking space (number 4) is to be made available for loading/unloading, via prior arrangements where coffins are delivered 2-3 hours prior to viewings. Drivers are to collect the coffins after patrons have left the premises.



**Figure 3:** Transfer station wagon, image from page 5 in Plan of Management

A roller door is controlled by transfer vehicle drivers, which screens the loading/unloading from adjoining properties. Loading/unloading only takes place once the roller door is closed.

Viewings are limited to 15 patrons and to 30 minutes, with some instances being extended to a maximum of 1 hour.

It is expected that there will be 1 to 2 viewings per week, with a maximum of 3 viewings per week.

There is no cool room on site. Deceased persons will be transported to and from associated storage/mortuary facilities, being 212 Homer Street until the lease expires and 'Kenneally's Funerals' located at 3/12 Gallipoli Street, Smeaton Grange.

### **Statutory Considerations**

When determining this application, the relevant matters listed in Section 4.15C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

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

## **SECTION 4.15 ASSESSMENT**

The proposed development has been assessed pursuant to section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

### **Environmental planning instruments [section 4.15(1)(a)(i)]**

#### **State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)**

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, we must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, we must be satisfied that the land will be remediated before the land is used for that purpose.

The applicant has not provided any information would categorise the subject site as having contaminated land. Given that the site has been used historically for only residential and commercial purposes, and that the proposal seeks to modify the existing building without any excavation, the site is consistent with State Environmental Planning Policy 55 – Remediation of Land.

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

This site is zoned B2 Local Centre under CLEP 2012. The controls applicable to this application are discussed below.

#### **Clause 2.3 Zone objectives and Land Use Table**

Clause 2.3(2) of CLEP 2012 outlines that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives of the B2 Local Centre zone are as follows:

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

The proposed development meets the objectives of the B2 Local Centre by providing community uses that serve the needs of people within the local area and introducing new employment opportunities in an accessible area. The proposed development fronts a bus stop encouraging the use of public transport, and the accessible local centre encourages walking and cycling.

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 2 Permitted or Prohibited Development</b>			
2.1-2.3 Zoning	B2 Local Centre	The use is defined as a business premises which includes a funeral home. Business premises are a commercial premise which are permissible in B2 zone.	Yes
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	No demolition is proposed.	N/A
<b>Part 4 Principal Development Standards</b>			
4.1 Minimum subdivision lot size	No minimum lot sizes.	Commercial tenancies exist across a single lot. No subdivision or consolidation is proposed.	N/A
4.3 Height of Buildings	18m	53.14 - 46.40 (front NGL) = <b>6.74m</b> height fronting Homer Street.  52.33 - 44.46 (rear NGL) = <b>7.86m</b> height, at the rear of the development. No change is proposed	Yes
4.4 Floor Space Ratio	No maximum floor space ratio.	FSR = 0.58:1 (269m <sup>2</sup> GFA) No change proposed	Yes
5.6 Architectural roof features	Architectural roof features that exceed building height require development consent.	No architectural roof features exceeding the maximum building height limit.	N/A
5.10 Heritage Conservation	Alterations to heritage items require development consent.	The site is not considered a heritage item.	N/A
<b>Part 6 Local Provisions</b>			
6.1 Acid Sulfate Soils	Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	The subject site is affected by Class 5 Acid Sulfate Soils. Proposed works are within 500m of Class 3 land. However, works are not proposed below 5m AHD and the watertable will not be lowered as a result of this proposal.  No excavation is proposed	Yes

Provision/ Standard	Requirement	Proposal	Complies
6.2 Earthworks	<p>Before granting consent to development including earthworks, the following must be considered:</p> <ul style="list-style-type: none"> <li>(a) drainage patterns and soil stability</li> <li>(b) the likely future use or redevelopment of the land,</li> <li>(c) quality of the fill or the soil to be excavated, or both,</li> <li>(d) effect of development on existing and likely amenity of adjoining properties,</li> <li>(e) the source of any fill material and the destination of any excavated material,</li> <li>(f) the likelihood of disturbing relics,</li> <li>(g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</li> <li>(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul>	No earthworks are proposed.	N/A

Provision/ Standard	Requirement	Proposal	Complies
6.3 Flood Planning	<p>This clause applies to land at or below the flood planning level.</p> <p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> <li>(a) is compatible with the flood hazard of the land, and</li> <li>(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</li> <li>(c) incorporates appropriate measures to manage risk to life from flood, and</li> <li>(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</li> <li>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</li> </ul>	Site is not flood affected.	N/A

Provision/ Standard	Requirement	Proposal	Complies
6.4 Stormwater Management	Consent must not be granted unless: (a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration. (b) Includes on-site detention if practical as an alternative means of water supply. (c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.	Achieved.	Yes
6.6 Essential Services	Essential services must be available or adequate arrangements have been made to make them available, including: - the supply of water; - the supply of electricity ( <b>substation</b> ); - the disposal and - management of sewage; - stormwater drainage or on-site conservation; - suitable vehicular access.	no change to existing essential services and none required.	Yes

**Draft environmental planning instruments [section 4.15(1)(a)(ii)]**

On 30 June 2020 the Canterbury Bankstown Local Planning Panel endorsed the Planning Proposal (PP\_2019\_CBANK\_005) to proceed to the Department of Planning, Industry and Environment for finalisation and making. The Planning Proposal seeks to produce a single set of planning rules and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan. The Planning Proposal however does not propose any change to the planning or development provisions relating to this site. As the Planning Proposal has been exhibited it must be considered under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. The Draft CBLEP also seeks to insert a saving provision "If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies, and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced". The proposed development will not impact the Draft CBLEP and are considered consistent with the CBLEP.

**Development control plans [section 4.15(1)(a)(iii)]****Canterbury Development Control Plan 2012 (CDCP 2012)**

The proposed development has been compared to the requirements of CDCP 2012 as follows:

**Part B1 – Transport and Parking**

An assessment of the proposal against the car and bicycle parking rates in Part B1 of CDCP 2012 is provided below:

<b>Standard</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
<b>Car Parking</b> <b>B1.3.1</b> Shops, Business and Retail Premises –	Subject site is in an Accessible Local Centre (Earlwood): 1 space per 40m <sup>2</sup> GFA (120m <sup>2</sup> – 1,000m <sup>2</sup> ) 80% = visitors + short-stay parking 20% = staff + long-stay parking <b>Seven (7) spaces required</b>	The site can accommodate four car parking spaces. No intensification is proposed.	Yes, see below [1]
<b>Bicycle Parking</b>	<ul style="list-style-type: none"> <li>• <b>Staff:</b> 1 space per 300m<sup>2</sup> GFA</li> <li>• <b>Patrons:</b> 1 space per 500m<sup>2</sup> GFA over 1,000m<sup>2</sup></li> </ul> <b>Total:</b> No spaces required.	No bicycle spaces proposed.	Yes.

[1] Council's records indicate that historically the site has accommodated up to four (4) off-street parking spaces to the rear.

The Applicant submitted a response to Council's request of providing seven (7) car parking spaces in a "Reply to Traffic & Parking Matters Raised By Council" dated 17 June 2020, with the following justification:

*"Applying a car parking rate of one space per 40m<sup>2</sup> GFA (120m<sup>2</sup> – 1,000m<sup>2</sup>) for commercial premises (business premises), therefore, the proposed development would require the provision of a total of seven off-street car parking spaces, however, as stated in Section 4.3 of our original Traffic & Parking Impact Assessment (TPIA) report dated 13 March 2020, the existing/previous use of the subject site (two different uses) was approved with the provision of only three car spaces rather than the required total of six car spaces.*

*Therefore, it considered that there a shortfall of three off-street car spaces was granted by Council for the use of the subject site as a business premises, as outlined in Council's letter dated 04 February 2020. Therefore, a credit of three car parking spaces should be applied to the proposed change of use of the same site."*

The existing site configuration is such that a maximum of two car parking spaces can be provided at the rear of each shop. The proposed use of the building as a funeral home is comparable to previous approved uses on the site in terms of parking rates. As the parking rates for a shops, retail and business premises are the same under CDCP 2012. As such, there is no net intensification of the use of the building in terms of demand on car parking. In such cases, Council has been consistent in not requiring additional car parking on sites where there is no intensification demand from the last approved use. This is to ensure the continued viability of town centres. The proposal involves the construction of a layback expanding across the rear boundary of the site which will formalise four usable parking spaces at the rear of the site which is an improvement to what is currently on site. As such, the proposed use is acceptable in terms of car parking.

The loading/unloading functions of the proposed use however, are distinct as there is a need for discretion. To remedy this, the applicant has proposed a carport over one of the parking spaces which will be used as a loading/unloading space.

- Once a viewing is booked in, staff will pre-arrange the delivery of the coffin approximately 2-3 hours prior to viewing time.
- The wagon transferring the coffin is to use car space 4, with admin staff ensuring the space is available during delivery times.
- The wagon drivers will use a remote which controls the secured roller door to car space 4.
- Drivers close the roller door once the wagon is secured, and the coffin is unloaded once fully shut.
- Delivery and pick up of coffins to be hidden from public view.
- Coffin is delivered via the platform lift, and the delivery is registered with staff.
- The wagon collects the coffin, in the same manner, after attendees have left the site.

These arrangements are considered appropriate and are reflected in the plan of management which will be included as part of the conditions of the consent

#### Part B5 – Stormwater and Flood Management

No changes are proposed to the existing stormwater methods for the site. The proposal relates to a change of use, and the subject allotment is not flood affected.

The application was referred to Council's Development Engineer who raised no objection with the current design, subject to conditions of consent. Work permit conditions relating to the proposed vehicular crossing extension will ensure stormwater connections are satisfactory.

#### Part B7 – Crime Prevention and Safety

The proposed development will maintain natural surveillance of public areas as entry areas fronting Homer Street and Homer Lane will remain clear with no proposed obstructions.

Patrons and staff parking their vehicles in the proposed car parking spaces off Homer Lane will be required to reverse park, so visibility is maximised when exiting the premises.

#### Part B9 - Waste

The application was referred to Council's Project Officer – Resource Recovery who raised no objection with the current design, subject to conditions of consent.

#### Part D1 – Business Centres – General

The majority of controls outlined in Part D1 of CDCP 2012 relate to redevelopment. The controls that are applicable to the proposed change of use are detailed in the below table.

<b>Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
D1.3.4 Setbacks	C10 A setback to a rear lane is not required.	Car parking is proposed adjacent to the rear boundary.	Yes
D1.4.2 Ground Level Interface	C1 Locate entries so they relate to the existing street, subdivision pattern, street tree planting and pedestrian access network and are clearly visible.	One entry door to the eastern commercial premises is proposed to be removed in place of glass. The western entry door is proposed to remain.	Yes
	C2 Provide entries to upper levels from the street front facade to encourage activities on the ground floor.	Not applicable.	N/A
	C3 Provide entries for service activities to rear of the buildings.	Loading and unloading is to take place at the rear of the site, with access provided via Homer Lane.	Yes
	C4 Provide an awning over the entry to contribute to the legibility of the development and the public domain.	Existing awning to be retained	Yes
	C11 Windows on the street frontage must not be mirrored to provide visibility between interior and exterior spaces, allow for surveillance of the street and provide interest for pedestrians.	The floor plans refer to the front elevation being in-filled with brick while the elevation shows the glazing maintained. A condition of consent will be included to ensure all glazing on the front elevation is maintained, with those glazed areas off the 'office/reception' area being transparent.	Yes* via condition

Part D7 – Local Centres

The proposed funeral home complies with C1 of D7.4 in CDCP 2012 as there is minimal change to the existing built form.

Part F1 – Signage

The development proposes an awning sign, measuring at 9m wide x 0.5m high, and sign decal lettering to glazing panel adjacent to door.

<b>CANTERBURY DEVELOPMENT CONTROL PLAN 2012 – SIGNAGE</b>			
<b>Standard</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
<b>F1.2.2 General Design and Siting</b>  <b>F1.2.3 Appearance and Maintenance</b>	Provide a signage analysis and strategy with any development application for signage, demonstrating that the proposed signage is integrated with the design of the building, and is compatible with the immediate and surrounding locality.	Awning sign is proposed to be integrated with the existing awning.	Yes
	Consider future signage when designing new commercial and industrial buildings.	Noted.	Yes
	Character of the area i. Is the proposal compatible with the existing or desired future character of the area of locality in which it is proposed to be located? ii. Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The signage is compatible with the existing character of the locality, as the awning signage is common along this portion of Homer Street.  The signage is consistent with the adjoining awning signs.	Yes
	Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas,	The proposed signage does not detract from the amenity or visual quality of the streetscape.	Yes

	open space areas, waterways, or residential areas?		
	Views and vistas i. Does the proposal obscure or compromise important views? ii. Does the proposal dominate the skyline and reduce the quality of vistas? iii. Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not obscure or compromise any views.  The proposed flags provide architectural features at a small scale, and do not dominate the skyline.  The proposal respects the viewing rights by appearing flat along the subject site's awning.	Yes
	Streetscape, setting or landscape i. Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? ii. Does the proposal contribute to the visual interest of the streetscape, setting or landscape? iii. Does the proposal reduce clutter by rationalising and simplifying existing advertising? iv. Does the proposal screen unsightliness? iv. Does the proposal protrude above buildings, structures or tree canopies in the area or locality? v. Does the proposal require ongoing vegetation management?	The scale of signage is appropriate and in proportion for the streetscape.  The proposal contributes to the visual interest of the streetscape.  The proposal reduces clutter by removing existing advertising and replacing it with signage representative of the new use.  No unsightliness to screen.  The proposal does not protrude above buildings, structures or tree canopies.  The proposal does not require ongoing vegetation management.	Yes
	Site and building i. Is the proposal compatible with the scale, proportion and other characteristics	The proposed signage is compatible with the scale, proportion and other characteristics of the site and building.	Yes

	<p>of the site or building, or both, on which the proposed signage is to be located?</p> <p>ii. Does the proposal respect important features of the site or building, or both?</p> <p>iii. Does the proposal show innovation and imagination in its relationship to the site or building, or both?</p>	<p>The proposal respects important features of the site and building.</p> <p>The proposal shows innovation with the parapet flags, and light box letter sign across the awning.</p>	
	<p>Associated devices and logos with advertisements and advertising structures</p> <p>i. Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</p>	<p>The funeral home named "ACROPOLIS FUNERAL SERVICES" is proposed to be written along the awning with individually lit letters.</p>	Yes
	<p>Illumination</p> <p>i. Would illumination result in unacceptable glare?</p> <p>ii. Would illumination affect safety for pedestrians, vehicles or aircraft?</p> <p>iii. Would illumination detract from the amenity of any residence or other form of accommodation?</p> <p>iv. Can the intensity of the illumination be adjusted, if necessary?</p> <p>iv. Is the illumination subject to a curfew?</p>	<p>Illumination will be minimised via condition of consent.</p> <p>Illumination will be minimal as to not affect safety for pedestrians, vehicles or aircraft.</p> <p>Illumination would not detract from the amenity of any residence or accommodation.</p> <p>A condition of consent will ensure illumination can be adjusted.</p> <p>Illumination is subject to a curfew between 8.30am and 7.00pm</p>	Yes
	<p>Safety</p> <p>i. Would the proposal reduce the safety for</p>	<p>The proposal would not reduce the safety for any public road.</p>	Yes

	<p>any public road?</p> <p>ii. Would the proposal reduce the safety for pedestrians or bicyclists?</p> <p>iii. Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</p>	<p>The proposal would not reduce the safety for pedestrians or bicyclists.</p> <p>The proposal would not reduce the safety for pedestrians, as no sightlines are obscured.</p>	
<b>F1.2.2 General Design and Siting Controls</b>	Signage is not permitted to project above the predominant building scale. In particular do not interrupt any views, vistas or skylines, interrupt pedestrian movement, or cause overshadowing.	Minor architectural roof features project above the building in the form of roof mount flags. They of a small scale and do not interrupt any views, vistas or skylines, nor do they interrupt pedestrian movement or cause overshadowing.	Yes
	Signage shall complement the streetscape, landscape or building.	Proposed signage complements the streetscape and building.	Yes
	Relate signage to the architectural lines and detail on a building façade, or in the absence of architectural detail or decoration, relate to the design lines of adjoining buildings. Do not obscure significant features such as doors, windows and architectural detailing.	Signage relates to the architectural lines and detail on the building façade, in line with adjoining buildings' awnings.  Significant features are not obscured.	Yes
	Landscape features, landscaping and architectural features are to be used to blend signage in with the surroundings and integrate with the building or site.	Architectural features and signage are well integrated.	Yes
	Signage is not to dominate in terms of scale, number, proportion and form or	Signage does not dominate and is reflective of the signage pattern of its	Yes

	any other attributes.	surroundings.	
	The amount of signage may be limited due to the cumulative impact on a locality or a building.	An appropriate amount of signage is proposed.	Yes
	Design and place signage so that it does not have any detrimental effect on occupants of residential properties.	No occupants of residential properties will be impacted negatively.	Yes
<b>F1.2.3 Appearance and Maintenance</b>	A high standard of design and presentation is to be achieved.	Achieved.	Yes
	Signs must be professionally sign written and of durable materials.	Noted.	Yes
	Design signs for easy maintenance.	Noted.	Yes
	Repair and remove unsafe or unsightly signage.	Noted.	Yes
	Remove signage that is no longer necessary or unsightly to avoid clutter.	Existing signage to be removed/replaced.	Yes
<b>F1.2.4 Wording and Content</b>	Where the text of an advertisement is in a language other than English, include an English translation of a sufficient size to be legible to the public.	Not applicable. Signage is proposed to be in English.	Yes
	Signage is not to include offensive or objectionable material in the content of an advertisement (such as discriminatory messages, promotion of unlawful or anti-social behaviour, encouraging excessive consumption of alcohol, pornography, or offensive language).	Signage only mentions business name.	Yes
	The size of the name or logo, of the owner or	Noted.	Yes

	lease of signage, shall be a maximum of 0.25m <sup>2</sup> , and placed only within the advertising display area.		
	When a business or organisation offers a product or service, the name of the business or organisation should have greater dominance than the product or service.	Not applicable to the proposed signage.	N/A
<b>Siting Controls</b> <b>F1.3.2 Business Zones</b>	Signage types permitted in business zones include: (a) Fascia sign; (b) Return-end of awning sign; (c) Under awning sign; (d) Above awning vertical sign; (e) Blade sign (wall, ceiling, or hanging); (f) Colonnade fascia sign; and (g) Vertical banner sign.	Fascia sign is proposed.	Yes
	Signage shall complement the spatial qualities and respond to the different functions of the various parts of a business centre.	Achieved.	Yes
	Affix signage to the building.	Signage is proposed to be affixed to the building.	Yes
	Roof signs are not permitted.	Roof signage is not proposed. Flags are proposed, which are considered architectural roof features.	Yes
	Signage is not to restrict the view into the main sales area of the shop.	Signage does not restrict view into the shop.	Yes
	Conceal or integrate the light source to any illuminated signage within the sign. Illuminated signage is	Achieved.	Yes

	only permitted where it does not compromise residential amenity or result in unacceptable glare (Refer to F1.4.1).		
	Signage is not to face directly into land that is residentially zoned (for instance at the boundary of a business zone).	A small percentage of the proposed signage will be facing the R4 zoned property on the opposite side of Homer Street. Illumination is limited, and the distance to residentially zoned land is significant to not cause adverse impacts.	Yes
<b>F1.4 Performance Controls</b> <b>F1.4.1 Illuminated Signs</b>	Brightly illuminated signs (and some illuminated signs altogether) may not be compatible with heritage items or significant streetscapes.	Noted. No brightly illuminated signs are proposed.	Yes
	Signage shall be located so that it is not close to, or directly visible from, the windows of habitable rooms of residential properties.	Achieved.	Yes
	Minimise the spill effects or escape of light beyond the subject sign. The lighting intensity of signage must be capable of modification or control after installation.	Achieved via condition of consent.	Yes
	Council may impose a curfew on sign illumination between 11pm to 7am, or restrict illumination to hours of operation where it is considered that residential properties maybe adversely impacted.	Condition imposed limiting illumination to hours of operation from 8.30am to 7.00pm Monday to Sunday.	Yes
	Conceal or integrate the light source to any illuminated signage within the sign.	Achieved.	Yes

<b>F1.4.2 Vehicular and Pedestrian Safety Controls</b>	Signage is to be designed and located so as to preserve vehicular and pedestrian safety.	Achieved. Signage is similar in nature to existing and will not impact on vehicular and pedestrian safety.	Yes
	Design and place signage so it does not get confused with traffic signs, or instructions given by traffic signals or other devices. Signs with red, green and yellow lights will not be permitted on main roads or near traffic signals.	Achieved. Signage is minimal and characteristic of existing signage in the local centre.	Yes
	Flashing signs in all areas are prohibited.	Noted.	Yes
	Place signage so that it does not block the view of traffic signals or traffic signs, or distract drivers.	Achieved.	Yes
	Design and place freestanding signs so that they do not create a safety risk to pedestrians and motorists.	No freestanding signs proposed.	N/A

### **Canterbury Development Contributions Plan 2013**

Section 7.12 of the Canterbury Development Contributions Plan 2013 applies to the site and requires a contribution of \$750. This is included as a condition of consent.

### **Planning agreements [section 4.15(1)(a)(iiia)]**

There are no planning agreements applicable to the proposed development.

### **The regulations [section 4.15(1)(a)(iv)]**

The proposed development is consistent with the relevant provisions of the Environmental Planning and Assessment Regulation 2000,

### **The likely impacts of the development [section 4.15(1)(b)]**

The proposed use will not have a negative impact on the amenity of neighbouring uses as loading/unloading of coffins will happen entirely within the subject site, and the site will utilise Homer Lane for all car parking as was intended from the lane.

The application was referred to Council's Traffic Engineer, Development Engineer, Building Surveyor and Environmental Health Officer. These departments were satisfied with the proposal, subject to conditions of consent.

The Applicant submitted a Traffic & Parking Impact Assessment Report which detailed how the premises will make use of the site's two (2) entry points being Homer Street and Homer Lane. The car parking is considered sufficient as detailed under Part B1 of CDCP 2012 above. Council's Building Surveyors assessed the proposal against the National Construction Code and have found the development to be satisfactory, subject to conditions of consent requiring the Applicant to demonstrate compliance with Part D3 "Access for people with a disability" and F2.4 "Accessible sanitary facilities" of the NCC 2019 Vol 1, prior to the issue of a Construction Certificate.

The proposal includes a carport, roller door and screened wall to prevent the sensitive operations associated with the use of the premises from being visible to pedestrians and adjoining neighbours. Several conditions of consent relating to noise mitigation have been imposed so as not to give rise to any adverse amenity impacts on adjoining neighbours. Council is satisfied that the proposal is of minimal environmental impact.

#### **Suitability of the site [section 4.15(1)(c)]**

The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 and, as demonstrated through the body of this report, the proposal is generally consistent with the relevant planning controls and standards.

The proposed development is permissible in the zone, subject to consent. Additionally, the subject site is considered suitable for the proposed use given that all functions of the proposed use will take place wholly within the premises and will not impact on surrounding land uses.

#### **Submissions [section 4.15(1)(d)]**

The subject application was notified on two occasions, the latter of which was also advertised in accordance with Council's Community Participation Plan (adopted after the initial notification period) requiring the proposal to also be advertised.

The application was notified for a period of 14 days from 4 November 2019 to 18 November 2019. Sixteen unique submissions were received during this period including one petition containing 103 signatures.

On the second occasion, the proposal was advertised for a period of 21 days from 1 April 2020 to 21 April 2020. Six submissions were received during this period, five of which updated their concerns from the first notification period.

These submissions raised concerns primarily relating to:

- Insufficient information;
- Permissibility;
- Operation / use of the premises, including loading/unloading;
- Capacity, noise concerns;
- Mortuary and place of worship concerns;
- Insufficient parking;
- Façade, streetscape character;
- Surrounding impacts;
- Traffic generation.

A total of 17 unique submissions were made in response to the proposal which raise concerns relating to:

**Land Use:** *Conflicting information on the plans and SEE. Rooms on the plans designated as a chapel, storage and multi-purpose rooms will allow for the intensification of land use. Internal configuration suggests the operation of the funeral home. However, a 'mortuary' land use is not permissible in the zone. How could the funeral home be able to sustain its most critical activities relating to the mortuary component. The site is deemed unsuitable due to a land use conflict between the premises and the domestic residences in proximity. Operation cannot be contained within the confines of the existing land holding. Clarification is needed to explain how the operation fits into the defined land use. Floor area and fit out suggests the building is to be used for an alternative purpose and is disingenuous from a land use point of view*

**Comment:** Plans were updated with additional information and specifics, rather than including general terms. Additionally, a Plan of Management was submitted detailing the proposed operation of the site. A condition of consent ensures the operation of this site is in accordance with the approved Plan of Management.

The definition of funeral home under Canterbury Local Environmental Plan 2012, is *"premises that are used to arrange, conduct and cater for funerals and memorial services, whether or not the premises include facilities for the short-term storage, dressing and viewing of bodies of deceased persons"*. Therefore, the chapel associated with the funeral home does not deviate from the prescribed definition of funeral home in CLEP 2012. The multi-purpose rooms are now proposed as a staff room and managers' room which are also in keeping with the primary use of the site.

A mortuary is not proposed, and conditions of consent have been imposed to ensure any mortuary-related activities are not undertaken on site.

The Applicant submitted information providing that the deceased persons will be prepared, at an off-site location. This proposal is solely for a funeral home, and conditions of consent have been imposed to prohibit mortuary related functions on the site.

The site is considered suitable for a funeral home, and the submitted Plan of Management details how the site will be operated. Although the deceased will be prepared off-site at a mortuary, the subject site proposes a funeral home and satisfies the land use.

The architectural plans have been updated to indicate exactly what each room will be used for, and the proposal is not considered to be disingenuous from what a funeral home would typically require.

**Permissibility:** *The development is viewed to be inconsistent with the zone objectives under the LEP. Proposal is inconsistent with the B2 Local Centre zone as the site is inappropriate. The approval will not support an active centre, nor will it lead to a better well-designed centre. Council is also to consider whether the location of the premises is appropriate in relation to its immediate context given the proximity to the residential areas. Proposal may be permissible; however, weight must be given as to whether the proposal is an appropriate outcome for its location at the fringe of the business area and where the operation will have amenity impacts for nearby residents.*

**Comment:** Funeral homes are permissible with consent in the B2 Local Centre zone and this assessment has found that the subject site is suitable for the development. The proposed development meets the objectives of the B2 Local Centre by providing community uses that serve the needs of people within the local area and introducing new employment opportunities in an accessible area. The proposal will upgrade the façade of the existing commercial premises.

The application has been assessed under Council's applicable controls and the proposed development has been found to be suitable, subject to conditions of consent as outlined in the body of this report.

Impacts on residential properties are reduced via noise mitigation and screening methods.

**Place of public worship:** *Any approval of the current floor plan with the notation "chapel" on the architectural drawings would suggest Council has approved a place of worship by default and may be misconstrued as approval to operate as a place of worship.*

**Comment:** The proposal does not seek approval for any other land use, and the proposed chapel is considered ancillary to the funeral home. The approval relates only to a funeral home. The submitted Plan of Management explains the operation of the site and is imposed via condition of consent.

**Façade:** *Modification to building shop front is not supported. Modification of parapet is not supported. Streetscape impact – the current façade contains period features and the proposal is unsympathetic. Blocking up of existing commercial glazing/shop front and replacement with a solid wall is unacceptable for a town centre and would result in substandard architectural presentation*

**Comment:** Conditions of consent ensure that the shopfront, and the above-awning portion of the building is maintained closely to its current condition. The modification to the parapet is not supported, and a condition of consent will ensure the parapet remains as existing to keep the character of the building. The majority of the façade will be retained via a condition of consent.

**Side access:** *Side boundary access not addressed*

**Comment:** The existing side boundary access is satisfactory, and no changes are proposed to the side profile of the subject building.

**Disability / Accessibility:** *Disabled Parking, Disabled Access from the Street into the Premises. Proposal does not demonstrate compliance with the accessible standards. Current floor layout and defined areas do not show how enough sanitary facilities are available for the largest expected number of patrons and visitors at any one time. The current premises only contain two toilet pans and no accessible facilities.*

**Comment:** Council's Building Surveyors have assessed the proposal against the relevant accessibility standards and have found the development to be satisfactory, subject to conditions of consent requiring the Applicant to demonstrate compliance with Part D3 "Access for people with a disability" and F2.4 "Accessible sanitary facilities" of the NCC 2019 Vol 1, prior to the issue of a Construction Certificate. It is noted that given the minimal works to the building an accessible parking space will not be required.

Two bathrooms are proposed on the submitted architectural floor plans. A condition of consent is imposed relating to building in accordance with the requirements of the Building Code of Australia. Specifically, the Applicant will be required to demonstrate compliance with F2.4 "Accessible sanitary facilities" of the NCC 2019 Vol 1, prior to the issue of a Construction Certificate.

**Stormwater:** *Insufficient Information – Stormwater Management Plan/s, Rear laneway works – kerb & gutter*

**Comment:** Prior to the issue of a Construction Certificate, a Work Permit shall be applied for and obtained from Council for the drainage connection to Council's system and a medium duty vehicular footway crossing at the property boundary fronting Homer Lane. Additionally, if required the works may involve the repair of any damage to public road and reinstatement of footway reserve.

**Waste Management:** *Waste management – clear path of travel & relies on adjoining property. Waste storage areas and handling have not been demonstrated.*

**Comment:** Applicant submitted amended plans and Council's Waste Officers were satisfied with the proposal upon review. The site proposes to manage waste wholly within their own property.

**Signage:** *location, illumination and SEPP 64*

**Comment:** The above awning signage has since been removed from the proposal upon receipt of amended plans. The awning/fascia signage complies with the criteria of SEPP 64 and F1-Signage in Canterbury Development Control Plan 2012.

**Operation of the premises:** numbers, hours, body preparation – operation is based on the preparation of bodies external to the subject site and transport of coffins for viewings with limited staff and limited mourners, a maximum of 3 ceremonies per week. What is the need for operation to commence at 6.30am, when there is no body preparation?

**Comment:** Hours of operation have been amended to 8.30am to 7.00pm Monday to Sunday, which are imposed via conditions of consent. The proposed development can accommodate a maximum 15 patrons at any one time, and it is considered that the proposed use will not create a significant impact on the immediate area.

**Parking & Traffic:** The proposed development is likely to impact on the availability of on-street car parking in the surrounding streets. Access to onsite parking in Homer Lane is restricted given the narrow width of passage which will hinder the ability of long funeral vehicles to manoeuvre, likely resulting in vehicles standing illegally and restricting traffic flow. There are also safety concerns associated with the design of the rear carparking areas due to increased traffic in the lane.

With lack of parking onsite, additional visitors seeking parking at the rear of the premises will increase collisions and other safety concerns within the laneway because there would be increased activity. A greater nuisance would be created where people would not be able to determine whether a vehicle can pass safely or have to reverse given the tightness of the laneway. There is a lack of car parking onsite where the Traffic Study notes that there are to be 3 staff onsite at any given time, as part of the operation who demand the use of these 3 spaces and the remaining 1 space onsite would be used by the transport vehicle. Therefore, there is no parking for the proposed 10-15 persons who are likely to visit the premises.

Council requires 7 spaces. Traffic Study states 6 spaces are needed as the site had 2 previous uses and a credit exists. This isn't correct as the activity is separately defined and is a quasi-place of worship. The correct parking rates need to be applied and reviewed at the rate of a place of worship given there is a chapel proposed.

Public road being Homer Street is a narrow road with a large volume of traffic flows throughout the day and the rear laneway is not conducive to support the rear use given the narrowness (turning path required for a hearse vehicle) and nil parking opportunities. No details on impacts to the rear laneway at Homer Lane

**Comment:** The off-street car parking that is necessary for the proposed use is comparable to previous approved uses on the site, and as detailed in the body of this report is considered to be acceptable. The submitted swept paths successfully demonstrate the ability for the transfer vehicle to enter and exit from Homer Lane. A condition of consent is imposed to set a maximum size for hearse vehicles. Additionally, the vehicular crossing is proposed to extend along the width of the northern boundary which will make parking at the rear more efficient and accessible.

The proposal is not altering the built form of the commercial premises at the subject site, and the use is going from a business premises to a business premises. Upon further assessment, the proposed use is not considered to intensify the use of the site and the

parking rate remains at a business premises rate within an Accessible Local Centre, as defined in Canterbury Development Control Plan 2012. The proposal is not considered to comprise a place of worship, but rather the proposed chapel is considered ancillary to the funeral home.

A condition of consent has been imposed enforcing patrons and staff to reverse park into the site, so they may exit in a forward direction. The lane has primarily been used for the purpose of parking and loading/unloading.

A hearse vehicle is not proposed, but rather a transfer station wagon with swept paths demonstrating that there is enough space to enter and exit the premises. The availability of four car parking spaces accessed via Homer Lane creates parking opportunities that are consistent with the requirements of Canterbury Development Control Plan 2012. Homer Lane is primarily used for access/loading and has historically been used for access to the commercial premises along the Homer Street in the B2 – Local Centre zone. Loading and unloading is not to be undertaken from the lane, however it is used to access the premises. Loading and unloading will take place wholly within the subject site. Swept paths were submitted with the application and demonstrate that access for standard vehicles and the transfer station wagon is satisfactory.

**Overall Function of the site:** *Lack of parking and difficulty of access is a major concern for members of the public and those living nearby. The site cannot cater for the minimum numbers quoted in the application, let alone any larger numbers that the business may need to service on occasion. Strict limitations on the scale and operation of the business are not considered appropriate where the general site needs of the business cannot be catered for.*

**Comment:** Council has reviewed the proposed development with the associated information. The proposed development will not have an unreasonable impact on the amenity of the neighbouring residents. Conditions of consent have also been imposed to minimise any such impacts. Amended plans have been received, and conditions have been imposed where required to retain the façade of the development. The proposal meets the planning requirements for a funeral home under Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012, and it is considered that the site will be able to accommodate the proposed number of viewings and patrons.

**Insufficient Information:** *Any further assessment from Council should consider:*

- *Car parking demand by the use (Parking Study)*
- *Operational traffic management plan (where are hearse vehicles to park and general handling of the deceased persons)*
- *Carrying capacity of the premises (number of patrons at any one time, frequency of services and duration of services).*
- *Noise generation / acoustic assessment (Noise Report)*

**Comment:** The proposed use as a funeral home, being a business premises in Canterbury Local Environmental Plan 2012, details a parking rate in Canterbury Development Control Plan 2012. The car parking requirements have been satisfied as no intensification of the site is proposed. The frequency of services is minimal with an expected 1 to 2 viewings per

week, and at most 3 per week. Should the operation of the site give rise to any noise disturbances, a condition of consent has been imposed where an acoustic consultant will carry out an investigation and implement noise attenuation measures.

**Details of the operation:** *Additional information is needed to explain the proposed layout, including:*

- *Whether the services are religious or non-religious,*
- *Duration of services,*
- *Number of patrons to visit the services and whether music is played during services,*
- *How are deceased persons to be appropriately managed?*
- *Whether short term storage, dressing and viewing of bodies of deceased persons is to occur onsite as the layout of the existing floor plan is not conducive for the use of the premises for short-term storage and dressing of deceased persons*
- *The current plan indicates a lift platform to service an unknown use or areas*
- *The site does not contain any adequate loading or unloading areas*
- *Visual impacts from the operation for nearby residences to the north and shop top housing units above looking down*

**Comment:** The proposed chapel is considered ancillary to the funeral home and is permissible, whether it is religious or not. Services are expected to take a maximum of 30 minutes, with certain exceptions for 60 minute viewings under special circumstances. A maximum of 15 persons for viewings, and a maximum of 3 employees on site at any one time. Any unreasonable noise is covered by a condition of consent whereby the operators of the site will need to implement noise attenuation methods in cooperation with an acoustic consultant.

The approved Plan of Management details the operations for viewings where transfer station wagons deliver bodies 2-3 hours prior to the viewing time, entering their loading space via a remote control to open the roller door, and unload the bodies once the roller door is shut to screen the body from the public. The wagon then collects the body only after all patrons have left the site. The fourth car parking space is dedicated to loading/unloading, and has sufficient space for unloading coffins from a transfer station wagon. This car parking space can be used by patrons whenever the transfer station wagon has left the site.

The layout of the existing floor plan has been updated to include a staff room and manager's room. The layout of the proposed floor plan is considered suitable for a premises that will be used to arrange, conduct and cater for funerals and memorial services. The lift platform is proposed to be used for loading and unloading the coffins into and out of the premises. A carport is proposed with associated roller door to adequately screen coffins from the view of the public and adjoining properties.

**Comparable Uses:** *Acropolis funeral at 212 Homer St has 10 car parking spaces and a loading bay, with ease of getting in and out. Where will people for this proposal park in the evening where up to 100-150 mourners gather to pay their last respects?*

**Comment:** The proposed funeral home is not seeking to cater for 100-150 patrons. The Plan of Management details capacity for 15 patrons, and 3 staff at any one time. Furthermore, a condition of consent imposes a limit of 18 persons on site at any one time. Additionally, 212 Homer Street has approval for a mortuary and is overall a more intense use than the subject proposal. It is not an exact comparison, as a mortuary is prohibited in the B2 Local Centre and would attract a different parking rate.

**Loading and Unloading:** *Loading and unloading operation at any time of the day?*

**Comment:** Loading and unloading is limited to between 7.00am and 7.30pm Monday to Sunday, as imposed via a condition of consent.

**Property Compensation:** *Property will lose value. Approval of the funeral home is likely to reduce property values in the vicinity and reduce the appeal of adjoining commercial premises to be leased and future development opportunity.*

**Comment:** The funeral home is proposed to be situated within the B2 Local Centre zone, where the land use is permissible with consent. There is no evidence to suggest that this use will have a negative impact on the surrounding property value, and this is not a planning consideration under the Environmental Planning and Assessment Act 1979.

**Inappropriate Location:** *The current location is considered inappropriate and the use would be better suited on a site that is a standalone site without common property elements, a proper means of access, parking and a multi-purpose facility.*

**Comment:** The application has demonstrated that the use for a funeral home can be suited on the subject lot. Funeral homes are a type of business premises, which is permissible with consent in the B2 Local Centre zone. The proposal has demonstrated compliance with the applicable planning controls, and it would be unreasonable to refuse the application for this basis.

**Traffic/Parking Congestion:** *Congestion is an issue – operation moving from large to tiny, as a funeral home with general rooms. No reference to any traffic survey or how they will have hearse vehicles enter and exit the new site, in the small laneway?*

**Comment:** The proposed funeral home has demonstrated access to and from the site, with loading/unloading manoeuvring via transfer station wagon, platform lift, and swept path diagrams. Congestion does not appear to be an issue for the proposed use.

Rather than a standard hearse vehicle, the applicant has proposed to use transfer station wagons. Swept paths were submitted with the application which demonstrate satisfactory accessibility when entering and exiting the site. The Plan of Management details the loading/unloading of coffins, and this procedure is imposed as a condition of consent.

**Privacy, adjoining properties:** *Apartment overlooks the rear parking of the funeral home. The site does not contain any enclosed areas for unloading or transferring deceased persons from funeral vehicles, this is a morbid sight I do not want to be exposed to.*

**Comment:** The proposal was updated with a carport, roller door and screened wall to hide the loading/unloading of coffins from the public view. The approved Plan of Management details that loading/unloading of deceased persons will only occur once the roller door is shut, so the activity will not be visible to adjoining properties nor the public.

***Congregation of mourners:*** *There is a potential for an inappropriate number of mourners leaving the premises and congregating on what is currently a vibrant commercial strip of mostly retail and service premises. Existing funeral home at 212 Homer St creates frequent congestion when large numbers of mourners congregate during extended trading hours exclusively in the evening. An extra funeral home nearby will double the disruption experienced in the space outside my home from the extra traffic generated.*

**Comment:** A funeral home is defined as a business premises under Canterbury Local Environmental Plan 2012. This means it is permissible with consent in the B2 Local Centre zone, and the proposal has demonstrated that it complies with the relevant planning controls. The maximum patrons at any one time is limited to 15.

The existing funeral home at 212 Homer Street has capacity for a much larger patronage. The subject proposal seeks a maximum of 15 patrons at any one time. Additionally, the site is assessed as a business premises when calculating parking rates under Canterbury Development Control Plan 2012.

***Noise disturbances:*** *This use of the premises has the potential to create noise disturbances for the locality. Pharmacy next door visited every day by sick people. Vulnerable to any air borne disease that can damage their health and also morale in a way.*

**Comment:** Council's Environmental Health Officers have reviewed the subject application and subject to conditions of consent, the proposal does not warrant any environmental health concerns. The operation of the funeral home will be conducted wholly within the premises, and any offensive noise will require the owners to conduct an acoustic investigation and implement noise attenuation measures. All loading and unloading will be undertaken from within the site, and it is not considered to raise any concerns for airborne diseases. There are no specific planning considerations relating to pharmacies and funeral homes being within close proximity.

***Proportion of proposal:*** *The proposal is poorly proportioned.*

**Comment:** The proposal does not seek to alter the built form of the premises beyond some internal modifications and door amendments.

***Rear usage of site, concerns for residents:*** *Rear use of the premises would be unacceptable for residents to the north and residents that reside within the shop top units.*

**Comment:** The rear use of the premises has historically been used for car parking to access the shops, and/or to load/unload. Loading/unloading will be screened from public view to not cause distress.

**Safety of road users + public road handling:** *The dependence on Homer Street and Wardell Road will place road users at risk, reduce visibility at the T-section, and place patrons/staff at greater safety risk by having them congregate and work from Homer Street to properly handle deceased persons*

*Use of the premises will cause traffic congestion for the locality and rely on handling of deceased persons from a public road. Location of the site on the main road makes the site accessible to a wider area and consequently broadens the funeral home activities outside the local area. Council needs to determine whether the service is to be a local or regional funeral home*

**Comment:** Deceased persons will be handled via the rear portion of the site, with a platform lift, dedicated carport, roller door and screened wall to hide the coffins from the public view. Parking for patrons and staff is also provided at the rear of the site.

Funeral and memorial services are to take place wholly within the property, and it is considered that there is enough space to accommodate 15 patrons and 3 staff members. Additionally, glazing/film on the inside of the glass will prevent people looking in from the street. Whether the service is considered to be a local or regional funeral home is not a planning consideration and would be assessed under the same planning controls.

**Site capability:** *Council needs to determine whether the site is capable to accommodate large gatherings given the lack of parking, lack of sanitary facilities, tight internal floor space, inadequate safe loading/unloading opportunities of deceased persons with compassion.*

**Comment:** The proposed four car parking spaces is considered to be suitable for the site given that there is no intensification from what was previously approved. Sanitary facilities are to be included prior to the issue of a Construction Certificate as imposed via a condition of consent, specifically under F2.4 "Accessible sanitary facilities" of the NCC 2019 Vol 1. Loading/unloading is considered sufficient with the proposed carport, roller door and screen wall situated across one of the car parking spaces.

**Density and proximity to other funeral homes:** *Consider the density of any other funeral homes in the immediate locality, and whether the proposal increases the cluster of funeral homes from private and public operators.*

**Comment:** The number of funeral homes within an immediate locality is not a planning consideration.

**Traffic Study:** *Public road being Homer Street is a narrow road with a large volume of traffic flows throughout the day. Traffic Study fails to review the demand and supply of parking within the immediate vicinity. For example, despite the parking spots being identified, what is the availability and general movements of the commercial area? This should be done as part of a detailed parking survey. Any parking study should run a course of 7 days and at peak times with survey information. With the current Coronavirus pandemic, this data is unknown at present and would not be a true reflection as there is inactivity in the commercial centre and this should be deferred for obvious reasons.*

**Comment:** The Traffic and Parking Assessment submitted with the application states that the estimated peak period traffic generation from this proposal is of low impact on existing flows on Homer Street, Wardell Road, Homer Lane and the surrounding road network. The traffic generated by the operation of the proposed funeral home will not alter the current levels of service and traffic generated can be readily accommodated, with the existing road network and layout.

The parking requirement for a funeral home is outlined in Canterbury Development Control Plan 2012 under business premises. Additionally, the proposed use of the funeral home is considered to have a low impact on existing flows on Homer Street, Wardell Road, Homer Lane and the surrounding road network. The traffic generated by the operation of the proposed funeral home will not alter the current levels of service. Traffic generated can be readily accommodated, with the existing road network and layout.

**The public interest [section 4.15(1)(e)]**

The public interest is served through the consistent and measured application of the relevant plans, policies and standards. The proposal is generally consistent with these policies and, as such, is in the public interest.

Objections were received in relation to this application. However, determining whether a proposal is contrary to the public interest is not solely based on the fact objections were received.

Council generally considers that the proposal meets the relevant development standards and planning controls and would remain in the public interest thus, the proposal should be supported.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012.

**RECOMMENDATION**

It is recommended that the application be approved subject to the attached conditions (APPENDIX B)



## CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No. DA-885/2019, submitted by Mario Mourad, accompanied by the drawings as listed in the table below, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

Drawing No.	Drawing Title	Rev.	Dated	Prepared by
DA.000	Coversheet			
DA.007	Proposed Ground Floor Plan	C	1.10.2020	SPG
DA.008	Elevations			
DA.009	Elevations			
POM – 2020/253HO-02	Operational Management Plan		30 September 2020	Auscare

The development plans shall be amended as follows:

- a) The existing shop front below the awning, shall be retained with frosted glass or internally fitted opaque/translucent film where required for privacy except the office/reception area must be clear glazing allowing natural surveillance to and from Homer Street. The front elevation above and below the awning can be rendered and painted with no cladding (or the like) being attached to retain the original form of the building. Floor plans and elevations must be updated to reflect this.
  - b) The existing side door access is to be closed as per the floor plans.
  - c) Plans are to show signage for all off-street parking spaces to be accessed by reversing into parking spaces to enable a forward direction on exit.
- 3) The building must comply with the Category 1 fire safety provisions as are applicable to the building's proposed use.  
Note: The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.
  - 4) A separate application shall be submitted to Council prior to the erection of any additional signage unless the proposed signage is "exempt development" in accordance with Canterbury DCP 2012 – Part F1.

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

- 5) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 6) This condition has been levied on the development in accordance with Section 7.12 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development 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 \$750. The amount payable is based on the following components:

Contribution Element 2013	Contribution
• Section 7.12 Contributions	\$750.00

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.

The Development Contributions Plan 2013 may be inspected at Council's Campsie Customer Service Centre, 137 Beamish Street, Campsie or from Council's website [www.cbcity.nsw.gov.au](http://www.cbcity.nsw.gov.au). A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

- 7) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 8) The Council approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

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

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

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

- 9) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 10) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 11) A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
  - a) A **medium** duty VFC at the property boundary fronting Homer lane.
  - b) Drainage connection to Council's system.
  - c) Repair of any damage to the public road including the footway occurring during development works.
  - d) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: As a site survey and design is required to be prepared by Council in order to determine the necessary information, payment for the Work Permit should be made at least twenty one (21) days prior to the information being required and must be approved prior to the issue of the Construction Certificate.

- 12) Stormwater runoff from all areas proposed for development shall be collected and connected to the existing stormwater system within the site, subject to the existing system being evaluated by a qualified professional Civil Engineer and found to be structurally adequate and to have the required hydraulic capacity, as required in Council's Development Engineering Standards. The existing system shall be upgraded or replaced as necessary to comply with the requirements above. The plan for the proposed drainage system together with the hydraulic evaluations shall be submitted to the PCA for approval with the application for the Construction Certificate.
- 13) The layout of the proposed car parking areas associated with the subject development shall be in accordance with the Australian Standard AS 2890 parking series.

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

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

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

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

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

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

All Council fees applicable, minimum restoration charges and inspection fees shall be paid prior to the assessment of the Work Permit in accordance with Council's adopted fees and charges. Note: Additional fees after approval will be charged where the Work Permit requires occupation of the Road or Footpath i.e. Hoardings, Work Zones etc.

In determining a Works Permit, Council can impose conditions and require inspections by Council Officers.

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

The commencement of any works on public land, including the footway or public road, may incur an on the spot fine of not less than \$1100 per day that work continues without a Works Permit and/or a Roadway/Footpath Building Occupation Permit.

All conditions attached to the permit shall be strictly complied with prior to occupation of the development. Works non-conforming to Council's specification (includes quality of workmanship to Council's satisfaction) shall be rectified by the Council at the applicant's expense.

## **CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION WORKS COMMENCING**

- 15) The building work in accordance with the development consent must not be commenced until:
- a) a construction certificate for the building work has been issued by the council or an accredited certifier, and
  - b) the person having benefit of the development consent has:
    - i. appointed a principal certifying authority for the building / subdivision work, and
    - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - c) the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
    - ii. notified the principal certifying authority of any such appointment, and
    - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - d) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building / subdivision work.

- 16) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 17) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 18) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c) stating that unauthorised entry to the work site is prohibited.

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

## **CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

- 19) Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
- 20) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 21) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Canterbury Development Control Plan 2012 Part B5. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 22) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 23) If the soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.

- 24) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.

### **CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

- 25) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 26) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 27) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 28) The operator of the premises must register the business with the Compliance Unit of Council and arrange an inspection with Council's Environmental Health Officer.
- 29) Four (4) off street car parking spaces shall be provided/maintained for the use of visitor and employees to the premises in accordance with the submitted plans. Such spaces are to be sealed, line marked and maintained.

### **USE OF THE SITE**

- 30) Car parking spaces for four vehicles shall be provided in marked spaces in the manner generally shown on the approved site plan, and in accordance with the approved Plan of Management. The car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.
- a) Signage shall be installed within the site indicating that patrons and staff reverse park their vehicles into the site, so that they can exit in a forward direction.
- 31) One parking space shall be provided for delivery of coffins to and from the premises. This space can be used by patrons outside pick-up and delivery times of coffin, in accordance with the approved Plan of Management. This parking space is to be clearly marked, and limit occupation of the parking spaces in accordance with the coffin delivery schedule.
- 32) Business identification signage compliant with exempt development criteria under SEPP – Exempt Complying Development must be clearly displayed at the rear of the site to assist deliveries and patrons accessing parking at the site.

- 33) The maximum number of persons on site at any one time shall not exceed eighteen (18) including a maximum fifteen (15) patrons and three (3) staff members.
- 34) The premises are not to be operated as a mortuary as defined under the *Public Health Act 2010*.
- 35) The premises are not to be used for body preparation and embalming.
- 36) The hours of operation of the use shall be limited to between 8.30am to 7.00pm Monday to Sunday.
- 37) Unloading or loading shall be limited to between 7.00am to 7.30pm Monday to Sunday.
- 38) The delivery of the coffins must be pre-arranged approximately 2-3 hours prior to viewing time with the delivery vehicle then vacating the car space until the viewing is finalised.
- 39) The hearse transferring the coffin is to use car space 4, with staff ensuring the space is available during delivery and pick-up times.
- 40) The roller door must remain closed during delivery/pick-up of coffins.
- 41) All loading and unloading in relation to the use of the premises taking place wholly within the site.
- 42) The delivery of bodies to and from the premises shall be adequately screened from the general public and adjoining and surrounding commercial properties.
- 43) Bodies may only be kept on the premises for the purpose of viewing by mourners prior to burial or cremation.
- 44) The storage of bodies is not to exceed 8 hours and the storage of bodies overnight is not permitted.
- 45) Any lighting of the premises must be installed in accordance with AS 4282-1997, 'Control of the obtrusive effects of outdoor lighting', to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 46) Illumination of signage shall be restricted to the hours of operation between 8.30am to 7.00pm Monday to Sunday.

- 47) The premises shall be operated to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupants. In the event of Council receiving complaints and if it is considered by Council that excessive and/or offensive noise is emanating from the premises, the person(s) in control of the premises shall arrange for an acoustic investigation to be carried out (by an accredited acoustic consultant) and submit a report to Council detailing the proposed methods for the control of excessive noise emanating from the premises. The measures shall be approved by Council prior to implementation and shall be at full cost to the applicant.
- 48) The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 49) There shall be no emissions of noise, smoke, smell, vibration, gases, vapours, odours, dust, particulate matter, or other impurities which are injurious or dangerous to health, or the exposure to view of any unsightly matter or otherwise.
- 50) All waste materials associated with the use shall be stored in containers located either within the building or behind screen walls in accordance with the approved plans.
- 51) The use of the premises shall not contravene the *Protection of the Environment Operations Act 1997*. The operation of the premise shall be carried out in accordance with the requirement of the NSW EPA, where relevant.
- 52) No signs or goods are to be displayed or trading of any description is to be carried out on the public road, public footway, utility service land, customer and/or employee parking area or the driveways or pedestrian walkways outside or in the immediate vicinity of the premises.
- 53) Identification number/s are to be conspicuously displayed at the front of the premises.
- 54) Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.
- 55) Bins are to be stored within the development's own lot and are only to be presented for collection no earlier than the night before the scheduled collection day(s).
- 56) Bins are not to be presented for collection in front of neighbouring lots except where there is no other safe and practical location and with the agreement of the relevant landowner. Bins are to be presented with a minimum 30cm gap from other bins and must not obstruct or impede collection of any adjacent bins.
- 57) Bins are to be returned for storage within the development's own lot as soon as practicable after collection and must not be left in the laneway or any public place at any other time.

- 58) The applicant shall enter into a commercial contract for the collection of wastes and recycling. A copy of the commercial waste and recycling contract shall be lodged with Council and invoices should be available for inspection at any time.

-END-

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## Canterbury Bankstown Local Planning Panel - 02 November 2020

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<b>ITEM 3</b>	<b>310-312 King Georges Road, Beverly Hills</b>
	<b>Construction of a three storey mixed development comprising one office premises and a 12 room boarding house over one storey of parking</b>
<b>FILE</b>	<b>DA-373/2020 – Roselands</b>
<b>ZONING</b>	<b>B1 Neighbourhood Centre</b>
<b>DATE OF LODGEMENT</b>	<b>13 May 2020, amended plans received 17 July 2020 and 26 August 2020</b>
<b>APPLICANT</b>	<b>310 King Georges Pty Ltd</b>
<b>OWNERS</b>	<b>310 King Georges Pty Ltd and Hariri and Co Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$1,371,138.00</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

This matter is reported to Council due to a proposed variation to the building height exceeding 10% above the development standard.

Development Application No. DA-373/2020 proposes the construction of a three storey mixed development comprising one ground floor office premises and a 12 room boarding house over one storey of basement parking

DA-373/2020 has been assessed against Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012 and the application fails to comply in regards to Clause 4.3 – Height of Buildings of the Canterbury Local Environmental Plan (CLEP) 2012. The proposed variation is 11.51%. The applicant has requested the variation on a number of grounds, particularly those found in Clause 4.6 of the CLEP. Council has considered this request and considers the variation worthy of support.

The application was advertised/notified for a period of 21 days. No objections were received during this period.

## **POLICY IMPACT**

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The consideration of the application does not raise any policy impacts.

## **FINANCIAL IMPACT**

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The consideration of the application does not have any financial impacts

## **RECOMMENDATION**

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

## **ATTACHMENTS**

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- A. Assessment Report
- B. Conditions of Consent

## **APPENDIX A - Section 4.15 Assessment Report**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 310-312 King Georges Road, Beverly Hills. The regularly shaped site consists of two lots. The site has a frontage of 12.19m and an overall size of 337m<sup>2</sup> and is zoned B1 Neighbourhood Centre.

The site is a cleared vacant site, bounded to the front by King Georges Road and to the rear by Moondani Lane and its intersection with Moorefields Lane. The surrounding development consists of shops and mixed developments fronting onto King Georges Road, opposite which is residential properties, ranging in size from single dwellings to residential flat buildings. To the rear of the site are residential properties fronting Moorefields Road and Moondani Road.

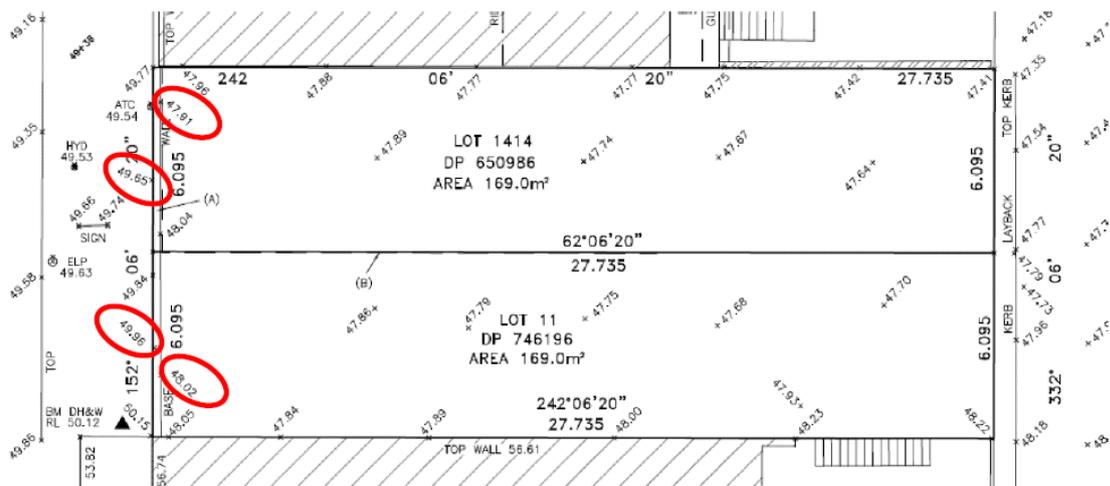


**Figure 1:** Aerial of subject site pinned blue. **Source:** NearMaps 2020



Figure 2: Site from Moodani Lane

The site, having been cleared, is at a lower level than the frontage to King Georges Road. The extract from the survey, below, shows that there is a change in level of between 1.74m and 1.94m from the footpath on King Georges Road and the site.



### Site Planning History

On 12 March 2015, Former Canterbury Council's City Development Committee approved Development Application DA-499/2013 for the consolidation of lots and the construction of a three storey mixed development, subject to conditions. The height of the building proposed was 11.55m above existing ground level.

### PROPOSED DEVELOPMENT

The Development Application proposes the construction of a three storey development comprising a ground floor office premise with two full storeys of boarding house above. The proposed development also includes the construction of basement car parking.

**Basement**

The basement level comprises:

Access driveway from Moondani Lane,  
2x car parking for the commercial premise,  
6x car parking for the boarding house occupants (including 1 accessible space),  
2x Motorcycle spaces  
Bin storage room, and  
Lift and stair access.

**Ground Floor**

The ground floor comprises:

1x Office space (72.85m<sup>2</sup>),  
1x Communal toilet,  
1x Double boarding room,  
2x Single boarding rooms,  
Services, utilities, lift and stair access.

**First Floor**

The first floor comprises:

4x Double boarding rooms,  
2x Single boarding rooms,  
1x communal living area (29.19m<sup>2</sup>),  
Services, utilities, lift and stair access.

**Second Floor**

1x Double boarding room,  
2x Single boarding rooms,  
1x communal living area (27.28m<sup>2</sup>),  
Communal Outdoor Space (118.61m<sup>2</sup>),  
Services, utilities, lift and stair access.

The proposed boarding house development will have capacity for 18 residents.

**STATUTORY CONSIDERATIONS**

When determining this application, the relevant matters listed in Section 4.15C of the Environmental Planning and Assessment Act 1979 must be considered. 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 2004 (Building Sustainability Index: BASIX)
- State Environmental Planning Policy Affordable Rental Housing (SEPP ARH) 2009
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)
- Draft Canterbury Bankstown Consolidated Local Environmental Plan

## **PERMISSIBILITY**

The subject site is zoned B1 – Neighbourhood Centre. The proposed development comprises two uses, being an office use and boarding house.



Boarding houses and offices are permitted with consent in the zone.

It should be noted that the additional information provided by the applicant on 17 July 2020 amended the application to ‘office premises’ from ‘commercial premises’. *Commercial premises* include, *Retail premises* are prohibited in the zone. However, the amended plans have not been updated to reflect this change, therefore a condition will be required to define the ground floor unit as an *office premises*.

## **SECTION 4.15 ASSESSMENT**

The proposed development has been assessed pursuant to section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

### ***Environmental planning instruments [section 4.15(1)(a)(i)]***

#### **State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)**

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, we must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, we must be satisfied that the land will be remediated before the land is used for that purpose.

There is no identified history or uses which would cause contamination on the land.

Council's Environmental Health Officer has reviewed the documents and is satisfied subject to the imposition of suitable conditions of consent. Accordingly, the submitted reports demonstrate that the site is suitable for the purpose of the proposed development in accordance with SEPP 55 – Remediation of Land.

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

#### Vehicle access

As the site has a frontage to a classified road Clause 101 of the SEPP is relevant and requires Council to be satisfied that vehicular access to the land is provided by a road other than the classified road where practical. The subject site only has access from Moondani Lane, and access does not impact upon King Georges Road.

The application was referred to the Transport for NSW, who provided concurrence subject to the imposition of conditions

The terms of approval, including conditions, have been incorporated into the recommended conditions of consent. The objectives of this clause have been satisfied.

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

In accordance with BASIX SEPP, a BASIX Certificate accompanies this application. The Certificate makes a number of energy/resource commitments relating to water, energy and thermal comfort. The relevant commitments indicated on the BASIX Certificate have been shown on the plans in order to satisfy objectives of the SEPP. The BASIX Certificate requirements have been incorporated into conditions of consent.

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

Division 3 – Boarding Houses of SEPP ARH is relevant to the assessment of this application. Clause 26 states that Division 3 applies to land within certain zones, including in Neighbourhood Centres.

In relation to Clause 29(1) it should be noted that there is no maximum floor space ratio indicated for the site indicated within the Canterbury Local Environmental Plan 2012.

#### Clause 29(2)(a) Building Height

The site is located within an area with a maximum building height of 10m, as defined in the Canterbury Local Environmental Plan 2012. The proposed development is 11.51m in height above existing ground level. However, in line with Clause 4.6 of the Canterbury Local Environmental Plan 2012, a variation request has been submitted, and considered later in this assessment report. After consideration of the Clause 4.6 Variation Request and the topography of the application site, the proposed height of the building is acceptable and worthy of support.

#### Clause 29(2)(b) Landscaped Area

The existing street has no front landscaping. The proposed development is consistent with the context of buildings abutting the pavement.

#### Clause 29(2)(c) Solar Access

This clause requires a boarding house common room to receive 3 hours of solar access between 9am and 3pm at midwinter. The applicant has provided solar access plans confirm that the uppermost common room receives the required level of solar access. The proposal is consistent with this clause.

#### Clause 29(2)(d) Private Open Space

No manager's room is required as the proposed boarding house will have a maximum capacity of 18 lodgers, a building manager is only required if the boarding house accommodates 20 or more lodgers.

A further requirement is that at least one common area is provided with internal dimension exceeding 3m in width. A common area is provided on the upper floor of 118.6m<sup>2</sup>, with dimensions exceeding 3m in width. The proposal is therefore consistent with the open space requirements of SEPP ARH.

#### Clause 29(2)(e) Parking

Subclause (iia) states that "in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room". In this instance the development is not being carried out by a social housing provider. The development proposed 12 rooms, which at a rate of 0.5 spaces per room results in a car parking requirement of 6 spaces. 6 (of 8 – 2 required for the office use) spaces are shown within the basement car park for use by the occupants of the boarding house, in line with the requirements of the Clause.

#### Clause 29(2)(f) Accommodation Size

This clause requires that single boarder rooms are a minimum of 12m<sup>2</sup> and that double boarder rooms are a minimum of 16m<sup>2</sup>. The floor size calculations have been checked and all rooms accord with the minimum accommodation size requirements of Clause 29(2)(f).

#### Clause 30(1)(a) Common Living Rooms

Clause 30(1)(a) requires that a boarding house with more than 5 rooms must have at least one common room. The proposed development has 12 rooms and proposes 2 common living rooms, one on the first and one on the second floor.

#### Clause 30(1)(b) Maximum Gross Floor Area

This clause states 'no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres'. The floor plans have been checked and no room exceeds the maximum gross floor area.

#### Clause 30(1)(c) Maximum lodgers per room

This clause limits the maximum number of lodgers per room to 2. The proposed development states all rooms are either single or double occupant rooms and a condition of consent will limit the maximum occupancy of the rooms to 2.

#### Clause 30(1)(d) Bathroom and Kitchen Facilities

Each room has its own bathroom and kitchen. Furthermore, communal spaces include bathroom and kitchen facilities. Given this the proposed development provides adequate facilities for all lodgers.

#### Clause 30(1)(e) Boarding House Manager

Clause 30(1)(e) requires a boarding room be provided for a manager if the total capacity of the boarding house is 20 or more lodgers. This proposed development has 6 double and 6 single rooms, with a maximum capacity of 18 occupants. Therefore a manager room is not required in this instance.

#### Clause 30(1)(g) Ground Floor Use

This clause states “if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use”.

The land on which the development is proposed is on land zoned primarily for commercial purposes (B1 Neighbourhood Centre). The ground floor frontage to King Georges Road is predominantly for office space with the boarding house use behind. The proposal is to this extent compliant.

However, the proposed site also has a secondary frontage to the rear of the site. Due to the slope of the land however, the proposed boarding house sits more than 1m above ground level at this point. As such the ‘basement’ car park is the ground floor element at this point.

The proposal is considered compliant with the clause.

#### Clause 30(1)(h) Bicycle and Motorcycle Parking

This clause requires that provision for motorcycle and bicycles be made at a rate of 1 space per 5 rooms. With 12 rooms, 2 motorcycle spaces and 2 bicycle spaces are required. 2 motorcycle spaces are provided in the basement car park, and 5 bicycle spaces are provided at ground floor, meeting the requirements of the clause.

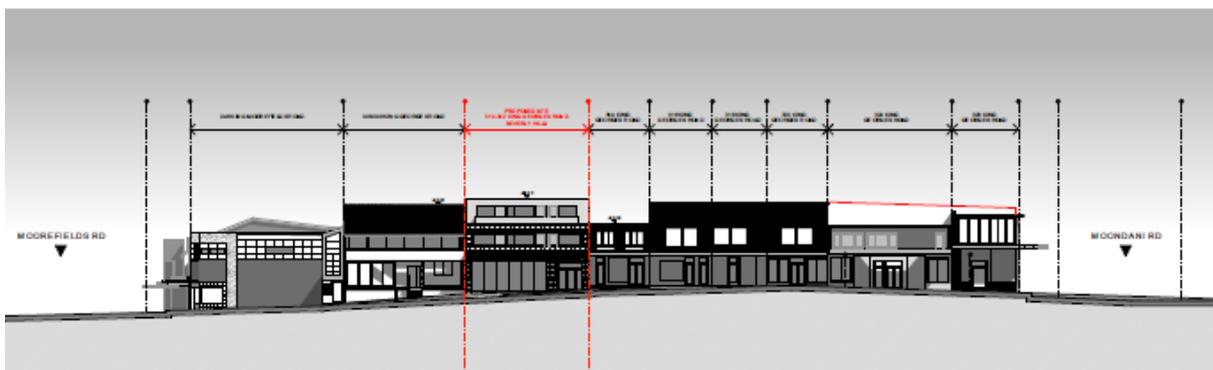
#### Clause 30A Character of local area

The planning principle set out by Project Venture Developments v Pittwater Council [2005] NSWLEC 191 states that the most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping.

The site is located in a run of business properties fronting King Georges Road. The proposed development will be consistent with the overall height (as discussed elsewhere in this report) of the neighbouring properties, and maintains similar setbacks (nil side and front) and subsequently landscaping. The proposed development will be infilling a vacant unit within the block.

The proposed range of finishing materials which includes grey bricks and grey and orange render are modern and, the use of orange, reflects the red brick elements elsewhere in the street.

The following photomontage and streetscape prepared by the applicant explains the relationship between the proposed development and the existing urban context.



## Canterbury Local Environmental Plan (CLEP) 2012

This site is zoned B1 Neighbourhood Centre under CLEP 2012. The controls applicable to this application are discussed below.

### Clause 1.2 Aims of Plan

The proposed development is consistent with the relevant aims of the CLEP 2012 which include:

- 2(a) to provide for a range of development that promotes housing, employment and recreation opportunities for the existing and future residents of Canterbury,
- 2(b) to promote a variety of housing types to meet population demand,
- 2(c) to ensure that development is of a design and type that supports the amenity and character of an area and enhances the quality of life of the community,
- 2(d) to create vibrant town centres by focusing employment and residential uses around existing centres and public transport nodes, and
- 2(e) to revitalise Canterbury Road by encouraging a mix of land uses that does not detract from the economic viability of existing town centres,

### Clause 2.3 Zone objectives and Land Use Table

Clause 2.3(2) of CLEP 2012 outlines that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objective of the B1 Neighbourhood Centre Zone is as follows:

*To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*

The proposed development meets the objectives of the B1 zone as it provides for a small scale office premise whilst supporting the provision of affordable rental housing.

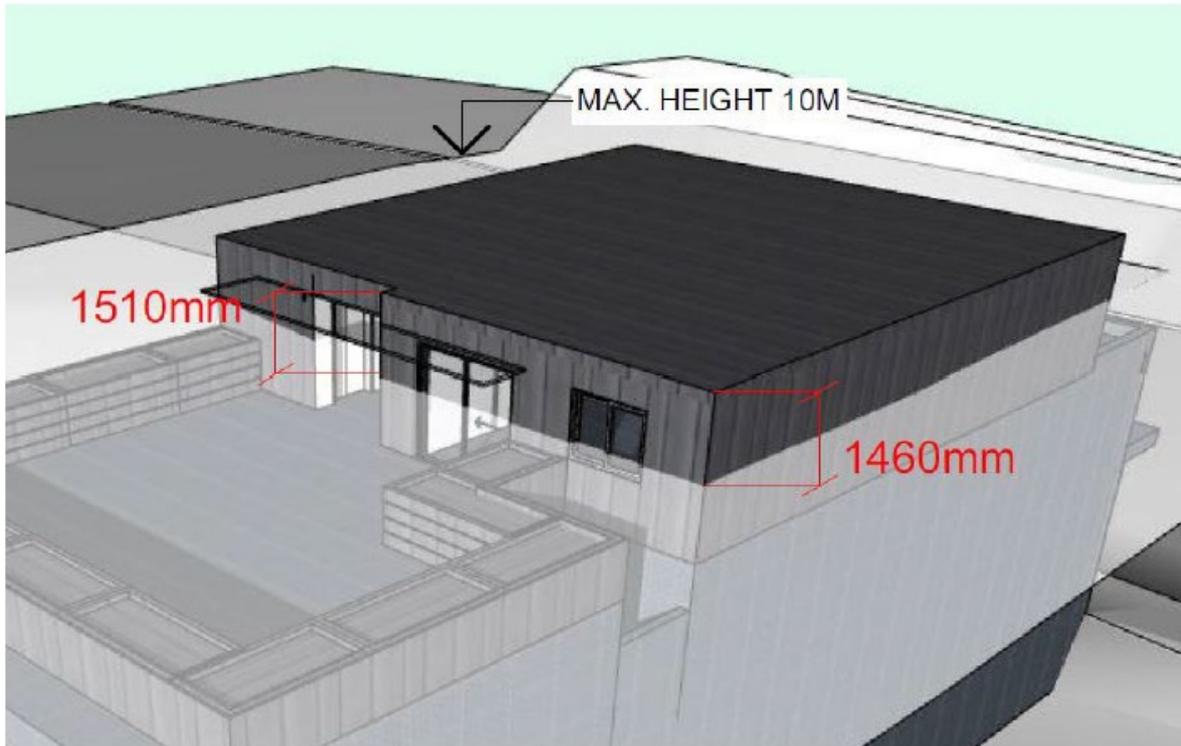
### Clause 4.3 – Height of Buildings

The objectives of Clause 4.3 are as follows: -

- (a) to establish and maintain the desirable attributes and character of an area,
- (b) to minimise overshadowing and ensure there is a desired level of solar access and public open space,
- (c) to support building design that contributes positively to the streetscape and visual amenity of an area,
- (d) to reinforce important road frontages in specific localities.

CLEP 2012 states (Clause 4.3 (2)) “The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map”.

The maximum height shown for the land on the Height of Buildings Map is 10m. The proposed development has a maximum building height of 11.51m above existing ground level. This represents a 15.1% Variation from the maximum height control.



#### Clause 4.6 Variation Request

##### The proposed variation

The application proposes to contravene the Maximum Height of Buildings standard of Clause 4.3 of Canterbury Local Environmental Plan 2012.

- 11.51m - Height proposed
- 10m – Height maximum
- 1.51m – 15.1% degree of contravention

##### Circumstances of the case

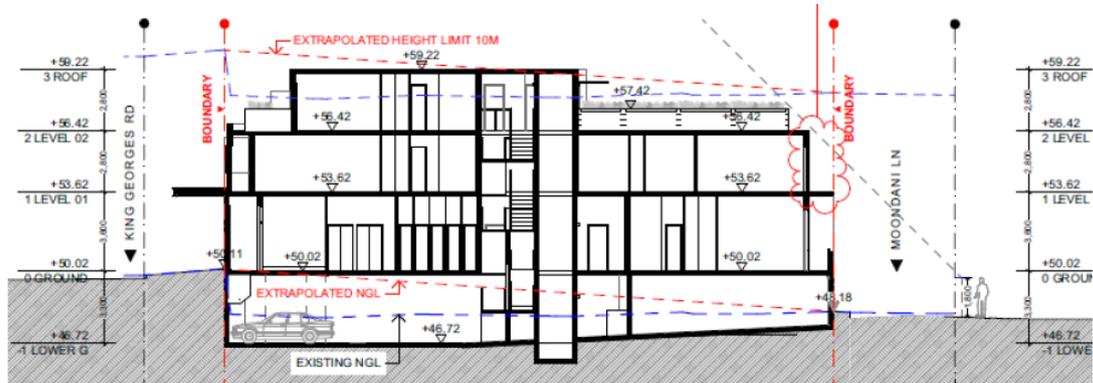
The application involves constructing a development on cleared land. The land cleared is at a lower level to that of the neighbouring development.

##### Applicant's request to contravene the development standard, summarised

The applicant's submission, made under the provisions of Clause 4.6 of the Canterbury Local Environmental Plan 2012 provides the following arguments in support of the proposed variation:

- a) If the site were not vacant and were to be redeveloped from an existing built structure on site, then the existing NGL would take the reference of the existing ground level of the hypothetical development. Arguably the natural ground would follow the contour

of a slope between two road frontages. Therefore, it is not unreasonable to extrapolate a hypothetical NGL by drawing a line to connect the rear boundary level with the King Georges Road front boundary level. This extrapolated natural ground level is illustrated in the red dashed line in the below section.



- b) The adjoining properties along King Georges Road were to be redeveloped, the redevelopments would benefit from the existing ground level of the current structures on site. The existing ground level of existing buildings along the street are predominantly aligned with the primary street frontage of King Georges Road, which is the higher end of the natural contour. Because of the higher existing ground level, these redevelopments would also benefit from a higher 10m-height limit plane situating based on ground level (existing). In contrast, the majority of existing level of the subject vacant site is significantly lower than King Georges Road, which results in the 10m-height limit for the subject site is much lower than the height limit for adjoining properties. By taking a strict approach of applying numeric standard based on different site conditions would result in an inconsistent urban design outcome for the streetscape of King Georges Road.
- c) The proposed modifications will not impact upon the road frontage of the development.

#### Clause 4.6 Variation Assessment

1. Clause 4.6(4) (a) (i) - is the Council satisfied that the Applicant's written request dated 17 July 2020 has adequately addressed the matters required to be demonstrated by clause 4.6(3).
  - (a) Clause 4.6(3)(a) – Council's consideration of the Applicant's justification to contravene the development standard by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
  - (b) Clause 4.6(3)(b) - Council's consideration of the Applicant's justification to contravene the development standard by demonstrating that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has submitted a number of, including that the proposal will not have detrimental impacts on neighbouring properties or that the development satisfies the objectives of the zone, but also that the topography of the site is such that compliance with the controls would be inconsistent with proper planning and consistent design.

The Canterbury LEP 2012 defines building height as “*the vertical distance from ground level (existing) to the highest point of the building*”, given that this site has been excavated for parking from the last development on this site, this has caused an anomaly in the true height determination for development of this site.

Development is set at the street level for the commercial use which is, in the view of Council, the appropriate reference point. To lower to try and comply would produce a poor street presentation.

The scale of the development is consistent with the intent of the height limit where it is envisaged three storeys and the adjoining development.

Council considers, the particulars of the site in relation to the existing topography and consistent street presentation provides justification as to the environmental planning grounds.

- (c) The Council is satisfied that the Applicant’s written request has adequately addressed the matters required to be demonstrated by clause 4.6(3).

Council is satisfied that the applicant’s written request has demonstrated that

- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - b) that there are sufficient environmental planning grounds to justify contravening the development standard.
2. Clause 4.6(4)(a)(ii) – is the Council satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for the development within the zone in which the development is proposed to be carried out.
- (a) Consistent with the objectives of the particular standard.

#### Maintaining Desirable Attributes

The proposed development is in the centre of the existing neighbourhood centre and will be read in the context of the existing development from the street. The height will be similar to any redevelopment that occurs on neighbouring properties, however to restrict the height to 10m, based on the current existing ground level would result in a much lower development height in comparison to a redeveloped development.

### Minimise Overshadowing

The proposed development will not result in any additional overshadowing of neighbouring properties.

### Supports Building Design

The proposal does not result in detriment to the visual amenity of the area. The proposed design is in keeping with the desired future character of the area and will be read against the context of the adjacent development.

### Reinforce Street Frontages

The proposed development will not impact detrimentally on street frontages as it is set behind the main building line.

- (b) Consistent with the objectives for development within the zone in which the development is proposed to be carried out.

CLEP 2012 identifies the site as within a B1 - Neighbourhood zone. The objective of the zone is: -

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*

Boarding houses and office uses are specifically mentioned as being permissible within the zone and the proposed development will allow for proper use of the building in accord with the objectives of the zone.

- (c) Proposed development is in the public interest because it is consistent with the objectives referred to above.

The Council is satisfied that the development is in the public interest because it is consistent the objective of the standard and of the zone which the development proposed is to be carried out.

3. Clause 4.6(4)(b) – Concurrence of Secretary has been obtained

Concurrence of the Minister is assumed given Planning Circular 18-003.

### Conclusion

Based on the above, the requested contravention of the standard is supported for the following reasons:

- i. an appropriate degree of flexibility has been applied and better outcomes are achieved
- ii. the circumstances of the proposal warrant contravention of the standard,
- iii. there are sufficient environmental planning grounds to warrant contravention,

- iv. the proposal is in the public interest, as the development is consistent with relevant objectives of the standard and the zone,
- v. the development does not raise any matters of regional or State planning significance, and
- vi. there is no public benefit in maintaining the standard, in the circumstances of the subject application.

### Other CLEP 2012 Provisions and Standards

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 6 Local Provisions</b>			
6.4 Stormwater Management	Consent must not be granted unless: (a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration. (b) Includes on-site detention if practical as an alternative means of water supply. (c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.	The application has been considered by Council's Development Engineer in relation to Stormwater Management. The Development Engineer raised no objections to the proposal subject to the imposition of standard conditions. The proposal is therefore in accordance with the provisions of Clause 6.4.	Yes
6.6 Essential Services	Essential services must be available or adequate arrangements have been made to make them available, including: - the supply of water; - the supply of electricity ( <b>substation</b> ); - the disposal and - management of sewage; - stormwater drainage or on-site conservation; - suitable vehicular access.	The proposed development has been considered against the provisions of Clause 6.6. The matters of adequate arrangements has been addressed and can be confirmed through the imposition of standard conditions.	Yes

### **Draft environmental planning instruments [section 4.15(1)(a)(ii)]**

On 6 March 2020, the Canterbury Bankstown Local Planning Panel endorsed a Planning Proposal to undergo exhibition for the Consolidated Canterbury Bankstown Local Environmental Plan (CBLEP). The Draft CBLEP was on public exhibition from 9 March 2020 until 24 April 2020. The Planning Proposal (PP\_2019\_CBANK\_005) seeks to produce a single set of planning rules and combine and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan by:

- Producing a single land use table consistent with the Local Strategic Planning Statement, Standard Instrument (Local Environmental Plans) Order 2006 and other State requirements.
- Resolving differences between Bankstown LEP 2015 and Canterbury LEP 2012.
- Complying with the Gateway Determination issued by the Department of Planning, Industry & Environment (dated 20 February 2020), namely the conditions to preclude any changes to residential land uses and development standards, and to preclude the rezoning of any land other than those included in current land use strategies.

Planning Proposal (PP\_2019\_CBANK\_005) which has been publicly exhibited is a draft instrument and is a matter for consideration under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. The Draft CBLEP also seeks to insert a saving provision “If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies, and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced”.

On 30 June 2020 the Draft Consolidated LEP was presented to the Local Planning Panel (LPP) with the following two recommendations:

- i. Council adopt the planning proposal as provided in Attachment A.
- ii. Council submit the planning proposal to the Department of Planning, Industry and Environment to make the Consolidated Local Environmental Plan.

The LPP adopted the Planning Proposal as per the Panel’s agenda with some minor changes, which will not impact this proposal. The Planning Proposal has been submitted to the Department of Planning, Industry and Environment to finalise the Consolidated Local Environmental Plan (LEP).

The proposal has been assessed against the provisions contained within the Draft CBLEP2020 and has been found to be consistent with the draft instrument.

#### **Development control plans [section 4.15(1)(a)(iii)]**

The following table provides a summary of the development application against the controls contained within the Canterbury Development Control Plan 2012.

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

The proposed development has been compared to the requirements of CDCP 2012 as follows:

##### **Part B1 – Transport and Parking**

The proposed development meets the boarding house parking requirements as set out in SEPP ARH.

The car parking requirements are, in B1 Neighborhood Centres, 1 space per 40m<sup>2</sup> GFA. The office has a gross floor area of 72.85m<sup>2</sup>. The office therefore requires 2 spaces (72.85/40 = 1.82 spaces, rounded up to 2). 2 of the 8 spaces provided in the basement car park are allocated for the office and as such the proposed development is in accordance with the requirements of Part B1.3.1 General Parking Rates.

The basement layout and design has been considered by Council's Development Engineer who has raised no objection to the proposal subject to the imposition of conditions on consent, as such the proposal is complies with Part B1 of Canterbury Development Control Plan 2012.

#### Part B5 – Stormwater and Flood Management

The application was referred to Council's Development Engineer who raised no objection with the current design, subject to conditions of consent.

#### Part B7 – Crime Prevention and Safety

An assessment of the proposed design against the relevant provisions of Part B7 is provided in the table below:

Standard	Requirement	Proposal	Complies
Crime Prevention through Environmental Design	Avoid blind corners	Blind corners within the building have been minimised through the location of common rooms and facilities.	Yes
	Provide natural surveillance for communal and public areas.	Natural surveillance is provided to the common and public areas.	Yes
	Provide clearly visible entries.	The entry is clearly defined and visible from the street.	Yes
	Avoid landscaping that obstructs natural surveillance.	No landscaping or fencing is proposed which will obstruct natural surveillance.	Yes
	Ensure buildings are clearly identified by street numbers.	Street numbering will be conditioned	Yes, by condition
	Use materials that reduce the opportunity for vandalism.	The proposed finishing material are considered appropriate	Yes
	Provide an appropriate level of security for individual dwellings and communal areas through use of intercoms, self closing doors and signage.	Security is provided through the use of restricted access doors.	Yes

Given the above, the proposal is considered consistent with the provisions of Crime Prevention through Environmental Design.

Part B9 - Waste

The application was referred to Council's Project Officer – Resource Recovery who raised no objection with the design, subject to conditions of consent. The proposal is therefore considered consistent with Part B9 of the CDCP 2012.

Part C7 – Boarding Houses

Control	Requirement	Proposal	Complies
C7.2.1 Minimum Lot Sizes Frontage	No lot size is provided in the LEP for B1 Zones  Boarding Houses are not permitted on battle-axe allotments.	12.19m  The site is not a battle-axe allotment.	Yes
C7.2.2 Isolated Sites	<ul style="list-style-type: none"> <li>- Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate redevelopment.</li> <li>- Negotiations are to be undertaken with neighbouring owners to seek amalgamation and enable coordinated redevelopment.</li> <li>- If neighbouring landowners do not agree on terms for amalgamation, provide evidence is to be provided of reasonable offers, including at least two recent independent valuations.</li> <li>- If the amalgamation of adjoining properties cannot be achieved, demonstrate that the remaining property has reasonable potential for redevelopment by preparing an indicative schematic design that provides: <ul style="list-style-type: none"> <li>(a) A building envelope;</li> <li>and</li> <li>(b) A general</li> </ul> </li> </ul>	The site is not isolated against the controls of C7 and does not isolate any neighbouring site.	Yes

Control	Requirement	Proposal	Complies
C7.2.3 Layout and Orientation	<p>Orientate development to maximise solar access and natural lighting, without unduly increasing the building's heat load.</p> <p>Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.</p> <p>Coordinate design for natural ventilation with passive solar design techniques.</p> <p>Site new development and private open space to avoid existing shadows cast from nearby buildings.</p> <p>Site a building to take maximum benefit from cross-breezes and prevailing winds.</p> <p>Do not compromise the creation of casual surveillance of the street, communal space and parking areas, through the required orientation.</p> <p>Consider opportunities for the provision of private open space for individual rooms where it will not result in a visual or acoustic privacy impact upon neighbouring properties.</p>	<p>The development is orientated appropriately given the constraints of the site.</p> <p>The proposed development will not cast shadows over neighbouring residential properties or any solar cells.</p> <p>The proposed development is limited by its size to ensuring adequate cross ventilation however all rooms have windows.</p> <p>The building is orientated to provide passive surveillance to both King Georges Road and Moondani Lane.</p> <p>Private open space has been provided for some of the boarding rooms, and these will not impact on the privacy of neighbouring developments.</p>	Yes
C7.3.1 Floor Space, Height and Building Depth	Refer to Part D below		
C3.7.2 Setbacks for Boarding Houses	Refer to D1.3.4 below		
C7.4.1 Design of Boarding Houses	Refer to Part D1 below		
C7.5 Car Parking	Refer to Part B1 above		

Control	Requirement	Proposal	Complies
C7.6.1 Solar Access	<p>Boarding houses should be located so that solar access to at least 50% of the communal open space areas and to communal living windows is achieved for at least 3 hours of sunlight between 8.00am and 4.00pm on 21 June.</p> <p>Where site orientation permits boarding rooms must receive a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June.</p> <p>Principle areas of private open space must receive a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June to at least 50% of the open space surface area.</p> <p>All habitable rooms are to have access to natural ventilation through an external window.</p> <p>Natural light is to be available from an external window or from a light well – not from a skylight. Access to light is to be provided by way of a window or door with a minimum floor area of the room of 10%. Note: Skylight as a sole source of light is not permitted.</p>	<p>The proposed development's common open space receives three hours of solar access at midwinter, in addition the upper level common living room also receives this level of solar access.</p> <p>Site orientation and size limits the possibility of achieving solar access to the same degree for individual rooms.</p> <p>All rooms have natural ventilation through windows and natural light.</p>	Yes

Control	Requirement	Proposal	Complies
C7.6.2 Solar Access to neighbouring development	<p>Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and communal rooms and to 50% of the principal private open space.</p> <p>If a neighbouring dwelling or a boarding house currently receives less than 3 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property.</p> <p>Sunlight to solar hot water or photovoltaic systems on adjoining properties must comply with the following: a. Systems must receive at least 3 hours of direct sunlight between 8.00am and 4.00pm on 21 June. b. If a system currently receives less than 3 hours sunlight, then proposed development must not reduce the existing level of sunlight. Clothes drying areas on adjoining residential properties must receive a minimum of 3 hours of sunlight on 21 June.</p>	<p>The proposed development will not detrimentally impact upon the solar access of any adjacent residential property, particularly those on the opposite side of Moondani Lane.</p> <p>There is no impact upon any solar panels or photovoltaic systems.</p>	Yes
C7.7.2 Building Services	All services, including mailboxes, substations and facilities must not be visually obtrusive and suitably located, designed and screened as appropriate.	The services for the proposed development has been appropriately designed.	Yes

Part D1 – Business Centres General

Control	Requirement	Proposal	Complies
D1.2.1 Minimum Frontage	18m	12.19m	No, see isolation section below
D1.2.2 Isolated Sites	<ul style="list-style-type: none"> <li>- Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate redevelopment.</li> <li>- Negotiations are to be undertaken with neighbouring owners to seek amalgamation and enable coordinated redevelopment.</li> <li>- If neighbouring landowners do not agree on terms for amalgamation, provide evidence is to be provided of reasonable offers, including at least two recent independent valuations.</li> <li>- If the amalgamation of adjoining properties cannot be achieved, demonstrate that the remaining property has reasonable potential for redevelopment by preparing an indicative schematic design that provides: (a) A building envelope; and (b) A general</li> </ul>	<p>The applicant has attempted to undertake negotiations with neighbouring property owners to amalgamate their site.</p> <p>The applicant has provided information relating to offers made and has demonstrated that they cannot amalgamate.</p> <p>Neighbouring properties, should they wish to redevelop, can amalgamate with other properties in the block, and are therefore not sterilised by this development.</p> <p>The proposed development is generally in accordance with the other controls of the CDCP 2012.</p>	Yes
D1.3.2 Height	As prescribed in the LEP.	See assessment under the CLEP 2012, and the Clause 4.6 Variation Request assessment.	No, however acceptable.
D1.3.3 Floor to Ceiling	Provide a minimum floor to ceiling of 3.3m on ground floor	3.3m provided	Yes

Control	Requirement	Proposal	Complies
	Car parking is required to have a floor to ceiling height in accordance to Australian Standard AS 2890.1.	The Council's Development Engineers considered the proposal and raised no objection to the height of the basement	Yes
D1.3.4 Setbacks	B1 Zone 1-2 storeys Build to front boundary; 3m setback for upper level	Ground and first floor are built to the property boundary. The 2 <sup>nd</sup> floor is setback 3m from the front boundary line.	Yes
	Side setbacks are not required in B1 zones when the desired character is a continuous street frontage.	The desired character is a continuous street frontage and the proposed development achieves that goal.	Yes
	On a boundary with a residential zone (rear setback) Establish a 45° height plane projected at 6 m from the residential zone boundary. Provide minimum 6m setback to the residential zone boundary. A two-storey limit on the boundary with residential zone applies. (Refer to Figure D1.2) A setback to a rear lane is not required.	The proposed development is adjacent to rear lane and zero setback is required. The applicant has limited the nil setback to the lower ground (car park) and ground floor and set back the first and second floors. In line with the 45° requirement.	Yes
D1.3.5 Building Depth	The minimum building depth for commercial premises is 10m	The proposed commercial unit is 10m deep	Yes
D1.4.1 Orientation and Layout	Design and orientate the development to maximise solar access.  Avoid casting shadows onto neighbouring dwellings.	The property is designed following the existing pattern of development and ensures solar access to the communal room as required under SEPP ARH.  Due to the orientation of the property, and the set	Yes

Control	Requirement	Proposal	Complies
D1.4.2 Ground Level Interface	<p>Locate entrances to the street.</p> <p>Provide entries to upper levels from the street frontage to encourage activities on the ground floor.</p> <p>Provide service entries at to the rear of the building.</p>	<p>The main entrance to the street is from King Georges Road, this is the access for both the boarding house and the office premise.</p> <p>Servicing, including waste collection is from the rear at Moondani Lane.</p> <p>The proposed entrance meets the existing street scene and is clearly legible.</p>	Yes
D1.4.3 Façade Design	<p>New building forms and design features shall not mimic traditional features, but should reflect these in a contemporary design.</p> <p>Use a harmonious range of high quality materials, finishes and detailing</p>	<p>The proposed design takes cues from the existing streetscape, but does not mimic traditional design. The design is contemporary, using appropriate finishing materials and colours to the area.</p>	Yes
D1.4.4 Roof Design	<p>Roofs must not exceed a pitch of 10°.</p> <p>Relate to the size and scale of the building, the building elevations and three dimensional building forms – including the design of any parapet or terminating elements, and the selection of roof materials.</p> <p>Relate roof design to the desired built form and context.</p>	<p>The roof pitch does not exceed 10 degrees.</p> <p>The roof design is appropriate to the area and is in keeping with the existing and desired future character of the area.</p>	Yes

### **Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)**

The Canterbury Development Contributions Plan 2013 applies to the site and requires a contribution of \$109,328.40. This is included as a condition of consent.

### **Planning agreements [section 4.15(1)(a)(iia)]**

There are no planning agreements applicable to the proposed development.

### **The regulations [section 4.15(1)(a)(iv)]**

The proposed development is not inconsistent with the provisions of the Environmental Planning and Assessment Regulation, 2000.

**The likely impacts of the development [section 4.15(1)(b)]**

The proposed development will not have a negative impact on the amenity of neighbouring uses/residence.

**Suitability of the site [section 4.15(1)(c)]**

The application has been assessed under Section 4.15 of the Act, and as demonstrated throughout the body of this report, the proposal is generally consistent with the planning controls and standards. The proposed development is permissible in the zone, subject to consent and the site is suitable for the proposed development. The subject site is considered to be suitable for the proposed uses given that all functions of the proposed uses will take place wholly within the business zone and will not impact on surrounding land uses.

**Submissions [section 4.15(1)(d)]**

No submissions were received in relation to this development application.

**The public interest [section 4.15(1)(e)]**

The public interest is served through the consistent and measured application of the relevant plans, policies and standards.

Council generally considers that the proposal meets the relevant development standards and planning controls and variations to the controls/standards are justified. The proposal would remain in the public interest thus, the proposal should be supported.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012.

**RECOMMENDATION**

It is recommended that the application be approved subject to the attached conditions (Appendix B).

## APPENDIX B - CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No. DA-373/2020, submitted by 310 King Georges Pty Ltd, accompanied by the drawings as listed in the table below, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

Drawing No.	Drawing Title	Revision	Dated	Prepared by
A-1201	Floor Plans 01	C	25/08/2020	Ghazi Al Ali Architect
A-1202	Floor Plans 02	B	09/07/2020	Ghazi Al Ali Architect
A-1301	Elevations	B	09/07/2020	Ghazi Al Ali Architect
A-1401	Sections	C	25/08/2020	Ghazi Al Ali Architect
A-2201	Material Schedule	A	22/04/2020	Ghazi Al Ali Architect
LPDA20-199/1	Landscape Plan Level 2	B	23/04/2020	Conzept Landscape Architects
LPDA20-199/2	Details	B	21/04/2020	Conzept Landscape Architects
LPDA20-199/3	Landscape Plan Level 2	A	20/03/2020	Conzept Landscape Architects
SW200A	Stormwater Concept Plan Lower Ground Floor Plan	A	06/04/2020	SGC Engineering Value
SW201A	Stormwater Concept Plan Ground Floor Plan	A	06/04/2020	SGC Engineering Value
SW202A	Stormwater Concept Plan Roof Plan	A	06/04/2020	SGC Engineering Value
SW300A	Stormwater Concept Design Details Sheet Sheet 1 of 2	A	06/04/2020	SGC Engineering Value
SW301A	Stormwater Concept Design Details Sheet Sheet 2 of 2	A	06/04/2020	SGC Engineering Value
SW400A	Erosion and Sediment Control Plan and Details	A	06/04/2020	SGC Engineering Value

The development plans shall be amended as follows:

- a) The commercial premise shall be used solely for the purposes of an *Office Premises*, as per the definition found within the Canterbury Local Environmental Plan 2012. No change to the use will be permitted without a further approval from Council or in accordance with any permitted development rights afforded by the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

- 3) The building must comply with the Category 1 fire safety provisions as are applicable to the building's proposed use.

Note: The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.

- 4) A separate application shall be submitted to Council prior to the erection of any additional signage unless the proposed signage is "exempt development" in accordance with Canterbury Development Control Plan 2012.
- 5) The development shall be constructed and operated in a manner that ensures compliance with the definition of 'boarding house' as contained in Canterbury Local Environmental Plan 2012.
- 6) The boarding house must be designed, constructed and operated in accordance with:
- a. *Local Government (General) Regulation 2005*, Schedule 2, Part 1 Standards for places of shared accommodation;
  - b. *Local Government Act 1993*
  - c. *Boarding Houses Act 2012*; and
  - d. *Boarding Houses Regulation 2013*.
- 7) The approved Boarding House must be registered with NSW Fair Trading within twenty-eight (28) days of commencing operations. Details about the Boarding Houses Register and the registration process are available on the Fair Trading website
- 8) Boarding House owners/operators are also required to lodge an Annual Return within 28 days of the 12 month anniversary of the date of the initial registration. Should the premises cease operating as a Boarding House, NSW Fair Trading must be notified of such within 28 days of the cessation of the use.

Council will carry out initial inspection within the first twelve (12) months and on-going inspections in accordance with the Boarding Houses Act 2012, subject to payment of inspection fees as detailed in Council's Fees and Charges schedule.

- 9) Subdivision of the boarding house is not permitted.
- 10) All service and utility elements such as air conditioning, communal antennas and clothes drying area must be integrated into the design and screened from public view.
- 11) Intercom, code or card locks or similar must be installed at main entries to the building to control access.
- 12) No approval is granted for the siting of any substation on the site. A modification application must be lodged to Council if a substation is required. Any such application must demonstrate how the structure/ facility will be integrated into the design of the building without relying on the front setback area.

- 13) Any required fire hydrants, boosters and other services must be contained within cabinets using materials and colours from the approved external finishes.
- 14) All the recommendations contained within the Plan of Management prepared by Morphology Design Pty Ltd, dated: April 2020 to form part of this consent.
- 15) The Plan of Management shall be displayed in prominent locations within the premises and a copy of the Plan shall be provided to all residents of the boarding house. The on-site Caretaker shall be responsible for ensuring that the terms of the Plan are adhered to at all times.
- 16) This operational Plan of Management must incorporate the following:
  - (a) All the measures to be implemented on the premises in terms of safety & security, amenity and health including but not limited to matters relating to curfews and after-hours access, bringing of visitors on to the site, drug and alcohol policy (including smoking), and use of communal areas etc; and
  - (b) All the responsibilities of the Caretaker/Manager; and
  - (c) An Incident Register shall be maintained by the Caretaker. This Register must be produced upon demand by any Council officer or NSW Police Officer. The Register must contain a direction that all incidents of a criminal nature are to be reported to the Police immediately; and standard Conditions of Consent
  - (d) Prior to the issue of an Occupation Certificate, a notification letter shall be forwarded to Council, the Police and neighbours providing contact details for the Caretaker/Manager. Evidence of this letter being forwarded as required in this condition shall be provided to the Principal Certifying Authority.
  - (e) The Plan of Management referred to in this condition shall be reviewed by Council annually from the date of the issue of an Occupation Certificate by the Principal Certifying Authority. The operator of the boarding house shall contact Council annually to carry out this review and the review shall include the Incident Register referred to in point (3) above. Should amendments be made to the Plan of Management an updated version of same shall be provided to Council and the residents of the boarding house within one (1) month of the annual review being completed.
- 17) No more than two residents shall occupy any one boarding room, or in the case of single occupancy rooms, no more than one resident shall occupy rooms nominated as single occupancy.
- 18) The following notices shall be displayed on site for the lifetime of the boarding house use:
  - (1) A sign indicating the permissible maximum length of time during which a person may board or lodge in the premises must be conspicuously displayed to public view outside the premises.
  - (2) A schedule showing the numeral designating each bedroom and dormitory and the number of persons permitted to be accommodated in each must be conspicuously displayed on the premises.

- (3) Each bedroom must be numbered in accordance with the schedule and there must be displayed clearly on the door of or in each bedroom the maximum number of persons allowed to be accommodated in the bedroom.
- 19) Any kitchen facilities and utensils for the storage or preparation of food must be kept in a clean and healthy condition, in good repair, free from foul odours and, as far as practicable, free from dust, flies, insects and vermin.
- 20) All partitions forming cubicles in a dormitory must be adequately constructed and provide adequate ventilation.
- 21) Adequate light and ventilation must be maintained in the premises.
- 22) The floor of any kitchen must have an approved impervious surface.
- 23) All parts of the premises and all appurtenances (including furniture, fittings, bedsteads, beds and bed linen) must be kept in a clean and healthy condition, and free from vermin.
- 24) Pans, receptacles or other waste storage devices must be kept covered and all waste must be deposited in appropriate pans, receptacles or other waste storage devices.
- 25) Appropriate furniture and fittings must be provided and maintained in good repair.
- 26) Speakers must not be installed and music must not be played in any of the outdoor areas associated with the premises, including the open communal area. Speakers located within the premises must not be placed so as to direct the playing of music towards the outdoor areas associated with the premise
- 27) The hours of use of the communal open area must be restricted to between 7:00am and 10:00pm Monday to Sunday.
- 28) This approval is granted for the use of the land for the purposes of a Boarding House comprising a maximum of 12 Boarding Rooms.
- 29) All lodgers shall be required to reside on the premises for a minimum period of three (3) months in accordance with the definition of a Boarding House
- 30) All the recommendations contained within the **Acoustic Report** prepared by Acoustic Consulting Engineers Pty Ltd, Reference 201132-01L-DD, dated: 21 April 2020 form part of the development consent. The Principal Certifying Authority shall obtain a report from a qualified acoustic consultant, stating that the recommendations outlined in the above stated report have been completed and that relevant noise criteria has been satisfied prior to the issue of any Occupation Certificate
- 31) All the recommendations contained within the Statement of Environmental prepared by Morphology Design Pty Ltd, dated: April 2020 form part of the development consent.

- 32) The development must not cause offensive noise as defined by the *Protection of the Environment Operation Act 1997 (NSW)* Following occupation, should complaints of a noise nuisance be received and substantiated by an authorised officer, an acoustic assessment shall be conducted by a qualified acoustic consultant and the resulting report shall be provided to Council for approval. Following approval the owner/occupier shall then implement all recommendations contained in the assessment report within a timeframe set by Council, to the satisfaction of Council and in compliance with any additional direction given by Council.
- 33) The air conditioners must comply with the requirements of *Protection of the Environment Operations (Noise Control) Regulation 2017* and shall not:
- (a) emit noise that can be heard within a habitable room in any other residential property (whether or not any door or window to that room is open):
    - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday;  
or
    - (ii) before 7.00am and after 10.00pm on any other day; or
  - (b) emit a sound pressure level when measured at the boundary of any other residential property, at a time other than those *specified* in (i) and (ii) above, which exceeds the background (LA90,15minutes) by more than 5dB(A).

The source noise level must be measured as a LAeq 15 minutes.

- 34) Any lighting of the premises shall be installed in accordance with *Australian Standard AS 4282: Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 35) In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

Council may also request that a NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a Site Audit Report and Site Audit Statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.

- 36) Any fill imported onto the site must be virgin excavated natural material or excavated natural material, classified as such in accordance the 'Waste Classification Guidelines' (NSW EPA, 2014) or excavated natural material meeting the requirements of the Excavated Natural Material Exemption (NSW EPA, 2014).

Certificates verifying that imported fill is virgin excavated natural material or excavated natural material must be provided to Council prior to the issue of an Occupation Certificate; or provided to Council prior to filling.

All imported fill must be compatible with the existing soil characteristics of the site.

- 37) 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.

Submission of a Soil and Water Management Plan, including details of:

- (a) property details (location, applicant, drawn by, date, scale)
- (b) accurate property description (property boundary)
- (c) contours
- (d) access point and access control measures
- (e) location and type of all sediment control measures
- (f) location of existing vegetation to be retained and undisturbed ground
- (g) any existing watercourse or drainage
- (h) material stockpile areas and storage and control methods
- (i) location of new drainage features (stormwater inlet pits)
- (j) re-vegetation proposals, including specifications on materials used and methods of application

(NOTE: For guidance on the preparation of the Plan refer to the Soil and Water Management for Urban Development guidelines produced by the Southern Sydney Regional Organisation of Councils.)

The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.

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.

- 38) 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.
- 39) Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
- 40) Drains, gutters, roadways, and access ways 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.
- 41) 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.

- 42) Any site water discharged to Council's stormwater system must have a suspended solid level of less than 50 mg/L, pH 6.5 - 8.5, turbidity level of less than 50 NTU, no oil or grease and conform to relevant ANZEC guidelines for other contaminants. This may require treatment such as transfer to settling ponds, use of approved chemicals to settle out sediment or passing the contaminated water through a treatment device. Site water may also be disposed of through the services of a licensed liquid waste transporter. Council must be notified prior to the commencement of any pump out of site water and provided with a copy of the test results which confirm that the above condition has been complied with.
- 43) Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.
- 44) All activity being conducted so that it causes no interference to the existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.
- 45) The proposed use of the premises and/or machinery equipment installed must not create noise so as to interfere with the amenity of the neighbourhood. If a noise nuisance occurs, the person in control of the premises must arrange for an acoustic investigation to be carried out (by an accredited Acoustic Engineer), obtain Council concurrence for the recommendations of the Consultant, and implement those recommendations so as to reduce the noise levels to the ambient noise level. The acoustic assessment must be completed within 30 days from the date requested by Council.
- 46) The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.

### **CONDITIONS REQUIRED BY TRANSPORT FOR NEW SOUTH WALES (TfNSW)**

- 47) All buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited height or depth), along the King Georges Road boundary.
- 48) All vehicles shall enter and exit the site in a forward direction.
- 49) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018.

Parking Restrictions may be required to maintain the required sight distances at the driveway.

- 50) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au).

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

- 51) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au).

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

- 52) Bicycle Parking should be provided in accordance with AS2890.3.
- 53) 'No Stopping signage' shall be installed along all frontages of the development, at no cost to TfNSW.
- 54) The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- 55) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.
- 56) A Construction Pedestrian Traffic Management Plan (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control shall be submitted to Council for approval prior to the issue of a Construction Certificate.
- 57) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on King Georges Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

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

- 58) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 59) This condition has been levied on the development in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development 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 \$109,328.40. The amount payable is based on the following components:

Contribution Element 2013	Contribution
• Community Facilities	\$9,893.70
• Open Space and Recreation	\$96,647.76
• Plan Administration	\$2,786.94

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.

The Development Contributions Plan 2013 may be inspected at Council's Campsie Customer Service Centre, 137 Beamish Street, Campsie or from Council's website [www.cbccity.nsw.gov.au](http://www.cbccity.nsw.gov.au). A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

- 60) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 61) A Trade Waste Agreement shall be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system. Wastewater treatment equipment is to be bunded and where systems are placed outside, they are to be roofed to ensure that no rainwater can enter the bund. All wastewater treatment devices shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the Protection of the Environment Operations Act 1997.

- 62) The basement car-park must be either mechanically ventilated by a system complying with AS1668.2 -1991 or alternatively, the natural ventilation system must be certified by a qualified mechanical ventilation engineer to the effect that the system is adequate.

The certification shall confirm that the system will protect the health of occupants of the car park at any time it is used and satisfies the atmospheric contaminate exposure rates specified in the Safe Work Australia document: Workplace Exposure Standards for Airborne Contaminants.

Certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with Australian Standards AS1668.2 -1991.

The ventilation system must be operated and maintained in accordance with Australian Standards AS1668.2 -1991.

- 63) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 64) An all-weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 65) The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "regional road", with every effort to avoid school zones on public roads. The applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.
- 66) The developer shall apply for a Work Permit and obtain approval from Council, for the following engineering works in front of the site, at the applicant's expense:
- a) A heavy duty combined VFC of maximum width of 4.0 metres at the property boundary.
  - b) Drainage connection to Council's kerb & gutter system.
  - c) Removal of all redundant driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
  - d) Repair of any damage to the public road including the footway occurring during development works.

- e) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: Council is required to prepare a site survey and design in order to determine the necessary information. The developer should make application and payment for the Work Permit at least twenty one (21) days prior to the information being required and prior to the issue of the Construction Certificate. The Work Permit must be approved prior to any works commencing within the Council Road Reserve or on Council's assets.

- 67) The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890 parking series. In this regard, the submitted plans must be amended to address the following issues:
  - a) The finished levels within the property must be adjusted to ensure that the levels at the boundary comply with those issued by Council for the full width of the vehicle crossing. The longitudinal profile must comply with the Ground Clearance requirements of *AS/NZS 2890.1-2004*.
  - b) The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities". Note: The gradient of the vehicular access must not exceed 1 in 20 (5%) for the first 6000 mm inside the property boundary in accordance with Clause 3.3(a) of *AS/NZS 2890.1: 2004*.
  - c) A minimum of 2200mm Headroom must be provided throughout the access and parking facilities. Note that Headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
  - d) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of *AS/NZS 2890.1-2004*.
  - e) Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of *AS/NZS 2890.1:2004*.
- 68) 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.
- 69) 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.
- 70) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires the developer to obtain a Works Permit and or a Roadway/Footpath Building Occupation Permit prior to issue of any Construction Certificate for this development being issued where one or more of the following will occur, within, on or over the public footway or public road:

**A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS****WORKS REQUIRING A 'WORKS PERMIT'**

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.

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

The developer shall ensure the person or company carrying out the work will carry public liability insurance to a minimum value of twenty million dollars. The developer shall provide proof of the policy, to Council, prior to commencing any work approved by the Work Permit including the Road Opening Permit. The policy must remain valid for the duration of the works.

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

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

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

- 72) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 73) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 74) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a) protect and support the adjoining premises from possible damage from the excavation, and
  - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 75) A vacant land charge form is to accompany any Construction Certificate (CC) application for the removal of all domestic garbage and recycling bins. Further information can be found at <https://www.cbccity.nsw.gov.au/council/forms/waste-recycling>
- 76) A design certificate and detailed plans are to accompany any CC application which demonstrate that the waste storage room has been designed to be constructed in accordance with the following requirements:
- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - b. The floors must be finished so that is non-slip and has a smooth and even surface.
  - c. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
  - d. The walls must be constructed of solid impervious material.
  - e. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
  - f. Walls, ceiling and floors must be finished in a light colour.
  - g. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - h. A self-closing door openable from within the room.
    - i. Must be constructed to prevent the entry of birds and vermin.
  - j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
  - k. Any doorways must be minimum 1.2m wide.
  - l. Residential/ boarding house
    - i. Designed to fit 2 x 240 L recycling bins
    - ii. Designed to fit 3 x 240L garbage bins
  - m. Commercial
    - i. Designed to fit 1 x 240L recycling bin
    - ii. Designed to fit 1 x 240L garbage bin

- 77) A design certificate and detailed plans are to accompany any CC application which demonstrate that the bin carting route from the waste storage room to nominated collection point has been designed to be constructed in accordance with the following requirements:
- a. Direct and less than 10 metres,
  - b. Minimum 1.2m wide hard surface;
  - c. Non-slip, free from obstacles and steps;
  - d. Not within a driveway or carpark, this is considered a conflict point for vehicles and collection staff; and
  - e. A maximum grade of 1:30 (3%);
  - f. Layback installed at the nominated collection point.
- 78) A design certificate and detailed plans are to accompany any CC application which demonstrate that the bulky waste storage room has been designed to be constructed in accordance with the following requirements:
- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - b. The floors must be finished so that is non-slip and has a smooth and even surface.
  - c. The walls must be constructed of solid impervious material.
  - d. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
  - e. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
  - f. Walls, ceiling and floors must be finished in a light colour.
  - g. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - h. A self-closing door openable from within the room.
  - i. Must be constructed to prevent the entry of birds and vermin.
  - j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
  - k. Any doorways must be 2m wide.
  - l. Designed with a minimum floor space of 3 m<sup>2</sup>

### **CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION / SUBDIVISION WORKS COMMENCING**

- 79) The building / subdivision work in accordance with the development consent must not be commenced until:
- a) a construction certificate for the building / subdivision work has been issued by the council or an accredited certifier, and
  - b) the person having benefit of the development consent has:
    - i. appointed a principal certifying authority for the building / subdivision work, and
    - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and

- c) the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
    - ii. notified the principal certifying authority of any such appointment, and
    - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - d) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building / subdivision work.
- 80) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 81) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 82) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c) stating that unauthorised entry to the work site is prohibited.

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

### **CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

- 83) Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
- 84) The building work must be carried out in accordance with the requirements of the Building Code of Australia.

- 85) Prior to the ground floor slab being poured, an identification report by a Registered Surveyor must be submitted to the principal certifying authority verifying that the proposed buildings finished ground floor level and siting to the property boundaries conforms to the approved plans.
- 86) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Canterbury Development Control Plan 2012 Part B5. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 87) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 88) Requirements of the approved WMP shall be complied with during all site preparation works, demolition (if proposed) and throughout all construction works.

When implementing the WMP the developer is to ensure:

- a. The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*
- b. All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*
- c. Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
- d. All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it
- e. Records are required regarding the details and location of the disposal of all demolition and construction waste (including excavated material), description of waste and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal, waste vehicle rego, and confirmation of the waste disposal facility. Records/ details are also to be kept of person removing the waste.
- f. All materials and resources that are to be stored on site during construction works are contained on the site, The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses

- g. The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works

## **CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

- 89) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 90) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 91) The operator of the premises must register the business with the Compliance Unit of Council and arrange an inspection with Council's Environmental Health Officer.
- 92) off street car parking spaces shall be provided/maintained for the use of visitor and employees to the premises in accordance with the submitted plans. Such spaces are to be sealed and line marked and maintained.
- 93) Prior to the issue of any Occupation Certificate (OC), an authorised Council waste officer is to inspect and approve all waste management facilities to ensure they comply with the development approval, Waste Management Plan. Specifically, the path of travel for all waste, from unit to point of waste collection, waste storage room sizing, access to water and sewer connections, finished materials, access and door way dimensions, truck turntables, and that all waste facilities are fit for purpose.
- 94) IF the boarding house is to be run as a Residential property, as keeping with the Local Government Act NSW (1993) then prior to the issue of any OC, the developer is to enter into a formal agreement with Council for the utilisation of Council's Domestic Waste Collection Service. This is to include Council being provided an easement for unimpeded access to and from the waste collection locations for council and its contractors to enter and exit for the purpose of waste and recycling collection. The development is also required to indemnify council and its contractors against claims for loss or damage or wear and tear of access roads or to other parts of the building. A positive covenant shall be placed on the property title, such as section 88B certificate.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Council's Waste Management collection requirements.

The provision of Council's waste collection service will not commence until formalisation of the agreement.

If the boarding house component is not classified as residential under the Local Government Act NSW (1993) then all services are to be undertaken by a commercial contractor.

- 95) Prior to the issue of any OC, the owner is to enter into a formal agreement with a licenced private waste contractor to service the commercial portion of the development. The contract is to ensure the removal of all waste from the development site.

Prior to entering into an agreement for a private commercial waste collection service, the owner is to ensure that:

- (a) The service is functional and meets the operational needs of the development
- (b) The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.

A copy of the contract is to be forwarded to Council prior to the issue of any OC.

- 96) The stormwater drainage system shall be constructed in accordance with Council's / Canterbury Development Control Plan 2012 Part B5 and the engineering plans and details approved by the Principal Certifying Authority (PCA). *Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.*
- 97) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act.

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

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

- 98) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.

## USE OF THE SITE

- 99) Car parking spaces for 8 vehicles shall be provided in marked spaces in the manner generally shown on the approved site plan. The 2 office car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors vehicles only and not

for the storage of new or used materials, finished goods or commercial vehicles. The remaining 6 spaces shall be provided for the lodgers of the boarding house only.

- 100) Landscaping on the site shall be upgraded as per the relevant DCP. Landscaping shall be maintained under best horticultural practise at all times.
- 101) All loading and unloading of goods shall take place within the site or from the adjoining service lane in a manner that does not interfere with parking areas, driveways or landscaping.
- 102) There shall be no emissions of noise, smoke, smell, vibration, gases, vapours, odours, dust, particulate matter, or other impurities which are injurious or dangerous to health, or the exposure to view of any unsightly matter or otherwise.
- 103) The use of the premises shall not contravene the *Protection of the Environment Operations Act 1997*. The operation of the premise shall be carried out in accordance with the requirement of the NSW EPA, where relevant.
- 104) No signs or goods are to be displayed or trading of any description is to be carried out on the public road, public footway, utility service land, customer and/or employee parking area or the driveways or pedestrian walkways outside or in the immediate vicinity of the premises.
- 105) Identification number/s are to be conspicuously displayed at the front of the premises.
- 106) Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.
- 107) The ongoing management section of the WMP are to be included in the by-laws of the strata property. This will ensure that the approved WMP is fully implemented and followed by residents and property managers.
- 108) The development must operate in full compliance with Council's Waste Management collection requirements.
- 109) The final Plan of Management (POM) are to be submitted to Council for approval. The POM must address the ongoing management and operational aspects of the boarding house, including waste minimisation and recycling.
- 110) The nominated kerbside collection point is to be utilised to facilitate the collection of office use waste and recycling bins for the development. All mobile garbage bins that are left kerbside for collection must be taken back within the property according to council policy.
- 111) The nominated collect and return collection point is to be utilised to facilitate the collection of waste and recycling bins for the development.

- 112) Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection system and must clearly identify everyone's role and responsibility. This is to include:
- (a) Responsibility for cleaning and maintaining waste storage bins and containers
  - (b) Responsibility for cleaning and maintaining waste storage room
  - (c) Responsibility for the transfer of bins to the nominated collection point
  - (d) Method of communication to new tenants and residents concerning the developments waste management system.
  - (e) Cleaning up and management of bulky waste
  - (f) Responsibility for maintaining the compost bin or worm farm

Where the development incorporates strata title subdivision, the by-laws are to clearly set out the management responsibilities for the developments waste and recycling system.

- 113) No waste storage bins are to be located or placed outside the approved waste storage room at any time except for collection purposes.
- 114) Signage can be provided by Council that clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin. The signs provided must be maintained by the site manager.

-END-