



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

7 September 2020 - 6.00pm

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

ROSELANDS WARD

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| 1 | 8 / 13-15E Forrester Street, KINGSGROVE
Installation of cool room for storage of bodies pending funerals | 3 |
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Canterbury Bankstown Local Planning Panel - 07 September 2020

ITEM 1	8 / 13-15E Forrester Street, KINGSGROVE
	Installation of cool room for storage of bodies pending funerals
FILE	DA-1020/2019 – Roselands
ZONING	IN2 Light Industrial Zone
DATE OF LODGEMENT	29 November 2019
APPLICANT	R G Town Planning Pty Ltd
OWNERS	PCD Super Investments Pty Ltd
ESTIMATED VALUE	\$10,000.00
AUTHOR	Planning

REPORT

This matter is reported to Canterbury-Bankstown Local Planning Panel due to the number of objections, received in relation to this Development Application exceeding ten.

Development Application No. DA-1020/2019 proposes the installation of a cool room.

The subject tenancy is located centrally within an existing industrial complex at the southern end of Forrester Street. Surrounding land uses are predominantly industrial to the north and west with residential to the east and north east while the South Western Motorway is located to the south.

DA-1020/2019 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 and vehicular access and screening of unsightly views for adjoining properties.

The application was notified on two occasions. On the first occasion, the subject application was notified for a period of 14 days from 4 December 2019 until 17 December 2019. 15 objections were received during this period including one petition submitted by the Strata Managing Agent containing 19 signatures. On the second occasion, the subject application

was advertised for a period of 21 days from 22 July 2020 to 11 August 2020. 8 submissions were received by Council during this time. Objections to the proposal raise concerns primarily relating to:

- Permissibility and suitability of the site within the zone and the impacts the use may have on the existing streetscape and character of the building and surrounding area;
- Increase in traffic congestion;
- Lack of carparking allocated to the subject allotment for the proposed use;
- Increase in noise concerns generated by the cool room and traffic impacts;
- Visual impacts from the operation on adjoining units and nearby residential neighbours;
- Breach of Strata By-laws – in particular, loading and unloading must be done within common property; and
- Religious conflicts on multicultural clientele of adjoining businesses within the industrial complex.

POLICY IMPACT

There are no direct policy implications.

FINANCIAL IMPACT

There are no direct financial implications.

RECOMMENDATION

It is recommended that the application DA-1020/2019 be approved subject to the attached conditions.

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-1020/2019 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as Unit 8 of 13-15E Forrester Street, Kingsgrove. The site currently contains a complex of industrial units with internal roads, loading/unloading areas and associated landscaping. The subject unit is located centrally within the site.

Figure 1:

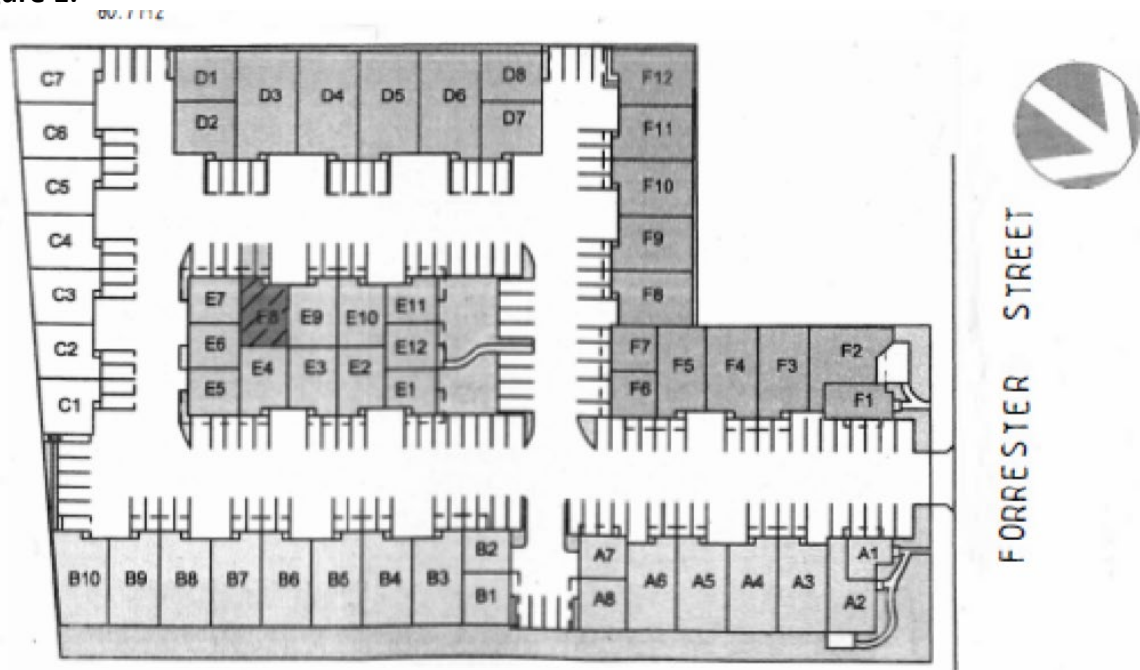


Figure 1: Plan identifying the subject industrial unit within the complex.

Neighbouring land uses to the west are industrial, to the north are industrial and residential, to the east is residential and to the south is the M5 East motorway.



Figure 2 : Aerial of subject site in red. Source: GoogleMaps 2019

PROPOSED DEVELOPMENT

The Development Application seeks approval for the use of an industrial unit as a temporary refrigerated body storage facility, associated with mortuary and funeral home functions which are undertaken from other premises, and the installation of a freestanding coolroom. The proposal specifies that body preparation and embalming will not take place on site as these processes will be undertaken at alternative approved premises. Ancillary uses of the proposal include the storage of coffins, office space and associated lunchroom.

The proposed use includes the following:

Number of staff: A maximum of two employees will be on site at any one time, in addition to delivery drivers.

Days/Hours of operation: The majority of transfers will occur between 7:00am and 6:00pm however, approval is sought for operational hours of 24 hours per day, 7 days per week due to the nature of the business need to accommodate for persons who pass away overnight.

Number of loading/unloading activates/day: The proposed use is not anticipated to receive transfers daily however, a maximum of three transfers may occur within one day.

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)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Draft Canterbury Bankstown Consolidated Local Environmental Plan
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

Permissibility

The site is zoned IN2 Light Industrial under Canterbury Local Environmental Plan 2012. The applicant seeks consent for a storage facility within a light industrial unit complex. The Land Use Table within Clause 2.3 of the CLEP 2012 identifies an IN2 Light Industrial zone as an open zone; meaning any use not explicitly listed as ‘prohibited’ is categorised as ‘permitted with consent’.

It is noted that ‘commercial premises’ are prohibited in the zone and as such a ‘funeral parlour’ being a type of ‘business premises’ (which is a type of commercial premise) would be prohibited in the zone. The applicant has submitted legal advice, together with a detailed Plan of Management setting out the way in which the facility will be utilised for the storage of bodies of deceased persons pending transportation to a mortuary, or to a funeral parlour. As there is no preparation and embalming of bodies of deceased persons taking place on the site, the proposed use cannot be identified as a ‘mortuary’. The proposed use has therefore been identified as an innominate use, which is permissible with consent in the open zoning in which it is proposed.

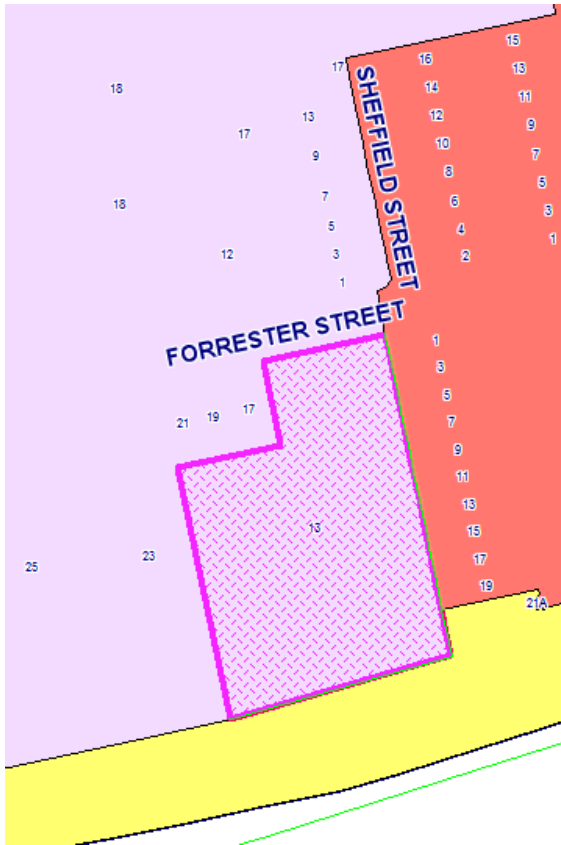


Figure 3: Extract from zoning map

Clause 2.3 Zone objectives

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 IN2 Light Industrial Zone are as follows:

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.

The proposed development meets the objectives of the IN2 Light Industrial zone as it provides a use suitable within a light industrial complex, further encouraging employment opportunities within the area. The proposed facility will provide facilities which service the community generally. This is an industry which is not ordinarily welcomed by immediate locals however is necessary for the effective functioning of communities and human life generally.

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)

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

The subject site is within an existing industrial complex and the proposed use does not involve any residential or sensitive uses that would require the remediation of land beyond that would have taken place at the construction of these industrial units.

Canterbury Local Environmental Plan 2012

The following clauses of the *Canterbury Local Environmental Plan 2012* were taken into consideration:

The site is zoned IN2 Light Industrial under Canterbury Local Environmental Plan (CLEP) 2012. The proposed use of the subject tenancy as an innominate use involving the temporary storage of deceased persons is considered permissible in the zone subject to development consent.

The controls applicable to this application are:

Provision / Standard	Requirement	Proposal	Complies
Part 2 Permitted or Prohibited Development			
2.1 – 2.3 Zoning	IN2 Light Industrial	Consultation with Council's legal department and a thorough assessment of the permissibility of the subject proposal has found that the use does not entirely reflect the definition of a mortuary recognised by the dictionary within CLEP 2012. The CLEP 2012 dictionary is not considered to be an	Yes, see [1] below.

		exhaustive list of all possible uses for development. The proposal is therefore considered to be for an innominate use which is permitted with consent within an IN2 Light Industrial zone.	
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	No demolition work is proposed.	N/A
Part 6 Local Provisions			
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 not affected by acid sulfate soils.	N/A
6.2 Earthworks	Before granting consent to development including earthworks, the following must be considered: (a) drainage patterns and soil stability (b) the likely future use or redevelopment of the land, (c) quality of the fill or the soil to be excavated, or both, (d) effect of development on existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the potential for adverse impacts on,	The subject proposal is for a change of use to an existing unit within an industrial complex with no earthworks involved.	N/A

	<p>any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>		
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 subject proposal is for a change of use to an existing unit within an industrial complex. There are no proposed changes to the management of stormwater.</p>	<p>Yes, as existing.</p>
6.6 Essential Services	<p>Essential services must be available or adequate arrangements have been made to make them available, including:</p> <ul style="list-style-type: none"> - the supply of water; - the supply of electricity (substation); - the disposal and - management of sewage; - stormwater drainage or on-site conservation; <p>suitable vehicular access.</p>	<p>Adequate provision of essential services including vehicular access are proposed to remain as existing.</p>	<p>Yes, as existing.</p>

[1] 2.1 – 2.3 Zoning and Permissibility

The subject development was initially lodged for the proposed use of the subject tenancy as a mortuary and the installation of an associated cool room. An initial assessment of the subject development application found that the proposal included the temporary storage of deceased persons with no embalming to take place on site. The proposed floor plan also included a viewing room which was considered to better reflect the definition of a funeral home within CLEP 2012, shown below.

Funeral home means 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. Funeral homes are a type of business premises.

Under the CLEP 2012, business premises are a type of commercial premises which are prohibited in an IN2 Light Industrial zone.

The proposal has since been amended to replace the viewing room with a lunchroom. The submitted plan of management has identified that funeral arrangements will take place in the homes of those affected and not on the subject site. An assessment of the amended proposal has found that the use does not entirely satisfy the definition of a mortuary which would be permissible in the zone, as no embalming is proposed to take place on site.

Mortuary means premises that are used, or intended to be used, for the receiving, preparation, embalming and storage of bodies of deceased persons pending their interment or cremation.

It is to be noted that under the Public Health Regulation (2012), the coolroom is identified as a 'refrigerated body storage facility'.

Refrigerated body storage facility means a storage facility for bodies maintained at between 1 and 5 degrees Celsius.

Consultation with Council's legal department has found that the proposed use does not entirely reflect the definition of a mortuary recognised by the CLEP 2012 dictionary. The CLEP 2012 dictionary is not considered to be an exhaustive list of all possible uses for development. The proposal is therefore considered to be for an innominate use which is permitted with consent within an IN2 Light Industrial zone.

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses of *Canterbury Local Environmental Plan 2012*.

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

On 6 March 2020 the Canterbury Bankstown Local Planning Panel endorsed the Planning Proposal to undergo exhibition. The Draft CBLEP is 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.

- Produce a single land use table consistent with the Local Strategic Planning Statement, Standard Instrument (Local Environmental Plans) Order 2006 and other State requirements.
- Resolve differences between Bankstown LEP 2015 and Canterbury LEP 2012.
- Comply 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 is now on public exhibition and 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 will now be submitted to the Department of Planning to make the Consolidated Local Environmental Plan (LEP).

The proposal has been assessed against the provisions contained within the Draft CBLEP2020 and has been found not to be inconsistent with the instrument.

Development control plans [section 4.15(1)(a)(iii)]

The following table provides a summary of the development application against the controls contained in Part B and Part E of the Canterbury Development Control Plan 2012.

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:

Standard	Requirement	Proposal	Complies
Car Parking	<p>'All Other Land Uses'</p> <p>A Traffic and Parking Assessment Report with a survey of similar developments is required to determine the specific parking necessary to support the development.</p>	<p>The submitted Parking Assessment states that there will be no visitors, and maximum of 2 staff and the delivery vehicle. Council's Traffic Engineer is satisfied that the 2 spaces provided are sufficient for the proposed use. Standard length vehicles (ie: converted vans) will be used to relocate the deceased. The proposal stipulates a standard size Mercedes Vito Van will be utilised for the transfers. The length of a standard Mercedes Vito van ranges from 4.895m to 5.37m. As such, a condition of consent will be placed to ensure the Mercedes Vito van, or a similar sized vehicle are to be utilised for the transfers of deceased persons. No hearses are permitted to be used for the transfers of deceased persons to and from the site. The plan of management must be amended to reflect the above.</p>	Yes, via condition of consent.
Bicycle Spaces	<p>All Other Land Uses</p> <p>A Traffic and Parking Assessment Report with a survey of similar developments is required to determine the specific parking necessary to support the development.</p>	<p>The submitted traffic and parking assessment report dated 30 April 2020 has determined that the proposed use is not considered to generate the need for any on site bicycle spaces. There is however ample space within the unit for bicycle parking.</p>	Yes

Part B2 – Landscaping and Part B3 – Tree Preservation

The subject proposal relates to a change of use development with no proposed changes to the existing landscaping on site. The development will not impact any trees within the vicinity.

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 only and does not involve any increase in impervious area as a result of the development. Further, the subject allotment is not flood affected.

Part B7 – Crime Prevention and Safety

Natural surveillance of communal areas will be maintained as a result of the proposed development as entry areas will remain clear with no proposed obstructions. Communal areas are also adequately lit.

Accessibility of the site after hours involves the opening of the security gate which may allow for an increase in unauthorised access of the site by others. The submitted plan of management addresses these concerns through the 'After Hours Operations Protocol'. The After-Hours Protocol involves precautionary measures to ensure the safety and security of staff members, delivery drivers and adjoining tenancies on site is maintained. These measures include ensuring the security gate is closed once the vehicle has entered the site prior to proceeding to unit E8. In the instance a person or vehicle has followed the transfer van into the site, the driver of the van will request for the trespasser to leave the premises. Where required, the van driver will contact police if necessary. The protocol will also ensure that the driver of the van waits for the security gate to close prior to leaving the site. Given the above, it is considered that the proposal is in accordance with the provisions of the Crime Prevention and Safety requirements of the Canterbury Development Control Plan 2012.

Part B9 - Waste

A Waste Management Plan accompanied the application. Council is satisfied that the ongoing waste management of the subject use will not generate any excessive or unreasonable waste as a result of the development.

Part E – Industrial Development

An assessment of the proposal against the relevant provisions contained in Part E of the CDCP (2012) is provided below:

Standard	Requirement	Proposal	Complies
E1.2.1 Frontage	C1 A minimum frontage of 20m is required for industrial development.	The subject tenancy is a single unit located within an industrial complex fronting Forrester Street Kingsgrove. The allotment has a frontage of 54m.	Yes, as existing.

E1.2.2 Height	C1 Adjoining residential zones must comply with building height plane. 45 degrees from 1.8m high at residential boundary.	No change proposed to building height.	Yes, as existing.
	C2 Buildings that adjoin roads immediately in front of residential zones, or an existing dwelling, are to measure the building height plane at the residential boundary and the adjoining road.	No change to existing building height	Yes, as existing.
E1.2.3 Setbacks	C1 Minimum 5m setback from the front boundary.	The setbacks of the subject industrial unit are to remain as existing.	Yes, as existing.
E1.2.4 Site Coverage	C1 Maximum 66% of the total site area.	There are no proposed changes to the site coverage as the subject tenancy is located within an existing industrial complex.	Yes, as existing.
E1.2.5 Landscaping	C1 Provide a minimum area of deep soil as follows: (a) 5m wide in the required front setback; (b) 2m wide in any secondary street setback; and (c) 2m wide along any common boundary with a residential zone, or land that has an existing dwelling.	The subject proposal relates to a change of use to an existing unit within an industrial complex. No changes are proposed to the existing landscaping within the subject site.	Yes, as existing.
	C2 A minimum of 10% of the site area is to be for soft landscaping	There are no proposed changes to the existing landscaping on the subject allotment.	Yes, as existing.
E1.2.6 Layout and Orientation	C1 Orientate development to maximise solar access and natural lighting, without unduly increasing the building's heat load.	The subject tenancy is oriented west and benefits from afternoon sun to the windows on the ground floor lunchroom and first floor office. No changes are proposed to the orientation of the tenancy.	Yes, as existing.
E1.3.2 Storage and Handling	C1 Provide adequate space within buildings for the loading and unloading of vehicles.	The submitted plan of management identifies that the delivery van will reverse into the loading bay benefitting the subject unit at the front of the tenancy with the rear of the van in alignment with the garage door opening. The delivery driver or staff member will proceed to raise the roller door to the required height and raise the screening curtain prior to opening	Yes

		<p>the van and cool room to ensure the loading and unloading of body bags and coffins remain out of sight from adjoining tenancies.</p> <p>The body bags or coffins will then be transferred via trolley between the van and cool room. The screening curtain will remain in place until the bodies or coffins are secured in the cool room or van.</p>	
	<p>C2 Provide space for the storage and handling of goods and seal off to avoid increasing the burden on any heating and cooling system.</p>	<p>Approximately 21m² of storage space has been provided on the first floor of the subject tenancy, which is proposed to be utilised for the storage of five empty coffins. The proposed cool room measures 3.6m x 2.52m and is considered to be of sufficient size for the nature of its use. The preparation of bodies and coffins for loading and unloading into the van and cool room will take place on the ground floor between the roller door and proposed cool room area.</p>	Yes
	<p>C3 Orientate windows away from the living areas and courtyards of adjacent residential properties.</p>	<p>The location of windows within the subject tenancy are proposed to remain as existing.</p>	Yes, as existing.
	<p>C4 Store plant, equipment, goods and other materials within the proposed industrial building or suitably screen from residential development.</p>	<p>The storage of up to five (5) coffins is proposed to be kept within the industrial unit. Where repatriation is required, the coffins must be wrapped in cardboard and plastic shrink wrap on site which is proposed to occur within the subject tenancy out of public view.</p> <p>The proposed cool room is located to the rear of the ground floor directly behind the existing roller door will store a maximum of six bodies at any time. No embalming is proposed to take place and as such, no associated chemicals will be stored on site.</p>	Yes
	<p>C5 Site and design security lighting and general building illumination so as not to create glare or nuisance to adjoining residential development.</p>	<p>No changes are proposed to the existing lighting on site.</p>	Yes, as existing.

E1.4.3 Privacy	C1 Restrict direct views toward the living areas of adjoining properties through the use of: (a) Translucent or obscure glazing; and (b) Deep soil planting for screening.	<p>The subject unit within the industrial complex is not visible from any residential dwellings nearby. All loading and unloading is proposed to take place being a custom made privacy curtain which is noted to have an adjustable height of 1.5m to 2.4m.</p> <p>A custom-made, adjustable height screen similar to this image would be ordered to ensure a suitable width of the frame.</p> <p>The hanging curtain will have a central opening to allow for trolleys to pass through while draped at the rear of any delivery van.</p> <p>The frame is capable of being provided on wheels, allowing it to be easily manoeuvred within the unit as required.</p> <p>The frame to be ordered will remain freestanding and is not required to be fixed to the slab.</p>	Yes
	C2 The use of the premises shall not give rise to transmission of unacceptable vibration to any adjoining properties or public place.	<p>The subject proposal was referred to Councils Environmental Health Officer for comment. The assessment has found that the proposal will not give rise to transmission of unacceptable vibration to any adjoining properties or public place. Further, a condition of consent is to be placed to ensure an acoustic assessment is conducted in the event that Council receives complaints regarding excessive noise generated from the subject development.</p>	Yes
	C3 Noise generated from the development shall comply with the NSW Industrial Noise Policy.	<p>The subject use for the temporary storage of deceased persons is not considered to generate excessive noise.</p> <p>The subject application was also referred to Councils Environmental Health Officers for comment who have recommended conditions of consent to be placed ensuring there is no unreasonable noise generation as a result of the subject development.</p>	Yes, via condition of consent.

E1.4.4 Hours of Operation	C1 Restricted to 7:30 am to 5:30 pm Monday – Saturday where development adjoins residential zoned land.	The subject allotment adjoins residential land on Karingal Street at the eastern boundary. (C3) within E1.4.4 of the CDCP 2012 permits operation outside of these hours where it has been demonstrated that there will be no adverse impacts on adjoining residential uses. The majority of transfers will occur between 7am and 6pm throughout the week. However, given the nature of the use, the facility is required to be accessible 24 hours per day, 7 days per week in order to accommodate for those who pass away overnight in a location that does not have accessibility to a similar temporary storage facility such as in a nursing home.	No. Refer to C3
	C2 No operations on public holidays.	(C3) within E1.4.4 of the CDCP 2012 permits operation outside of these hours where it has been demonstrated that there will be no adverse impacts on adjoining residential uses. Council's Environmental Health Officers who raise no objections to the proposal subject to conditions of consent relating to noise generation. 24-hour operation of the proposed use is therefore considered acceptable in this instance.	
	C3 Proposals to operate outside these hours will be required to demonstrate there will be no adverse impacts on adjoining residential uses.	Transfers of bodies and coffins are not anticipated to occur every day however, a maximum of 3 transfers are anticipated in any one day. Further, the Unit E8 is located within the centre of the industrial complex. Council's Environmental Health Officers have reviewed the proposal in light of possible impacts on neighbouring residents and have raised no objections subject to conditions of consent relating to noise generation.	Yes
	C4 For the purposes of this provision, "adjoining" means any situation where the subject site shares a common boundary with, or is separated	Noted. The adjoining properties include those along Sheffield Street within the R3 Medium Density Residential zone as well as the residential zone on the opposite side	Yes

	from, a Residential zoned site by a road, laneway, alleyway or the like.	of the road along Richmond Street which adjoin the industrial complex in which the subject unit is located.	
	C5 Loading and unloading time is not to impact on the amenity of nearby residential areas. Schedules of vehicle movements and their routes are to be provided in the development application.	The initial traffic movement to the site may occur after hours at times, however traffic movement from the site is likely to occur in a more controlled manner. Given the proposed development involves a smaller vehicle (van) and not a truck, the traffic movement within the surrounding road network is not likely to impact on surrounding residents by way of noise and vibration.	Yes
E1.4.5 Ancillary Uses	C1 Accommodate ancillary functions necessary to the operation of industrial uses, but maintain the integrity of industrial functions by avoiding significant areas of commercial and retail uses.	The proposal includes an ancillary office area on the first floor of the subject tenancy. The office space will be utilised for the processing of paperwork relevant to the use as a facility for the temporary storage of deceased persons. As noted in the submitted plan of management, the paperwork completed within the office area include strict tracking requirements associated with movements of deceased persons, records for Medical Cause of Death Certificates, NSW Health Cremation Application forms, General Practitioner Death Referee Certificates, Deceased Transfer Authority and NSW Death, Birth & Marriages applications.	Yes
	C2 Office, retail and showroom components are restricted to a maximum of 15% of the total floor space of the development, or 100m ² , whichever is the lesser.	The maximum permitted area for office space under this control is 27.6m ² . The proposal includes 44m ² of office space. The current office area comprises of two desks and ample space along the first floor. To achieve compliance with this control, a condition of consent will be placed to ensure the maximum floor space of the office does not exceed 15% of the total floor space of the development. The remaining 'office area' which exceeds this amount shall be conditioned to remain as vacant space.	Yes, via condition of consent.

	C3 The direct sale of goods to the public is to be ancillary to the main function or use of the development.	The subject tenancy will not be accessed by members of the public for the direct sale of goods or services. The proposed use relates to the temporary storage of deceased persons only and no viewings are proposed to take place on site.	Yes
	C4 Provide adequate space for ancillary uses (such as offices) and locate them adjacent to the street frontage and parking areas.	The ancillary uses within the facility include a lunchroom located on the ground floor as well as storage and office areas on the first floor of the tenancy. Withstanding the installation of the cool room, no internal alterations or additions are proposed to the internal configuration of the existing tenancy and as such, the location of the ancillary uses are considered to be appropriate.	Yes
E1.4.7 Chemical Storage	C1 Details of the types, volumes and methods of storage of any chemicals or hazardous materials to be used on site shall be submitted with a Development Application.	No chemicals or hazardous materials will be kept on site as no embalming is proposed.	Yes
E1.5 Parking and Access	C1 The required number of parking spaces for the type of development proposed is specified in Chapter B1 of this DCP.	See assessment under B1	Yes
E1.6 Industrial Signage	C1 Refer to Chapter F1 for general signage and advertising controls.	No signage has been included as part of this development application.	N/A

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 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 it will be contained totally within the existing industrial unit.

Traffic Engineer Referral

The application was referred to Council's Traffic Engineer who was satisfied with the proposal, subject to conditions.

Environmental Health Officer Referral

The application was referred to Council's Environmental Health Officer who was satisfied with the proposal, subject to conditions.

The proposal includes suitable screening to prevent the sensitive operations associated with the use of the premise from being visible from common property or adjoining neighbours. The proposal is not considered to give rise to any adverse amenity impacts on neighbours within the industrial complex or in adjoining residential zones. 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 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 use given that all functions of the proposed use will take place wholly within the industrial unit and will not impact on surrounding land uses.

Submissions [section 4.15(1)(d)]

The application was notified on two occasions. The subject application was first notified for a period of 14 days from 4 December 2019 until 17 December 2019. 15 objections were received during this period including one submission in favour of the development and one petition containing 19 signatures. On the second occasion, the subject application was advertised for a period of 21 days from 22 July 2020 to 11 August 2020. 8 submissions were received by Council during this time. A total of 24 submissions were made to the proposal which raise concerns relating to:

The proposed change of use development is welcomed and supported.

Comment: Council's assessment of the subject development has found that the proposed use satisfies the requirements of CLEP (2012) and CDCP (2012) and as such is worthy of support.

Impact on Value of Surrounding Properties

Comment: There is no information available that would substantiate this claim that the proposed development will have a detrimental impact on property values.

Lack of available carparking on site and increased congestion on roads

Comment: The parking rates table within Part B1.3.1 of the CDCP (2012) does not identify the required parking rates for the subject use. As such, A Traffic and Parking Impact Assessment was submitted to Council which details the likelihood of any traffic related impacts that may arise based on the proposal. The assessment has identified that a maximum of 2 staff members and the delivery vehicle will be on site at any one time. Additionally, the proposal has been amended since lodgement to ensure no visitors will be on site for the subject use. As such, it is considered that the proposal will not generate the requirement for any additional car parking on site as the 2 car parking spaces allocated to the subject tenancy are sufficient for the proposed use.

Security concerns relating to afterhours access

Comment: The submitted Plan of Management has established an after-hours protocol to ensure a degree of caution is maintained when accessing the site. It is noted that the requirement for afterhours access is not daily and will only be utilised in the event when a person has passed away overnight in a location that does not have access to a similar temporary storage facility, such as a nursing home. The majority of transfers are anticipated to occur between the hours of 7:00am and 6:00pm. It is to be noted that the subject use relates to the temporary storage of deceased persons only. Viewings are not conducted within the subject premise and as such, the site is to only be accessed by staff members and tenants at all times.

Increased insurance premiums for adjoining tenancies within the industrial complex as a result of the development

Comment: This is a civil matter which does not form part of the assessment of this application. Council has assessed the subject proposal against the relevant controls within the CLEP (2012) as well as Part B and Part E of the CDCP (2012). The assessment of the subject application has found the proposal to be compliant with the relevant development standards and controls for the proposed use. As such, Council is in a position of support for the subject application and is unable to refute the development based on the above concern.

Neighbouring tenancies were misinformed regarding the proposed use

Comment: Council is in receipt of a number of submissions identifying that neighbouring tenancies were initially informed the proposed use of the premise relates to the storing and cleaning of funeral cars with an ancillary office. It is to be noted that between 4 December 2020 and 17 December 2020, Council notified the subject proposal as “Change of use to mortuary & install new freestanding coolroom”. The second notification period from 22 July 2020 to 11 August 2020 described the proposal as “Use of Unit as a storage facility associated with mortuary and funeral home functions that are undertaken from other premises and installation of an associated freestanding cool-room”. The description of the proposal on each occasion reflected the proposal with the documents associated with the application all being made available to inform neighbouring residents.

The coolroom has been unlawfully installed prior to obtaining consent from the Strata Body Corporate and Council

Comment: The coolroom located on the ground floor of the subject tenancy is freestanding and does not require to be drilled into the slab. As such, no building work is involved. Notwithstanding this, the use of the coolroom for the storage of deceased persons does require development consent and an inspection of the subject premise has found that the coolroom is not currently in use. During the assessment, legal advice was sought from Council’s inhouse solicitors relating to the requirement for Strata Manager’s consent for the lodgement of the application. Given the development does not involve the drilling into any slab and no operations of the use are taking place on common property, in this instance the common seal is not required by Council in order to satisfy the requirements of obtaining owners consent.

Impact on Adjoining Businesses including loss of clientele due to the proposed sensitive use

Comment: Adjoining business owners have raised concerns that the proposed activity will have an adverse impact on their business, and business in the locality. The nature of the funeral industry is generally quiet and given the sensitivity around the use, the operations are considered to be discreet and conducted respectfully. The proposed use is not likely to impact on any neighbouring businesses particularly given the industrial nature of the uses, and minimal direct customers expected to frequent the site.

Inappropriate location as there are Cultural Concerns (bad omen in certain cultures) and in proximity to food supply business within the complex.

Comment: Despite cultural differences on the nature of funeral proceedings, it is no doubt a service that is necessary within all cultures and communities. The proposed use is permissible within an IN2 Light Industrial zone under the

Canterbury Local Environmental Plan 2012. Provided all uses within an industrial complex undertake their business as per the standards relevant to them, they will not have any issues with other businesses within the complex, including this one, which involves the storage of deceased persons only with no other mortuary or funeral parlour functions.

It is therefore not considered that the proposal will result in a threat to a food supply business.

Unsightly views relating to the proposed use and the Impacts on those suffering with mental health disorders who work within the industrial complex

Comment: All functions associated with the proposed use will take place within the subject unit, with precautions in place to screen all deliveries from public view as stated in the applicant's Plan of Management. Given the proposed use is permissible within the prescribed zone, Council is unable to refuse the development on this basis.

Use of the premise entirely as a mortuary rather than for the temporary storage of deceased persons only

Comment: Council has placed conditions of consent relating to the use of the premise being limited to the temporary storage of deceased persons and ancillary office only. A condition of consent will also be placed ensuring no embalming or dangerous chemicals required for process of embalmment are to be stored on site. A further condition of consent will be placed prohibiting operations relating to funeral service preparations and viewings from taking place on site.

Breach of Strata By-Laws - particularly by-law 31 requiring the occupants of a lot to only unload and load their vehicles from the common property.

Comment: Council's assessment of the proposed loading/unloading within the site to be adequate. Although the by-law is noted, Council is not required to assess the proposal against the Strata by-laws. On the contrary, industrial units are typically designed to allow loading/unloading internally through their roller doors to comply with Council's requirements. The subject proposal satisfies Council's development standards and controls within CLEP (2012) and CDCP (2012) and as such, is recommended for approval.

Amenity concerns raised due to noise from cool room

Comment: Council's Environmental Health Officers have assessed the application and subject to conditions of consent, have found the proposal worthy of support. The coolroom is freestanding and does not require to be drilled into the slab. The proposed cool room measures 3.6m x 2.52m and is located wholly within

the tenancy to the rear of the ground floor directly behind the roller door. Use of the coolroom is not considered to generate considerable noise however, a condition of consent has been placed ensuring there is no unreasonable noise generation as a result of the subject development.

The proposed use was never considered to be included in the list of business activities within the complex

Comment: The uses that are permissible in a zone can be found in Council's Canterbury Local Environmental Plan. The proposed use as a temporary storage facility for deceased persons is a permissible use within an IN2 Light Industrial zone under the Canterbury Local Environmental Plan 2012.

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 matter 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*. Given the assessment above, it is considered that the development application can be supported.

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 this Development Consent.
- 2) Development shall take place in accordance with Development Application No. DA-1020/2019, submitted by R G Town Planning Pty Ltd, accompanied by the drawings 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
903/19	Ground Floor Plan First Floor Plan Section AA	-	November 2019 (Received by Council on 1 May 2020)	N.E.B – Affordable Plans
	Plan of Management	-	Received by Council on 1 May 2020	-

Prior to the issue of a Building Certificate, the approved development drawings and the supplementary documentation must be amended as follows:

- a) The approved plan of management must be updated ensure that a hearse will not be utilised for the transfers and deliveries to and from the subject site.
 - b) The first-floor plan must demonstrate that the use of office space is limited to a maximum of 15% of the total floor area.
- 3) This consent relates to use of the premise for the temporary storage of deceased persons and ancillary office and storage areas only.
 - 4) No members of the public are to access to the site for any funeral functions or viewings.
 - 5) No dangerous chemicals are to be stored on site including, but not limited to chemicals required for the process of embalment.
 - 6) The office space within the unit being limited to a maximum of 15% of the total floor area of the unit. Any excess area is to remain as vacant space.
 - 7) All loading/unloading to take place wholly within the building and screened from public view.
 - 8) Vehicles making deliveries and transfers to/from the site being limited to a maximum length of 5.37m. Transfers should primarily be undertaken from the Mercedes Vito van or a vehicle of similar dimensions. All deliveries and transfers to and from the site must not be undertaken using a hearse.

- 9) The premises must be designed, constructed and operated in accordance with the requirements of:
 - (a) The Building Code of Australia;
 - (b) Local Government (General) Regulation 2005, Schedule 2 Part 4 relevant to mortuaries;
 - (c) Public Health Act, 2010 and Public Health Regulation 2012 – Part 8: Disposal of Bodies;
 - (d) The Protection of the Environment Operations Act 1997
- 10) There is to be no body preparation or embalming undertaken on the site without further approval from Council. The site is to be used for the storage of pre-prepared bodies pending transfer only.
- 11) The coolroom is to store no more than six (6) bodies/coffins at any one time.
- 12) The premises shall be operated so as 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.
- 13) The use of the premises shall comply with the requirements of the Environmental Protection Authority's Noise Policy for Industry (2017) and shall not give rise to the transmission of offensive noise as defined in the *Protection of the Environment Operation Act 1997 (NSW)*.
- 14) 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.
- 15) Disposal of wastes from the premises shall comply with approved site waste management plans.
- 16) Use and occupation of the facility must not commence until a final inspection has been carried out by Councils Environmental Health Officer and ALL conditions of this consent have been complied with.
- 17) Any lighting of the premises shall be installed in accordance with *Australian Standard 4282-1997, 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. Flashing, moving or intermittent lights or signs are prohibited. 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.

- 18) 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.

- 19) 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 the State Environmental Planning Policy: Affordable Rental Housing 2009.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 20) The occupation or use of the building must not be commenced unless an Occupation Certificate or Building Certificate has been issued for the building.
- 21) 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).
- 22) The Certifying Authority must ensure that any certified plans forming part of the Occupation Certificate or Building Certificate are not inconsistent with this Development Consent and accompanying plans.
- 23) The Occupation Certificate or Building 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.
- 24) 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.
- 25) Two off street car parking spaces shall be provided/maintained for the use of employees to the premises in accordance with the submitted plans. Such spaces are to be sealed and line marked and maintained.
- 26) An Emergency Response Management Plan shall be prepared and submitted to Council's satisfaction. The Plan shall include the following:
- a) List of chemicals and maximum quantities to be stored at the site;
 - b) Identification of potentially hazardous situations;
 - c) Procedure for incident reporting;
 - d) Details of spill stations and signage;

- e) Containment and clean-up facilities and procedures; and
- f) The roles of all staff in the plan and details of staff training.

USE OF THE SITE

- 27) Car parking spaces for vehicles shall be provided in marked spaces in the manner generally shown on the approved site plan. The car parking spaces, driveways and manoeuvring areas are to be used for employees vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.
- 28) The hours of operation of the use shall generally be limited to between 7:00am and 6:00pm on weekdays and weekends with deliveries of bodies of deceased persons being made to the site outside of these hours only where the delivery cannot otherwise wait to be made during normal hours of operation.
- 29) All loading and unloading of goods shall take place within the site or from communal loading zones areas in a manner that does not interfere with parking areas, driveways or landscaping.
- 30) The amended plan of management submitted in support of this application, forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the plan of management.
- 31) 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.
- 32) 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.
- 33) 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.
- 34) 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.
- 35) Identification number/s are to be conspicuously displayed at the front of the premises.
- 36) 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.
- 37) All industrial activities are to be confined within the building and no such activity shall occur externally to the building and this shall include loading and unloading, also storage of new and used materials.

-END-