

<b>JRPP Ref. No.</b>	<b>2012SYE093</b>
<b>D/A No.</b>	<b>DA-348/2012</b>
<b>Property</b>	<b>Lot 41 Resub Lot 32, Resub Lot 22, Resub Lot 12, Resub Lot 100 DP 1170401, Part 60 Charlotte Street, Campsie (Stage 4)</b>
<b>Proposal</b>	<b>Development application for the construction of four residential flat buildings of between five and seven storeys in height containing a total of 290 apartments and commercial café tenancy with basement car parking for 417 vehicles, landscaping and associated torrens title and strata title subdivision</b>
<b>Zoning</b>	<b>Light Industrial 4(b) under the provisions of the Canterbury Planning Scheme Ordinance  R4 – High Density Residential under the provisions of Canterbury Local Environmental Plan 2012</b>
<b>Applicant</b>	<b>Mr. Richard McLachlan (Australand) on behalf of Clemton Park Developments No. 1 and No. 2</b>
<b>Report By:</b>	<b>Stephen Pratt – Team Leader Development Assessment</b>

#### **EXECUTIVE SUMMARY**

- Council has received a development application for for the construction of four residential flat buildings of between five and seven storeys in height containing a total of 290 apartments, café tenancy and basement car parking for 417 vehicles, with associated landscaping, torrens title and strata title subdivision.
- The development application has a capital investment value in excess of \$20 million and in accordance with Schedule 4A(6)(b) of the Environmental Planning and Assessment Act, 1979, the development application is referred to the Joint Regional Planning Panel (Sydney East Region) for determination.
- On 4 February 2010, Major Project Concept Plan MP No. 07\_0106, and Project Application MP No. 08\_0087, prepared under Part 3A of the Environmental Planning and Assessment Act, 1979 (EP&A Act) was approved by the then Minister for Planning under Section 75O of the EP&A Act for a mixed use redevelopment of the former Sunbeam Factory site to include multiple unit residential development, seniors living development, commercial offices, specialty retail, convenience retail, supermarket, medical centre and child care centre.
- An application to modify the Concept Approval has been lodged with the Department of Planning and Infrastructure pursuant to Section 75(W) of the Environmental Planning and Assessment Act. This modification seeks to modify the maximum number of storeys permitted on that part of the land which is the subject of this development application to a maximum of seven storeys. At the time of the drafting of the report, this application was not yet determined by the Department of Planning and Infrastructure, but advice received indicates that it will be determined on 29 January 2013.
- The subject site is zoned Light Industrial 4(b) under the provisions of the Canterbury Planning Scheme Ordinance. The proposed development is defined as a residential flat building' with a 'commercial premises' component which are both prohibited uses in the Light Industrial 4(b) zone. However, pursuant to Clause 62Q (2) of the Canterbury Planning Scheme Ordinance, 'residential flat buildings' and 'commercial premises' are listed as permissible land uses on land known as 60 Charlotte Street, Campsie. By virtue of the Clause 62Q (2) of the

Canterbury Planning Scheme Ordinance, the proposed development is permissible with development consent.

- The development application has been assessed against the provisions contained within relevant State Environmental Planning Policies, the Canterbury Planning Scheme Ordinance, the Canterbury Local Environmental Plan 2012 and relevant Canterbury Development Control Plans and policies. The proposed development is generally compliant with the requirements of these environmental planning instruments, development control plans and policies. Issues of non-compliance have been addressed in the body of this report.
- The development application was publicly exhibited and adjoining land owners notified in accordance with the provisions of Council's Development Control Plan No. 32 – Notification Policy. During this period, Council has received two letters of objection and a petition signed by twenty-two (22) persons raising concerns in relation to the proposed development. Matters raised during this period are addressed in the body of this report.
- The development application is recommended for approval subject to conditions.

## **BACKGROUND**

On 4 February 2010, Major Project Concept Plan MP No. 07\_0106, and Project Application MP No. 08\_0087, prepared under Part 3A of the Environmental Planning and Assessment Act, 1979 (EP&A Act) was approved by the then Minister for Planning under Section 75O of the EP&A Act for a mixed use redevelopment of the former Sunbeam Factory site to include multiple unit residential development, seniors living development, commercial offices, specialty retail, convenience retail, supermarket, medical centre and child care centre.

The approval also included a minimum area of public open space, indicative building envelopes, site demolitions and remediation, subdivision, road construction and landscaping. The application was approved subject to various 'Terms of Approval', 'Further Assessment Requirements' and a number of 'Statement of Commitments'.

On 15 December 2011, an application pursuant to Section 75W of the Environmental Planning and Assessment Act, 1979 was approved by the Minister for Planning and Infrastructure for amendments to the Concept Plan Approval, including the addition of residential display suites as a permissible use on the land.

On 1 June 2012, a further application pursuant to Section 75W of the Environmental Planning and Assessment Act, 1979 was approved by the Minister of Planning and Infrastructure for amendments to the Concept Plan Approval, including a change to the number of buildings contained within Lot 21 (Stage 2) from 6 buildings to 3 buildings.

A further application to modify the Concept Plan Approval has been lodged with the Department of Planning and Infrastructure pursuant to Section 75(W) of the Environmental Planning and Assessment Act. This modification seeks to modify the maximum number of storeys permitted on that part of the land which is the subject of this development application to a maximum of seven storeys. Advice received indicates that this Section 75W Application will be approved by the Department of Planning and Infrastructure on 29 January 2013. This issue will be clarified by Council staff on the day of the Joint Regional Planning Panel Public Meeting.

A further separate application to modify the Concept Plan Approval has been lodged with the Department of Planning and Infrastructure pursuant to Section 75(W) of the Environmental Planning and Assessment Act. This modification seeks to modify the

mixed use development on Lot 42 (known as Stage 3) by amending the building footprints, building heights, land use and floor space distribution throughout the site and to include provision of a small community facility within the site. This Section 75W Application is currently on public exhibition by the Department of Planning and Infrastructure (until 28 February 2013) and is yet to be determined. The amendments proposed in this Section 75W Application have no relevance to the application the subject of this planning assessment report.

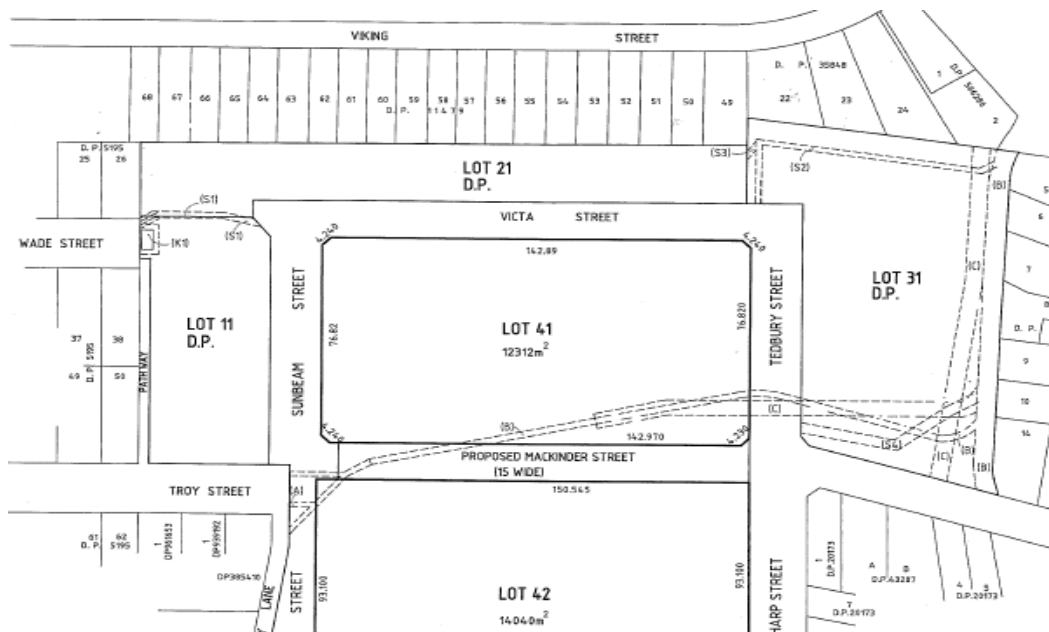
**RELATIONSHIP OF PART 3A APPROVAL AND THE SUBJECT PART 4 APPLICATION**

The approval issued by the then Minister for Planning under Section 75O of the Environmental Planning and Assessment Act, 1979 was for a mixed use redevelopment of the former Sunbeam Factory site to include multiple unit residential development, seniors living development, commercial offices, specialty retail, convenience retail, supermarket, medical centre and child care centre. The approval also included a minimum area of public open space, indicative building envelopes, site demolitions and remediation, subdivision, road construction and landscaping. As noted previously, subsequent approvals issued under Section 75W of the Environmental Planning and Assessment Act, 1979 made amendments to certain components of the concept approval, including the range of permissible land uses.

As noted above, the decision of 4 February 2010 included consent for the concept of the redevelopment of the entire site and the first stage approval for Lot 11 which includes a residential apartment building containing a floor space of 5885 square metres and the child care centre. This building is currently under construction and is nearing completion. Subsequent stages of the concept approval are the subject of consideration under Part 4 of the Environmental Planning and Assessment Act. Council or the Joint Regional Planning Panel are the consent authority for subsequent stages of the development. This matter will be discussed in more detail in a later section of this report.

**SUBJECT SITE**

The subject site is Lot 41 Resub Lot 32, Resub Lot 22, Resub Lot 12, Resub Lot 100 DP 1170401, Part 60 Charlotte Street, Campsie. The precise location of the subject site within the development site is shown in the diagram below.



The site has a frontage of 142.97 metres to proposed Mackinder Street, 76.82 metres to proposed Sunbeam Street, 142.89 metres to proposed Victa Street and 76.82 metres to proposed Tedbury Street and a total site area of 12,312 square metres.

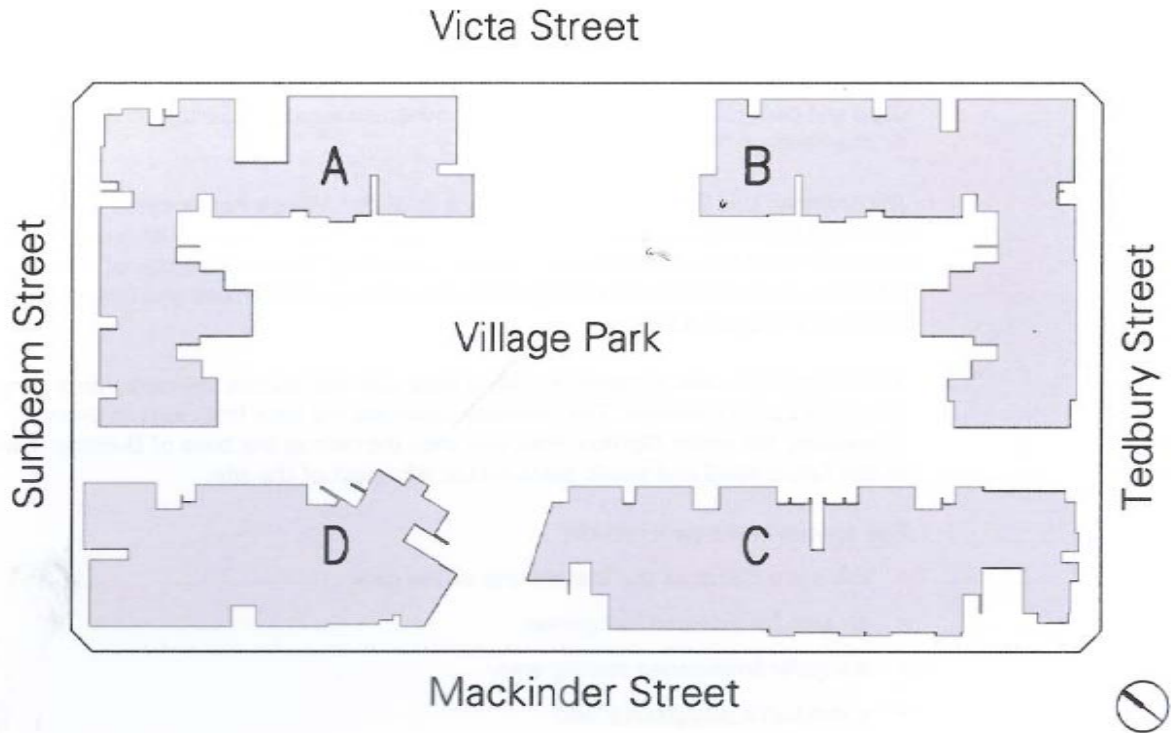
To the north of the subject site, on Proposed Lot 11, is a four storey residential development and child care centre approved under the original Concept Plan approval by the then Minister for Planning. This development is currently under construction. To the east, on Proposed Lot 21, is a site that will contain a recently approved development application for a three, three storey residential flats building containing a total of 78 apartments. The site is currently vacant and the commencement of construction on this land is imminent.

To the south, on Proposed Lot 31, is the future location of a senior's living and aged persons development also approved under the original Concept Plan. The site is also currently vacant. To the west, on Proposed Lot 42, and on the opposite side of proposed Mackinder Street, is the future Town Centre Precinct that will contain a mixed use development incorporating retail, residential and community uses, again approved under the original Concept Plan.



### **PROPOSAL SUMMARY**

Council has received a development application for the construction of four residential flat buildings of between five and seven storeys in height containing a total of 290 apartments, café tenancy and basement car parking for 417 vehicles, with associated landscaping, torrens title and strata title subdivision. The four residential flat buildings are referenced below as Buildings A, B, C and D and as depicted on the diagram below.



Details of the proposal are shown in the tables below:

**Building A – 6 storeys**

Level	1 bedroom	2 bedroom	3 bedroom	Total
Ground	3	10	1	14
1	1	11	2	14
2	1	11	2	14
3	1	12	1	14
4	1	11	2	14
<b>Total</b>	<b>7</b>	<b>55</b>	<b>8</b>	<b>70</b>

**Building B – 5 storeys**

Level	1 bedroom	2 bedroom	3 bedroom	Total
Ground	3	8	2	13
1	1	11	2	14
2	1	11	2	14
3	1	12	1	14
4	1	11	2	14
<b>Total</b>	<b>7</b>	<b>53</b>	<b>9</b>	<b>69</b>

**Building C – 6 storeys**

Level	1 bedroom	2 bedroom	3 bedroom	Total
Ground	4	8	2	14
1	7	8	-	15
2	7	8	-	15
3	7	8	-	15
4	6	6	2	14
5	6	6	2	14
<b>Total</b>	<b>37</b>	<b>44</b>	<b>6</b>	<b>87</b>

### **Building D – 7 storeys**

<b>Level</b>	<b>1 bedroom</b>	<b>2 bedroom</b>	<b>3 bedroom</b>	<b>Total</b>
Ground	3	8	-	11
1	2	7	-	9
2	2	9	-	11
3	2	9	-	11
4	2	9	-	11
5	2	9	-	11
<b>Total</b>	<b>13</b>	<b>51</b>	<b>-</b>	<b>64</b>

In total, the development will provide two hundred and ninety (290) apartments consisting of sixty-four (64) one bedroom, two hundred and three (203) two bedroom and twenty-three (23) three bedroom apartments, including thirty-four (34) one and two bedroom adaptable apartments.

It is also proposed to construct the development in four stages with an associated staged strata subdivision of the development based around each of the four residential buildings as follows:

- Stage 1 will comprise the construction of the basement up to the podium level, temporary waste presentation area and construction of 70 residential apartments (being Lots 1-70 inclusive (known as Building A) and development lots 71, 72 and 73).
- Stage 2 Subdivision of Development Lot 71 comprising 64 apartments (known as Building D).
- Stage 3 Subdivision of Development Lot 72 comprising 69 apartments (known as Building B).
- Stage 4 Subdivision of Development Lot 73 comprising 87 apartments (known as Building C).

As noted previously, Major Project Concept Plan MP No. 07\_0106, prepared under Part 3A of the EP&A Act was approved on 4 February 2010 for a mixed use redevelopment of the former Sunbeam Factory site to include multiple unit residential development, seniors living development, commercial offices, specialty retail, convenience retail, supermarket, medical centre and child care centre. The subject development application represents Stage 4 of the Concept Plan Approval.

The development application has a capital investment value in excess of \$20 million and in accordance with Schedule 4A(6)(b) of the Environmental Planning and Assessment Act, 1979, the development application is referred to the Joint Regional Planning Panel (Sydney East Region) for determination.

### **INTERNAL REFERRALS**

The development application was referred to a number of internal sections of Council for comment and the advice received is summarised below:

- **Fire Safety and Building Related Comments**  
The development application was accompanied by a Preliminary Building Assessment Report prepared by Brentnall Technical Solutions. The report concludes that there are a number of aspects that do not comply with the 'deemed to satisfy' provisions of the National Construction Code. However, these matters may be addressed by an alternative solution without need to modify the design of the building. The development application and

accompanying report were referred to Council's Fire Safety Officer for comment who has raised no objections to the proposal subject to certain conditions being included as part of any consent issued.

- **Environmental Health and Compliance Comments**

The development application was referred to Council's Regulatory Services section for comment who advises that no objections are raised to the proposed development subject to the inclusion of a number of standard conditions.

- **Waste Management Comments**

The development application was referred to Council's Waste Services Section for comments. Concerns were raised regarding the proposed compaction rates for general waste material and the resultant space required to accommodate the number of bins required by Council's DCP controls.

Liaison has occurred between the parties and amendments have been made to the design of the building to address these matters. In this regard, the proposal now provides sufficient area to accommodate the required number of waste and recycling bins to comply with the requirements of DCP 48.

The applicant also discussed the option of providing a temporary bin presentation area necessary to enable the staged construction and occupation of the development. Council's Waste Services Section has reviewed the amended documentation and now raises no objections to the proposal subject to certain conditions being included as part of any consent issued.

- **Landscape Architect Comments**

The development application was referred to Council's Landscape Architect for comments. Concerns were raised regarding the proposed street tree planting species, the location of proposed stormwater pipes and pits within areas nominated for street planting and potential impacts on the long term viability of this proposed planting.

Council's Landscape Architect and the applicant's consultant have liaised on these matters and an amended landscape design has since been prepared which addresses our previous concerns. No objections are now raised to the proposal subject to certain conditions being included as part of any consent issued.

- **Development Engineer Comments**

The development application was referred to Council's Development Engineer for comment who advises that no objections are raised to the proposed development subject to the inclusion of a number of standard conditions.

- **Disability Access Comments**

The development application was referred to Council's Disability Access Committee for comment who advises that no objections are raised to the proposed development subject to the inclusion of a number of standard conditions.

- **Crime Prevention Comment**

The development application was referred to Council's Youth and Safety Team Leader for comment who, in consultation with a representative of the NSW Police Local Area Command, advises that no objections are raised to the

proposed development subject to the inclusion of a number of standard conditions.

### **EXTERNAL REFERRAL ADVICE**

#### *Roads and Maritime Services*

The development application has also been referred to Roads and Maritime Services in accordance with the requirements of Clause 104 and Column 2 of Schedule 3 of State Environmental Planning Policy (Infrastructure) 2005. Roads and Maritime Services have advised that they would grant concurrence subject to approval of the application and a number of specific conditions

### **STATUTORY CONSIDERATIONS**

The development application has a capital investment value in excess of \$20 million and in accordance with Schedule 4A(6)(b) of the Environmental Planning and Assessment Act, 1979, the application is referred to the Joint Regional Planning Panel (Sydney East Region) for determination.

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

- (a) Section 75O of the Environmental Planning and Assessment Act, 1979
- (b) State Environmental Planning Policy (Infrastructure) 2005
- (c) State Environmental Planning Policy No. 55 – Remediation of Land
- (d) State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- (e) State Environmental Planning Policy (BASIX) 2004
- (f) Canterbury Planning Scheme Ordinance
- (g) Canterbury Local Environmental Plan 2012
- (h) Development Control Plan No. 13 – Multiple Unit Development Code
- (i) Canterbury Development Control Plan No. 20 – Car Parking
- (j) Canterbury Development Control Plan No. 28 – Flood Management and Flood Proofing
- (k) Canterbury Development Control Plan No. 29 – Crime Prevention Through Environmental Design
- (l) Canterbury Development Control Plan No. 32 – Notification Policy
- (m) Canterbury Development Control Plan No. 37 – Energy Smart Homes
- (n) Canterbury Development Control Plan No. 45 – Landscaping
- (o) Canterbury Development Control Plan No. 48 – Waste Management
- (p) Canterbury Development Control Plan No. 51 – Access and Mobility
- (q) Stormwater Management Manual – Specification 9
- (r) Section 94 Contributions Plan 2005

### **ASSESSMENT**

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

#### **Section 75O of the Environmental Planning and Assessment Act, 1979**

The Concept Approval Plan referred to previously was issued under the provisions of Section 75O of the Environmental Planning and Assessment Act, 1979. The approval included various terms of approval (similar to conditions of consent), further assessment requirements and a series of statement of commitments. The proposed development has been lodged having regard to this concept approval and satisfies the



requirements of that approval. The following discussion deals with some of the more relevant aspects of these terms of the concept approval.

**i. Gross Floor Area**

Condition A3 of the Concept Plan Approval noted that the maximum gross floor space permitted for the development on Lot 41 is 25,300 square metres. Plans submitted with the development application indicate that the total gross floor area of the proposed development is 25,295 square metres to comply with the relevant condition of the Concept Plan Approval.

**ii. Building Height**

Conditions A4 and A6 of the Concept Plan Approval noted that the maximum height of the proposed building for development on Lot 41 shall be a maximum of six storeys for development fronting New Alfred Street and a maximum of five storeys for the remainder of the site. The Section 75W application noted in a previous section of this report seeks to modify the maximum height control above six storeys. The proposed development is consistent with the building heights contained on the drawings provided with the Section 75W application expected to be approved by the Department of Planning and Infrastructure on 29 January 2013 and on this basis is acceptable.

**iii. Car Parking**

Conditions A5 of the Concept Plan Approval states that the maximum number of spaces to be provided for residential and commercial component of the development shall not exceed the following:

Residential	-	1 space per 1 bedroom unit 1.2 spaces per 2 bedroom unit 2 spaces for 3 bedroom unit
Visitor	-	1 space per 5 units for visitors
Commercial	-	1 space per 34 square metres
Car Share	-	2 spaces
Car Wash Bay	-	1 space per development

Based on the following rates, the proposed development is required to provide 354 spaces for the residential component, 58 visitor spaces, 2 commercial (café) spaces, 2 car share spaces and a car wash bay, or a total of 417 off-street car parking spaces. Plans forwarded with the development application show provision for 417 off-street car parking spaces within two levels of basement to comply with the above requirement of the Concept Plan Approval.

**iv. Building Separation**

Item 1 within Schedule 3 (Further Assessment Requirements) of the Concept Plan Approval states that future residential development shall be provided with adequate building separation in order to maintain privacy and provide an acceptable built form for the site. Future proposals are also required to demonstrate compliance with the building separation controls contained within the Residential Flat Design Code. Further, development that proposes less than the recommended building separation distances must demonstrate that daylight access, urban form and visual and acoustic privacy has been satisfactorily achieved.

The proposed development does not fully comply with the building separation distances of the Residential Flat Design Code and as such, an assessment of the individual merits of the proposal has been undertaken against the daylight access, urban form and visual and acoustic privacy measures required by the Item 1 within Schedule 3 (Further Assessment Requirements) of the Concept Plan Approval. These matters will be discussed in a later section of this report under the 'State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development' heading.

**v. Open Space**

Item 13 within Schedule 3 (Further Assessment Requirements) of the Concept Plan Approval states that any future application on Proposed Lot 41 shall demonstrate that open space areas are clearly accessible and corresponds (in grade) to the surrounding public domain. Future applications are also required to formalise these access arrangements to ensure public accessibility by way of rights of ways and the creation of associated easements.

The plans accompanying the development application demonstrate that the central open space area is clearly accessible and corresponds with the grade of the surrounding public domain. Pedestrian access to and from the central open space area will be formalised by appropriate way of rights of way and associated easements to comply with the intentions of the Concept Plan Approval.

The applicant, as part of this development application, seeks to dedicate this central area of open space to the public, which would be offset against any necessary Section 94 Contribution for public open space or as negotiated through a Voluntary Planning Agreement. In this regard, the following comments are made:

- (a) Some concern is raised with respect to the privatisation of the central open space proposed in this instance. While this area of open space needs to be publicly accessible to satisfy the requirements of the Concept Plan Approval, this is very different to the space actually functioning as an area of public open space and the associated implications of care, control and management of the space by Council.
- (b) The Concept Plan Approval makes no requirement for the dedication of this space as public open space. The Concept Plan merely requires the land to be accessible from adjacent public areas and that such arrangements be formalised by appropriate rights of way and easements. We are satisfied that the scheme as presented fulfils the requirements of the Concept Plan Approval with respect to this issue.
- (c) Parts of the open space area are overshadowed for periods throughout the day which limits its value for public open space purposes.
- (d) The design of the area of open space serves more as an area of communal open space serving the future residents of the development. The open space area is very much internalised and tightly defined around the building footprint, leading to many small and privatised spaces where the buildings are articulated. Some areas are located behind screening and hedging plants as shown on the landscaping plan which arguably would prevent access required under the Concept Plan Approval. Such spaces essentially act as private landscaped areas for the development rather than acting as a proper functioning area of public open space in a real sense.

As such, it is intended to include as a condition on the development consent that the strata subdivision plans accompanying the development application be amended to remove reference to the dedication of the central open space area to Council as public open space.

### **State Environmental Planning Policy (Infrastructure) 2005**

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

The subject site is located approximately 300 metres north of Canterbury Road which is a classified road for the purposes of the SEPP. In accordance with Clause 104 of the State Environmental Planning Policy (Infrastructure) 2007, the proposed development falls under the requirements of Schedule 3 of the SEPP and requires referred to Roads and Maritime Services.

The development application was referred to Roads and Maritime Services in accordance with Clause 104 of the SEPP who raised no objections to the proposed development subject to conditions being imposed on any development consent issued.

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

State Environmental Planning Policy No. 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.

Given the prior history of the site and its use for industrial purposes, the issue of contamination of the site was considered as part of the assessment of the Part 3A Concept Approval. A Remediation Action Plan was prepared which identified the appropriate methods for the clean up of the land. Following this process, a site audit report was prepared which confirmed that the site was suitable for the proposed end use of the site for a variety of activities. The proposal therefore satisfies the requirements of the SEPP.

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

The proposed development falls within the definition of a residential flat building under SEPP 65 and therefore requires assessment under the provisions of the SEPP. The policy aims to improve the design quality of new residential flat buildings in New South Wales by addressing specific design criteria.

The development application has been accompanied by a detailed Design Verification Statement prepared by the registered architect for the project which addresses the proposal against the ten design principals and an assessment of the proposal against those matters contained within the 'Residential Flat Design Code' and suggested 'Rules of Thumb'. The following commentary provides a discussion of the proposal where strict compliance with the 'Rules of Thumb' is not achieved.

#### Building Depths

The building depth 'Rule of Thumb' contained within the Residential Flat Design Code suggests depths of between 10 and 18 metres. The building depths vary across the

entire development between 13.8 and 25.1 metres. Throughout most of the site, the building depths are generally around 18 metres, with two small sections where the depths increase to 25 metres on Buildings A and B and to 19.5 metres for Building D.

The applicant has argued that the building depth variations are driven by the need to articulate the building and modulate the building to engage with the central open space area. It is noted that where these non-compliances occur within the development, the building narrows creating apartments with aspect or multiple aspects with direct access to natural light and ventilation. Further, there will be no single apartments which exceed the maximum depth. The proposal will achieve the underlying objective of the 'Rule of Thumb' control and on this basis is considered to be an acceptable design solution.

#### Building Separation

The Residential Flat Design Code control for building separation is 12 metres between habitable rooms up to 4 storeys and 18 metres for building of 5 to 8 storeys. Where a development proposes a separation less than the above control, it must be demonstrated that daylight access, urban form and privacy considerations have been satisfactorily addressed. There are four particular locations where strict compliance with the control is not achieved, namely between Buildings A and D, between Building C and D, between Building B and C and internally for Building B.

The applicant has argued that it is difficult to achieve compliance with the numerical building separation control having regard to the maximum gross floor area and building height approved by the Department of Planning and Infrastructure in the Concept Plan Approval. As a result, the design has endeavoured to mitigate the building separation by demonstrating that the development ensures that daylight access, urban form and privacy considerations have been satisfactorily addressed.

The applicant indicates that the building separation distances are important in achieving an appropriate urban form by enclosing or framing the space around the central park with entries between buildings drawing pedestrians through into a larger expanse of open space within the development. In addition, the design provides solid walls or where openings exist, appropriate screening measures to mitigate potential privacy impacts between apartments. As noted in the following sections of this report, the apartments will be afforded good access to sunlight and natural ventilation to ensure reasonable amenity for future occupants of the development. Having regard to these factors, it is considered that the objectives of the building separation requirements have been achieved and is therefore acceptable in this instance.

#### Deep Soil Zones and Open Space

The Residential Flat Design Code requires that 25 per cent of open space should be within a deep soil zone and that between 25 and 30 per cent of the site should be communal open space. A central open space area, which is a deep soil zone, of approximately 3500 square metres is provided which represents more than 28 per cent of the site area to satisfy the above requirement.

The applicant has proposed to dedicate this space as public open space as part of this development. As discussed earlier in this report, the design of this space serves more as communal open space for future residents of the development rather than public open space with the area being internalised and tightly defined around the building footprint. Nevertheless, the central open space area provided satisfies the intent of the Residential Flat Design Code control while still meeting the requirements of the Concept Plan Approval by being accessible to the general public.

### Solar Access

The Residential Flat Design Code 'Rule of Thumb' requires development within dense urban areas to achieve 2 hours of solar access to 70 per cent of living rooms and private open space areas between 9.00am and 3.00pm at the Winter Solstice. The Residential Flat Design Code also states that a maximum of 10 per cent of apartments in the development should be single aspect apartments with a southerly aspect.

The applicant confirms that 65 per cent of the living rooms of apartments will achieve the minimum two hours of solar access between 9.0am and 3.00pm at the Winter Solstice, while a further 5 per cent of the apartments (on Level 4 of Buildings A and B and Level 5 of Buildings C and D) will be provided with a performance based design comprising roof/skylights to ensure that they also receive 2 hours of sunlight to their respective living rooms and satisfy the intent of this 'Rule of Thumb' control.

With respect to the single aspect units with a southern aspect, the applicant indicates that efforts have been made to minimise the number of single aspect apartments with a southerly aspect. Nevertheless, 23 per cent of the single aspect apartments have either south-easterly or south-westerly aspect and therefore exceeds the 'Rule of Thumb' requirement.

The majority of the apartments provided with a southerly aspect are designed so that living spaces extend to the façade of the building to maximise exposure to natural light and benefit from an outlook over the central park within the subject development site or the future Town Square proposed as part of the next stage of construction on Proposed Lot 42. The future occupants of the apartments in question will therefore be afforded improved amenity as a result of the outlook and views provided despite the non-compliance with this 'Rule of Thumb' control.

### Cross Ventilation

The Residential Flat Design Code 'Rule of Thumb' requires 60 per cent of apartments should be naturally cross-ventilated and 25 per cent of kitchens within the development should have access to natural ventilation.

The applicant confirms that 57 per cent of the apartments are naturally ventilated, while a further 3 per cent of the apartments will rely on a performance based solution comprising the provision of ventilation through operable skylights. The apartments provided with operable skylights are contained along the future Tedbury Street frontage on Level 4 of Building B and along the future Mackinder Street frontage on Level 5 of Building C and D.

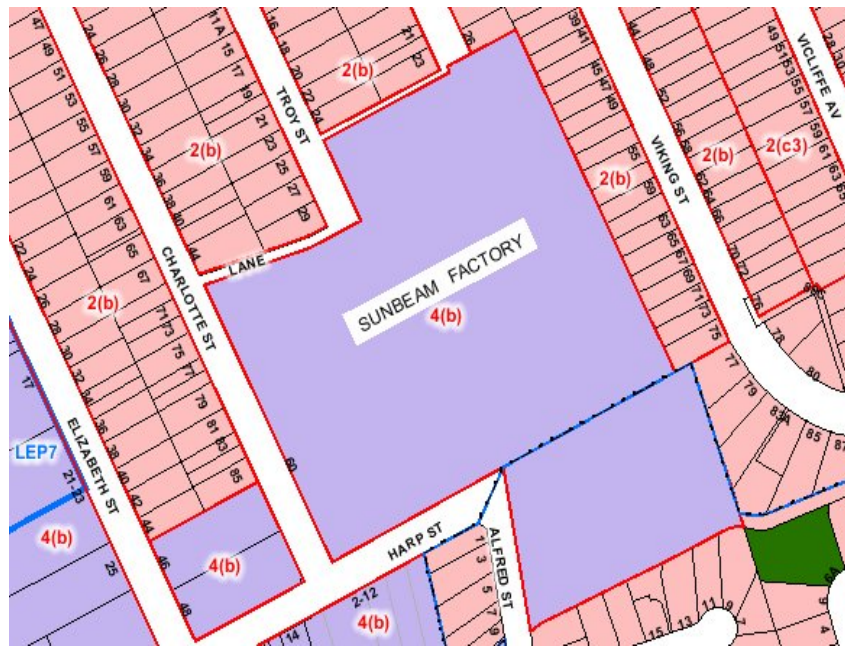
With respect to kitchen ventilation, approximately 28 per cent of the apartments within the development contain windows to the kitchens to satisfy the above requirement.

### **State Environmental Planning Policy 2004 (BASIX)**

Four BASIX Certificates (Certificate Nos. 441949M, 442017M, 441791M and 442091M) have accompanied the development application and lists a variety of commitments that are to be incorporated into the overall design of the project. The necessary commitments have been included on the architectural drawings where required, meet the water, energy and thermal comfort targets and satisfy therefore satisfy the requirements of the SEPP.

### **Canterbury Planning Scheme Ordinance**

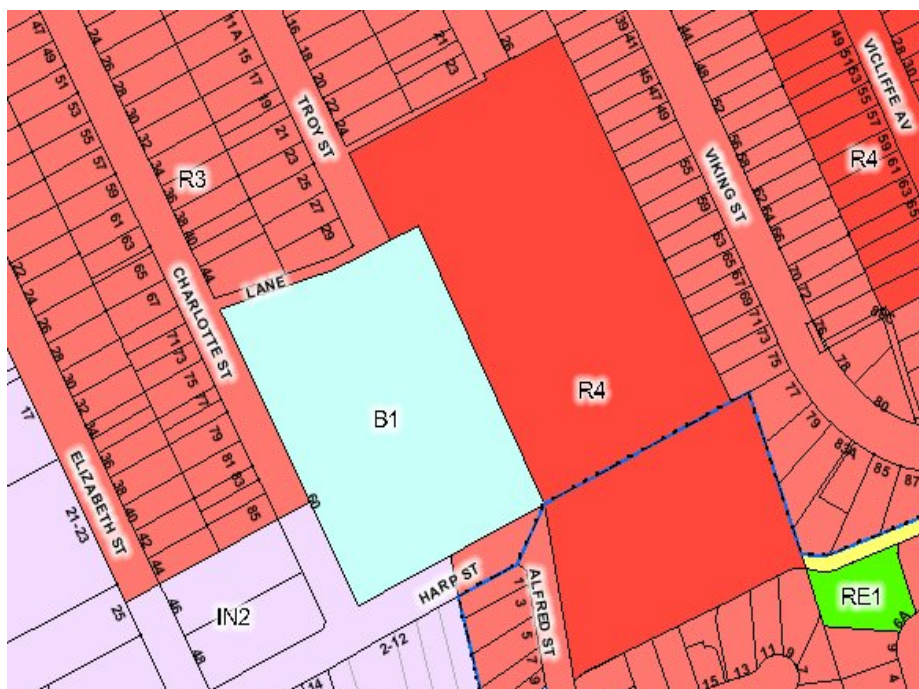
The subject site is zoned Light Industrial 4(b) under the provisions of the Canterbury Planning Scheme Ordinance. The proposed development is defined as a residential flat building' with a 'commercial premises' component which are both prohibited uses in the Light Industrial 4(b) zone.



However, pursuant to Clause 62Q (2) of the Canterbury Planning Scheme Ordinance, which was inserted into the planning instrument by 'Environmental Planning and Assessment (Canterbury Planning Scheme Ordinance) Order 2011 on 16 August 2011, following approval of the Concept Plan to enable the mixed use development to be implemented on the site, "residential flat buildings' and 'commercial premises' are listed as permissible land uses on land known as 60 Charlotte Street, Campsie. By virtue of the Clause 62Q (2) of the Canterbury Planning Scheme Ordinance, the proposed development is permissible with development consent.

**Canterbury Local Environmental Plan 2012**

The subject site is zoned R4 – High Density Residential under Canterbury Local Environmental Plan 2012 which was gazetted on 21 December 2012 and became effective from 1 January 2013. The controls applicable to this application are:



Standard	Requirement	Proposal	Comments
Zoning	R4 – High Density Residential	The proposed development is defined as a 'residential flat building' and 'commercial premises' under the Draft LEP 2012.	The proposed development is permissible with consent under the Canterbury LEP 2012.
FSR	0.9:1	The proposed development contains a total gross floor area of 25,290 square metres which equates to an FSR of 2.1:1	The proposed development does not comply with the FSR controls contained within LEP 2012, but is consistent with the maximum FSR control contained with the Concept Plan Approval (as amended)
Building Height	The subject site is identified as being within an area where a height limit of 11.5 metres applies.	The subject development has a height of between five (5) and seven (7) storeys.	The proposed development does not comply with the height controls contained within LEP 2012, nor the Concept Plan Approval. The applicant has lodged an application pursuant to Section 75(W) of the Environmental Planning and Assessment Act to modify the Concept Plan Approval. This application is expected to be approved by the Department of Planning and Infrastructure on 29 January 2013.

However, the savings provisions contained in Clause 1.8A of LEP 2012 prevent any determinative weighting from being afforded to its provisions in respect to this application.

#### **Development Control Plan No. 13 – Multiple Unit Development Code**

The proposed development has been assessed against the provisions of our Development Control Plan 13 – Multiple Unit Development. While the DCP applies to multiple unit development where permissible in residential zones, the DCP is a relevant consideration in the assessment of this proposal. The proposed development compares to the requirements of the DCP as shown in the table below.

Standard	Requirement	Proposed	Complies
Minimum Frontage	20 metres	The site has a frontage of 142.97 metres to proposed Mackinder Street, 76.82 metres to proposed Sunbeam Street, 142.89 metres to proposed Victa Street and 76.82 metres to proposed Tedbury Street.	Yes

<b>Standard</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
Density	If applying the Density 4 provisions under the DCP (no controls strictly apply as the site is zoned Light Industrial), a site area of 8505 square metres would be required to accommodate the proposed dwelling mix.	No density controls are contained within the Concept Plan Approval. Building envelopes have been established within the Concept Plan Approval	See comment below
Landscaped Open Space	If applying the Density 4 provisions under the DCP, a minimum landscaped open space area of between 50 and 70 square metres per unit (depending on the size of the apartments).	The Concept Plan Approval does specifically require an amount of landscaped open space to be provided. Building envelopes have been established within the Concept Plan Approval.	See comments below
Private Open Space	Minimum areas of private open space being provided in the form of a balcony, verandah or courtyard of between 5 and 9 square metres in area, with a minimum dimension of 2.0 metres directly accessed from a living area of each unit.	All proposed apartments are provided with private open space areas in the form of balconies or, in the case of ground floor apartments, ground level courtyards complying with the requirements of the DCP.	Yes
Front Boundary Setback	8.5 metres for buildings greater than two storey in height	No front setback controls are contained within the Concept Plan Approval. Building envelopes have been established within the Concept Plan Approval	See comments below
Side and Rear Boundary	In accordance with a formula for wall heights exceeding 3.0 metres.	The subject site is surrounded by four street frontages and as such has no rear or side boundary. In any event, building envelopes have been established within the Concept Plan Approval	N/A
Building Height	9 metres for three storey buildings	The proposed development generally complies with the building heights approved by Condition A6 of the Concept Plan Approval.	See comments below



<b>Standard</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
Car Parking and Access	The residential component of the proposed development would generate the need for 413 off-street car parking spaces	The proposed development will provide a total of 417 off-street car parking spaces as required by Condition A5 of the Concept Plan Approval. The four additional spaces are required as a result of the commercial component of the development and the need to provide two car share spaces as required by the Concept Plan Approval	Yes

As demonstrated in the above table, the proposed development satisfies the numerical and design requirements of the DCP, with the exception of the following matters which require further discussion:

#### Density

The subject site is zoned Light Industrial under the current planning controls. As a result, DCP 13 does not contain specific density requirements in this instance. For the purposes of assessing the issue of Density, we have adopted the Density 4 requirements contained within the DCP which is the most appropriate of the density controls applying to land zoned residential which permits residential flat building development. Under these controls, the proposed development provides a far higher density that would otherwise have been permitted over the subject site if not for the Concept Plan Approval.

In this regard, the Concept Plan Approval included a condition that the development contains a maximum gross floor area, together with building envelope and height controls. The proposal as presented complies with the gross floor area, building envelope and height controls and on this basis, the proposed density is considered acceptable.

#### Landscaped Open Space

The proposed development does not comply with the minimum landscaped open space requirements required under Council's Development Control Plan No. 13, were these controls to be strictly applied to the subject development. The Concept Plan Approval does specifically require an amount of landscaped open space to be provided and building envelopes have been established within the Concept Plan Approval defining the building footprint and areas of non-built upon space. As noted previously, a central area of open space land is provided for the future occupants of the development, and which will also be accessible by the general public, which meets the requirements of the Concept Plan Approval.

#### Front Building Setback

The front setbacks for the proposed development do not strictly comply with the minimum requirements of DCP 13 were they to be applied to the proposed development. The front setbacks vary between 2.32 and 3.28 metres along Victa Street, between 3.9 and 4.1 metres along Tedbury Street, between 3.37 and 4.15 metres along Mackinder Street and between 2.0 and 4.85 metres along Sunbeam Street. It is also noted that the top level of the main building façade for Building C has been setback 7.0 metres from Tedbury Street as requested by the Department of Planning and Infrastructure through the assessment of the Section 75W application expected to be approved on 29 January 2013.

The Concept Plan Approval does provide specific requirements for the front setback of the proposed development. The Concept Plan Approval states that the development on Lot 41 shall consist of four separate buildings ranging in height between five and seven storeys with a publicly accessible park fronting New Wade Street (now to be known as Victa Street).

The setbacks provided to each street frontage satisfies the above building envelope controls contained in the Concept Plan Approval, while also providing sufficient depth to allow for reasonable open space or private courtyards for the two level apartments and enhancing the streetscape by creating appropriate proportions to the street consistent with that envisaged for a dense urban environment.

#### Building Height

While the proposed development does not comply with the height controls contained within Council's Development Control Plan No. 13, the proposed development generally complies with the building heights approved by Condition A6 of the Concept Plan Approval. The proposed development is between 5 and 7 storeys in height which is far beyond that permitted by Council's planning controls were they to be applied to the subject site and would otherwise have been permitted over the subject site if not for the Concept Plan Approval. The proposal as presented complies with the gross floor area, building envelope and height controls and on this basis, the proposed height of the building is considered acceptable.

#### **Canterbury Development Control Plan No. 20 – Car Parking**

Development Control Plan No. 20 aims to ensure that development is provided with adequate off-street car parking for occupants and visitors by providing guidance on the parking requirements and design criteria. Table 3(a) of the DCP specifies the car parking rates for a range of development types which vary according to the type and scale of the proposal. The proposal compares to the requirements of DCP 20 as follows:

<b>Standard</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
Resident Parking	1 space per one bedroom unit, 1.2 spaces per two bedroom unit and 2 spaces per three bedroom unit, or 354 spaces	354 spaces	Yes
Visitor Parking	One space for each five dwellings, or 58 spaces	58 spaces	Yes
Car Wash Bay	One wash bay is required for any multiple unit development containing ten or more dwellings, or 1 space	1 car wash bay	Yes
Café	1 space per 40 square metres of gross floor area or, 2 spaces	2 spaces	Yes
Total	A total of 415 spaces are generated by the DCP.	417 spaces	Yes
Bicycle Parking	1 bicycle parking for every five units for residents, or 58 spaces, plus 1 bicycle parking for every ten units for visitors, or 29 spaces (Total – 87 spaces)	A total of 58 bicycle parking spaces	No – see comment below

As demonstrated in the above table, the proposed development satisfies the numerical and design standards of Development Control Plan No. 20 – Car Parking, with the exception of the number of bicycle spaces contained within the development. The total

number provided satisfies the requirements of the Concept Plan Approval, and on this basis, the number of bicycle parking spaces is considered acceptable.

### **Canterbury Development Control Plan No. 28 – Flood Management and Flood Proofing**

The proposed development has been assessed in accordance with the requirements of Council’s Development Control Plan 28 – Flood Management and Flood Proofing. The aim of the DCP is to ensure that development in flood prone land is designed and constructed to withstand the stresses of the highest probable flood and that development will not increase the flood hazard or cause flood damage to other properties during times of flooding.

Our Development Engineer has assessed the application and in consultation with our Design Engineers, adopted a series of conditions that are included in the recommendation below to ensure compliance with the requirements of DCP 28.

### **Canterbury Development Control Plan No. 29 – Crime Prevention through Environmental Design**

The proposed development has also been assessed against the relevant provisions of Council’s Development Control Plan No. 29 – Crime Prevention Through Environmental Design, which aims to promote design as a genuine crime prevention strategy through three main principles, namely natural surveillance, access control and ownership.

<b>Standard</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
Natural Surveillance	Fencing should be designed so that they are open and/or low in height	The development provides a number of ground floor apartments with courtyard fencing, designed so to permit surveillance of the street without impacting on privacy or amenity for future occupants	Yes
	Multiple units should address the street with provision of windows of habitable rooms at the front of the building	All apartments are designed so that they address the street permitting passive surveillance of the public areas from living spaces within each apartment.	
Access Control	Individual apartments should be clearly numbered and appropriate security for individual tenancies and communal areas	No details provided, but can be addressed by way of an appropriate condition of consent.	Yes
Ownership	Development designed to encourage and provide a sense of ownership and a ‘cared for’ image	Ground floor apartments with appropriate courtyard fencing will reinforce a ‘sense of ownership’ and ‘cared for’ image to discourage criminal activity.	Yes

As demonstrated in the above table, the proposed development satisfies the crime prevention objectives of Development Control Plan No. 29.

### **Canterbury Development Control Plan No. 32 – Notification Policy**

The development application was publicly exhibited and adjoining land owners notified in accordance with the provisions of Council's Development Control Plan No. 32 – Notification Policy. During this period, Council has received one letter of objection and a petition signed by twenty-two (22) persons raising concerns in relation to the proposed development. Some concerns have been raised during this period in relation to the Stage 2 of the Clemton Park Village Precinct, for the construction of three, three storey residential flat buildings containing 78 apartments, approved by Council on 9 August 2012. These matters are not relevant to the consideration of the subject application.

The submissions also raise concerns about the scale of the development, building heights and building envelopes, however, these matters have been previously considered as part of the Concept Plan Approval issues by the Department of Planning and Infrastructure, and this background and relevance to this application discussed throughout the body of this report. Nevertheless, issues raised more specifically regarding the subject proposal include local character, building height overshadowing issues, traffic, privacy and building height. Those matters not addressed elsewhere in this report are now discussed below:

#### Traffic Management

As noted previously, Major Project Concept Plan MP No. 07\_0106, and Project Application MP No. 08\_0087, was approved by the then Minister for Planning under Section 75O of the EP&A Act. This approval was subject to various 'Terms of Approval', 'Further Assessment Requirements' and a number of 'Statement of Commitments'. There were a number of traffic and parking related matters which were to be addressed and solutions considered and approved by Council's Local Traffic Committee prior to the commencement of work.

In June 2010, Council's Local Traffic Committee recommended that all of the works proposed by the applicant's traffic consultant be approved, subject to the applicant consulting with affected residents considering any responses received, advising the Committee of any actions proposed (if any) to address the concerns, and bearing all costs associated with the construction of the works.

Following consultations with residents, a further report was considered by Council's Local Traffic Committee at its meeting of 3 September 2012, where the Committee resolved to approve a range of traffic management measures in and around the Clemton Park Village development site in accordance with the requirements of the Concept Plan Approval.

#### Local Character

Concerns have been raised about the scale of the proposed development and that it is out of character with existing development in the locality. There is no question that the form and scale of development envisaged by the Concept Plan Approval is different to that existing in neighbouring residential streets. However, this application reflects the future character anticipated by the Concept Approval issued by the Department of Planning and Infrastructure for the Clemton Park Village Precinct.

### **Development Control Plan 37 – Energy Smart Homes (DCP 37)**

The DCP applies insofar as it aims to protect and maintain the solar access of immediately adjoining residential properties by ensuring that the private open space, clothes drying areas and at least one living room window receive two hours of sunlight between 9.00am and 3.00pm at the Winter Solstice. The proposed development is well separated from residential development located outside the Clemton Park development precinct and as such, will satisfy the above requirements of DCP 37. Solar access

within the development site is discussed in greater detail in an earlier section of this report.

#### **Canterbury Development Control Plan No. 45 – Landscaping**

The proposed development has also been assessed against the provisions of Canterbury Development Control Plan No. 45 – Landscaping. The development application was referred to Council's Landscape Architect for comment who has advised that who raised no objections to the proposed development subject to the imposition of a number of related conditions, and the proposal complies with the requirements of the DCP.

#### **Canterbury Development Control Plan No. 48 – Waste Management**

The proposed development has also been assessed against the provisions of Canterbury Development Control Plan No. 48 – Waste Management. The DCP requires consideration of the design and location of waste management facilities on site, details being provided of the levels of waste likely to be generated by demolition and construction phases of development and the on-going use of the development.

Amended details have been provided by the applicant to confirm the layout and the number of waste and recycling waste bins capable of being provided within the waste storage facility contained in Building C is adequate and satisfies the requirements of the DCP.

The amended arrangements also include a temporary bin presentation area located along the Victa Street frontage to service the early stages of the development pending the construction of the final waste storage areas in Building C. The proposed temporary structure is of sufficient dimension to service the first stages of the development. A condition shall be included on any development consent issued requiring the use of the temporary bin presentation area until the Occupation Certificate for Building C is issued.

#### **Canterbury Development Control Plan No. 51 – Access and Mobility**

The proposed development has also been assessed against the provisions of Canterbury Development Control Plan No. 51 – Access and Mobility. The DCP requires that access be provided in accordance with the Building Code of Australia and Australian Standard 1428.1 and 2. The DCP also states that in a car parking area containing more than ten spaces, one space designed in accordance with AS2890.1 is to be provided for every thirty-three spaces or part thereof.

The application was referred to Council's Disability Access Worker who has considered the proposal and raised generally no objections subject to the inclusion of a number of conditions of consent on any consent issued. In any event, the application must comply with the Disability (Access to Premises – Buildings) Standards 2010, and an appropriate condition is included in the recommendation below.

#### **Stormwater Management Manual – Specification 9**

Council's Stormwater Management Manual is designed to assist applicants provide adequate and appropriate stormwater drainage as part of their development and to assist in compliance with conditions of development consent. The development application and accompanying hydraulic documents were referred to Council's Development Engineer for comment who advises that no objections are raised to the proposed development subject to the inclusion of a number of standard conditions.

#### **Section 94 Contributions Plan 2005**

The provisions contained within Council's Section 94 Contributions Plan 2005 apply to development involving the construction of additional residential development that create further demands to improve and upgrade existing facilities, amenities or services.

The applicant is currently negotiating with Council regarding the implementation of a Voluntary Planning Agreement for the entire development site, although this process remains on-going and has not yet been finalised. As a result, we have no option, in the absence of an adopted Voluntary Planning Agreement, but to impose a Section 94 Contribution in accordance with the requirements of our Section 94 Contributions Plan.

The proposed development contains a total of 290 apartments and based on the floor area and bedroom configurations of the development, the proposal provides a total of 46 'small', 221 'medium' and 23 'large' apartments in accordance with the requirements of the Council's Section 94 Contributions Plan 2005 which reflected in Condition No. 14 below.

Having regard to the negotiations between the applicant and Council on the implementation of a Voluntary Planning Agreement for the entire development site, it is acceptable that the condition requiring payment of the Section 94 Contribution for this stage of the development be paid prior to the issue of an Occupation Certificate (rather than the release of a Construction Certificate) to allow the opportunity for this process to be finalised. Should this process not be completed, the contribution will need to be paid prior to the occupation of the building. This is also reflected in Condition No. 14 below.

### **LIKELY IMPACTS ON THE ENVIRONMENT**

The scale and built form of the proposed development are considered to be satisfactory. The proposal is not expected to have any detrimental impacts in terms of the natural or built environments, and the social and economic aspects, as discussed in the body of this assessment report.

### **SUITABILITY OF THE SITE**

These matters have been considered in the assessment of the development application. The proposed redevelopment of the site is permissible and not expected to have any detrimental impacts on the amenity of the locality. The proposed development is considered to be a suitable development in the context of the locality and the future character of the area.

### **PUBLIC INTEREST**

The proposed development satisfies the relevant requirements contained with various State Environmental Planning Policies, Council's planning instruments and development control plans. The proposal is generally consistent with the requirements of these policies as documented throughout this report. The proposal promotes the coordinated, orderly and economic use of the land and is not expected to have any significant adverse impacts on adjoining development. Approval of the applicant is therefore considered to be in the greater public interest.

### **CONCLUSION**

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

This application represents Stage 4 (the actual third stage of construction) of a five stage development concept for the redevelopment of the previous Sunbeam factory site approved by the Minister for Planning under Part 3A of the Environmental Planning and Assessment Act. Stage 1 of the development is currently nearing completion and Stage 2 has recently commenced construction.

The subject development is permissible with our development consent having regard to the Concept Plan Approval and the accompanying Order made under Section 75R(3A)

of the Environmental Planning and Assessment Act which amended the Canterbury Planning Scheme Ordinance to enable the approved mixed use development to be constructed over the entire development site.

The application has been assessed against the provisions contained in Canterbury Planning Scheme Ordinance (CPSO), the Canterbury Local Environmental Plan 2012, various state government and Council policies and development control plans. The proposed development generally complies with the requirements of these policies. Where the proposal fails to comply with specific requirements of Council's policies and controls, the proposal does meet the various terms of approval, assessment requirements and the statement of commitments contained in the overall Concept Plan Approval, which essentially carries most weight in the overall assessment of the subject development application.

The development application is recommended for approval subject to conditions.

**RECOMMENDATION:**

THAT the Joint Regional Planning Panel approve DA-348/2012 for the construction of four residential flat buildings of between five and seven storeys in height containing a total of 290 apartments and commercial café tenancy with basement car parking for 417 vehicles, landscaping and associated torrens title and strata title subdivision subject to the following conditions:

**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
  - 1.1. Details of:
    - Structural Engineering Plan including method of shoring during excavation
    - Building Specifications
    - Fire Safety Schedule
    - Landscape Plan
    - Hydraulic Plan
    - Sydney Water Notice of Requirements
    - Firewall Separation
    - Soil and Waste Management Plan
    - Ventilation of basement area in accordance with Australian Standard 1668.2
    - Compliance with the Disability (Access to Premises – Buildings) Standards 2010
    - Compliance with Conditions 8, 13, 15, 38, 58, 59 and 61 of this consent
  - 1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
  - 1.3. Payment to Council of:

Section 94 Contributions	\$3,142,587.31
Certificate Registration Fee	\$36.00
Long Service Levy	\$256,758.35
  - 1.4. If you appoint Council as your Principal Certifying Authority, the following fees are payable:

Construction Certificate Application Fee	\$140,559.00
Inspection Fee	\$37,834.00
Occupation Certificate Fee	\$14,135.00

Note 1: Long Service Leave is payable where the value is \$25,000 or more

under Part 5 Section 36 of the Building and Construction Industry Long Service Payments Act 1986.

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

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

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

#### BEFORE COMMENCING THE DEVELOPMENT

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

#### SITE SIGNAGE

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

#### GENERAL

4. The development being carried out in accordance with the plans, specifications and details for Clemton Park Residential Development, Lot 41, Project No. 5975, as set out in the table below except where amended by the conditions specified in this Notice:

Plan No.	Dated	Prepared By	Issue	Received by Council
DA03	8 August 2012	Kann Finch	F	21 January 2013
DA04	15 January 2013	Kann Finch	G	21 January 2013
DA05	17 January 2013	Kann Finch	G	21 January 2013
DA06	8 August 2012	Kann Finch	F	21 January 2013
DA07	8 August 2012	Kann Finch	F	21 January 2013
DA08	8 August 2012	Kann Finch	F	21 January 2013
DA09	8 August 2012	Kann Finch	F	21 January 2013
DA10	8 January 2013	Kann Finch	G	21 January 2013
DA11	8 January 2013	Kann Finch	G	21 January 2013
DA12	8 January 2013	Kann Finch	D	21 January 2013
DA13	10 August 2012	Kann Finch	C	21 January 2013
DA14	10 August 2012	Kann Finch	C	21 January 2013
DA15	10 August 2012	Kann Finch	C	21 January 2013
DA16	10 August 2012	Kann Finch	C	21 January 2013
DA17	10 August 2012	Kann Finch	C	21 January 2013
DA18	10 August 2012	Kann Finch	C	21 January 2013
DA19	8 January 2013	Kann Finch	D	21 January 2013
DA20	8 January 2013	Kann Finch	D	21 January 2013



5. In addition to Condition 4 above, the development shall be carried out generally in accordance with the Concept Plan Approval (No. MP07\_0106) as modified and all relevant terms of approval.
6. The development shall be constructed in four stages as shown on the Draft Strata Plan of Subdivision as follows:
  - Stage 1 will comprise 70 residential apartments (being Lots 1-70 inclusive (known as Building A) and development lots 71, 72 and 73).
  - Stage 2 Subdivision of Development Lot 71 comprising 64 apartments (known as Building D).
  - Stage 3 Subdivision of Development Lot 72 comprising 69 apartments (known as Building B).
  - Stage 4 Subdivision of Development Lot 73 comprising 87 apartments (known as Building C).
7. Finishes and materials, including the treatment of external walls, roofing, balcony balustrades, fences, windows and doors being in accordance with the details accompanying DA-348/2012 contained within the Architectural Design Report dated August 2012 prepared by Kann Finch. The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the external appearance of the building without the approval of Council.
8. Full details of the proposed boundary and courtyard fencing being submitted to Council for approval prior to the issue of a Construction Certificate. All fencing shall be erected in materials which are compatible with the construction materials and colour scheme to be used in the development.
9. The use of the commercial café tenancy shall be the subject of a separate development application for Council's assessment.
10. Four hundred and seventeen (417) off street car parking spaces being provided in accordance with approved DA plans. Car parking within the development shall be allocated in accordance with Condition A5 of the Concept Plan Approval. This shall comprise the following:
  - 1 space per one bedroom apartment (64 spaces)
  - 1.2 spaces per three bedroom apartment (244 spaces)
  - 2 spaces per three bedroom apartment (46 spaces)
  - 1 visitor space per 5 apartments (58 spaces)
  - 2 commercial spaces
  - 1 car wash space
  - 2 car share spaces
11. Resident and visitor car parking shall be clearly signposted at the entry to the car parking area.
12. Thirty-seven (37) of the above car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. The car spaces being allocated and marked in accordance with the Disability (Access to Premises – Buildings) Standards 2010.
13. Thirty-four (34) apartments within the development shall be adaptable and suitable for seniors or people with a disability in accordance with Clause 3 of Schedule 3 – Further Assessment Requirements of the Concept Plan Approval. Details of compliance shall be provided with the application for the Construction Certificate.
14. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury City Council's Section 94 Contributions Plan 2005, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area. The

amount of the contribution (as at the date of this consent) has been assessed as \$3,142,587.31 The amount payable is based on the following components:

Contribution Element	Contribution	Account No.
• Open Space Acquisition	\$1,514,289.99	711
• Recreation Facilities	\$254,135.16	712
• Community Services	\$805,791.62	713
• Environmental Amenity Improvements	\$313,832.72	714
• Traffic Control and Management	\$53,458.39	715
• Monitoring, research and administration	\$201,079.42	717

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 Occupation Certificate in accordance with the requirements of the Contributions Plan unless a Voluntary Planning Agreement has been entered into for the Clemton Park Village development which supersedes and takes into account these contributions.

15. The applicant shall prepare and submit, as part of the documentation for a Construction Certificate, a Construction Management Plan. This plan shall include the following:
  - (a) details of proposed hours of work and contact details of the site manager;
  - (b) proposed method of access to and egress from the site for construction vehicles;
  - (c) proposed method of loading and unloading of excavation and construction machinery and building materials;
  - (d) proposed areas within the site to be used for the storage of excavated materials, construction materials, waste storage containers and construction vehicles during the construction period;
  - (e) proposed traffic management measures to ensure safe ingress and egress from the site;
  - (f) proposed method of support to any excavation adjacent to adjoining properties or the road reserve;
  - (g) proposed methods to remove loose material from all vehicles and machinery before entering the road reserve and any run-off from the washing of vehicles and associated sediment control measures.
16. Erection of a fence or other measure to restrict public access to the site and to building works, materials or equipment when building work is not in progress or the site is otherwise unoccupied. Full details must be submitted to the Principal Certifying Authority with the Construction Certificate application.
17. All materials must be stored wholly within the Clemton Park Village development site boundaries and must not be placed on the footway or roadway.
18. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 a.m. - 5.00 p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays.
19. 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.
20. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.

21. 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.
22. 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.
23. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
24. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
25. The site must be provided with a vehicle washdown area at the exit point of the site. The area must drain to an approved silt trap prior to disposal to the stormwater drainage system in accordance with the requirements of Specification S2 of Council's Stormwater Management Manual. Vehicle tyres must be clean before leaving the site.
26. An entry/exit point must be provided to the site which will be constructed of a minimum of 40mm aggregate of blue metal or recycled concrete. The depth of the entry/exit point must be 150mm. The length will be no less than 15m and the width no less than 3m. Water from the area above the entry/exit point shall be diverted to an approved sediment filter or trap by a bund or drain located above.
27. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to walls being erected more than 300mm above adjacent ground surfaces to indicate the exact location of all external walls in relation to allotment boundaries.
28. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to the pouring of concrete at basement/ground/first/second/third/fourth and fifth floor slab level indicating the finished floor level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
29. All building construction work must comply with the National Construction Code.
30. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.  
In this condition:
  - (a) relevant BASIX Certificate means:
    - (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
    - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
  - (b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

#### ROADS AND MARITIME SERVICES

31. The layout of the car parking area associated with the development, including driveways, grades, turn paths, sight distance requirements, aisle widths, parking bay dimensions and loading docks shall be in accordance with AS 2890.1- 2004 and AS 2890.2- 2002.
32. The swept path of the longest vehicle entering and exiting the site, as well as manoeuvrability through the site shall be in accordance with Austroads. A swept path plan shall be submitted as part of the documentation forwarded with the

application for the Construction Certificate demonstrating compliance with this requirement.

33. The developer shall be responsible for all public utility adjustment works necessitated by the proposed development as required by the various public utility authorities and/or their agents.
34. All works/regulatory signposting associated with the proposed development are to be borne by the developer and at no cost to Roads and Maritime Services.

#### DILAPIDATION AND EXCAVATION

35. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property, all necessary repair or suitable agreement for such repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner prior to the issue of an Occupation Certificate.
36. Construction of the development, including excavation, foundations and retaining wall construction being carried out in accordance with the recommendations contained within the Geotechnical Investigation Report submitted with DA-348/2012.
37. 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.

#### DISABILITY ACCESS

38. Prior to the issue of a Construction Certificate, the applicant shall provide necessary details demonstrating full compliance with the requirements of National Construction Code, the Disability (Access to Premises - Buildings) Standards 2010, and relevant Australian Standards including AS1428, AS1735, AS2890 and AS4299.

#### CRIME PREVENTION MEASURES

39. Individual apartments should be clearly numbered and appropriate security for individual tenancies and communal areas. Access to the basement car parking area shall be limited to tenants and residents only with visitors to the property gaining access to the car parking area via an intercom system. Details shall be provided with the application for the Construction Certificate.
40. Adequate lighting being provided and maintained within both levels of the basement car parking area. In this regard, the car parking area shall be treated to ensure that the lux levels within the basement levels comply with the relevant Australian Standard.
41. All storage rooms within the basement level car parking area shall be fully enclosed and locked at all times to deter potential criminal activity.

#### ENGINEERING

42. That the stormwater system be constructed generally in accordance with the plans, specifications and details received by Council on 3 September 2012; drawing numbers 048-11C-300 Rev 2, 048-11C-301 Rev 2, 048-11C-400 Rev 2, 048-11C-500 Rev 2, 048-11C-501 Rev 2 prepared by Craig & Rhodes and as amended by the following condition.
43. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's Stormwater Management Manual - Specification 9 "A Guide for Stormwater Drainage Design".
44. Full width grated drains being provided across the vehicular entrance/exit to the site where internal areas drain towards the street, and be connected to the drainage system upstream of the silt arrestor pit and in accordance with Clause

- 4 of Council's Stormwater Management Manual - Specification 9 "A Guide for Stormwater Drainage Design".
45. An on-site stormwater detention system OSD must be provided if the post-development impervious area is greater than or equal to 70% of the total site area.
  46. Where OSD is required, three (3) copies of plans and calculations must be submitted prior to the issue of Construction Certificate to the Principal Certifying Authority PCA and Canterbury City Council, if Council is not the PCA. The plans must be prepared by a practicing Civil Engineer and include levels reduced to Australian Height Datum (AHD) and full details of the hydraulic evaluation of the entire stormwater drainage system. The details shall be prepared in accordance with Council's Stormwater Management Manual – Specification 9.
  47. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1<sup>st</sup> March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in appendix 7.5 of Council's Stormwater Management Manual – Specification 9.
  48. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.
  49. The levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, car parking areas, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
  50. Driveways, parking and service areas are to be constructed or repaired in accordance with the appropriate AUS-SPEC #1 Specifications: C242-Flexible Pavements; C245-Asphaltic Concrete; C247-Mass Concrete Subbase; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.
  51. The driveway grades shall be in accordance with Australian Standard AS 2890.1"Off-street Parking Part 1 - Carparking Facilities".
  52. All redundant vehicular crossings shall be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".

#### SUBDIVISION

53. The submission of a final plan of subdivision and associated documentation is required with each stage of the development as set out in Condition 6 of this consent.
54. The strata plan of subdivision shall be amended to remove reference to the creation of Lot 412 and the dedication of this area as public open space. The area in question shall become part of a communal open space area servicing

future occupants of the development, and also be accessible to the general public in accordance with Item 13 within Schedule 3 (Further Assessment Requirements) of the Concept Plan Approval. Details shall be provided on the final plan of subdivision referred to in Condition No. 53 above.

55. All easements required for the subdivision being shown on and registered in conjunction with the subdivision plan.
56. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.
57. Any necessary easements or restrictions are to be created and documents relative to such easements or restrictions are to be lodged with Land and Property Information NSW prior to the lodgement of the application for the Construction Certificate

#### WASTE MANAGEMENT

58. The internal dimensions of the temporary waste bin presentation area servicing the early stages of the development shall have minimum internal dimensions of 11.6 metres by 4.2 metres. Details shall be provided with the application for the Construction Certificate for Stage 1 of the development.
59. The temporary bin presentation area located along the Victa Street frontage of the site shall be provided with a setback of 1.5 metres to allow for the provision of screen planting along its north-eastern (front) elevation. In this regard, access to the facility shall be amended to the north-western or south-eastern (side) elevation of the building. Details shall be provided with the application for the Construction Certificate for Stage 1 of the development.
60. The temporary bin presentation area shall remain in operation until an Occupation Certificate for Building C (Stage 4) is issued.

#### LANDSCAPING

61. Landscaping of the site being carried out in accordance with AUS-SPEC #1 Specification C273-Landscaping and the approved landscape plan marked Drawing No. SK03, Issue J and Drawing No. SK04, Issue I, dated August 2012 prepared by Umbaco Landscape Architects, except where amended by the following condition:
  - 61.1 The landscape plan being amended to reflect those changes envisaged by Condition 59 of this consent. Details shall be provided with the application for the Construction Certificate.
62. The landscaping is to be maintained at all times to the Council's satisfaction.

#### SYDNEY WATER REQUIREMENTS

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

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the final plan of subdivision. A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority prior to the Construction Certificate being issued.

#### CRITICAL INSPECTIONS

64. Class 2, 3 or 4 Buildings
  - 64.1. at the commencement of the building work, and

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

Class 5, 6, 7, 8 or 9 Buildings

- 64.5. at the commencement of the building work, and
  - 64.6. prior to covering any stormwater drainage connections, and
  - 64.7. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
65. Section 81(A) of the EP&A Act 1979 requires that a person having the benefit of a development consent, if not carrying out the work as an owner-builder, **must notify the principal contractor for the building work of any critical stage inspections and other inspections that are to be carried out in respect of the building work**, as nominated in this development consent.  
To arrange an inspection by Council please phone 9789-9300 during normal office hours.

COMPLETION OF DEVELOPMENT

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

WE ALSO ADVISE:

67. This application has been assessed in accordance with the National Construction Code which took effect in New South Wales on 1 May 2011.
68. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
  - Structural Engineering work
  - Final Fire Safety Certificate
  - Waterproofing
  - Glazing
  - Section J of the Building Code of Australia
  - Mechanical Ventilation
69. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
70. Before you dig, call "Dial before you Dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance from the nearest cross street) for underground utility services information for any excavation areas.
71. No variation to the approved design and external appearance of the building (including colour of materials) will be permitted without further approval.
72. Compliance with the National Construction Code does not guarantee protection from prosecution under "The Disability Discrimination Act". Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021 199.
73. If you are not satisfied with this determination, you may appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 of the Environmental Planning and Assessment Act 1979.