

## **JOINT REGIONAL PLANNING PANEL (Sydney East Region)**

<b>JRPP No</b>	<b>2015SYE041</b>
<b>DA Number</b>	<b>DA-66/2015</b>
<b>Local Government Area</b>	<b>City of Canterbury</b>
<b>Proposed Development</b>	<b>Demolition of existing structures and construction of a mixed use development containing sixty eight (68) residential apartments over seven (7) ground floor business premises and three (3) level basement carpark</b>
<b>Street Address</b>	<b>570-574 New Canterbury Road, Hurlstone Park</b>
<b>Applicant / Owner</b>	<b>Prolet Constructions Pty Limited / Five Flamingoes Pty Ltd</b>
<b>Number of Submissions</b>	<b>Five submissions objecting to the proposal</b>
<b>Recommendation</b>	<b>Approval with Conditions</b>
<b>Report by</b>	<b>Spiro Stavis – Director City Planning Rita Nakhle - Senior Planner</b>

### **Assessment Report and Recommendation**

#### **EXECUTIVE SUMMARY**

- Council has received Development Application (DA-66/2015) for the demolition of existing structures and construction of a mixed use development containing sixty eight (68) residential apartments over seven (7) ground floor business premises and three (3) level basement carpark.
- This application has been referred to the Sydney East Joint Regional Planning Panel as per Schedule 4A(3) of Environmental Planning and Assessment Act 1979 because the proposed development has a capital investment value of greater than \$20 million.
- The subject site is zoned B2 – Local Centre under Canterbury Local Environmental Plan 2012 ('CLEP 2012') and the proposed development defined as 'shop top housing' and 'commercial premises' is permissible with our consent. The proposal involves a breach to the building height development standard under Clause 4.3 of CLEP 2012 which is supported by the provision of a Clause 4.6 submission by the applicant.
- The development application has been assessed against the provisions contained in State Environmental Planning Policy (State and Regional Development) 2011, State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy 65– Design Quality of Residential Flat

Development, Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and Canterbury Development Contributions Plan 2013. The proposal is found to generally be in compliance with the requirements of these policies.

- The development application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of Development Control Plan 2012. We received five submissions objecting to the proposal. Issues raised in the submissions and our responses are provided in the body of this report.
- The development application is recommended for approval subject to conditions.

## **BACKGROUND**

- The subject site was subject to a previous Development Application DA-94/2014 which proposed the demolition of all existing structures and construction of a mixed use development comprising 71 residential apartments, eight commercial tenancies and three levels of basement car parking for 145 vehicles. DA-94/2014 was submitted on 25 March 2014 and was refused by the City Development Committee on 13 November 2014.
- During the assessment period, on 19 August 2014, the applicant served Council with a Class 1 Appeal for the deemed refusal of the development application. The appeal was listed for Section 34 Conference at the Land and Environment Court Act 1979 on 30 September 2014. The applicant and Council were able to resolve a number of issues at the conference.
- Subsequently, the court hearing was held on 1, 2 and 8 December 2014. On 12 February 2015, the Land and Environment Court dismissed the applicant's appeal.
- The subject proposal has now been amended to comply with the building height plane at the rear of the site, being one of the main contentions in the court proceedings, with other associated design changes.

## **SITE DETAILS**

The subject site is irregular in shape and comprises six allotments with a combined site area of 2623.9sqm (calculated)/ 2642.7sqm (deed). The site is located on the southern side of New Canterbury Road and Garnet Street, Hurlstone Park. It is relatively flat and has a frontage of 80.175 metres to New Canterbury Road, a depth of 16.96 metres along the eastern side boundary and a depth of 45.72 metres along the western side boundary. The irregular nature of the allotments results in a variable width along the rear boundary. Part of the rear of the site shares a boundary with Duntroon Lane.

The corner section of the site on New Canterbury Road and Garnet Street was previously used as a Service Station, however has since been demolished and

remediation works have been undertaken. This section of the site is currently vacant. The western section of the site currently accommodates three single storey brick dwellings and ancillary structures. Vehicular access to the site is provided from New Canterbury Road and Duntroon Lane.



Aerial view of the subject site

Immediately adjoining the site to the west is 578-580 New Canterbury Road which contains a single dwelling and a single storey shopfront. A Development Application (DA-346/2014) was lodged on 12 August 2014 for this adjoining site proposing a shop top housing development. On 11 February 2015, prior to final determination of DA-346/2014, the applicant served Council with a Class 1 Appeal in respect of the deemed refusal of the subject development application. The matter is currently in the process of a Section 34 Conciliation Conference in the Land & Environment Court.

Land to the south (rear) of the site is within Zone R3 Medium Density Residential and comprises a mix of low density one and two storey dwellings and older style residential flat buildings fronting Duntroon Street.

The site is located in close proximity to a line of heritage listed cottages (12 – 20, 24 and 30) located on Garnet Street. Land uses to the north of the site include St Pauls Primary School and low rise commercial and shop top housing.

The wider surrounding locality is characterised by a mix of residential development and one and two storey buildings used for a mix of commercial, business and retail premises (see zoning map below).



Zoning of the subject site

## PROPOSAL

The applicant is seeking consent to demolish the existing structures and construct a mixed use development containing sixty eight (68) residential apartments over seven (7) ground floor business premises and three (3) level basement carpark. In detail, the proposed development comprises the following:

- Three levels of basement car parking for 145 vehicles, a loading area, a car wash bay and storage areas with entry from Duntroon Lane and exit through Garnett Street;
- Seven (7) business tenancies with a combined floor area of 945sqm on the ground floor;
- 27 x one bedroom apartments;
- 38 x two bedroom apartments; and
- 3 x three bedroom apartments.

The development provides 320 square metres of communal open space for future occupants. Communal open space within the development is provided in the form of landscaped courtyards at ground level and on Level 3 (4<sup>th</sup> storey) of the development.

The following photomontage is provided by the applicant to show the proposed street elevation of the development.



## STATUTORY CONSIDERATIONS

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

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy 55 – Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Building Sustainability Index) BASIX 2004
- State Environmental Planning Policy 65– Design Quality of Residential Flat Development
- Canterbury Local Environmental Plan 2012
- Canterbury Development Control Plan 2012
- Canterbury Development Contributions Plan 2013

## ASSESSMENT

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

- **State Environmental Planning Policy (State and Regional Development) 2011**  
Part 4 (Clauses 20 and 21) of State Environmental Planning Policy (State and Regional Development) 2011 applies to development in Schedule 4A to the EP&A Act to be determined by a regional panel. The proposal is for development with a Capital Investment Value of more than \$20 million and is therefore referred to the Sydney East Joint Regional Planning Panel ('JRPP') for determination.
- **State Environmental Planning Policy 55 – Remediation of Land**  
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.

A Human Health Risk Assessment has been carried out by Parsons Brinckerhoff. The report concludes that the site does not pose unacceptable health risks to the populations of concern in the context of a future high density residential or commercial development.

It is noted that the former use of the site as a Service Station (on 570 New Canterbury, Hurlstone Park) was decommissioned and remediated between June and August 2013. All buildings and fuel infrastructure has been removed from the site and previous environmental investigations and soil and groundwater validation works have been completed.

In any case, it is recommended that a condition be imposed requiring the applicant to submit a Detailed Preliminary Environmental Site Assessment after demolition of all structures and prior to any excavation or construction works, to the Principal Certifying Authority, in accordance with Clause 7 of SEPP 55 – Remediation of Land.

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

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

The subject site is located on New 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 referral to Roads and Maritime Services (RMS).

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

Clause 102 of the SEPP states that a consent authority must consider likely impacts from road noise and vibration for development adjacent to certain road corridors. In particular, the SEPP requires that for the purposes of a residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) *in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,*
- (b) *anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

The application has been accompanied by an Acoustic Report prepared by Acoustic Solutions P/L 4 March 2014 April 2014 which details various measures that are to be incorporated in the construction of the building to ensure compliance with the above requirements and safeguard the amenity of future occupants of the development. An appropriate condition is included in the recommendation requiring the development to be constructed in accordance with this report, and in accordance with Clause 102 of the SEPP.

The proposed development therefore meets the requirements of State Environmental Planning Policy (Infrastructure) 2007.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ('BASIX'), applies to the residential component of development and aims to encourage sustainable residential development. A BASIX Certificate No. 533584M\_04 dated 24 February 2015 accompanies this application, satisfying the relevant water, thermal comfort and energy requirements with the exception of natural lighting required to be provided to bathrooms to seven of the units (as specified on the Certificate but not shown on the relevant plans), which will be imposed as a condition of consent, if consent is issued.

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

This policy applies to residential flat buildings of three or more storeys and is required to be considered when assessing this application. SEPP 65 aims to improve the design quality of residential flat buildings across NSW and provides an assessment framework, the Residential Flat Design Code (RFDC), for assessing 'good design'. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. This documentation has been submitted.

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

#### Context

The mixed use development is consistent with the future character of the area and is a permissible use within the zone. Higher density residential development will be the characteristic of the area. The applicant has provided a design that is compliant with the rear setback requirements and rear building height plane providing an adequate separation from the nearest residential property at Garnet Street which increases incrementally in distance for each higher storey. The subject design is considered to be suitable given



the existing site context and constraints and given the opportunities of the site being a major development site on a corner location along a major road.

#### Scale

The scale of the proposed development is determined by the building height standards contained within the Canterbury Local Environmental Plan 2012 ('CLEP 2012') and the building envelope controls contained within our Development Control Plan 2012 ('CDCP 2012').

The proposed development complies with the building setback and building height plane requirements of CDCP 2012. In regard to building height, the variation proposed in the form of an additional seventh storey, is accepted on the basis that the site is a major development site and has been designed to ensure that the location and design of the additional storey has minimal impact on the amenity of neighbouring residents and streetscape presentation.

#### Built Form

The proposal achieves the built form objectives as it contributes positively to the streetscape and generally provides good amenity for residents. The proposed development addresses the sweeping corner of New Canterbury Road and Garnet Street with no bulk added on the north eastern corner of the site allowing the heritage listed properties to be viewed from New Canterbury Road. The street elevations along New Canterbury Road and Garnet Street are designed in a sympathetic manner that minimises the appearance of bulk and is designed to be consistent with the desired future character of the area.

#### Density

No specific floor space ratio or density controls apply to the subject development. The form and scale of the proposed development is consistent with the type of development contemplated by the DCP controls in a locality that is expected to undergo transition into the future.

#### Resource, Energy and Water Efficiency

The proposal has been assessed against BASIX and the required categories of water, thermal comfort and energy. The proposed development generally satisfies the relevant requirements, with the exception of natural lighting being provided to bathrooms to seven of the units, which will be imposed as a condition of consent, if consent is issued.

The RFDC requires that 60% of the units be cross ventilated. The plans and documentation submitted demonstrate that 63.2% of the dwellings will be cross ventilated, whereby 57.4% are considered to receive natural ventilation in the typical deemed to comply requirements of SEPP 65 and the additional 5.8% are expected to comply with the natural ventilation requirements due to their exposure to the prevailing winds for Sydney and to be able to take into account the potential for ventilation through the ventilated corridors.

In addition, the RFDC requires that at least 70% of the residential dwellings' living room and private open space receive sunlight between 9am and 3pm in



mid-winter. Details submitted by the applicant indicate that 63% of the units (43 units) receive 2 hours of sunlight between 9am and 3pm and overall 70.6% of the units (48 units) receive 2 hours of sunlight between 8am and 4pm. The applicant states that the use of the additional one hour in the morning and in the afternoon for assessment purposes, is consistent with the approach explicitly supported in the judgment by *Brown C.* in the matter of Botany Development Pty Ltd v Botany Council LEC 10360 of 2013 (at paras 79-87). The proposed development is relatively dense on a site that is irregular in shape, the use of the hours between 8-9am and 3-4pm for five units within the development, to meet the overall required total 70% of units receiving a minimum two hours of solar access, is therefore considered to be acceptable in this instance.

#### Landscape

The landscape plan has been reviewed by our Landscape Architect and is acceptable subject to conditions of consent.

#### Amenity

The proposed development will provide good levels of amenity for future occupants of the development, with adequate solar access, natural ventilation and privacy. In this regard, the proposal is generally consistent with the requirements of the Residential Flat Design Code.

The proposed apartments contain reasonable living spaces with direct access to areas of private open space in the form of courtyards or balconies.

The proposed development's compliance with the rear building setback and rear building height plane requirements ensures that the amenity for occupants of the adjoining sites to the rear of the site are adequately addressed and adverse impacts are minimised through the increased separation distances at the rear part of the site.

#### Safety and Security

Satisfactory provision for security is provided. The proposal has been reviewed in accordance with Council's Crime Prevention through Environmental Design controls outlined in Part 6.3 of CDCP 2012 and is consistent with these principles.

#### Social Dimensions and Housing Affordability

The proposed development is located in close proximity to public transport and retail precincts. The residential development will add to the range of dwelling size options within the City of Canterbury and will optimise the provision of housing to suit the social mix.

#### Aesthetics

The application is accompanied by a Design Verification Statement confirming that the proposed development achieves the design quality principles contained in the SEPP. The overall aesthetic of the building is suitably designed and is expected to positively contribute to the desired future character of the locality.

The proposal is generally consistent with the provisions of SEPP 65 and the Residential Flat Design Code prepared by the Department of Planning and Infrastructure.

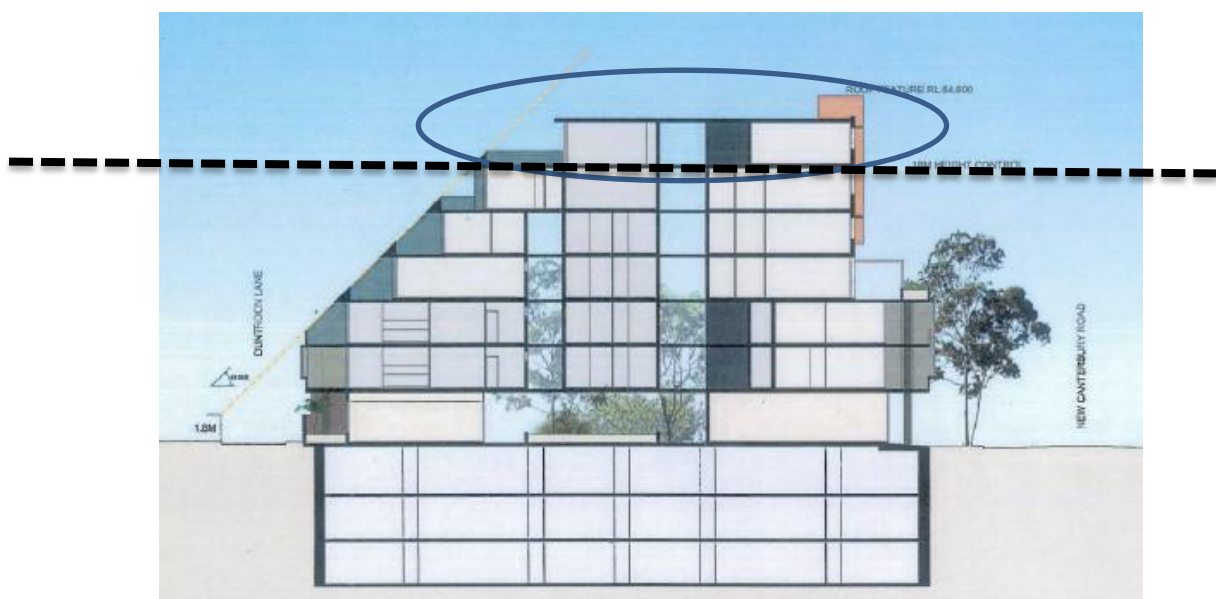
- **Canterbury Local Environmental Plan 2012**

The subject site is zoned B2 – Local Centre under Canterbury Local Environmental Plan 2012. The controls applicable to this development application are as follows:

Standard	Requirement	Proposal	Comments
Zoning	B2 – Local Centre	The proposed development is defined as 'shop top housing' and 'commercial premises' under CLEP 2012	The proposed development is permissible with consent under the Canterbury LEP 2012
FSR	No FSR applies	No FSR controls apply to the B2 zone under CLEP 2012	N/A
Building Height	The subject site is identified as being within an area where a height limit of 18 metres applies	The development has a maximum height of 21.6 metres (23 metres to the front architectural roof features)	No – refer to comments below

#### Building Height

The proposal development seeks a variation to Clause 4.3(2) relating to the maximum height of buildings. The diagram below illustrates that part of the proposed building which exceeds the 18 metre building height limit (18m shown in black dashed line). The height of 21.6 metres is to the roof above the top level, whilst the height of 23 metres is to top of the architectural roof features. The cross diagram below shows a side cross section of the proposed development as viewed from Garnet Street.



The variation to the height control relies on the major development sites provisions under Part 3.1.3 of Canterbury Development Control Plan 2012 which permit increased heights over that specified in CLEP 2012 and CDCP 2012. To qualify as a major development site, the site must be located within neighbourhood or town centres, have an area greater than 2000 square metres, must not exceed more than one storey and must not exceed a maximum of 15% of the overall site area. Part 3.1.3 of CDCP 2012 also requires design measures to be incorporated such as not locating the additional floor space at the front of the site to minimise the impacts of height and bulk of the development, it does however state that locating the additional floor space to accentuate a corner may be acceptable.

The proposed increase in height sought is considered in light of the site location, its context, and its total area of 2642.7 square metres. The proposed design complies with the 15% floor space of the overall site area requirement which equates to 396 square metres. The length and depth of the site allows for an appropriate transition in height along the site from the north and south. A 5 metre setback from New Canterbury Road, 26-32 metres from Garnet Street and 12-16.2 metres from the rear boundary is proposed to minimise the visual appearance of the seventh storey.

The proposed design is not strictly consistent with Part 3.1.3 where the additional floor space is located at the front of the site setback at 5 metres consistent with the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> storeys below.

In addressing this issue, the applicant's Urban Design and Planning consultant, Mr Michael Harrison of Architectus, provides the following comments:

*'The planning controls call for a setback to such an added floor – although allow for special treatment of corner sites. Providing such a setback would result in the top floor being very narrow (due to the requirements of a stepped rear setback control to maintain reasonable amenity to the neighbours in a different land use). I consider that such narrow floor plate would result in an odd looking built form – because of the 'wedding cake' effect on the built form. The design follows the rear stepped control where the stepping is important for interface reasons (and reinforced by the recent Court case). To have a step in the street elevation as well would result in an excessively stepped form and be visually discordant. Consequently, I consider that the planning controls allow for 7 storeys on such large sites and that a setback to the top floor is inappropriate and unnecessary given the unique circumstances of the site in relation to neighbouring development as described above.'*

*The DCP allows for street corners to be reinforced by additional height. The site is both on a street corner and a bend in New Canterbury Road so it is quite visible from long distances along New Canterbury Road unlike many other sites. It could be considered to have a landmark quality due to such visibility. The whole site acts like a corner site given its landmark location in the larger visual context. At the closer visual context of the street corner itself,*

*the site narrows and there needs to be transitional lower heights with respect to the heritage items nearby. Consequently, in my opinion, the architectural design is sensitive to the close urban context as well as the wider urban context by stepping down at the actual street corner while providing additional height for the main part of the building because it is the main part of the building that will be read in the larger streetscape of the long views.*

*It is noted that the Guidelines for Mixed Use Development prepared by the Urban Design Advisory Service for the NSW Department of Planning encourages “allowing corner buildings to rise one or two storeys higher than the surrounding height limit, where appropriate”. That is, the planning controls and the proposal are consistent with good practice urban design.*

The comments above are accepted and it is agreed that the front setback proposed for the seventh floor is acceptable and is consistent with the objectives of Part 3.1.3 of CDCP 2012 in facilitating the full potential of land by accommodating higher densities where appropriate.

In considering the reasonableness of varying our building standard, consideration must also be given to the impact the variation will have on adjoining properties. The variation to the height standard, being predominantly the addition of the seventh storey, will not create an unreasonable additional overshadowing, privacy or amenity impact for occupants of the surrounding locality, greater than what a complying development would impact. Particularly in regard to overshadowing, this has been tested by the applicant’s expert consultant, Mr Steve King, who concludes ‘...that between 9am and 3pm on June 21, the position and extent of the proposed seventh storey causes no additional overshadowing impact to neighbours, when compared to a six-storey DCP compliant building’.

It is therefore accepted that the proposed development is a ‘major development site’ and Part 3.1.3 of CDCP 2012 relevantly applies and thereby the additional seventh storey which largely contributes to the CLEP 2012 variation to the building height is worthy of support.

The necessary documentation in accordance with Clause 4.6 of CLEP 2012, justifying the proposed variation, has been submitted and is addressed below:

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| (3) | Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating: |
| (a) | that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.   |

#### Comment

The applicant provides the following information in addressing this point:

*‘... The site is a corner site with principal frontages to New Canterbury Road and secondary frontage to Garnet Street. The proposed development is set*

*back in accordance with the CDCP 2012 and is carefully designed with steps and articulation to minimise the impacts of height and bulk...*

*Clause 4.6 of CLEP 2012 replaces State Environmental Planning Policy 1 (SEPP 1) in the Canterbury local government area. The State Policy previously gave the decision maker jurisdiction to grant development consent to a development application notwithstanding contravention of the development standard contained in an environmental planning instrument.*

*SEPP 1 no longer applies to the land and Clause 4.6 now confers a similar planning discretion upon the consent authority.*

*The provisions of SEPP 1 differ from the provisions of Clause 4.6. The decision in *Wehbe v. Pittwater Council* [2007] NSWLEC827 is only then of indirect assistance in determining ways of establishing that compliance with a development standard in an environmental planning instrument might be seen as unreasonable or unnecessary. In *Wehbe* [42] [46] Preston CJ said that a way of proving well-founded objection under SEPP 1 is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting development consents departing from the standard and hence compliance with the standard is unnecessary or unreasonable.*

*The Chief Judge referred to the decision in *North Shore Gas Company v North Sydney Municipal Council* (Land and Environment Court, New South Wales, 15 September 1986, unreported) in which Stein J similarly held that compliance with a development standard was unnecessary or unreasonable for that reason, *inter alia*, that the standard has been virtually abandoned or destroyed by Council's own action.*

*The CDCP 2012 in the 'Major Development Sites' provisions referred to in this request qualifies the universal application of the maximum height of buildings development standard in Clause 4.3 of CDCP 2012. The Council has expressly stated in the DCP that on a major development site an extra storey above 18 metres is permitted provided the floor area of the extra floor is no more than 15% of the land area. This serves a rational planning objective to encourage site accumulation and consolidation and accommodate higher densities on major development sites.*

*The justification provided above by the applicant is accepted in the circumstances of the subject case in addressing Clause 3(a).*

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

The applicant provides the following information in addressing this point:

*'...the subject site is zoned B2 Local Centre Zone under CLEP 2012 and is not subject to a floor space ratio (FSR) development standard. The objectives*

*contained within the CLEP 2012 relating to the FSR development standard are to control the bulk and scale of development.*

*The B2 zone is narrow linear strip on the southern side of New Canterbury Road. The strip is undergoing urban renewal and revitalisation as strategically envisioned by the Council, the Department of Planning and the Minister in the making of CLEP 2012. The Council adopted after public notification and submissions, the major development site provision in CDCP on the same day as the CLEP 2012 commenced and so obviously intended its provisions to accompany the CLEP 2012.*

*The proposed development will facilitate the redevelopment of a number of sites at the one time, will increase densities in accordance with the Council's objective and will accentuate the corner of the site at Garnet Street*

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

Comment

The applicant's written statement adequately covers matters required by sub-clause 3.

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

It is accepted that the site is capable of accommodating the proposed additional height in accordance with the intention of Part 3.1.3 *Major Development Sites* in Canterbury Development Control Plan 2012, particularly to provide an enhanced corner building.

It is considered that the proposed development is in the public interest keeping with the objectives of 'Clause 4.3 Height of Buildings' of CLEP 2012 as the bulk of the development and its relationship with neighbouring properties and the streetscape is acceptable. The proposed development is also in keeping with the objectives of the relevant zones.

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| (b) | the concurrence of the Director-General has been obtained. |
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Comment

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

Having regard to the above commentary, it is considered appropriate in this instance to support the submission under Clause 4.6 of CLEP 2012 and vary the height standards to permit the proposed development.

#### Clause 5.6 - Architectural Roof Features

In relation to the architectural roof features, consent is required as stipulated under Clause 5.6 of CLEP 2012 for such roof elements that exceed the building height standards contained in Clause 4.3 of CLEP 2012. In this regard, the considerations contained under Clause 5.6(3) have been assessed with respect to the proposed roof features and satisfy each consideration. The roof elements assist in providing architectural interest along New Canterbury Road and to the overall design of the development and as such are accepted at their proposed height.

#### Clause 5.10 – Heritage Conservation

The subject site is located within close proximity to a line of heritage listed cottages (12 – 20, 24 and 30) located on Garnet Street and identified as I127, I128, I129, I130, I131, I132 and I133 respectively on the CLEP 2012 Heritage Map.

The cottages at 12 – 18 Garnet Street are a group of identical single storey rendered brick cottages with slate or tile roofs constructed in the late 1880's. They feature a faceted front façade with associated rendered corbelling, setback narrow entrances, porches and carved bargeboards.

20 Garnet Street is a substantial rendered house constructed c1880 and features a render rule to resemble ashlar stone. It also features patterned slate roof, bullnose verandah roof returns around front bay windows, original timber windows and doors, and verandah tiles.

24 and 30 Garnet street were constructed c1900 and are large double fronted brick and rendered masonry houses with slate roofs and patterned slate (no. 30) or terracotta ridge capping (no. 24). Verandah posts, brackets, valences, doors and windows, and chimneys are intact.

Given the period and style of construction as well as the largely intact nature of each dwelling, the proposed development is located at the top of what is a considerably intact streetscape.

A Heritage Impact Statement and subsequent Heritage Impact Assessment Advice prepared by GML Heritage were submitted in support of the development application. The subsequent advice has been provided following the Section 34 Conciliation conference that was subject of the Land and Environment Court appeal for the previous development application on the site.

In addressing the impact of the subject proposed development, the following is stated by GML Heritage:

*'...the revised design includes increased setbacks from the southern*



*boundary and a reduction in floor plates from level 2 upwards, thereby reducing the bulk and scale of the proposed development, particularly when viewed from Garnet Street.*

*This further reduction in bulk and scale will provide more physical and visual separation from the proposed development and the row of heritage listed homes on Garnet Street to the south.*

*This further reduction in bulk and scale will provide more physical and visual separation between the proposed development and the row of heritage listed homes located on Garnet Street to the south.*

*The proposed development would still be visible from within Garnet Street, and will clearly be of a substantially greater scale than the existing single storey context. However, the increased physical and visual separation that will result from the modifications to the design will further reduce the visual impact on the setting of the Garnet Street properties...these modifications had improved the articulation of the building form on its eastern façade by the incorporation of elements such as balconies and pergolas, light and shade, and a range of materials and colours...’.*

The development application has been reviewed by Council’s Heritage Advisor who provides the following comments in regards to the heritage considerations of the proposal:

*‘The original application was refused by the City of Canterbury and the subsequent appeal to the Land and Environment Court was dismissed, however, the issues relating to heritage were resolved...at the Section 34 Conciliation conference.*

*With any zoning that allows for large scale development in close proximity to a residential precinct there are competing planning objectives which result in some visual impact on surrounding residential development. The proposed new development however responds as far as practicable to its heritage context by setting back the proposal as far as possible and stepping the building form’.*

In conclusion, it is considered that the proposed development is acceptable from a heritage assessment perspective and is therefore consistent with the considerations under Clause 5.10 of CLEP 2012.

- **Canterbury Development Control Plan 2012**  
An assessment of the proposal against the requirements of Part 3 Business Centres of Canterbury Development Control Plan 2012 (CDCP) is detailed below.

### **PART 3 – BUSINESS CENTRES**

Standard	Requirement	Proposed	Complies
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Standard	Requirement	Proposed	Complies
Minimum Frontage	18 metres preferred where comprehensive redevelopment is proposed	80.175 metres to New Canterbury Road	Yes
Major Development Site	>2000sqm in site area may be able to accommodate increased heights of an additional one storey, must not exceed a maximum 15% of the overall site area (being 396sqm), and must not be located at the front of the site	Site area is 2642.7sqm with the proposed development having additional an additional 7 <sup>th</sup> storeys that has a floor area of 15% of the total site area, located at the front of the site	No - refer to comments below
Isolation of sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed	No isolation of neighbouring properties	Yes
Building Height	Floor to ceiling height in commercial min. 3.3m	3.3 metre	Yes
	Floor to ceiling height in residential min. 2.7m	2.7 metres	Yes
	Floor to ceiling height in car parking min. 2.8m	>2.8 metres	Yes
Building Depth	Commercial component 10-24 metres	Commercial units have at least one minimum depth of 10m	Yes
	In general, an apartment building depth of less than 18 metre is appropriate	All apartments have a depth of less than 18m	Yes
Building Setbacks	Ground, first and second floor may be built to street alignment.	Ground, first and second floor are built to street alignment	Yes
	Upper Level - Greater than four storeys, a 5m setback is required.	4 <sup>th</sup> , 5 <sup>th</sup> , 6 <sup>th</sup> and 7 <sup>th</sup> storeys setback 5 metres	Yes
	Establish 45 degree height plane projected at 6 metre from the residential zone boundary and two storey height limit applies	Proposal complies with the building height plane requirements.	Yes
Building Separation (as per SEPP 65)	6m up to 3 storeys 12m at 4 storeys 18m at 5 storeys	The site benefits from the separation provided by Duntroon Lane located adjacent to its southern boundary which is 6 metres in width. The site generally complies with the numerical requirements for building separation. The objective of this control has also been satisfactorily achieved.	Yes
Building Configuration	At ground floor level viable shop fronts for business activities are to be created	Viable commercial and retail tenancies have been provided at the ground floor level	Yes

Standard	Requirement	Proposed	Complies
Design Controls	Clearly identifiable entries. Provide main common entry.	Clear entry provided as main common entry	Yes
	Habitable room window to face communal areas	Habitable windows facing communal areas and perimeter of the development	Yes
	No obstruction to views from street to development and vice versa	Sufficient natural surveillance to areas surrounding building	Yes
Façades– New 3-5 storey buildings	To be in accordance with articulation controls of this DCP	Façade is in accordance with the articulation requirements as outlined in this table	Yes
Cantilevered Awning	Height of between 3.2m and 4.2m from natural ground/footpath, and width of 3 metres	To be conditioned	Yes
Articulation	Buildings should generally have a base and upper elements	Building has base and upper levels	Yes
	The design of the façade, including the quality and durability of its materials, should be emphasised.	The façade is emphasised by the horizontality of the lower storeys and the verticality of the bays of the upper storeys. Materials and colours also reinforce the modulation of the built form	Yes
	The 'façade' should have a strong sense of verticality, emphasised on the ground floor by modulation at intervals of 6-8 metres with some variation. Modulation above the ground floor may take the form of party walls, small bays, as well as variations in materials and colours.	Vertical emphasis is provided with the use of bays at the upper storeys that help to break down the long built form. The bays are of different colour and material to the building for greater emphasis	Yes
	A visual finish using expressed eaves, cornice or parapet elements with shadow lines is desirable.	Shadow lines to be created through the use of building design elements	Yes
	No blank walls are to face the public realm	Eastern elevation is adequately articulated	Yes

Standard	Requirement	Proposed	Complies
	Balconies should be used in moderation and be integrated into the overall composition of the façade. They should not be implemented in a monotonous or repetitive configuration. This applies to both recessed and cantilevered balconies. Balconies may have masonry or metal balustrades. The latter should generally have a separation of the grilles and a handrail.	Balconies are integrated into the overall design of the façade. There is adequate variety in the balconies configuration between the lower and upper levels of the development. Balustrading is a mix of metal and masonry finishes.	Yes
	The majority of windows shall be vertically rectangular	An adequate and balanced mix of windows that are vertically and horizontally rectangular responding to the design of the development	Yes
Roof Design	Relate roof design to the desired built form and or context	Roof design is consistent with the desired built form and context of the area	Yes
	Design roofs to respond to the orientation of the site, for example, by using eaves and skillion roofs to respond to solar access.	Roof structure takes advantage of the northerly aspect of the site to provide maximum solar access	Yes
Service and Utility Areas	Integrated into the design of development and are not visually obtrusive	Service and utility areas integrated into the design adequately	Yes
	Unscreened appliances not to be visible from the street, communal area of driveway on the site. Air con units behind balustrades, screened recesses for water heaters, meters in service cabinets.	Appliances not visible from public areas	Yes
	Communal rooftop antenna to be provided	Antenna can be conditioned	Yes – to be imposed as a condition of consent
	Screen clothes drying areas from public view, storage space screened and integrated into design	Adequately screened	Yes
	Discretely locate mailboxes in front of property	Mailboxes to be provided from New Canterbury Road	Yes – to be imposed as a condition of consent
<b>Performance Controls</b>			

Standard	Requirement	Proposed	Complies
Visual Privacy	Locate and orientate new developments to maximise visual privacy between buildings	Design adequately addresses visual privacy issue through sufficient setbacks – however, on the lower levels (Levels 1, 2 and 3) that have lesser setbacks it is recommended that a condition be imposed requiring those balconies along the southern and eastern elevation to be provided with privacy screening	Yes
Private Open Space, Balconies, terraces & Courtyards	Combined private open space area should be a minimum of 10% of dwelling floor space	Combined private open space area exceeds the minimum 10% of dwelling floor space	Yes
	Primary 8sqm balconies for 1 bedroom dwellings and 12sqm for 2 & 3 bedroom dwellings	Balconies provide the minimum private open space requirements with the exception of Units 4.01-4.05 which are two bedroom units and provide balcony areas of 11sqm each. A condition is to be imposed to increase each of these balcony areas to 12sqm	Yes – to be imposed as a condition of consnet
	Full length balconies without articulation are not permitted	Articulation and building design elements incorporated to provide relief to balconies	Yes
	Primary balconies to be located adjacent to main living areas.	All primary balconies are accessible directly off living room	Yes
	Primary balconies to have minimum depth of 2 metres and be functional in dimensions	Minimum depth of 2 metres and functional in design	Yes
	Design and detail balconies in response to local climate	Balconies have been designed where achievable to have northern orientation to maximise solar access	Yes
	Communal Area: Min. 10% of site area as communal open space (Required 264sqm)	320sqm (12.1% of site area)	Yes
Internal Dwelling Space and Design	Dimensions and design of interiors to accommodate furniture typical for purpose of room	Typical furniture layout on plans	Yes
	Living room and main bedroom min 3.5m dimension	All living rooms and main bedrooms have at least one min dimension of 3.5m	Yes

Standard	Requirement	Proposed	Complies
	Secondary bedrooms to have minimum 3m width	All secondary bedrooms have at least one minimum dimension of 3 metres	Yes
	6m <sup>3</sup> per one bedroom dwelling 8m <sup>3</sup> per two bedroom dwelling 10m <sup>3</sup> per three bedroom dwelling	All units provided with adequate storage areas – to be reinforced as a condition of consent	Yes

As demonstrated in the above table, the proposed development complies with all requirements of CDCP 2012 with the exception of those relating to major development site. This matter is discussed below:

#### Major Development Sites

Part 3.1.3 of CDCP 2012 identifies sites that are larger than 2000sqm in neighbourhood and town centres as major development sites, where because of their size and location, may be able to accommodate increased height over that specified in the CLEP 2012 and the CDCP 2012. Part 3.1.3 of CDCP 2012 also requires design measures to be incorporated such as not locating the additional floor space at the front of the site to minimise the impacts of height and bulk of the development, it does however state that locating the additional floor space to accentuate a corner may be acceptable.

The site location, its context, and its total area of 2642.7 square metres allows for its consideration as a 'major development site' and thus being able to accommodate the proposed increase in height and associated floor area. The proposed design is not strictly consistent with Part 3.1.3 where the additional floor space is located at the front of the site setback at 5 metres consistent with the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> storeys below.

This matter of locating the additional 7<sup>th</sup> storey at the front of the site, along with the variation to the building height standard is discussed in detail above under Clause 4.6 of CLEP 2012. It is considered that the additional height and floor area proposed in the development, whilst not strictly consistent with the relevant considerations under Part 3.1.3, does present an effective built form outcome for the subject site, that utilises the opportunities offered by such a large corner site and can comfortably support the additional height without impacting on the surrounding development and is therefore supported.

## **PART 6 – GENERAL CONTROLS**

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

### Part 6.1 Access and Mobility

An 'Access Report' prepared by Accessibility Solutions (NSW) Pty Ltd dated 23 February 2015 was submitted with the development application which provides an assessment of the proposed development against the relevant access criteria.

Should this application be approved, then a condition is to be imposed requiring that the development must be constructed to comply with the Commonwealth

Disability (Access to Premises – Buildings) Standard 2010, and National Construction Code.

Part 6.2 Climate and Resource Efficiency

Part 6.2.6(iv) of CDCP states that for new buildings, that at least 70% of the residential dwellings' living room and private open space receive at least 2 hours of sunlight between 9am and 3pm in mid-winter. Details submitted by the applicant indicate that 63% of the units receive 2 hours of sunlight between 9am and 3pm and overall 70.6% of the units receive 2 hours of sunlight between 8am and 4pm. The applicant states that the use of the additional one hour in the morning and in the afternoon for assessment purposes, is consistent with the approach explicitly supported in the judgment by *Brown C.* in the matter of Botany Development Pty Ltd v Botany Council LEC 10360 of 2013 (at paras 79-87), and is accepted in this instance.

Further, Part 6.2.7(iii) states that natural cross ventilation must be provided to at least 60% of dwellings, and natural ventilation to 25% of kitchens in multi unit developments. The plans and documentation submitted demonstrate that 63.2% of the dwellings will be cross ventilated, whereby 57.4% are considered to receive natural ventilation in the typical deemed to comply requirements of SEPP 65 and the additional 5.8% are expected to comply with the natural ventilation requirements due to their exposure to the prevailing winds for Sydney and to be able to take into account the potential for ventilation through the ventilated corridors. It is also noted that more than 25% of kitchens have natural ventilation.

In regard to the development's impact on sunlight access to its adjoining neighbours, Part 6.2.6(vi) states that living room and principal area of private open space of adjoining properties must receive at least 2 hours of sunlight daily between 9am and 3pm on June 21. The applicant has provided shadow diagrams which show the effect of overshadowing created by this proposal on June 21. The diagrams demonstrate that the proposal will cast shadow over residential properties to the south of the site with the two adjoining properties to the south along Garnet Street being most affected from 9am to 3pm on June 21 in respect to shadowing impacts onto the openings along their northern elevations and their private open space areas, and thus not receiving the required minimum of 2 hours of sunlight. All other nearby residential properties to the south will continue to receive adequate amount of solar access in accordance with the minimum requirements.

In this regard, reference is made to the Land and Environment Court Planning Principle (from *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082, Senior Commissioner Moore) regarding solar access which in parts states:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At*



*higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

Given the orientation of the site, and its proximity to residentially zoned land at the rear, it is reasonable to accept this unavoidable shadowing impact in what is planned to be high density area along New Canterbury Road. Nevertheless, it is crucial to make an assessment of the overshadowing impacts of the development as proposed, compared to a development that is fully compliant with the requirements of CDCP 2012 and the provisions CLEP 2012 including the 18 metre building height limit.

With changes to the design including moving apartment 6.06 by between 300-600mm in northerly direction, removing the upper part of the substantial three storey 'frame' and corner feature at the south east corner and reducing the width of Apartment 6.05 by approximately 4 metre, it has been demonstrated that the position of the proposed seventh storey causes no additional overshadowing impact to neighbours, when compared to six-storey DCP compliant building.

Overall, the proposed development generally reflects the scale of built form anticipated and encouraged by Council for the subject site, and having regard to the planning principle above, it is not realistic to expect that solar access would be fully protected to those adjoining properties to the south.

#### Part 6.3 Crime Prevention Through Environmental Design

The proposed development will not contribute to creating opportunities for additional criminal activity and is consistent with the objectives and principles in Part 6.3 of CDCP 2012 relating to natural surveillance, access control and ownership. In any case, conditions are to be imposed on any consent issued relating to crime prevention and community safety matters.

#### Part 6.4 Development Engineering, Flood and Stormwater

The stormwater proposal submitted with the application has been assessed by our Development Engineer and is in accordance with our stormwater disposal requirements. No objection is raised subject to conditions of consent being attached to any consent granted.

#### Part 6.6 Landscaping & Part 6.7 Preservation of Trees or Vegetation

The landscaping proposal for the subject development has been reviewed by our Landscape Architect who has advised that no objection is raised from a landscaping perspective, subject to appropriate conditions, being imposed on any consent issued.

#### Part 6.8 Vehicle Access and Parking

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

Standard	Requirement	Proposal	Complies
Residential Units	27 x 1 bedroom (1 space each) 38 x 2 bedroom (1.2 space each) 3 x 3 bedroom (2 spaces each) = 79 spaces	99 spaces	Yes
	Visitor – 0.2 spaces per dwelling 13.6 spaces	14 Spaces	Yes
	One car wash bay	One car wash bay is provided in the basement 'B1' carpark	Yes
	Resident bicycle spaces – 1 space per 5 dwellings → 13.6 & Visitor bicycle spaces – 1 space per 10 dwellings → 6.8 <b>Total 20.4 spaces</b>	16 Bicycle spaces provided in the basement 'B1' carpark – to be conditioned that a parking area be provided for a total of 23 bicycles (including commercial spaces)	Yes
Commercial Units	Total of 945sqm calculated at 1 space per 30sqm → 31.5 spaces	32 spaces	Yes
	Bicycle parking 3 spaces for staff	16 Bicycle spaces provided in the basement 'B1' carpark – to be conditioned that a parking area be provided for a total of 23 bicycles (including residential spaces)	Yes

The proposed development is consistent with the relevant car parking and requirements in CDCP 2012.

In regard to traffic matters, the development application was supported by a Revised Traffic and Parking Assessment prepared by Traffic Solutions (dated 23 February 2015) which provides details of traffic generation, driveway locations, sight distance, car space dimensions and on site manoeuvring relating to the proposed development.

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

It is therefore considered that the proposed development is consistent with the relevant car parking and access requirements in Part 6.8 of CDCP 2012.

#### Part 6.9 Waste Management

The development application was referred to our Waste Service section and no objection has been raised in principle to the proposed development on waste management grounds subject to the imposition of conditions on any consent issued.

The proposed development generally complies with the design and numerical requirements of Canterbury Development Control Plan 2012.

- **Canterbury Development Contributions Plan 2013**

The provisions of our Section 94 Contribution Plan apply to the proposed development in that it will provide residential dwellings on the subject site. The proposed development attracts a contribution of \$768,164.04 for community facilities, open space and recreation, and plan administration.

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

#### **ADDITIONAL CONSIDERATIONS**

- **National Construction Code**

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

- **Proposed excavation works**

The proposed development involves excavation and construction works in close proximity to property boundaries and neighbouring properties. It has been recommended that a condition be imposed that requires the submission of a report by an accredited Engineer detailing the structural adequacy of the adjoining properties at 8 Garnett Street and 578 New Canterbury Road, Hurlstone Park to withstand the excavation works proposed.

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

- **Sediment and Erosion Control**

Standard conditions are included regarding the installation and maintenance of the sediment and erosion control measures as part of the pre and during construction phase of the development.

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

## **NOTIFICATION**

The development application was publicly exhibited and adjoining land owners notified in accordance with Part 7 of Development Control Plan 2012. We received five submissions objecting to the proposal. The submissions raised the following issues of concern, which are discussed below:

- **Concern that the proposed development is an overdevelopment of the site with excessive scale and is out of character with the area.**

### Comment

It is clear that the proposed development, in terms of bulk, height and scale, is different to existing development in the locality. Nevertheless, Council has adopted new planning controls in Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012 and this proposal represents a form and scale of development envisaged by these new controls that apply throughout the City of Canterbury including along New Canterbury Road.

- **Concern that the proposed development does not comply with the statutory controls relating to height in CLEP 2012 and does not qualify as a 'major development site' as per Part 3.1.3 of CDCP 2012**

### Comment

The proposed variation to Clause 4.3 of CLEP 2012, the use of Clause 4.6 to address the variation and the consideration of the proposed development as a 'major development site' under Part 3.1.3 'Major Development Site' are issues that have been assessed and addressed in detail in the relevant parts in the body of this report.

- **The impacts (traffic, parking, sunlight, environment etc.) of the proposed development and other recent development approvals within the locality resulting in more than 200 units within 200 metres of each other, must not be considered in isolation, but looked at from the bigger picture.**

### Comment

Section 79C of the Environmental Planning & Assessment Act, provides matters for consideration for Councils in assessing development applications. The subject development application has been adequately assessed against those matters and found to be acceptable and worthy of support. The issues of traffic, parking, sunlight access and environmental impacts have all been addressed in detail throughout the relevant parts in the report.

- **Concern that the proposed three levels of basement car parking present any environmental risk to the residents? What studies have been completed investigating this issue?**

Comment

A Human Health Risk Assessment has been carried out by Parsons Brinckerhoff. The report concludes that the site does not pose unacceptable health risks to the populations of concern in the context of a future high density residential or commercial development.

It is noted that the former use of the site as a Service Station (on 570 New Canterbury, Hurlstone Park) was decommissioned and remediated between June and August 2013. All buildings and fuel infrastructure has been removed from the site and previous environmental investigations and soil and groundwater validation works have been completed.

In any case, should consent be issued a condition is to be imposed requiring the applicant to submit a Detailed Preliminary Environmental Site Assessment after demolition of all structures and prior to any excavation or construction works, to the Principal Certifying Authority, in accordance with Clause 7 of SEPP 55 – Remediation of Land indicating that the land is suitable for the proposed use.

- **Concern that the proposed development is of a built form that is not appropriately balanced with the controls for development along the northern side of New Canterbury Road (under Marrickville Council) which has a maximum floor space ratio of 1.75:1 and a maximum height of 14 metres.**

Comment

The proposed development has been assessed against the relevant provisions of CLEP 2012 and the requirements of 'major development sites' in CDCP 2012 (discussed above in detail) and found to be consistent with the relevant considerations to support its proposed scale of built form.

- **Concern that the proposed development will generate additional traffic in the local area and demand for on street parking beyond what is capable of being accommodated for in the local area.**

Comment

As discussed previously under Part 6.8 Vehicle Access and Parking, the proposal provides sufficient car parking to meet the relevant parking requirements and on this basis is considered acceptable.

In regard to traffic generation, it is acknowledged that a development of this scale will result in increased traffic movements in and around New Canterbury Road, Garnet Street and Duntroon Lane. However, the increase is not considered to be beyond what is capable of being accommodated in the local road network.

The development application, which was supported by a Revised Traffic and Parking Assessment prepared by Traffic Solutions (dated 23 February 2015), was reviewed by our Team Leader Traffic and was also referred to the Roads and Maritime Services, who among other matters consider traffic generation, driveway locations, sight distance, car space dimensions and on site manoeuvring. The proposed development was considered satisfactory by both our Team Leader Traffic and the Roads and Maritime Services, subject to relevant conditions of consent being imposed should approval be issued.

- **Concern that the proposed development will compromise the safety of pedestrians and drivers with the significant increase in traffic, particular given the nearby narrow residential streets**

Comment

The access driveway into the basement carpark of the proposed development is provided from Duntroon lane and access out of is through Garnet Street. There is unlikely to be any conflict between vehicles using the basement carpark of the development site and pedestrian activity which would most occur along New Canterbury Road.

- **Concern is raised in regard to the potential future devaluation of neighboring properties**

Comment

There is no evidence to suggest that a loss of property value in monetary terms would be experienced by neighbouring residents as a result of the proposed development being approved. As such, this does not warrant a reason for refusal.

- **Concern is raised regarding the lack or limited open space on the development site**

Comment

The proposed development complies with the relevant requirement under Part 3.3.3 of CDCP 2012 which states that a communal open space area of at least 10% of the total site area be provided on redevelopment sites greater than 500m<sup>2</sup>. The proposed development provides a total communal open space area of 320sqm (or 12.1% of site area).

- **Concern that the proposed development will lead to increased noise impacts onto neighbouring residents**

Comment

It is likely that there will be some disturbances during the construction phase of the development, however, appropriate conditions can be imposed on any development consent to minimise such instances, including a condition that building operations be restricted to 7.00am and 5.00pm Monday to Saturday.

Once the development is constructed and operational, noise generated by the proposed development is likely to be limited to that of a domestic scale which

is not anticipated to have significant impacts on adjoining residential development.

- **The notification and consultation process for the proposed development did not include all affected residents (i.e. residents across Garnet Street and New Canterbury Road which are under Marrickville Council)**

Comment

The development application was publicly exhibited through an advertisement in the local newspaper, and adjoining land owners within the Canterbury LGA were notified in accordance with Part 7 of Development Control Plan 2012. Additionally, a letter was sent to Marrickville Council notifying them of the proposed development and to inform their residents.

- **Concern that the proposed development will have adverse heritage impacts**

Comment

The subject site is located within close proximity to a line of heritage listed cottages (No. 12 – 20, 24 and 30) located on Garnet Street and identified as I127, I128, I129, I130, I131, I132 and I133 respectively on the Heritage Map (LEP 2012). Clause 5.10 of CLEP 2012 requires consideration and assessment of the extent to which the proposed development may affect the heritage significance of the subject heritage items.

The development application has been reviewed by Council's Heritage Advisor who provides the following comments in regards to the heritage considerations of the proposal:

*'The original application was refused by the City of Canterbury and the subsequent appeal to the Land and Environment Court was dismissed, however, the issues relating to heritage were resolved...at the Section 34 Conciliation conference.*

*With any zoning that allows for large scale development in close proximity to a residential precinct there are competing planning objectives which result in some visual impact on surrounding residential development. The proposed new development however responds as far as practicable to its heritage context by setting back the proposal as far as possible and stepping the building form'.*

- **Concern that the proposed development will result in overshadowing onto neighbouring properties**

Comment

This matter has been discussed in detail under Part 6.2 of CDCP 2012 in the body of the report.



- **Concern is raised in regard to the privacy impact of the proposed development**

Comment

Any approval issued will be conditioned to require that the balconies along the southern and eastern elevations, on Level 1, Level 2 and Level 3, be provided with privacy screening made to cover total height of 1800mm using a combination of fixed and moveable panels and covering a minimum of two thirds of the length of the balconies.

## **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 and has been found to be satisfactory and worthy of support.

The proposed development is considered to be an appropriate active use of the prominent corner site along New Canterbury Road in Hurlstone Park and will provide a substantial contribution to the viability of this locality by providing for an active street frontage with generous commercial floor space, and supplying a diversity of housing choice.

As such, it is recommended that the development application be approved subject to conditions.

## **RECOMMENDATION**

THAT the Joint Regional Planning Panel approve Development Application DA-66/2015 for the demolition of existing structures and construction of a mixed use development containing sixty eight (68) residential apartments over seven (7) ground floor business premises and three (3) level basement carpark, 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 the relevant Construction Certificate:

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

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

Kerb and Gutter Damage Deposit	\$9693.00
Section 94 Contributions	\$768,164.04
Certificate Registration Fee	\$36.00
Long Service Levy	\$70,962.50

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

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

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

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

#### **BEFORE COMMENCING THE DEVELOPMENT**

2. Before the erection of any building in accordance with this Development Consent;
  - detailed plans and specifications of the building must be endorsed with the relevant Construction Certificate by the Council or an Accredited Certifier, and
  - 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
  - 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).
  - In the case of work which includes residential development, you must inform us in writing before the commencement of work of the following:
    - The name and contractor or licence number of the licensee who has contracted to do or intends to do the work; or
    - The name and permit number of the owner-builder who intends to do the work.

#### **SITE SIGNAGE**

3. A sign shall be erected at all times on your building site in a prominent position stating the following:
  - The name, address and telephone number(s) of the principal certifying authority for the work, and
  - 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
  - That unauthorised entry to the work site is prohibited.

#### **DEMOLITION**

4. Demolition must be carried out in accordance with the following:
  - (a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
  - (b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.

- (c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
- (d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
- (e) Demolition of buildings is only permitted during the following hours:  
7.00 a.m. – 5.00 p.m. Mondays to Fridays  
7.00 a.m. – 12.00 noon Saturdays  
No demolition is to be carried out on Sundays or Public Holidays.
- (f) Burning of demolished building materials is prohibited.
- (g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
- (h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.
- (i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
- (j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
- (k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
- (l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).
- (m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
- (n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines.  
Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of Australian Standard AS2601-2001: Demolition of Structure. Note: For further advice you may wish to contact the Global Lead Advice and Support Service on 9716 0132 or 1800 626 086 (freecall), or at [www.lead.org.au](http://www.lead.org.au).
- (o) Hazardous dust not being allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended.
- (p) Any existing accumulations of dust (eg. Ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems.

Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

**GENERAL**

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

<b>Drawing No.</b>	<b>Drawing Title</b>	<b>Prepared by</b>	<b>Dated</b>
200 – Rev DA	Demolition Plan	Ross Howieson Architects	23.02.2015
201 – Rev DA	Site Plan	Ross Howieson Architects	23.02.2015
203 – Rev DA-B	Basement B2 Plan (for Basement B3)	Ross Howieson Architects	11.05.2015
204 – Rev DA	Basement B2 Plan (for Basement B2)	Ross Howieson Architects	23.02.2015
205 – Rev DA-B	Basement B1 Plan (for Basement 1)	Ross Howieson Architects	11.05.2015
206 – Rev DA-B	Ground Floor	Ross Howieson Architects	11.05.2015
207 – Rev DA	Level 1 Plan	Ross Howieson Architects	23.02.2015
208 – Rev DA	Level 2 Plan	Ross Howieson Architects	23.02.2015
209 – Rev DA	Level 3 Plan	Ross Howieson Architects	23.02.2015
210 – Rev DA	Level 4 Plan	Ross Howieson Architects	23.02.2015
211 – Rev DA	Level 5 Plan	Ross Howieson Architects	23.02.2015
212 – Rev DA-B	Level 6 Plan	Ross Howieson Architects	11.05.2015
301 – Rev DA-B	North Elevation	Ross Howieson Architects	11.05.2015
302 – Rev DA-B	East Elevation	Ross Howieson Architects	11.05.2015
303 – Rev DA-B	South Elevation	Ross Howieson Architects	11.05.2015
304 – Rev DA	West Elevation	Ross Howieson Architects	23.02.2015
401 – Rev DA	Section 11	Ross Howieson Architects	23.02.2015
Section 07	Design Quality - Aesthetics	Ross Howieson Architects	23.02.2015

- The shared area adjacent to any disabled car parking space needs to be 2.4 metres in width, to comply with AS 2890.6.
- The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance

requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 – 2004.

- A total of 23 bicycle spaces are to be provided in Basement B1 for the proposed commercial (3) and residential (20) uses. All bicycle spaces are to be provided in accordance with AS2890.3.
  - Storage area of at least 6m<sup>3</sup> is to be provided for each one bedroom unit, and 8m<sup>3</sup> per two bedroom unit, and 10m<sup>3</sup> per three bedroom unit.
  - Balcony areas of at least 12m<sup>2</sup> are to be provided for each Unit 4.01, Unit 4.02, Unit 4.03, Unit 4.04 and Unit 4.05.
  - The bathroom and ensuite window(s) being translucent glass.
  - Communal rooftop antenna to be provided and connected to all units so that it is fully operational prior to the issue of an Occupation Certificate.
  - Mailboxes are to be provided at the front of the building along New Canterbury Road where the entrance to the residential lobby is located.
  - Cantilevered awnings must overhang the footpath by 3 metres and must be at a height of between 3.2-4.2m from natural ground / footpath.
  - The balconies along the southern and eastern elevations, on Level 1, Level 2 and Level 3, be provided with privacy screening made to cover total height of 1800mm using a combination of fixed and moveable panels and covering a minimum of two thirds of the length of the balconies.
6. Renewal or provision of fencing, attributable to the proposed development being the responsibility of the developer.
7. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury City Council's Section 94 Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The amount of the contribution (as at the date of this consent) has been assessed as \$768,164.04. The amount payable is based on the following components:

Contribution Element	Contribution
2013	
• Community Facilities	\$69,480.89
• Open Space and Recreation	\$679,138.06
• Plan Administration	\$19545.09

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

The contribution is to be paid to Council in full prior to the release of the Construction Certificate, (or for a development not involving building work, the contribution is to be paid to Council in full before the commencement of the activity on the site) in accordance with the requirements of the Contributions Plan.

8. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
9. 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.

10. 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.
11. All building construction work must comply with the National Construction Code.
12. Provide a Surveyor's Certificate to the Principal Certifying Authority at all floor levels indicating the finished floor level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
13. 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.
14. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
15. 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.
16. 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.
17. 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.
18. A single entry/exit point must be provided to the site which will be constructed of a minimum of 40mm aggregate of blue metal or recycled concrete. The depth of the entry/exit point must be 150mm. The length will be no less than 15m and the width no less than 3m. Water from the area above the entry/exit point shall be diverted to an approved sediment filter or trap by a bund or drain located above.
19. 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.
20. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
21. All disturbed areas must be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
22. An application being made to Council's City Works Division for the construction of a vehicular crossing either by Council or an approved contractor complying with City Works Division standards and at the owner's cost.
23. Toilet facilities shall be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
24. The implementation of adequate care during building construction to ensure that no damage is caused to any adjoining properties.
25. Erection of a hoarding/fence or other measure to restrict public access to the site and to building works, materials or equipment when building work is not in progress or the site is otherwise unoccupied.
26. Payment of an additional garbage levy for each new dwelling upon completion of work.

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

Construction periods of 4 weeks and under:

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

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

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

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, including the provision of natural lighting to at least one bathroom in Units 1.17, 2.14, 3.10, 4.10, 5.06, 5.08 and 6.06.

In this condition:

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

**DILAPIDATION & EXCAVATION**

31. A photographic survey of the adjoining properties at 8 Garnett Street and 578 New Canterbury Road, Hurlstone Park detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority and Canterbury City Council if Council is not the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority and Canterbury City Council if Council is not the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior



to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.

32. A dilapidation report prepared by an Accredited Engineer, detailing the structural adequacy of the adjoining properties at 8 Garnett Street and 578 New Canterbury Road, Hurlstone Park and their ability to withstand the proposed excavation, and any measures required to be incorporated into the work to ensure that no damage will occur during the course of the works, shall be submitted to Council, or the Principal Certifying Authority with the Construction Certificate. All costs to be borne by the applicant.

#### **ROADS & MARITIME SERVICES**

33. All buildings and structures are to be clear of the New Canterbury Road, road reserve (unlimited in height or depth).
34. Redundant driveway on New Canterbury Road shall be removed and replaced with kerb and gutter to match existing.
35. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS 2890.2 – 2002.
36. A Road Occupancy License should be obtained from Transport Management Centre for any works that may impact on traffic flows on New Canterbury Road during construction activities.
37. The proposed residential component of the development should be designed such that road traffic noise from New Canterbury Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.
38. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Details should be forwarded to:

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

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

39. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. The report and any enquiries should be forwarded to:

Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973  
Parramatta CBD NSW 2124  
Telephone: 8848 2114 Fax: 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the

owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

#### **ACOUSTICS & ENVIRONMENTAL HEALTH**

40. Carry out all recommendations in Part 6 of the 'Acoustic Report' as prepared by Acoustic Solutions P/L (dated 4 March 2014). Road traffic noise from Canterbury Road is to be mitigated by durable materials to satisfy requirements under Clause 102(3) of State Environmental Planning Policy (Infrastructure) 2007.
41. All activity being conducted so that it causes no interference to the existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.
42. The proposed use of the premises and/or machinery equipment installed, must not create noise so as to interfere with the amenity of the neighbourhood. If a noise nuisance occurs, the person in control of the premises must arrange for an acoustic investigation to be carried out (by an accredited Acoustic Engineer), obtain Principal Certifying Authority concurrence for the recommendations of the Consultant, and implement those recommendations so as to reduce the noise levels to the ambient noise level. The acoustic investigation is to be carried out by a suitably qualified acoustic consultant who has not been previously involved with the proposal.

#### **LANDSCAPING**

43. The landscape plan (Drawing no. LP.01 & LP.02) prepared by Site Design Studios submitted to Council on 25<sup>th</sup> February 2015 should be amended to include the following:
  - The communal open space must provide shelters for tables and seating adjacent the proposed barbeque facilities. **An amended landscape plan** providing details and materials of these facilities must be submitted to Council or Certifier prior to the issue of the Construction Certificate.
  - The Ground Floor Landscape Plan must indicate how the landscaping to the front of the development to New Canterbury Road, turf area to the central courtyard, or landscaping to the rear boundary to Duntroon Lane is to be achieved over the basement car park.
  - Minimum soil depths are required to landscaped areas on podium. These are as follows:
    - 100-300mm for turf
    - 300-450mm for groundcovers;
    - 500-600mm for small shrubs;
    - 600-750mm for medium shrubs;
    - 750-900mm for small trees with approximate soil area of 3.5m x 3.5m;
    - 1000mm for medium trees with approximate soil area of 6m x 6m; and
    - 1300mm depth for large trees with approximate soil area of 10m x 10m.The landscape plans are to be amended and submitted to Council or Certifier prior to the issue of the Construction Certificate to show ALL finished surface levels including levels to tops of walls to raised planters and planting on slab to provide adequate soil depths including the raised planters to Levels 3 and 5.
44. Mounding to the raised planter to the western boundary on the ground floor should be implemented to increase the soil depth for the proposed 3 x *Trachycarpus fortunei* (Common name: Chinese Windmill Palm) to reach the

recommended minimum soil depth of 1000mm for medium trees and 1300mm depth for large trees.

45. An alternative to turf is to be proposed to the central courtyard to the ground floor. This area will be undercover and received little sunlight making it difficult for turf to survive. A more attractive landscaped area utilising shade tolerant plants and raised planters is recommended to provide a more interactive space for residents and visitors and pleasant outlook that will last over time.
46. All existing property trees may be removed to accommodate construction. The removal of these trees is conditional on the planting of the 16 trees as shown on the submitted Landscape Plan LP.01 revision B.
47. The existing street tree 1 x *Callistemon viminalis* (Common name: Weeping Bottlebrush) located to the grass verge at the front of no. 572 New Canterbury Road may be removed. The existing street tree 1 x *Callistemon viminalis* (Common name: Weeping Bottlebrush) located adjacent the existing power pole on Garnett Street adjacent the proposed basement car park driveway entry may be removed. The removal of the trees is conditional on the replacement planting of 5 new *Lophostemon confertus* (Common name: Brush Box) street tree plantings to New Canterbury Road as shown on the submitted Landscape Plan LP.01 revision B. These trees are to be planted in coordination with improvements to the public domain and with consideration for existing and proposed street signage. These trees must be provided in 75ltr container size and planted in tree pits with minimum dimension 1000mm x 1500mm. The planting of these trees is to be carried out upon the completion of construction by contractors in accordance with AUS-SPEC Specification 0257-Landscape – Roadways and Street Trees. This document is available for purchase from Council.
48. **Plant Quality and Sizes:** All the tree supply stocks shall comply with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003). **Plant Pre-order:** All scheduled plant stock shall be **pre-ordered**, prior to issue of Construction Certificate or 3 months prior to the commencement of landscape construction works for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation shall include the date, name, address and contact details of supplier, and expected supply date.

#### **STORMWATER ENGINEERING**

49. The stormwater system be constructed in general, in accordance with the plans, specifications and details received by Council on 11<sup>th</sup> March 2015, drawing numbers, C00.01, C01.01, C02.01, C03.01, C04.01, and C05.01; prepared by abc Consultants structural and civil engineers and as amended by the following conditions, including:
- The kerb connection from OSD2 must be shown on plan.
  - The flow control orifice diameters for OSD1 and OSD2 must be shown on plan.
  - Details and a section of OSD2 must be shown on plan.
  - At least one main inlet to OSD 1 must discharge to the High Early Discharge chamber, preferably across the face of the dry screen arrestor.
  - The design must be supported with submitted calculations.
  - Overland flow paths to a public road must be provided for all surface areas in the development. It is not acceptable to discharge overland flow to adjoining

private properties. Where overland flow paths cannot physically be achieved the stormwater system draining these areas must be upgraded to capture and convey 100 year Average Recurrence Interval flows assuming 80% blockage of inlets and 50% blockage of conduits.

The amended design and calculations must be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

50. Certification from an accredited engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
51. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's DCP 2012, Part 6.4.
52. Full width grated drains being provided across the vehicular entrance/exit to the site where internal areas drain towards the street, and be connected to the drainage system upstream of the silt arrestor pit and in accordance with Clause 4 of Council's DCP 2012, Part 6.4.
53. 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 DCP 2012, Part 6.4.
54. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1<sup>st</sup> March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.
55. Full width heavy duty vehicular crossings shall be provided at the vehicular entrance and exit to the site, with a maximum width of 5.5 metres at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
56. 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.
57. The levels of the street alignments are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, carparks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary

information, payment is required at least 14 days prior to the levels being required.

58. 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.
59. The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities". In this regard the submitted plans must be amended to address the following issues:
- Intersections of circulation driveways, including ramps, with parking aisles do not permit the passing of two vehicles in accordance with Clause 2.5.2(c) of the Standard. In effect the ramps can only be used for one way vehicular travel at any given moment. A traffic management system must be provided to prioritise one way traffic movement on the circulation driveways, including ramps.
  - Manoeuvring onto internal ramps relies on vehicles moving across to the right hand side of the aisle which would create conflict with vehicles moving in the opposite direction. Adequate manoeuvring must be achieved central to the aisle. Swept path analysis must be submitted demonstrating compliance. Alternatively vehicular circulation movement between basement levels, including along parking aisles, could be included in a traffic management system expanded from the above issue.
  - The intersection areas between ramps and parking aisles must be designed for a B99 vehicle including manoeuvring and circulation clearances in accordance with Clause 2.5.2(c) of the Standard. The circulation clearance has not been provided. In this regard appropriate measures must be put in place to ensure that traffic circulating between basement levels travels at speeds less than 10 km/hr.
  - The intersection areas between ramps and parking aisles contain obstructions such as walls and columns at their boundaries. A further 300 mm clearance is required, in addition to the manoeuvring and circulation clearances, at these locations in accordance with Clause 2.5.2(c) of the Standard.
  - Shared spaces associated with disabled parking must be marked in accordance with Paragraph 3.2 of AS/NZS 2890.6: 2009 Parking facilities Part 6: Off-street parking for people with disabilities.

The amended plans must be certified by an appropriately qualified engineer and be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

#### **GEOTECHNICAL REQUIREMENTS**

60. The submitted Geotechnical Report provides an option that potentially utilises neighbouring properties and the roadway for support. The legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged with Canterbury City Council prior to the issue of a Construction Certificate.
61. Permanent rock anchors are not permitted in Duntroon Lane and Garnet Street and any proposed permanent or temporary rock anchors under New Canterbury

Road will require Roads and Maritime Service concurrence pursuant to Section 138 of the Roads Act.

62. Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent. Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.
63. Where temporary anchors are proposed to be used in Duntroon Lane or Garnet Street an Application must be made to Canterbury City Council for approval under Section 138 of the Roads Act 1993, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:
- Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.
  - Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
  - The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
64. As the proposed development includes significant excavation within the zone of influence of adjacent road reserves, an integrated Structural and Geotechnical Engineering report must be submitted prior to the issue of a Construction Certificate. The report must address the following issues at a minimum:
- The type and extent of substrata formations by the provision of representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum;
  - The appropriate means of excavation/shoring in light of the point above and proximity to adjacent property and structures. Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated;
  - The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby;
  - Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.
  - The basements must be of fully tanked construction such that pump-out systems are not required to drain the subsurface drainage system. Retaining walls must be entirely self supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure.

- Any retaining walls must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment. The Report must be prepared by suitably qualified Structural and Geotechnical Engineers and be submitted to the Canterbury City Council and the Principal Certifying Authority prior to the issue of a Construction Certificate.

65. The water table is 2500 mm below the surface and must not be drained. The architectural plans must be amended to ensure that the basements are fully tanked and that ground water can move around the constructed basements within the site. The amended plans must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

#### **PUBLIC IMPROVEMENTS**

66. All redundant stormwater kerb connections and 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".
67. The reconstruction of the kerb and gutter along all areas of the site fronting Duntroon Lane, Garnet Street and New Canterbury Road is required. Work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
68. The reconstruction of concrete footpath paving and associated works along all areas of the site fronting New Canterbury Road and Garnet Street is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
69. The construction of concrete pedestrian refuge paving 600 mm wide to the kerb face and associated works along all areas of the site fronting Duntroon Lane is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
70. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.

#### **CONTAMINATION & REMEDIATION**

71. The applicant/developer is to submit a Detailed Preliminary Environmental Site Assessment after demolition of all structures and prior to any excavation or construction works, to the Principal Certifying Authority, in accordance with Clause 7 of SEPP 55 – Remediation of Land.

#### **WASTE MANAGEMENT**

72. The waste bin storage areas / presentation areas are to be designed and constructed in accordance with Parts 6.9.4.1 and 6.9.4.2 of Canterbury Development Control Plan 2012.
73. The wall / partition with a doorway, proposed within the waste bin storage area closest to Garnett Street, is to be deleted.

74. Rubbish bins must only be compacted at a rate of 2:1. Recycling bins must not be compacted.
75. Unobstructed and unrestricted access must be provided to the waste bin storage area on collection days from 5.00am.

#### **CRIME PREVENTION & COMMUNITY SAFETY**

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

#### **DISABILITY ACCESS**

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

#### **CONSOLIDATION OF LOTS**

82. The site being consolidated into one allotment. The plan of consolidation being lodged and registered with the Land and Property Information NSW prior to the release of the Occupation Certificate or occupation of the building.

#### **SYDNEY WATER REQUIREMENTS**

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

#### **CRITICAL INSPECTIONS**

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

##### Class 2, 3 or 4 Buildings

- prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- prior to covering any stormwater drainage connections, and
- 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

- prior to covering any stormwater drainage connections, and



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

#### **ADDITIONAL INSPECTIONS**

85. 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.

#### **STREET NUMBERING**

86. The future street addressing for the subject development is to be 570 New Canterbury Road, Hurlstone Park.
87. All sub-property numbering must be unique.
- Retail unit numbering is to be Shop 1, Shop 2, Shop 3, Shop 4, Shop 5, Shop 6 and Shop 7.
  - Residential unit numbering is to be as follows (the first digit represents the floor level and the next two digits represent the unit number):
    - Level 1: 101, 102, ...117;
    - Level 2: 201, 202, ...216;
    - Level 3: 301, 302, ...311;
    - Level 4: 401, 402, ...410;
    - Level 5: 501, 502, ...508; and
    - Level 6: 601, 602, ...606.
88. It is required to collaborate with Council's Mapping and GIS Services for addressing both the residential and commercial/retail units within the development, prior to an Occupation Certificate being issued. In this regard, please contact Michael Czuczman on 9789 9506, or email to [michaelcz@canterbury.nsw.gov.au](mailto:michaelcz@canterbury.nsw.gov.au).

#### **COMPLETION OF DEVELOPMENT**

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

#### **WE ALSO ADVISE:**

90. This application has been assessed in accordance with the National Construction Code.
91. You should contact Sydney Water prior to carrying out any work to ascertain if infrastructure works need to be carried out as part of your development.
92. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
  - Air Handling Systems
  - Final Fire Safety Certificate
  - Glazing
  - Water Proofing
93. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
94. Private contractors shall submit an application and pay an inspection fee to Council seven days prior to commencement of any works on the footpath or roadway. No work shall be carried out without Council approval.

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