

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

Supplementary Report

JRPP Ref. No.	2015SYE041
D/A No.	DA-66/2015
Property	570-574 New Canterbury Road, Hurlstone Park
Proposal	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
Zoning	Zone B2 Local Centre under Canterbury Local Environmental Plan 2012
Applicant/Owner	Prolet Constructions Pty Limited / Five Flamingoes Pty Ltd
Report By	Spiro Stavis – Director City Planning Rita Nakhle - Senior Planner

SUMMARY

At its meeting on 17 June 2015 the Joint Regional Planning Panel deferred determination of the subject application based on the following:

- 1. The Panel voted unanimously to defer the determination of the application. The reason for this is that the Panel became aware that the notification of this application did not include the information that the Panel, rather than the Council, was the consent authority. In addition, it appears that properties on the other side of New Canterbury Road (who are in Marrickville) were not notified.*
- 2. The Panel requests the Council to rectify the above by re-notifying the application and ensuring that owners in Marrickville are included. The Panel also requests the Council to prepare a Supplementary Report at the end of the re-exhibition period, and no later than by the end of July 2015.*
- 3. Finally, the Panel requests the Council to re-visit the issue of the CI 4.6 variation of the height standard in its Supplementary Report in order to ensure that any variation is justified. This should be done in light of recent Land and Environment Court judgments dealing with the subject.*
- 4. Following receipt of the Supplementary Report, the Panel will set another date for a public meeting in order to determine the application.*

This Supplementary Report has been prepared to address the above items raised by the Panel.

Item 1 and Item 2 of the Panel Decision stated the following:

- 1. The Panel voted unanimously to defer the determination of the application. The reason for this is that the Panel became aware that the notification of this application did not include the information that the Panel, rather than the Council, was the consent authority. In addition, it appears that properties on the other side of New Canterbury Road (who are in Marrickville) were not notified.***
- 2. The Panel requests the Council to rectify the above by re-notifying the application and ensuring that owners in Marrickville are included. The Panel also requests the Council to prepare a Supplementary Report at the end of the re-exhibition period, and no later than by the end of July 2015.***

In addressing the above two items, the subject development application was publicly exhibited and adjoining land owners were notified in accordance with Part 7 of Development Control Plan 2012 and in accordance with Section 4.5 *Public Notification of Development Applications by Council* of the Joint Regional Planning Panels Operational Procedures. Further, a list of the adjoining properties/owners was obtained from Marrickville Council and notification was extended beyond the Canterbury LGA boundary and to those adjoining properties/owners within Marrickville LGA.

The end of the notification period was 15 July 2015, and Council received a total of 40 submissions (24 of which are pro forma submissions) objecting to the proposal. Overall, there were a total of 51 submissions which include those received during the first and second notification periods and those received outside notification periods.

Provided below is a table outlining and addressing the issues raised in all of the submissions.

<i>Issues</i>	<i>Comments</i>
<i>Concern that the proposed development is an overdevelopment of the site with excessive scale and is out of character with the area</i>	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.
<i>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</i>	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 this supplementary report, and in the original assessment report considered by the Sydney East Joint Regional Planning Panel at

<i>development site' as per Part 3.1.3 of CDCP 2012, and on this basis it cannot be demonstrated that the height standard is 'unreasonable or unnecessary'</i>	its meeting on 17 June 2015.
<i>The developer must have no 'right' to a 7th storey and must adequately address Clause 4.6 and its subclauses</i>	A detailed assessment of the variation to the building height standard is provided below under Canterbury Local Environmental Plan 2012.
<i>Clarification is sought on whether the current proposed design increases or decreases solar access received to the adjoining residential properties along Garnet Street when compared to previous proposal considered by the Court</i>	A Supplementary Opinion – Overshadowing Impact report, dated 21 July 2015, has been prepared by Steve King which concludes in that all times on June 21, overshadowing impact of the current DA proposal as amended is less than that of the DCP compliant 'rear setback envelope', which in turn is necessarily less than that of the 'LEC Scheme', given that the design was prepared with regard to larger 'side setback envelope'.
<i>Concern that the revised design of the proposed development involves minimal changes to the design which formed part of the Appeal to the Land and Environment Court which was dismissed. It further does not address any of the concerns of the residents.</i>	The revised design of the proposed development includes amendments to comply with the rear setback requirements and associated rear building height plane. This has in turn addressed and improved solar access and privacy impacts to the adjoining residential properties along Garnet Street, as well the impacts of visual bulk. These issues formed the main contention points in the Land and Environment Court Case and have been adequately addressed in the current scheme.
<i>The proposed development must be setback 6 metres from Duntroon Lane to address current shadowing impact</i>	The proposed development complies with Part 3.1.8(ii) of CDCP 2012 which states that a 'rear setback is not required if the land adjoins a lane'. It is noted that a setback is provided along the 4 th storey and increases at every storey above that to comply with the rear building height plane which intends to minimise amenity impacts on adjoining properties.
<i>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</i>	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.

<p><i>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?</i></p>	<p>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.</p> <p>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.</p> <p>In any case, should consent be issued a condition is to be imposed requiring the applicant to submit a Site Audit Statement prepared by Site Auditor accredited under the Contaminated Land Management Act 1997, certifying the suitability of the land prior to issuing the Occupation Certificate.</p>
<p><i>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</i></p>	<p>The proposed development has been assessed against the relevant provisions of CLEP 2012 and the requirements of 'major development sites' in CDCP 2012 (discussed in in detail in this supplementary report and in the assessment report considered by the Sydney East Regional Planning Panel at its meeting on 17 June 2015) and found to be consistent with the relevant considerations to support its proposed scale of built form.</p>
<p><i>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</i></p>	<p>As discussed in the assessment report considered by the Joint Regional Planning Panel at its meeting on 17 June 2015, under Part 6.8 Vehicle Access and Parking, the proposal provides sufficient car parking to meet the relevant parking requirements for both the business premises as well as the residential units, and on this basis is considered acceptable.</p> <p>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.</p> <p>The DA, 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</p>

	approval be issued.
<i>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 and school site</i>	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 likely occur along New Canterbury Road.
<i>Concern is raised in regard to the potential future devaluation of neighboring properties</i>	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.
<i>Concern is raised regarding the lack or limited open space on the development site.</i>	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 ² . The proposed development provides a total communal open space area of 320sqm (or 12.1% of site area).
<i>Concern that the proposed development will lead to increased noise impacts onto neighbouring residents</i>	<p>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.</p> <p>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.</p>
<i>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)</i>	In response to JRPP's decision at its meeting on 17 June 2015, the subject development application was publicly exhibited and adjoining land owners were notified in accordance with Part 7 of Development Control Plan 2012 and in accordance with Section 4.5 <i>Public Notification of Development Applications by Council</i> of the Joint Regional Planning Panels Operational Procedures. Further, a list of the adjoining properties/owners was obtained from Marrickville Council and notification was extended beyond the Canterbury LGA boundary and to those adjoining properties/owners within Marrickville LGA. All relevant plans and documentation were made available for public viewing at the local library and at Council's Administration Building.
<i>Concern that the proposed development will have adverse heritage impacts</i>	<p>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.</p> <p>The development application has been reviewed by Council's</p>

	<p>Heritage Advisor who provides the following comments in regards to the heritage considerations of the proposal:</p> <p><i>'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.</i></p> <p><i>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'.</i></p>
<i>Concern that the proposed development will result in overshadowing onto neighbouring properties</i>	This matter has been assessed and addressed in detail in the relevant parts in this supplementary report, and in the assessment report considered by the Sydney East Joint Regional Planning Panel at its meeting on 17 June 2015.
<i>Concern is raised in regard to the privacy impact of the proposed development</i>	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.
<i>Concern is raised in regard to the estimated cost of the development being over \$20 million</i>	The applicant has provided a Quantity Surveyors Detailed Cost Report, including an Elemental Cost Plan Breakup, prepared by a Registered Quantity Surveyors, which estimates the total development cost at \$20.325 million.
<i>Concern is raised in regard to the future potential viability of the ground floor business premises</i>	The proposed development is a permissible use in the subject zone of B2 Local Centre under Canterbury Local Environmental Plan 2012. Two of the objectives of this zone are to: provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area; and, to encourage employment opportunities in accessible locations. It is considered that the proposed development represents a development type that responds to its site zoning, which is in line with the desired future character envisaged to revitalise this part of Hurlstone Park.
<i>The development should contribute to the green credentials of the area</i>	The provisions of the Canterbury Development Contributions Plan 20132 apply to the proposed development attracting a contribution of \$775,077.54 to be paid by the developer to Council, which includes \$685,250.31 to be allocated towards Open Space and Recreation for the local area.
<i>Concern is raised in regard to the proposed methods of waste bin storage and disposal on the developed site</i>	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 (refer to Conditions 72-75).
<i>Concern is raised in regard to the potential of</i>	There is a significant distance of separation between the subject site and the nearby school site preventing any direct form of

<i>overlooking from the proposed units onto the playground of the school site across New Canterbury Road</i>	overlooking.
<i>The design of the proposed development is not consistent with SEPP 65 - Design Quality of Residential Flat Development and the Residential Flat Design Code</i>	An assessment under SEPP 65 is provided on Pages 7-10 in the original assessment report considered by the Sydney East Joint Regional Planning Panel at its meeting on 17 June 2015.
<i>Additional properties should be included in Conditions 31 and 32 regarding excavation</i>	Conditions 31 and 32 relate to excavation and the need for a photographic survey and dilapidation report for adjoining properties. The conditions originally listed two adjoining properties, however, three properties are now listed which are 8 Garnett Street, 10 Garnett Street and 578 New Canterbury Road.

Item 3 of the Panel Decision stated the following:

- 3. Finally, the Panel requests the Council to re-visit the issue of the Cl 4.6 variation of the height standard in its Supplementary Report in order to ensure that any variation is justified. This should be done in light of recent Land and Environment Court judgments dealing with the subject.*

In addressing the above item, a re-assessment of the variation to the building height standard has been carried out in light of a revised Clause 4.6 submission received by the applicant and in light of recent Land and Environment Court judgments dealing with this subject.

- 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 up to 21.6 metres to the top of the roof of the whole top level (excluding 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 up to 21.6 metres to the top of the roof of the whole 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 2,642.7m². 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(v) which states that *'to avoid creating the appearance of an additional storey, do not locate the additional floor space at the front of the site'*. The additional floor space is

located at the front of the site setback at 5 metres consistent with the 4th, 5th and 6th 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 not inconsistent with the objectives of Part 3.1.3 of CDCP 2012 in facilitating the full potential of land by accommodating higher densities where appropriate.

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 |
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| (a) | considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. |
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Comment

The applicant's planning consultant has provided the following comments in the revised Clause 4.6 to address this matter:

'SEPP No 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 Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 now confirms that the decision of Preston CJ in Wehbe v. Pittwater Council [2007] NSWLEC 827 is only 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 did say however that a way of proving a well-founded objection under SEPP 1 is to be 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 principle should apply to Clause 4.6 of the Canterbury LEP as well.

The Chief Judge referred to the decision in North Shore Gas Company v North Sydney Municipal Council (Land and Environment, New South Wales, 15 September 1986, unreported) in which Stein J similarly held that compliance with a development standard was not required where the standard has been virtually abandoned or destroyed by Council's own action.

The CDCP 2012 in the "Major Development Sites" provisions referred to previously in this request qualifies the universal application of the maximum height of buildings development standard in Clause 4.3 of CLEP 2012.

The Council has expressly stated in the DCP that on a major development site an extra storey above 18m 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 accommodating higher densities on major development sites.'

It is therefore accepted that the proposed development is a 'major development site' and Part 3.1.3 of CDCP 2012 relevantly applies to the subject site, and the variation to the building height standard for the proposed development.

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| (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.

The applicant has provided the following information in addressing the Objectives of Clause 4.3 Height of Buildings development standard in CLEP 2012 are:

(a) To establish and maintain the desirable attributes and character of an area.

The subject site is an important component of a new B2 Local Centre Zone. The development paves the way for urban renewal of an old service station site and 2 single detached residential dwellings. Single detached residential dwellings are now prohibited in the B2 Local Centre zone...the development is consistent with the revitalisation strategy of the Council for development along the New Canterbury Road corridor.

The development includes retail space, which will promote an active street front and improved amenity with comfortable and safe pedestrian use. It will provide for higher density residential development with the replacement of just 2 dwelling with 68 dwellings, offering a choice of housing stock to the market, including 1, 2 and 3 bedroom units comprising in part adaptable units.

The development will contribute to unification of development fronting Canterbury Road with the amalgamation of 6 lots into 1.

The existing built form is uncharacteristic of the planned future character of the locality nor worthy of retaining as it does not represent the type and form of development envisaged by the aims of Council's new planning framework for this business centre.

(b) To minimise overshadowing and ensure there is a desired level of solar access and public open space.

The applicant's Architect, Mr Ross Howieson of Ross Howieson Architects has prepared as part of the submission, detailed shadow diagrams to demonstrate the amount of shadow cast by the proposed building and its impact upon neighbouring properties.

It is noted that the shadow diagrams demonstrate that the additional increase in building height (i.e. part 7th storey) does not generate any increase in shadow to that cast by a fully compliant 18m building height scheme.

The part 7th storey actually casts shadow on top of the shadow already cast by a fully compliant 18m building height scheme.

To reinforce Mr Howieson's findings, and as a result of questions put by the JRPP about minimising overshadowing, Mr Steve King, a highly respected solar access expert was engaged by the applicant to review shadow impacts cast by the proposed building onto neighbouring properties.

It should be noted that Mr King has already been involved with the original project for this site as part of Land and Environment Court proceedings of Prolet Constructions Pty Ltd v Canterbury City Council [2014] NSWLEC 1021.

In reviewing this current DA scheme, Mr King, through detailed envelope modelling with the assistance of the project architect, Mr. Ross Howieson, has been able to measure the permissible building envelope, comparing the envelope to the proposed GFA, allowing him to conclude that the proposed building only occupies a total of 46% of the permissible building envelope. This aspect is quite critical in conforming with objective (b) of the height control in that the eastern wing of the building (Garnett Street end) is well within the allowable envelope, thereby increasing solar access to the neighbouring properties at 8 and 10 Garnet Street of a morning in mid-winter.

Mr King's Overshadowing Impact Assessment also compares the overshadowing of the building that was considered by the Land & Environment Court, Prolet Constructions Pty Ltd v Canterbury City Council [2014] NSWLEC 1021, the overshadowing generated by a permissible building height envelope and the overshadowing cast by the proposed building that forms part of the current DA scheme.

[Mr King concludes in his assessment that all times on June 21, overshadowing impact of the current DA proposal as amended is less than that of the DCP compliant 'rear setback envelope', which in turn is necessarily less than that of the 'LEC Scheme', given that the design was prepared with regard to larger 'side setback envelope'].

The envelope study demonstrates that the proposed development with a 46% building envelop minimises overshadowing to conform with the objective of the Building Height development standard. See **Table 1**.

Table 1

COMPARISON OF ENVELOPE AREA TO GFA			
envelope)	GFA (m2)	ENVELOPE (m2)	GFA (% of
GROUND	950	2422	39%
LEVEL 1	1298	2422	54%
LEVEL 2	1235	2422	51%
LEVEL 3	925	2223	42%
LEVEL 4	811	1625	50%
LEVEL 5	676	1416	48%
LEVEL 6	396	1204	33%
TOTAL	6291	13734	46%

(c) To support building design that contributes positively to the streetscape and visual amenity of an area.

The building design contributes positively to the streetscape, in this respect Godden, MacKay, Logan Heritage Consultants have reviewed the architectural design and have expressed full support...the building design will unify a section of the streetscape with a single architectural scheme. The development will modernise and thereby contribute to the visual amenity of the area with the additional storey emphasising the street corner consistent with fundamental urban design principles.

(d) To reinforce important road frontages in specific localities.

New Canterbury Road is an important road frontage in the Local Centre. The development will reinforce the road frontage by a unifying architectural scheme incorporating 6 allotments.

As “a major development site” the Council has advised the community that it qualifies for an additional storey. This establishes unique environmental grounds justifying the variation of the development standard. A fortiori, as it is a corner treatment, the additional height is justified.

As recommended in the Residential Flat Design Code the companion instrument to State Environmental Planning Policy 65 the building has a base, middle and top.

The proposed development is in the public interest because it is consistent with the objectives of the building height development standard as explained in the CDCP where major development sites are concerned.

The applicant has further provided the following information in addressing the Objectives for Development within the subject zone of B2 Local Centre which are:

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

The proposal will contribute to the range of retail, business and/or community uses that will serve the needs of people who live in, work in and visit the Canterbury local area, in particular those persons in Hurlstone Park. Such uses are all proposed to be deployed on the ground floor.

The development will encourage employment opportunities in accessible locations as the increased residential density will increase the residential and employment population in Canterbury and therefore encourage employment to service the needs of this increased population.

The location is highly accessible being on New Canterbury Road, a deemed classified road. New Canterbury Road is a transport corridor along which public transport services operate. The increased residential and working population on this site brought about by the approval of this development application will maximise use of public transport (both rail and bus services) and bicycle use is encouraged. Walking will also be encouraged as residents utilise nearby retail facilities and public rail and bus services on foot, reducing the need for the use of motor vehicles to come to or leave Hurlstone Park.

The development has a capital investment value of over \$20 million and will facilitate and support further investment in the B2 Local Centre zone. It will involve in itself economic growth and will facilitate further economic growth by encouraging others to invest in the revitalisation of the land adjacent to the New Canterbury Road corridor. The development is entirely consistent with the objective of facilitating development for an active diverse and well-designed local centre.

Accordingly, the JRPP as the consent authority can be satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6 (3) and that the proposed development will be in the public interest because it is consistent with the objectives of

the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

- (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 addresses the matters required to be demonstrated by sub-clause 3.

The applicant has provided a detailed statement justifying the variation to the building height development standard (Cl.4.3[2]) of CLEP 2012.

Our assessment of the variation has been made in light of recent court cases, on the basis of whether the environmental planning grounds for departure are sufficient in this particular case.

The proposed development is to be located on a prominent large corner site in B2 Zone Local Centre within Hurlstone Park. In a typical case given the size and corner location of such a site, Council through its controls in CDCP 2012 (Part 3.2.6) would encourage a design that would emphasise important corners and gateway sites with foreground treatments that would be visually prominent with favourable consideration given to variations to front setback requirements. Ultimately developments are able to achieve extra floor space along their corner elements as a consequence of satisfying Part 3.2.6 of the DCP which is for *'buildings emphasis at particular points strengthens the legibility of the urban structure'*.

Given the orientation of the site and its proximity to residentially zoned properties at the rear including a line of heritage listed cottages, the design is responsive to the locality by minimising the bulk and scale of the corner part of the site to reduce the visual and shadowing impacts onto the Garnet Street properties. This responsive design has meant that the development has not been able to take advantage of building up the corner part of the site and thus additional floor area that would have otherwise benefited other corner sites, has not been proposed for this corner site. It should also be noted that there is no floor space ratio control for the site. The proposal is responding to the urban context, i.e. reducing building bulk on the corner and consequently placing it in the form of a 7th floor level, and away from the corner and therefore minimising the potential impacts to the dwellings front Garnet Street.

It is therefore accepted that the proposal provides sufficient environmental planning ground in this particular case

- 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.

The proposal seeks to replace older, existing buildings and disused land with a permissible, generally compliant mixed use building. The design incorporates building elements and architectural features that aim to minimise potential overshadowing, whilst taking advantage of a prominent corner site. Any shadow impact from the portions of the building that do not strictly meet the numerical height limit will not cast a shadow beyond that of a complying development.

The proposed development is in the public interest and therefore is in keeping with the objectives of 'Clause 4.3 Height of Buildings' of CLEP 2012. The bulk of the development and its relationship with neighbouring properties and the streetscape has been intricately assessed and is acceptable, and is in keeping with the desired future character of the locality. The continued revitalisation and improvement of the streetscape benefits the community. The proposed development is also in keeping with the objectives of the relevant zones.

(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.

Item 4 of the Panel Decision stated the following:

4. *Following receipt of the Supplementary Report, the Panel will set another date for a public meeting in order to determine the application.*

This Supplementary Report has been prepared to be read in conjunction with the report considered by the Sydney East Joint Regional Planning Panel at its meeting on 17 June 2015.

This development application is set for determination by the Sydney East Joint Regional Planning Panel on 19 August 2015.

Additional Comments

Following the initial meeting of 17 June 2015, the applicant contacted Council to

discuss certain conditions imposed and propose their deletion or changes to their wording for certain reasons. In this regard, the following table provides an outline of those conditions and any changes that have been made including the reasons behind the changes:

Conditions (as originally proposed)	Conditions (as currently proposed)	Reasons for Change
<p><u>Condition 30</u> 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:</p> <p>a) relevant BASIX Certificate means:</p> <p>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</p> <p>ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and</p> <p>b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."</p>	<p><u>Condition 30</u> Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. In this condition:</p> <p>a) relevant BASIX Certificate means:</p> <p>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</p> <p>ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and</p> <p>b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."</p>	<p>The wording '<i>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</i>' have been deleted from this Condition, as the Applicant provided a revised BASIX Certificate No.533584M_06, dated 22 June 2015 which satisfies the relevant water, thermal comfort and energy requirements, whilst incorporating all the DA stage commitments on the relevant architectural plans.</p>
<p><u>Condition 64</u> 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</p>	<p>To be deleted and replaced with Conditions of Approval from NSW Office of Water</p>	<p>The applicant has provided correspondence from NSW Office of Water stating that '<i>on the basis of the review of numerous site investigations, NOW considers that the</i></p>

<p>Certificate. The report must address the following issues at a minimum:</p> <ul style="list-style-type: none"> • 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 		<p><i>volume of groundwater to be extracted for excavation purposes or for any remediation of perched groundwater or deeper groundwater flows, and the duration of dewatering, are not likely to be significant in terms of resource management. Therefore an authorisation for the extraction of groundwater for the proposed activities is not considered to be warranted at this time, since the development is likely to have only a minor interception of groundwater we do not require that the basement be tanked in regard to groundwater ingress. However, we do require that certain Conditions of Approval (ver 2015eC)...be issues and complied with so that the minor amount of dewatering to be undertaken is done so generally in accordance with the NSW Aquifer Interference Policy.</i></p> <p>In this regard, Condition 64 will be deleted and replaced with the NOW Conditions of Approval.</p>
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<p>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.</p> <ul style="list-style-type: none"> 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. <p>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.</p>		
<p><u>Condition 65</u> 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.</p>	<p>To be deleted – see comments above for Condition 64</p>	<p>See comments above for Condition 64</p>
<p><u>Condition 71</u> 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.</p>	<p>Preparation of a Site Audit Statement by Site Auditor accredited under the Contaminated Land Management Act 1997, certifying the suitability of the land prior to issuing the Occupation Certificate.</p>	<p>A Detailed Preliminary Environmental Site Assessment is not required for the subject site as remediation and validation have been completed. As such, the condition is to be amended to require a Site Audit Statement prior to issuing of Occupation Certificate. The applicant has provided details of the engaged Site Auditor -</p>

		Accreditation Number 0503
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Additional Changes to Conditions as Proposed by Council

- Conditions 31 and 32 relate to excavation and the need for a photographic survey and dilapidation report for adjoining properties. The conditions originally listed two adjoining properties, however, three properties are now listed which are 8 Garnett Street, 10 Garnett Street and 578 New Canterbury Road. Further, these conditions now include a sentence at the end which reads 'in the event that access is denied the applicant is to demonstrate in writing that all reasonable steps were taken to obtain access to the adjoining property, and any assessment will then be based of what can be observed externally'.
- Condition 9 relates to hours of building operations. It is to be deleted as its contents are repeated in Condition 29.

Conclusion

This supplementary report has addressed the outstanding items which were raised by the Sydney East Joint Regional Planning Panel at its meeting on 17 June 2015, and which formed the basis of deferring determination at that time.

The development application was publicly exhibited and adjoining land owners were notified in accordance with the relevant policies and procedures. The issues raised in the total submissions received throughout the overall DA process are summarised and addressed in this report.

Further, the issue of Clause 4.6 variation has been re-visited and addressed in detail, demonstrating that the proposed building height variation is justified, particularly in light of recent Land and Environment Court judgments.

This development application is now set for consideration and determination by the Sydney East Joint Regional Planning Panel on 19 August 2015.

This supplementary report should be read in conjunction with the original assessment report considered by the Panel on 17 June 2015.

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 should 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.

- (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:

Drawing No.	Drawing Title	Prepared by	Dated
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	23.02.2015

Drawing No.	Drawing Title	Prepared by	Dated
		Architects	
401 – Rev DA	Section 11	Ross Howieson Architects	23.02.2015
Section 07	Design Quality - Aesthetics	Ross Howieson Architects	23.02.2015

- The maximum building height of the development must be no more than 21.6 metres (RL 63.1), with the exception of the architectural roof features.
 - 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 6m³ is to be provided for each one bedroom unit, and 8m³ per two bedroom unit, and 10m³ per three bedroom unit.
 - Balcony areas of at least 12m² 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 \$775,077.54. The amount payable is based on the following components:

Contribution Element	Contribution
2013	
• Community Facilities	\$70,106.23
• Open Space and Recreation	\$685,250.31
• Plan Administration	\$19,721.00

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

development application was determined.

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

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

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, 10 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, should 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 should 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 should be borne by the persons entitled to act on this Consent. In the event that access is denied the applicant is to demonstrate in writing that all reasonable steps were taken to obtain access to the adjoining property, and any assessment will then be based of what can be observed externally'.

32. A dilapidation report prepared by an Accredited Engineer, detailing the structural adequacy of the adjoining properties at 8 Garnett Street, 10 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, should be submitted to Council, or the Principal Certifying Authority with the Construction Certificate. All costs to be borne by the applicant. In the event that access is denied the applicant is to demonstrate in writing that all reasonable steps were taken to obtain access to the adjoining property, and any assessment will then be based of what can be observed externally'.

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 should 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 should 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 25th 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 should 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 should 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 should be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation should 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 11th 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 should 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 should 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 should be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1st March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.

55. Full width heavy duty vehicular crossings should 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, carpark, 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 should 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. NSW Office of Water Terms of Approval

A. Prior to Construction

- i. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in a report provided to the Consent Authority prior to the commencement of construction.
- ii. The design and construction of the building must prevent any take of groundwater after construction by making any below-ground levels that may be impacted by any watertable watertight for the anticipated life of

the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high watertable elevations to prevent potential future inundation.

- iii. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
 - any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the watertable might naturally rise in the location immediately prior to the construction of the structure; and
 - any elevated watertable is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- iv. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

B. Requirements for dealing with groundwater during excavation

- i. If for any reason the take of groundwater during construction is expected to exceed the amount nominated in report No. E22556 GA of 26 May 2015 by Environmental Investigations Australia Pty Ltd, then an authorisation shall be obtained for the take of groundwater as part of the activity.
- ii. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- iii. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- iv. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application.
- v. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
- vi. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or

improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

65. *Deleted*

PUBLIC IMPROVEMENTS

66. All redundant stormwater kerb connections and vehicular crossings should 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. Preparation of a Site Audit Statement by Site Auditor accredited under the Contaminated Land Management Act 1997, certifying the suitability of the land prior to issuing the Occupation Certificate.

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 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.

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. Should the proposed excavation at the site result in the requirement for a significantly greater predicted inflow and subsequent dewatering volume, the NSW Office of Water should be consulted as soon as possible, and an authorisation may need to be obtained for the activity.
91. This application has been assessed in accordance with the National Construction Code.
92. 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.
93. 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
94. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
95. Private contractors should 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 should be carried out without Council approval.
96. 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.
97. 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.

98. 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.
99. 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.
100. 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.
101. 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.