

JOINT REGIONAL PLANNING PANEL (Sydney East Region)

JRPP No	2015SYE060
DA Number	DA-72/2015
Local Government Area	City of Canterbury
Proposed Development	Demolition of existing structures and construction of a ten storey residential flat building, with 88 residential units, all over 2 levels of basement parking accommodating 122 car parking spaces
Street Address	10B Charles Street, Canterbury
Applicant / Owner	Architecture & Building Works
Number of Submissions	Four submissions objecting to the proposal
Recommendation	Deferred Commencement Approval
Report by	Michael Brewer (Willana Associates)

Supplementary Assessment Report and Recommendation

1.0 EXECUTIVE SUMMARY

Reason for this Report

At its meeting on 21 October 2015, the Joint Regional Planning Panel (the Panel) considered a Development Application seeking to construct a ten storey residential flat building (RFB) on the Site. At this meeting, the Panel resolved to defer the determination of the application. The deferral was to enable the applicant to submit an amended Clause 4.6 Variation which demonstrates that compliance with the relevant controls is unreasonable or unnecessary in the circumstances of the site. The issues raised in the recent Court matter *'Four2Five v Ashfield Council'* were also to be addressed.

The purpose of this report is to detail the response provided by the applicant to address the concerns of the Panel and provide a recommendation for the determination of the application.

Conclusion

The application, supported by the revised Clause 4.6 Variation Request, satisfies the resolution of the Panel and should be approved as a Deferred Commencement Consent, subject to the recommended conditions detailed in Attachment 1.

2.0 BACKGROUND

The Development Application

The Panel was originally briefed on the development on 3 June 2015. Following concerns regarding height, floor space ratio (FSR), setbacks, quantum of private open spaces, landscaping, location of significant infrastructure assets, traffic and parking, waste management, internal amenity, setbacks and separation distances, the applicant submitted amended plans, making significant amendments in the process. These plans were the basis of the Assessment Report considered by the Panel at its meeting on 21 October 2015. The Assessment Report recommended a Deferred Commencement Approval be issued.

At its meeting of 21 October 2015, the Panel considered the application and resolved the following:

“Panel Decision:

1. *The Panel resolves unanimously to defer the application for the submission of an amended Clause 4.6 variation request.*

The proposal exceeds the relevant residential floor space ratio and the building height control. While a request to vary the standards under Clause 4.6 of the Canterbury LEP was submitted, it failed to justify the variations in terms of the issues raised in the recent Court matter 'Four2Five v Ashfield Council'.

The Panel requires demonstration that compliance with the relevant controls is unreasonable or unnecessary in the circumstances of the site.

Accordingly, the Panel requests that

2. *The applicant provide an amended Clause 4.6 variation request dealing with the matters raised in the Four2Five decisions. This information should be submitted to Council by Monday 26 October 2015.*
3. *Council provide a supplementary assessment report by Friday 30 October 2015 indicating whether the revised clause 4.6 request complies with the matters contained in point 2 above.”*

On 26 October 2015, the applicant provided an amended Clause 4.6 variation request to vary the building height limit and an amended Clause 4.6 variation request to vary the FSR.

This report provides an assessment of the above matters which were raised in the JRPP minutes and does not revisit any other matters identified in the original Assessment Report, as they have already been taken into account by the Panel in its consideration of the proposal at its meeting of 21 October 2015.

A Summary of Four2Five Pty Ltd v Ashfield Council

The issues arising out of *Four2Five Pty Ltd v Ashfield Council* involved the following appeals and judgements:

- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 ('Four2Five No 1'), where the appeal against the refusal of consent was upheld, subject to conditions;
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 ('Four2Five No 2'), where an appeal was made pursuant to S. 56A of the Land and Environment Court Act 1979 on a point of law with respect to one of the deferred commencement conditions imposed by the Commissioner. This appeal was dismissed; and
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 ('Four2Five No 3') where leave was sought to appeal the judgment in Four2Five No 2' and ultimately dismissed.

In Four2Five No 1, the Court held that the proposed development in that case (which sought a variation to the maximum height standard in the B4 Zone) was consistent with the zone objectives and also in the public interest because it was consistent with the objectives of the standard. However, the Court held that consideration also needs to be given to whether there are sufficient environmental planning grounds to justify contravening the development standard.

In the appeal, the Applicant's written Clause 4.6 submission put forward the proposition that the environmental planning grounds justifying contravening the standard were the benefits arising from the additional housing and the employment opportunities that would be delivered by the development having regard to its close proximity to railways, schools, the Ashfield town centre, etc.

The Court accepted that the proposed development would provide those public benefits but noted that *any* development for a mixed use in the B4 zoned land would provide those same benefits. The Court therefore held in this respect:

- That the grounds advanced by the Applicant in its Clause 4.6 submission are not particular only to the proposed development site; and
- That to accept a departure from the development standard in that context would not promote the proper and orderly development of land as contemplated by the controls applicable to the B4 zoned land which is an objective of the *Environmental Planning and Assessment Act 1979* (s5(a)(ii)) and which it can be assumed is within the scope of the "environmental planning grounds" referred to in clause 4.6(4)(a)(i) of the relevant Local Environmental Plan (LEP).

The Court subsequently upheld the appeal, granting a deferred commencement consent. The deferred commencement consent imposed conditions that (amongst other things), required the deletion of some of the units, thereby enforcing the height limit.

In Four2Five No 2, the Applicant sought to have the deferred commencement conditions relating to the deletion of the units removed, arguing that the

Commissioner in Four2Five No 1, had made an error of law in terms of the tests to be satisfied in a Clause 4.6 submission. The Court however upheld the Commissioner's findings with respect to the Clause 4.6 submission and dismissed the appeal.

In Four2Five No 3, the Applicant sought leave to appeal against the Judgement in Four2Five No 2, citing three grounds for appeal on a question of law. The Court refused leave to appeal, confirming the procedure and determination made by the Commissioner in Four2Five No 1 to be correct.

3.0 ASSESSMENT OF CLAUSE 4.6 VARIATION REQUEST

The proposal involves a relatively minor breach to the building height development standard under Clause 4.3 of Canterbury Local Environmental Plan 2012 ('CLEP 2012'), as well as a breach to the Floor Space Ratio (FSR) development standard under Clause 4.4 of the CLEP 2012. The Applicant has submitted separate Clause 4.6 submissions addressing each standard separately. These are provided as Appendix A to this Report.

The Panel, at its meeting of 21 October 2015, deferred a decision on the development application on the basis that the submitted Clause 4.6 Submissions did not "...*justify the variations in terms of the issues raised in the recent Court matter 'Four2Five v Ashfield Council'*". As the Applicant has noted in the amended Clause 4.6 Submissions, as a result of the Four2Five v Ashfield Council matters,

"...it is now necessary to demonstrate something more than simply achieving the objective of the standard. In this regard, a proposed development that contravenes the development standard, but as a result, achieves the objective of the development standard to a greater degree than a development that complied with the standard, would suffice."

Having reviewed the amended Clause 4.6 submissions in accordance with subclauses 4.6(3) and 4.6(4), it is considered that the Applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; that there are sufficient environmental planning grounds to justify contravening the development standard; 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.

Accordingly, it is considered that the Applicant's amended Clause 4.6 submissions have addressed the issues raised in the recent *Four2Five v Ashfield Council* matters.

CONCLUSION

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

The amended clause 4.6 submissions have been reviewed in light of the requirements of Point 1 of the Resolution of the Joint Regional Planning Panel at its

meeting on 21 October 2015. This report is supplementary to the original assessment report.

As a direct result of the application and the consideration of the matters detailed within this supplementary report the application is referred back to the Joint Regional Planning Panel for the Sydney East Region, as the consent authority, for determination.

The Applicant's amended Clause 4.6 submissions satisfy all of the requirements as set out by the Panel's resolution.

RECOMMENDATION

- A) THAT the amended Clause 4.6 submissions which satisfy the Panel's requirements be noted;
- B) THAT the Joint Regional Planning Panel approve Development Application DA-72/2015 for the demolition of existing structures and construction of a residential flat building development containing 88 residential apartments over a two (2) level basement carpark, in the following manner:

PART A:

THAT the State Environmental Planning Policy No.1 objection to vary Clause 4.3 and Clause 4.4 of the Canterbury Local Environmental Plan 2012 be supported.

Part B:

THAT Development Application 72/2015 be **APPROVED** subject to the following conditions:

1. The Joint Regional Planning Panel grants its consent to the development application as a "**DEFERRED COMMENCEMENT**" Consent under Section 80(3) of the Environmental Planning and Assessment Act 1979. The consent requires the applicant to provide evidence to Council, within 24 months, sufficient to satisfy the conditions listed below before the consent can operate. The deferred commencement condition is:
 - 1.1. On-site detention of stormwater must be incorporated into the proposed stormwater system for the site. Three (3) copies of plans and calculations must be submitted of the stormwater drainage design, incorporating on-site detention, to Canterbury City Council. The plans must be prepared by a practicing Civil Engineer and include levels reduced to Australian Height Datum (AHD) and full details of the hydraulic evaluation of the entire stormwater drainage system. The details shall be prepared in accordance with Council's DCP 2012, Part 6.4.
2. The following conditions of consent including any other conditions that may arise from the matters listed above, will be included in the development consent issued after the applicant provides information sufficient to satisfy Council in relation to the conditions of the deferred commencement consent.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier

prior to the issuing of a Construction Certificate:

1.1. Details of:

- Structural Engineering Plan including method of shoring during excavation
- Building Specifications
- Fire Safety Schedule
- Landscape Plan
- Hydraulic Plan
- Sydney Water Notice of Requirements
- Firewall Separation
- Soil and Waste Management Plan
- BASIX Certification
- Ventilation of basement in accordance with AS 1668.2

1.2. Evidence of compliance with Condition No's. 31, 35, 36, 50, 56, 57, 59 (59.1 – 59.8), 97, 100, 104, 105, 116, 117, 119, 120, 124 and 126 of this consent.

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

1.4. Payment to Council of:

Kerb and Gutter Damage Deposit	\$3,328.00
Section 94 contributions	\$1,025,818.52
Certificate Registration Fee	\$36.00
Long Service Levy	\$75,088.10
Long Service Leave Levy Fee	\$19.80

1.5. If you appoint Council as your Principal Certifying Authority, the following fees are payable:

Construction Certificate Application Fee	\$65,543.00
Inspection Fee	\$12,885.00
Occupation Certificate Fee	\$4,612.00

Note 1: Long Service Leave is payable where the value is \$25,000 or more under Part 5 Section 36 of the Building and Construction Industry Long Service Payments Act 1986.

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

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

Note 4: All 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.

Note 5: Section 94 Contribution payments are payable by cash, bank cheque or EFTPOS.

BEFORE COMMENCING THE DEVELOPMENT

2. Before the erection of any building in accordance with this Development Consent;

- 2.1. detailed plans and specifications of the building must be endorsed with a Construction Certificate by the Council or an Accredited

- Certifier, and
- 2.2. you must appoint a Principal Certifying Authority (either Canterbury City Council, or an Accredited Certifier) and notify the Council of the appointment (see Attachment – Notice of Commencement copy), and
 - 2.3. you must give the Council at least 2 days notice of your intention to commence erection of the building (see Attachment – Notice of Commencement copy).

SITE SIGNAGE

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

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 as outlined in the table below:

Prepared By	Drawing Reference	Issue	Date Prepared	Date received by Council
Architecture and Building Works Pty Limited	A-1000	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1010	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1020	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1030	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1040	B	17/8/2015	17/08/2015

Architecture and Building Works Pty Limited	A-1050	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1060	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1070	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1080	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1090	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1100	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1110	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1120	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1121	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1200	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1210	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1220	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1210	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1220	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1230	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1300	B	17/8/2015	17/08/2015
Architecture and	A-1310	B	17/8/2015	17/08/2015

Building Works Pty Limited				
Architecture and Building Works Pty Limited	A-1320	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1330	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1400	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1410	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1420	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1430	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1500	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1510	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1600	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1610	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1620	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1700	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1710	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1711	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1720	B	17/8/2015	17/08/2015
Architecture and Building Works Pty Limited	A-1800	B	17/8/2015	17/08/2015

Limited				
Isthmus Landscape Design	ISO171 DA1-3	A	10/02/2015	2/03/2015

6. Finishes and materials including the treatment of external walls, roofing , balcony balustrades, fences, windows and doors being in accordance with the photomontage and Schedule of Finishes prepared by Architecture and Building Works Pty Ltd as received by Council on 2 March 2015. The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the external appearance of the building without the approval of Council.
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 Canterbury Town Centre Development Contributions Plan, 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 \$1,025,818.52. 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 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.
9. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
10. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property, all necessary repair or suitable agreement for such repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner prior to the issue of an Occupation Certificate.
11. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 a.m. - 5.00 p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays.
12. Renewal or provision of fencing, attributable to the proposed development being the responsibility of the developer.
13. All development, including walls must be located within the property boundaries of the subject site.
14. A security system/swipe card system is to be installed within the lifts, which allows operation of the lift only to authorized levels within the building.
15. All access points to the building (including lifts and stairwells) must be restricted

to residents only through a security system. Visitors to the residential complex must be provided with access via the intercom.

16. Signage throughout the site is to be used to direct people to where they are meant to be. This will reduce excuse making and loitering opportunities for potential offenders.
17. 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.
18. 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.
19. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
20. 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.
21. The construction site must have soil and water management controls implemented as described in Specifications S1 and S2 of Council's Stormwater Management Manual.
22. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
23. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
24. Drains, gutters, roadways and access ways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
25. The site must be provided with a vehicle wash down area at the exit point of the site. The area must drain to an approved silt trap prior to disposal to the stormwater drainage system in accordance with the requirements of Specification S2 of Council's Stormwater Management Manual. Vehicle tyres must be clean before leaving the site.
26. A single entry/exit point must be provided to the site which will be constructed of a minimum of 40mm aggregate of blue metal or recycled concrete. The depth of the entry/exit point must be 150mm. The length will be no less than 15m and the width no less than 3m. Water from the area above the entry/exit point shall be diverted to an approved sediment filter or trap by a bund or drain located above.
27. All building construction work must comply with the National Construction Code.
28. 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.
29. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to the pouring of concrete at each floor slab level indicating the finished floor level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
30. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
31. Submission of a Soil and Water Management Plan, to the Principal Certifying

Authority **prior to the issue of the Construction Certificate**. The Soil and Water Management Plan must include details of:

- (a) property details (location, applicant, drawn by, date, scale)
- (b) accurate property description (property boundary)
- (c) contours
- (d) access point and access control measures
- (e) location and type of all sediment control measures
- (f) location of existing vegetation to be retained and undisturbed ground
- (g) any existing watercourse or drainage
- (h) material stockpile areas and storage and control methods
- (i) location of new drainage features (stormwater inlet pits)
- (j) revegetation proposals, including specifications on materials used and methods of application.

(NOTE: For guidance on the preparation of the Plan refer to the Soil and Water Management for Urban Development guidelines produced by the Southern Sydney Regional Organisation of Councils.

- 32. Where excavation is proposed adjacent to existing dwellings or a vacant property, the works shall be carried out in accordance with Part 3.1.1- Earthworks BCA and, the person/company responsible for doing the excavation shall give 7 days notice of intention to carry out the excavation works to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work. (An allotment of land also includes a public road and any other public place.)
- 33. Where erection or demolition of a building involves the closure of a public place, or where pedestrian or vehicular access is to be obstructed or rendered inconvenient, the premises is to be provided with a hoarding and or sufficient awning to be erected to prevent any substance from, or in connection with the work falling onto the public place.
- 34. The site is also to be kept illuminated between sunset and sunrise where it is likely to be dangerous for people using the public place.
- 35. A photographic survey/dilapidation report of the adjoining property at 2a Charles Street, Canterbury detailing the physical condition of the property, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, **shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate**. On completion of the excavation and building works and prior to 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. If damage is identified which considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this consent.
- 36. A geotechnical engineering report assessing the impact and safety of the proposed works is to be prepared by a suitably qualified and experienced geo practitioner and **provided to the Principal Certifying Authority prior to the issue of a Construction Certificate**. The report must include the results of subsurface investigations, involving either test pits to rock, or preferably the drilling of cored boreholes (to one metre below the proposed final excavation level). The report shall describe:

- An indication and nature and depth of any uncontrolled fill at the site.
 - An indication of the nature and condition of the material to be excavated.
 - Indications of groundwater or seepages.
 - Required temporary measures for support of excavations deeper than one metre adjacent to property boundaries.
 - Statement of required excavation methods in rock and measures required to restrict ground vibrations.
 - Other geo-technical information or issues considered relevant to design and construction monitoring.
- All findings and recommendations of the Report are to be followed and adhered to throughout the construction process.
37. The design and location of letterboxes being in accordance with Australia Post's "Requirements for Delivery of Mail to Residential Premises" published in February 1997, and being shown on the Landscape Plan at Construction Certificate stage.
 38. Prior to the occupation of the development a letterbox is to be provided for the Owners' Corporation.
 39. Prior to the occupation of the development a master antenna connected to the all dwellings on the site is to be provided.
 40. All bathroom, en-suite and laundry windows contain translucent glazing.
 41. 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, there placement BASIX Certificate; and
 - b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000."
42. All goods and materials being stored wholly within the building.
 43. No goods being stored or displayed on Council's footpath without the written consent of Council.

ACOUSTICS

44. Prior to the occupation of the development an acoustic assessment shall be undertaken to ensure that the recommended treatments and controls contained in the Acoustic Assessment Report prepared by Acoustic Logic Pty Ltd (Report Number 20150044.1, dated 16 March 2015) , submitted with DA-72/2015 , have been incorporated in the final design of the building.
45. Within thirty (30) days of the commencement of operations of the use of the premises, an acoustic compliance test is to be carried out by an acoustic engineer without the prior knowledge of the Management of the premises at the applicant's expense. Council will make arrangements for access to the nearest

residential premises and a Council Officer will be in attendance during the testing procedure. The compliance test is to determine the effect the activities on the amenity of the residential neighbourhood. If the effectiveness of the measures implemented to minimise any noise do not meet the required standard, then additional works need to be undertaken to bring the premises up to the required standard as recommended by the acoustic engineer.

CAR PARKING

46. Prior to the issue of a Construction Certificate, the applicant shall submit plans to the Council or the Principal Certifying Authority demonstrating that there is a clear path for vehicles at the entry point to the basement and to the ground floor parking area when entering/exiting the respective car parks to minimise any potential conflict.

The plans shall also demonstrate for the ground floor parking area, the location of the required 'Give Way' and holding area, as the access is only single lane. The 'Give Way' and holding area is to be provided within the car park for exiting vehicles, with entering vehicles being provided with the right of way.

47. A total of one hundred and twenty one (121) off-street parking spaces being provided, comprising of:
- One (1) car wash bay being allocated as common property;
 - One accessible car space being allocated to each accessible dwelling; and
 - One car space being allocated to all 1, 2 and 3 bedroom dwellings.
- The car spaces must be allocated and marked according to this requirement. If the development is strata subdivided, the car park layout must respect the above allocation.
48. The accessible parking spaces must comply with the dimensions of AS 2890.1 and have a firm, level surface with minimal crossfall. These spaces must be marked with the international symbol of disability.
49. Signage shall be erected to notify and allow people to use the designated spaces.
50. Parking facilities/storage for 34 bicycles is to be provided on-site for the development. . These details must be shown on the plan and submitted to Council or the Principal Certifying Authority prior to the issue of the Construction Certificate.

CRIME PREVENTION MEASURES

51. The storage units located in the vicinity of the car parking spaces must be fully enclosed and non-visible to deter potential offenders from breaking in as they are unable to see what contents are stored within each storage unit.
52. Internal car park structures such as concrete columns, solid internal walls and service rooms must contain portholes (cut outs) to open sightlines, increase natural surveillance and assist with light distribution. Details shall be provided with the application for the Construction Certificate.
53. The building and surrounding structures shall be treated with anti-graffiti paint to deter graffiti offenders targeting the building and its perimeter. Details shall be provided with the application for the Construction Certificate.

DISABILITY ACCESS

54. To fulfil the requirements of the Disability (Access to Premises – Buildings) Standard and AS1735, lifts that provide adequate space for a paramedic stretcher with minimum dimensions of 2100mm x 550mm must be provided. Details shall be provided with the application for the Construction Certificate.
55. To comply with the requirements of Part 7.5.1 of AS1428.1, all glazed doors and panels on a continuous accessible path of travel are to have a transom or luminance strip at a height between 900mm and 1100mm above the floor level. The strip is to provide a luminance contrast of at least 30% to its surroundings when viewed from either the inside or outside of the door. Details and compliance with this requirement shall be provided with the application for the Construction Certificate.
56. The development must wholly comply with all requirements of the Disability Discrimination Act 1992, Disability (Access to Premises – Buildings) Standard (2010), National Construction Code, AS1735.12: Lifts, Escalators and moving walks and Part 12: Facilities for persons with disabilities, at all times.

WASTE MANAGEMENT

57. Prior to the issue of the Construction Certificate, the following details must be submitted to Council for approval:
 - 57.1. The waste bin storage areas are to be designed and constructed in accordance with clause 6.9.4.1 and 6.9.4.2 of the CDCP 2012.
 - 57.2. Unobstructed and unrestricted access must be provided to the waste bin storage area on collection days from 5.00am. The bins must not be presented on the road.

ENGINEERING

58. That the stormwater system be constructed in general, in accordance with the plans, specifications and details approved by Council in satisfaction of the Deferred Commencement Condition and as amended by the following conditions.
59. 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.
60. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Council's DCP 2012, Part 6.4.
61. 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.
62. A Works-as-Executed plan must be submitted to Canterbury City Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board

issued 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.

63. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that Operation and Management Plans have been prepared and implemented for the on-site detention and basement pump-out facilities. The Plans must set out the following at a minimum:
 - a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
 - b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.
64. The Plan must be prepared by a suitably qualified professional and provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.
65. The Operation and Management Plans for the on-site detention and basement pump-out facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
66. 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.
67. 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.
68. Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent. Permanent rock anchors are not permitted in Charles Street.

Where temporary anchors are proposed to be used in Charles Street an Application must be made to Canterbury City Council for approval under Section 138 of the Roads Act 1993. 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:

- a) 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.
 - b) Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
 - c) The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
69. As the proposed development includes significant excavation within the zone of influence of the adjacent road reserve, an integrated Structural and Geotechnical Engineering report must be submitted prior to the issue of a Construction Certificate.

The report must address the following issues at a minimum:

- a) 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;
- b) 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;
- c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby;
- d) 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.
- e) The basement must be of fully tanked construction to at least one metre above the ground water level to ensure that ground water is not drained by 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.
- f) Any retaining walls must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment.

The Report must be prepared by suitably qualified Structural and Geotechnical Engineers and be submitted to Canterbury City Council and the Principal Certifying Authority prior to the issue of a Construction Certificate.

- 70. A full width heavy duty vehicular crossing shall be provided at the vehicular entrance to the site. 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".
- 71. 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.
- 72. The levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, carparks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
- 73. 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.

74. Development Consent does NOT give approval to undertake any works on Council property. An application must be made to Council under Section 138 of the *Roads Act 1993* for approval to undertake any works on Charles Street.

Councils approval must be obtained prior to the issue of a Construction Certificate.

The works must be constructed in accordance with any requirements attached to Councils approval and be completed prior to the issue of an Occupation Certificate.

Note: The cost of adjustment or relocation of any public utility service shall be borne by the owner/applicant. Where the finished levels of the new works will result in changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant.

75. The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890.1: 2004 Parking facilities Part 1: Off street car parking and AS/NZS 2890.6: 2009 Parking facilities Part 6: Off street parking for people with disabilities. In this regard the submitted plans must be amended to address the following issues:
- a) The finished levels within the property must be adjusted to ensure that the levels at the boundary comply with those issued by Council for the full width of the vehicle crossing. The longitudinal profile must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
 - b) Minimum headroom of 2200mm must be provided throughout the access and parking facilities and a minimum headroom envelope provided over disabled parking spaces in accordance with Figure 2.7 of AS/NZS 2890.6: 2009. Note that headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, ducts, etc and at any open garage door.
 - c) Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004.

The following headroom issues are specifically raised:

- i. The non-compliant headroom resulting from the over bonnet storage areas will be accepted if the following can be demonstrated:
 - Where there is a need for increased minimum headroom over any of the affected parking spaces this can be provided by collapsing the storage unit and storing it fixed to the wall.
 - Where there is a need for fully compliant headroom over the whole of any of the affected parking spaces the storage unit(s)

can be collapsed and removed from the wall for storage elsewhere.

- ii. The headroom at parking spaces 45 and 46 in Basement 2 must be increased to a minimum of 2200 mm over the whole of each of the parking spaces.
- d) The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle. Longitudinal sections must be provided along each outer edge of all ramps.
- e) Longitudinal sections along the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
- f) The width of the single sided parking aisles containing parking spaces 40 to 46 in Basement 2 and parking spaces 40 to 44 in Basement 1 must be increased to a minimum 6100 mm in accordance with Clause 2.4.2(d) of AS/NZS 2890.1: 2004.

The design must be certified by a suitably qualified Civil Engineer with NPER registration with the Institution of Engineers Australia and be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

PUBLIC IMPROVEMENTS

- 76. The development must comply with the Public Domain requirements set out in the Canterbury Town Centre Public Domain Strategy or subsequent City of Canterbury advice. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate fully satisfy the requirements of this condition.
- 77. 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.

SUBDIVISION

- 78. 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.
- 79. All easements required for the subdivision being shown on and registered in conjunction with the subdivision plan.
- 80. The submission of one final plan of subdivision and five copies.
- 81. The satisfactory completion of all conditions of this development consent prior to the release of the final plan of subdivision.

TRAFFIC & CITY WORKS

- 82. 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.
- 83. The levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, car parks, 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.

84. 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 Sub-base; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Micro-surfacing.
85. The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
86. The development must comply with the Public domain requirements set out in the Canterbury Town Centre Public Domain Strategy or subsequent City of Canterbury advice.
87. A Pedestrian Management Plan must be submitted to Council for approval defining movement needs and relevant infrastructure to the satisfaction of Council.
88. Operational Traffic Management Plan (OTMP) during construction should be submitted to Council for approval.
89. The proposed development should be designed such that road and traffic noise from Canterbury Road is mitigated by durable materials and complies with the requirements of Clause 102 – (Impact of road noise or vibration on no-road development) of State Environmental Planning Policy (Infrastructure) 2007.
90. The layout of the proposed parking areas associated with the proposed development (including driveway, ramp grades, aisle widths, aisle lengths, parking bay dimensions, sight distances and loading bays) shall be designed in accordance with AS 2890.1 – 2004 and AS 2890.2 – 2002 for heavy vehicle usage.

QENOS REQUIREMENTS

91. Prior to the issue of the Construction Certificate, the applicant is to obtain written consent from Qenos regarding the relocation of the Ethylene pipeline.

LANDSCAPING

92. The submitted landscape plan (Drawn by Isthmus Landscape Design, Drawing number ISO171DA1-3 Issue B and dated March 2014) has been prepared according to the Canterbury Development Control Plan 2012.
93. Prior to the issue of the Construction Certificate, the following must be updated/provided:
 - 93.1. The applicant is to further explore the opportunities for increasing soft landscaping in the rear deep soil setback to take full advantage of this space and the benefits that this can provide to this development with reduced stormwater runoff and reduced heat sink properties of the space.
 - 93.2. Facilities provided in the communal landscape area are limited. Please increase facilities provided within communal open space for a range of age groups incorporating seating for individuals or groups, barbecue areas and play areas.
 - 93.3. The Railcorp Easement share zone does not require a hard paved surface, alternative minimal vehicle access paving should be used such as a grass paver system to reduce the stormwater runoff and heat

- sink properties of the space.
- 93.4. Please provide continuous evergreen screen planting with a minimum of 2m mature height to the rear and side boundaries.
- 93.5. All existing property trees are considered to have low amenity value and may be removed to accommodate construction. Their removal is conditional on their replacement with a minimum of 5 large canopy trees to the rear setback. All canopy trees are to be a minimum 7 5litre pot size and a mature height of greater than 6m.
94. Plant Quality and Sizes: All the tree supply stocks shall comply with the guidance given in the publication Specifying Trees: a guide to assessment of tree quality by Ross Clark (NATSPEC, 2003).
95. Plant Pre-order: All scheduled plant stock shall be pre-ordered, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation.
96. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. In addition to the details in the above table, the order confirmation shall include name, address and contact details of supplier; and expected supply date.
97. Upon completion of the 52 week maintenance period as detailed in the submitted Landscape Management and Maintenance Plan, a report should be submitted to council by Isthmus Landscape Design or landscape contractor on behalf of their client, detailing the success of the landscape plan and any changes which have been made from original constructed landscape in accordance with changed site conditions, plant failures/replacements etc.
98. The landscaping is to be maintained at all times to the Council's satisfaction.

SYDNEY TRAINS (AWAITING CONDITIONS)

99. Unless amendments are required by Sydney Trains as part of the review and approval/certification of the documentation listed in Condition A2 all excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:
- Geotechnical Investigation Report prepared by Asset Geotechnical (Ref:2552-R1 Rev 1) dated 18 February 2015
 - Finite Element Modelling Report prepared by Asset Geotechnical (Ref:2551-1-R1) dated 15 June 2015.
 - Shoring Plan Drawing No. S100 Revision E prepared by CEC, dated 14/09/2015.
 - Shoring Elevation (1/2) Drawing No. S101 Revision E prepared by CEC, dated 14/09/2015.
 - Shoring Elevations (2/2) Drawing No. S102 Revision E prepared by CEC, dated 14/09/2015.
 - Shoring Sections Drawing No. S103 Revision E prepared by CEC, dated 14/09/2015.
 - Shoring Details Drawing No. S104 Revision E prepared by CEC, dated 14/09/2015.
 - Excavation Stages documentation prepared by CEC dated 14/09/2015 (Project No. ST15020).

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that the documentation listed in this condition have not be superseded with the approval/certification of documentation in Condition 105. Should Sydney Trains advise that any of the documentation listed in this condition have not been superseded, then the measures detailed in those specific documents are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

100. Unless otherwise advised by Sydney Trains, the Applicant shall prepare and provide to Sydney Trains for approval/certification the following items:
 - 100.1. Machinery to be used during demolition, excavation and construction. It should be noted that excavations undertaken in rock are to maintain and limit vibration levels to levels that will not adversely impact Sydney Trains assets.
 - 100.2. Vibration monitoring report.
 - 100.3. Details regarding the proposed retaining wall along the rail corridor boundary.
 - 100.4. Revised Finite Element Modelling Report addressing/responding to the following items:
 - i) The Fill and Residual clay are a significant portion of the wall (approx. 50% wall height). There is no justification on using unload/reload Elastic modulus $E_{ur} = 3 \times E_u$ for those materials. Further, the stiffness of the sandstone class 5/4 ($E=300\text{MPa}$) is considerably high comparing with the suggested value ($E=80\text{MPa}$) in Table 3 of the Geotechnical report.
 - ii) The use of lower stiffness values will result in higher deformation at the railway area if the surcharge from the railway loads were included in the final deformation results. The current deformation results did not include the deformation induced by the railway load. That may be due to the railway loads being applied right from Stage 1 and zero-deformation being set at Stage 3.
 - iii) If the railway loads were included in the final results, higher K_o would show considerable impact on the deflection outputs.
 - iv) A reference stage (with respect to displacements) was set at Stage 3. Clarification is required as to whether this means that zero-deformation was set at Stage 3? If so, the final movements presented at the end of Stage 8 were underestimated as the railway loads were not included during the excavation works.
 - v) The modelling is to be reviewed with considerations of railway loads during excavation phase, revised stiffness and K_o values.

Any conditions issued as part of Sydney Trains approval/certification of any of the above documents will also form part of the consent conditions that the Applicant is required to comply with. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming which of the documentation listed in this condition are to now apply and supersede the documentation in

Condition A1. The measures detailed in the documents approved/certified by Sydney Trains under this Condition are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

101. All excavation/ground penetration works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects. All footings are to be inspected by the geotechnical engineer to confirm design assumptions.
102. No rock anchors/bolts are to be installed into Sydney Trains property.
103. The Applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by Sydney Trains.
104. Prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.
105. No works are to be undertaken within Sydney Trains easement without Sydney Trains prior written approval. Any works authorised by Sydney Trains within the easement area are to comply with Sydney Trains standards and directions.
106. No ground levels adjoining or near Sydney Trains infrastructure are to be altered without Sydney Trains prior written approval.
107. The ability to undertake any works, maintenance and emergency activities by Sydney Trains, Transport for NSW (TfNSW), or any entity authorised by Sydney Trains or TfNSW, shall not be hindered through the easement area at any time. The storage of any plant, equipment and construction material shall not occur within the Sydney Trains easement unless Sydney Trains prior written approval is obtained.
108. Prior to the commencement of works the Applicant shall peg-out the common property boundary with Sydney Trains land and Sydney Trains registered easement burdening the subject land. This work is to be undertaken by a registered surveyor.
109. During all stages of the development extreme care shall be taken to prevent any form of pollution entering the railway corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.
110. An acoustic assessment is to be submitted to Council and Sydney Trains prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines". The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
111. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the

development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

112. Given the development site's location next to the rail corridor, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from Sydney Trains.
113. Prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
114. Prior to the issue of a Construction Certificate the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.
115. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20m and face the rail corridor, the Applicant is required to install measures (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor. These measures are to comply with Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.
116. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
117. Prior to the commencement of works appropriate fencing shall be installed along the rail corridor to prevent unauthorised access to the rail corridor. Details of the type of fencing and the method of erection are to be to Sydney Trains satisfaction prior to the fencing work being undertaken. Sydney Trains may provide supervision, at the developer's cost, for the erection of the new fencing.
118. Prior to the issue of a Construction Certificate the Applicant is to submit to Sydney Trains the demolition, excavation and construction methodology and staging for review and endorsement. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
119. No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and 1500V catenary, contact and pull-off wires of the

adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor.

120. Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations (eg concrete pumps) for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
121. The developer must provide a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The maintenance plan is to be submitted to Sydney Trains prior to the issuing of the Occupancy Certificate. The Principal Certifying Authority is not to issue an Occupation Certificate until written confirmation has been received from Sydney Trains advising that the maintenance plan has been prepared to its satisfaction.
122. The Applicant is to obtain Sydney Trains endorsement prior to the installation of any hoarding or scaffolding facing the common boundary with the rail corridor.
123. No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains. Where the Applicant proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming that its approval has been granted.
124. There is a need to ensure that the roots and foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor. The development landscaping and planting plan should be submitted to Sydney Trains for review.
125. Prior to the issuing of an Occupancy Certificate the Applicant shall provide Sydney Trains and Council as-built drawings and survey locating the development with respect to any rail boundary, Sydney Trains easement and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of Sydney Trains representative. The as-built survey is to confirm that there has been no encroachment into any Sydney Trains land or easement area.
126. Where a condition of consent requires Sydney Trains endorsement the Principal Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from Sydney Trains that the particular condition has been complied with.

SYDNEY WATER REQUIREMENTS

127. 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.

A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority prior to the Construction Certificate being issued.

CRITICAL INSPECTIONS

128. Class 2, 3 or 4 Buildings

- at the commencement of the building work, and
- 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

- at the commencement of the building work, 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.

Section 81(A) of the EP&A Act 1979 requires that a person having the benefit of a development consent, if not carrying out the work as an owner-builder, must notify the principal contractor for the building work of any critical stage inspections and other inspections that are to be carried out in respect of the building work, as nominated in this development consent.

To arrange an inspection by Council please phone 9789-9300 during normal office hours.

COMPLETION OF DEVELOPMENT

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

WE ALSO ADVISE

- 1) This application has been assessed in accordance with the National Construction Code which took effect on 1 May 2011.
2. The development is to be known as 10 Charles Street, Canterbury.
3. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
 - Structural Engineering Work
 - Final Fire Safety Certificate
 - Glazing
 - BASIX completion
 - Premises Standard
 - Waterproofing
4. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
5. Australian Standards AS3500 Plumbing and Drainage and Part 5 Domestic Installations requires that eaves gutters are installed with continuous overflow measures that prevent water from overflowing gutters flowing back into the building.

6. Private contractors shall submit an application and pay an inspection fee to Council seven days prior to commencement of any works on the footpath or roadway. No work shall be carried out without Council approval.
7. 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.
8. That the applicant be advised that any works to be carried out by Council at the applicant's cost need to be applied for in advance.
9. 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.
10. No variation to the approved design and external appearance of the building (including colour of materials) will be permitted without our approval.
11. Compliance with the National Construction Code does not guarantee protection from prosecution under "The Disability Discrimination Act". Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021 199.
12. If you are not satisfied with this determination, you may appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 of the Environmental Planning and Assessment Act 1979.