



**Land and Environment  
Court**  
of New South Wales

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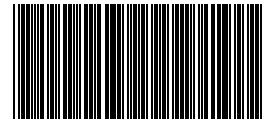
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Your Ref:



D0001BBMGA

20 August 2020

### **NOTICE OF ORDERS MADE**

Case number	2019/00113065
Case title	Ghazi Al Ali Architects Pty Ltd v Canterbury-Bankstown Council

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On 20 August 2020 the following orders (and/or directions) were made:

The Court orders that:

- (1) The Applicant is granted leave to amend the development application and rely upon the following plans in the proceedings referred to at Condition 2 in Annexure A.
- (2) The appeal is upheld.
- (3) Development application DA387/2018 seeking the demolition of existing structures and construction of a part 5, part 6 storey boarding housing development over basement car parking is approved subject to the conditions in Annexure A.

For the Registrar

## Annexure A

**Ghazi Al Ali Architect Pty Ltd v Canterbury Bankstown Council**

## Conditions of Consent

<b>Property:</b>	<b>Lot 18 DP 703437, No. 263-267 Canterbury Rd, Canterbury</b>
<b>Application:</b>	<b>DA387/2018</b>
<b>Description of Development:</b>	<b>Demolition of all existing structures and construction of a part five (5) part six (6) storey boarding house containing 43 boarding rooms and managers room with basement car parking containing 23 car spaces, 9 motorcycle spaces and 9 bicycle spaces</b>
<b>Planning Instrument:</b>	<b>Canterbury Local Environmental Plan 2012</b>
<b>Zoning of Property:</b>	<b>R4 High Density Residential</b>
<b>Consent to Operate From:</b>	<b>Land Environment Court determination of 2019/113065</b>

These conditions are imposed taking into account the matters for consideration in determining a Development Application pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 and other relevant Acts and Regulations.

**Notes:**

1. This Determination Notice does not constitute permission to begin works associated with the development. A Construction Certificate (where applicable) must be obtained prior to the commencement of any development works.
2. This Determination Notice operates or becomes effective from the endorsed date of Consent.
3. If you are dissatisfied with this decision, you may apply for a review of determination pursuant to Section 8.2 of the Environmental Planning and Assessment Act, 1979 or appeal to the Land and Environment Court pursuant to Sections 8.7 and 8.10 of the Environmental Planning and Assessment Act, 1979. Any application for a review pursuant to Section 8.2 must be received, assessed and determined by Council within 6 months after the date of receipt of this Determination Notice. It is therefore advisable to lodge the application for review as soon as possible to ensure that assessment is complete within the statutory timeframes. Section 8.10 in the Environmental Planning and Assessment Act 1979 extends this six month period to twelve months for determinations made during, or six months before, the Prescribed Period of 25 March 2020 and 25 March 2022. You should seek advice from your legal advisor on the time limits for the lodgement of any appeal.
4. Sections 9.37 and 9.50 of the Environmental Planning and Assessment Act, 1979 confers the authority to direct any person to comply with the terms and conditions of any Consent and any person failing to comply with such a direction shall be guilty of an offence under that Act.

5. This consent will lapse 5 years from the endorsed date of consent unless the use has commenced, or any building works have physically commenced.
6. The applicant or any other person entitled to act on this Consent may apply to modify the Development Consent in accordance with Section 4.55 of the Environmental Planning and Assessment Act, 1979.
7. Failure to comply with a condition contained within this Development Consent may result in a fine or prosecution by Council.

## CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No.DA-387/2018, submitted by Ming Li, accompanied by the drawings and documents as listed in the table below, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

Drawing No.	Drawing Title	Revision	Dated	Prepared by
DA A-0004	Room Schedule	C	6 May 2020	Ghazi Al Ali
DA A-0005	Room Schedule	C	6 May 2020	Ghazi Al Ali
DA A-1030	Streetscape Analysis	C	6 May 2020	Ghazi Al Ali
DA A-1201	Basement 01-02	D	6 May 2020	Ghazi Al Ali
DA A-1202	Ground Floor Plan	D	6 May 2020	Ghazi Al Ali
DA A-1203	Level 01	D	6 May 2020	Ghazi Al Ali
DA A-1204	Level 02-03	D	6 May 2020	Ghazi Al Ali
DA A-1206	Level 04	D	6 May 2020	Ghazi Al Ali
DA A-1207	Level 05	D	6 May 2020	Ghazi Al Ali
DA A-1208	Roof Level	D	6 May 2020	Ghazi Al Ali
DA A-1301	North Elevation	C	6 May 2020	Ghazi Al Ali
DA A-1302	South Elevation	C	6 May 2020	Ghazi Al Ali
DA A-1303	East Elevation	C	6 May 2020	Ghazi Al Ali
DA A-1304	West Elevation	C	6 May 2020	Ghazi Al Ali
DA A-1401	Section AA	C	6 May 2020	Ghazi Al Ali
DA A-1402	Section BB and CC	D	6 May 2020	Ghazi Al Ali
DA A-2101	Material Schedule	C	6 May 2020	Ghazi Al Ali
DA A-2102	Material Schedule	C	6 May 2020	Ghazi Al Ali
LPS34 19 – 30/01 Sheet 1	Site Analysis	G	6 May 2020	Conzept Landscape Architects
LPS34 19 – 30/01 Sheet 2	Landscape Plan	G	6 May 2020	Conzept Landscape Architects

LPS34 19 – 30/01 Sheet 3	Detail + Specification	C	23 April 2020	Conzept Landscape Architects
SW200 Sheet 2	Stormwater Concept Design – Basement 03 Plan	B	6 May 2020	SGC
SW201	Stormwater Concept Plan – Ground Floor Plan	B	6 May 2020	SGC
SW202 Sheet 4	Stormwater Concept Design – Roof Plan	B	6 May 2020	SGC
SW300 Sheet 5	Stormwater Concept Design – Details Sheet	B	6 May 2020	SGC
SW400 Sheet 6	Erosion and Sediment Control – Plan and Details	B	6 May 2020	SGC
<b>Document</b>		<b>Revision</b>	<b>Date</b>	<b>Prepared by</b>
BASIX Certificate No. 948766M_02		-	6 May 2020	Sustainable Thermal Solutions
Arboricultural Impact Assessment		-	October 2019	TreeTalk Arboricultural Consulting
Plan of Management		-	August 2018	Morphology
Operational Waste Management Plan		B	24 August 2018	Elephants Foot
Noise Assessment		01	29 August 2018	Acoustic Consulting Engineers Pty Ltd
Geotechnical Investigation Report		0	23 August 2018	geo-environmental engineering

The development plans shall be amended as follows:

- 3) Any fire hydrant booster is to be located on the Phillips Avenue frontage of the site in accordance with associated standards and satisfactorily screened.
- 4) All aspects of the landscaping must be completed according to the submitted landscape plan (Drawn Konzept Landscape Architects, drawing no. LPS34 19 – 30/01 (1 (G)-2(G)-3(C)) Landscape Plan, Specification and Construction Details) except where amended by the conditions of consent including the following:
  - (a) Amend the ground level Communal Open Space to provide a variety of activities to encourage activation and promote the enjoyment of outdoor living including seating and BBQ facilities.
  - (b) All planter beds/boxes should comply with the required minimum soil depth as required in DCP no.45 – Landscape:
    - 300-450mm for turf and groundcovers;
    - 450-600mm for small shrubs;
    - 600-750mm for medium shrubs; and
    - 750-900mm for small trees.

- 5) A Landscape maintenance schedule period of 12 months is to be applied to this development. During this maintenance period, the landscaping must be maintained in accordance with the details specified on the submitted landscape plan.
- 6) 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).
- 7) All scheduled plant stock shall be **pre-ordered**, prior to issue of Construction Certificate or 3 months prior to the commencement of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect, prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
- 8) The applicant shall ensure full compliance with the recommendations in the approved Arborist Report.
- 9) All recommendations contained within the acoustic report prepared by Acoustic Consulting Engineers Pty Ltd (Dated 29 August 2018, Reference 180986-01L-DD) are to form conditions of consent.
- 10) Following occupation of the building/premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not previously identified arises (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant to undertake a post occupation assessment of the development and complete an assessment report with recommendations to rectify the situation. A copy of this report must be submitted to Council for approval and from there noise attenuation works must be implemented.
- 11) The emission of noise associated with the use of the premises including the operation of any mechanical plant and equipment shall comply with the following criteria:
  - a) The LAeq, 15minute noise level emitted from the use must not exceed the background noise level LA90, 15minute by more than 5dB when assessed at the boundary of any affected residence.
  - b) The background noise level shall be measured in the absence of noise emitted from the use in accordance with Australian Standard AS 1055.1-1997-Description and measurement of environmental noise.
- 12) The Geotechnical Investigation prepared by Geo-Environmental Engineering, dated 23 August 2018, reference G18042CAN-R01F forms part of the development consent.
- 13) The development shall be constructed and operated in a manner that ensures compliance with the definition of 'boarding house' as contained in Canterbury Local Environmental Plan 2012.
- 14) The business being operated in accordance with the Plan of Management (dated August 2018) submitted to Council on 4 September 2018.
- 15) The Applicant/Operator is to monitor the number and nature of complaints/incidents, shall formally register all incidents/complaints received and shall detail the action taken to rectify the problems that have arisen. This information shall be collated into an Incidents/Complaints Register. This Register must be produced upon demand by any Council officer or NSW Police Officer. The Register must contain a direction that all complaints/incidents of a criminal nature are to be reported to the Police immediately.
- 16) The Plan of Management shall be reviewed by Council annually from the date of the issue of an Occupation Certificate by the Principal Certifying Authority. The Operator of the

boarding house shall contact Council annually to carry out this review and the review shall include the Incidents/Complaints Register. Should amendments be made to the Plan of Management an updated version of same shall be provided to Council and the residents of the boarding house within one (1) month of the annual review being completed.

- 17) The Plan of Management shall be displayed in prominent locations within the premises and a copy of the Plan shall be provided to all residents of the boarding house. The Applicant/Operator shall be responsible for ensuring that the terms of the Plan are adhered to.
- 18) The plan of management submitted in support of this, as amended by the conditions of this consent forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the plan of management.
- 19) The boarding house must be designed, constructed and operated in accordance with:
  - *Local Government (General) Regulation 2005*, Schedule 2, Part 1 Standards for places of shared accommodation;
  - *Boarding Houses Act 2012*; and
  - *Boarding Houses Regulation 2013*.
- 20) The boarding house must be registered with NSW Fair Trading within 28 days, where an operator/proprietor takes over an existing, or begins operating a new, registrable boarding house.

Council will carry out initial inspection within the first twelve (12) months and on-going inspections in accordance with the Boarding Houses Act 2012, subject to payment of inspection fees as detailed in Council's Fees and Charges schedule.

- 21) Subdivision of the boarding house is not permitted.
- 22) The maximum number of occupants is limited 70 persons based on a maximum of two (2) occupants per double room and one (1) occupant per single room. Total rooms limited to forty-four (44) rooms, comprising of eighteen (18) single rooms, and twenty-six (26) double rooms (including a Manager's room).
- 23) All service and utility elements such as air conditioning, communal antennas and clothes drying area must be integrated into the design and screened from public view.
- 24) Intercom, code or card locks or similar must be installed at main entries to the building to control access.
- 25) No approval is granted for the siting of any substation on the site. A modification application must be lodged to Council if a substation is required. Any such application must demonstrate how the structure/ facility will be integrated into the design of the building without relying on the front setback area.
- 26) Any required fire hydrants, boosters and other services must be contained within cabinets using materials and colours from the approved external finishes and shall not impede on the approved landscaped areas.

## **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

*Prior to the release of a Construction Certificate the following conditions MUST be satisfied and nominated fees/contributions/bonds paid:*

- 27) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 28) The approved development plans shall be amended as follows and provided to the Principal Certifying Authority prior to the issue of any Construction Certificate:
  - a) The location of all service and utility facilities such as air conditioning units, antennas, clothes drying areas and hot water systems are to be decided prior to the issuing of a Construction Certificate. The facilities are to be integrated within the design of the building and are to be screened from public view. Details of the location of these facilities are to be shown on plans prior to the issuing of a Construction Certificate.
- 29) An automatic watering system is to be installed in common areas at the applicant's cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer's specification and current Sydney Water guidelines
- 30) Landscaping shall be installed in accordance with the approved landscape plan.
- 31) The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 32) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.
- 33) The applicant shall engage a qualified arborist - minimum Australian Qualification Framework (AQF) Level 5 Diploma of Horticulture (Arboriculture) and/or equivalent experience - to prepare a Tree Management Program for the development site. All trees to be retained and protected, and trees located on adjoining properties within 5m of the subject property boundary, are to be covered by this Tree Management Program. The report shall generally comply with section 2.3.5 of Australian Standard AS 4970-2009 Protection of trees on development sites and Bankstown City Council tree report guidelines / arboricultural method statement.

The details of this Tree Management Program are to be site specific and should include, but are not limited to, the following issues:

  - Tree Management Procedures
  - Record keeping and documentation
  - Monitoring and control
  - Conflict resolution
  - Project Implementation
  - General tree protection procedures
  - General tree care procedures

- Specific tree care and protection procedures (for each tree if necessary)
- Ongoing maintenance procedures
- Tree pruning and removal procedures.

The report is to be completed prior to the issue of the construction certificate.

- 34) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with Council's Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 35) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

Please refer to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin)

For Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://www.sydneywater.com.au) 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPIN.

Prior to release of a construction certificate Sydney Water must issue either a Building Plan Assessment letter which states that your application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.

- 36) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 37) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 38) Ground floor rooms in the boarding house are to be accessible to a person who uses a wheelchair and must comply with all relevant requirements of AS1428.1 and the Disability (Access to Premises – Buildings) Standards 2010.
- 39) The proposed development must be constructed and provided to comply with all applicable provisions as outlined in AS1428.1, AS1735.14 and the Disability (Access to Premises – Buildings) Standards 2010.
- 40) An updated Essential Fire Services Statement shall be submitted to the Principal Certifying Authority with the lodgement of the Construction Certificate for approval.
- 41) This condition has been levied on the development in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development 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 \$425,166.00. The amount payable is based on the following components:

Contribution Element	Contribution
2013	
• Community Facilities	\$ 38,475.50
• Open Space and Recreation	\$ 375,852.40

• Plan Administration	\$ 10,838.10
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Note: The contributions payable may be adjusted, at the time of payment, to reflect Consumer Price Index increases (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

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.

The Development Contributions Plan 2013 may be inspected at Council's Campsie Customer Service Centre, 137 Beamish Street, Campsie or from Council's website [www.cbcity.nsw.gov.au](http://www.cbcity.nsw.gov.au). A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

- 42) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 43) The developer shall apply for a Work Permit and obtain approval from Council, for the following engineering works in front of the site, at the applicant's expense:
  - a) Medium Duty VFC of maximum width of 6.0m metres at the property boundary.
  - b) Council's drainage system.
  - c) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
  - d) Repair of any damage to the public road including the footway occurring during development works.
  - e) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: Council is required to prepare a site survey and design in order to determine the necessary information. The developer should make application and payment for the Work Permit at least twenty one (21) days prior to the information being required and prior to the issue of the Construction Certificate. The Work Permit must be approved prior to any works commencing within the Council Road Reserve or on Council's assets.

- 44) Stormwater drainage from the development shall be designed to comply with Council's Canterbury Development Control Plan 2012 Part B5 and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan No. 20180141 – SW100, SW200, SW201, SW202, SW300, SW400 (rev B), prepared by S & G Consultants Pty Ltd, dated 06/05/2020. The final plan shall be certified by the design that it complies with Council's Canterbury Development Control Plan 2012 Part B5, the BASIX Certificate and the relevant Australian Standards.
- 45) For this development, Council requires that the stormwater runoff from within the development site shall be collected and controlled by means of an on-site stormwater detention system, in accordance with Council's Canterbury Development Control Plan 2012 Part B5. The developer shall engage a suitably qualified Engineer to prepare a final

stormwater drainage and on-site detention system plan to be generally in accordance with the concept plan No. 20180141 – SW100, SW200, SW201, SW202, SW300, SW400 (rev B), prepared by S & G Consultants Pty Ltd, dated 06/05/2020, and in accordance with the requirements contained in Council's Canterbury Development Control Plan 2012 Part B5. The Engineer shall certify that the design and plans comply with Council's Canterbury Development Control Plan 2012 Part B5 and the relevant Australian Standards.

- 46) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

- 47) An all-weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 48) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires the developer to obtain a Works Permit and or a Roadway/Footpath Building Occupation Permit prior to issue of any Construction Certificate for this development being issued where one or more of the following will occur, within, on or over the public footway or public road:

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WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.

The developer shall construct all proposed works within the public road and footway under the supervision and to the satisfaction of Council. The developer shall arrange for necessary inspections by Council whilst the work is in progress.

The developer shall ensure the person or company carrying out the work will carry public liability insurance to a minimum value of twenty million dollars. The developer shall provide proof of the policy, to Council, prior to commencing any work approved by the Work Permit including the Road Opening Permit. The policy must remain valid for the duration of the works.

- 49) The pump out drainage system for the driveway area shall be provided in accordance with Council's Canterbury Development Control Plan 2012 Part B5. The Engineer must design the Pump out drainage system to be in accordance with the Australian Standards AS 3500. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate. The Engineer must certify that the Hydraulic design complies with the above relevant standards.
- 50) Standard operating procedure and plan of management specific to the traffic signalling system, inclusive of the schedule of maintenance of the traffic signals, sensors and signage proposed as part of the traffic control system is to be provided to the Private Certifying Authority (PCA). Awareness of the traffic control system for future tenancies must be included in the plan of management.
- 51) The Standard operating procedure and plan of management specific to the traffic control system must be implemented at all time during the use of the building
- 52) A suitably qualified Professional Engineer shall certify that the layout of the proposed car parking areas associated with the subject development, including driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, and parking bay dimensions should be in accordance with the Australian Standard AS 2890 parking series.
- 53) The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "regional road", with every effort to avoid school zones on public roads. The applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.
- 54) A design certificate and detailed plans are to accompany any Construction Certificate (CC) application which demonstrate that the waste storage room has been designed to be constructed in accordance with the following requirements:
  - a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - b. The floors must be finished so that is non-slip and has a smooth and even surface.
  - c. The room is to be integrated within the building, a minimum 2.7m unobstructed room height is required in accordance with the Building Code of Australia;
  - d. The walls must be constructed of solid impervious material.
  - e. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
  - f. Walls, ceiling and floors must be finished in a light colour.

- g. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - h. A self-closing door openable from within the room.
  - i. Must be constructed to prevent the entry of birds and vermin.
  - j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
  - k. Any doorways must be 2m wide.
  - l. Designed to fit:
    - 11 x 240L garbage bins (collected weekly)
    - 6 x 240L recycling bins (collected weekly)
    - 1 x 240L garden waste bins (collected fortnightly)The room should be signposted 'Waste & Recycling' on the entrance doors.
- 55) A photographic survey must be prepared of the adjoining property at 261 Canterbury Road, Canterbury at detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority and Canterbury Bankstown 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 Bankstown Council if Council is not the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.
- 56) A dilapidation report prepared by an accredited engineer, detailing the structural adequacy of the adjoining property at 261 Canterbury Road, Canterbury and their ability to withstand the proposed excavation, and any measures required to be incorporated into the work to ensure that no damage will occur during the course of the works, shall be submitted to Council, or the Principal Certifying Authority prior to the issue of a Construction Certificate. All costs to be borne by the applicant.
- 57) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 58) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

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This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the constructions site;
- c) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;

- e) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.
- f) Proposed route for transportation of bulk and excavation materials to and from the development site.

The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "State Road" via "Regional Roads", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided **no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.**

An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council to rectify damages to public property adjacent to the site as a consequence of building works shall be lodged with Council prior to release of any Construction Certificate. Damage will be rectified as required by Council to remove unsafe conditions. All damage must be rectified upon completion of work to the satisfaction of Council.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site.

In addition a RMS Approval / Road Occupancy Licence will be required for works on Regional or State Roads or within 100m of a traffic facility including roundabouts and traffic signals. Refer to Council's Development Engineering Standards for a list of Regional and State Roads.

- 59) Prior to the issue of any Construction Certificate for this development, the Principal Certifying Authority must approve a Site Operations Management Plan (SOMP). This Plan must address the measures that will be implemented for the ongoing management of operations on and around the construction site, the protection of adjoining properties, and other requirements as specified below.

This plan shall include details of the following:

- a) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b) Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- d) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- e) Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (PEEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper

removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

A number of the above matters may require separate approval from Council, particularly those relating to works on or adjacent to Council property. These may be covered by separate conditions of consent contained in this Determination Notice. Appropriate approvals will need to be obtained prior to the approval of this plan.

The approved Site Operations Management Plan is to be implemented prior to the commencement of any works on the site, and an approved copy provided to Council for information. Ongoing compliance with the matters detailed in the SOMP shall be monitored by the appointed Principal Certifying Authority.

### CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION

- 60) Prior to demolition, the entire site (includes any structures) is to be assessed for hazardous materials, especially asbestos. A Hazardous Materials (HAZMAT) Report is to be prepared by a Type "A" inspection body accredited by NATA. All recommendations contained within this report are to be implemented and a clearance certificate issued by an appropriately qualified Occupational Hygienist is to be submitted to Council prior to the issue of a construction certificate.
- 61) The demolition of all structures currently existing on the development site must be undertaken, subject to strict compliance with the following:
- The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.
  - Written notice is to be given to Canterbury-Bankstown Council for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections shall be undertaken by Canterbury-Bankstown Council:
    - A *precommencement* inspection shall be carried out by Council when all the site works required as part of this consent are installed on the site and prior to demolition commencing.
    - A *final* inspection shall be carried out by Council when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.

**Note:** Payment of an inspection fee at Council's current rate will be required prior to each inspection. Council requires 24 hours notice to carry out inspections. Arrangements for inspections can be made by phoning **9707 9410, 9707 9412 or 9707 9635**.

- Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, license number, contact phone number and site address.
- Prior to demolition, the applicant must erect a 2.4m high temporary fence or hoarding between the work site and any public place. Access to the site shall be restricted to Authorised Persons Only and the site shall be secured against unauthorised entry when the building work is not in progress or the site is otherwise unoccupied. Where demolition is to occur within 3m of a public place a Work Permit application for the construction of a Class A or Class B hoarding shall be submitted to Council for approval.
- The demolition plans must be submitted to the appropriate Sydney Water Office to determine whether the development will affect Sydney Water's sewer and water mains,

stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the demolition plans will be stamped indicating that no further requirements are necessary.

- Demolition is to be carried out in accordance with the appropriate provisions of Australian Standard AS2601-2001.
- The hours of demolition work shall be limited to between 7.00am and 5.00pm on weekdays and on Saturdays. No work shall be carried out on Sundays and public holidays.
- Where materials containing asbestos cement are to be removed, demolition is to be carried out by licensed contractors who have current Workcover Accreditation in asbestos removal.
- Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the NSW EPA 'Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 2004'.
- Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- During demolition, the public footway and public road shall be clear at all times and shall not be obstructed by any demolished material or vehicles. The public road and footway shall be swept (NOT hosed) clean of any material, including clay, soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.
- All vehicles leaving the site with demolition materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicle with demolished materials shall occur on site.
- The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- Care shall be taken during demolition to ensure that existing services on the site (ie. sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
- Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
- Prior to the demolition of any building constructed before 1970, a Work Plan shall be prepared and submitted to Council in accordance with Australian Standard AS2601-2001 by a person with suitable expertise and experience. The Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

## **CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION**

- 62) The building / subdivision work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building / subdivision work has been issued by the council or an accredited certifier, and
  - b. the person having benefit of the development consent has:
    - i. appointed a principal certifying authority for the building / subdivision work, and

- ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - c. the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
    - ii. notified the principal certifying authority of any such appointment, and
    - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building / subdivision work.
- 63) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
- 64) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 65) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 66) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 67) A section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building and Developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

- 68) Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.

Where the work is located within 3.6m of a public place then a Type A or Type B hoarding must be constructed appropriate to the works proposed. An application for a Work Permit

for such hoarding must be submitted to Council for approval prior to the commencement of work.

- 69) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 70) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 71) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- a. in the case of work for which a principal certifying is required to be appointed:
    - i. the name and licence number of the principal contractor, and
    - ii. the name of the insurer by which the work is insured under Part 6 of the Act,
  - b. in the case of work to be done by an owner-builder:
    - i. the name of the owner-builder, and
    - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

- 72) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a. showing the name, address and telephone number of the principal certifying authority for the work, and
  - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

## **CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

- 73) A qualified arborist - minimum Australian Qualification Framework (AQF) Level 5 Diploma of Horticulture (Arboriculture) and/or equivalent experience - shall be retained and regularly

consulted throughout all demolition, clearing and construction work to ensure protection of the trees retained and compliance of all work with Australian Standard AS4373-2007 Pruning of amenity trees and Australian Standard AS4970-2009 Protection of trees on development sites.

- 74) Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
- 75) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 76) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Canterbury Development Control Plan 2012 Part B5. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 77) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 78) Any excavation works carried out on site must be closely monitored to ensure no signs of potential acid sulfate soil or actual acid sulfate soil are observed. Indicators may include grey to greenish blue clays, unusual gold-yellow mottling or 'rotten egg' odours. If any of these indicators are observed, excavation of the site must be stopped and Council is to be notified immediately. A suitably qualified environmental consultant must be contracted to further assess the site.
- 79) All excavations must be kept free from the accumulation of water.
- 80) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 81) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - a. protect and support the adjoining premises from possible damage from the excavation, and
  - b. where necessary, underpin the adjoining premises to prevent any such damage.
- 82) The stormwater drainage system shall be constructed in accordance with Council's Canterbury Development Control Plan 2012 Part B5 and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 83) A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.

- 84) Site water discharged to Council's stormwater system must have a suspended solid level of less than 50 mg/L, pH 6.5 - 8.5, turbidity level of less than 50 NTU, no oil or grease and conform to relevant ANZEC guidelines for other contaminants. This may require treatment such as transfer to settling ponds, use of approved chemicals to settle out sediment or passing the contaminated water through a treatment device. Site water may also be disposed of through the services of a licensed liquid waste transporter. Council must be notified prior to the commencement of any pump out of site water and provided with a copy of the test results which confirm that the above condition has been complied with.
- 85) Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.
- 86) Prior to the execution of works associated with the built form of the development a Site Audit Statement is to be obtained from a NSW EPA Accredited Site Auditor. The Site Audit Statement must confirm that the site is suitable for the proposed use. Conditions on the Site Audit Statement must form part of the consent. Where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council, these must be reviewed and approved by Council prior to the issue of a Site Audit Statement.
- 87) If the Duty to Report contamination to the NSW EPA under Section 60 of the *Contaminated Land Management Act 1997* is triggered, Council must be notified within 5 days of the notification to the NSW EPA.
- 88) In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council. Note: Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the contaminated land situation and review any new contamination information. The applicant must also adhere to any additional conditions which may be imposed by the accredited site auditor.
- 89) Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials must be immediately notified to the Council and the principal certifying authority.
- 90) Any fill imported onto the site must be virgin excavated natural material or excavated natural material, classified as such in accordance the 'Waste Classification Guidelines' (NSW EPA, 2014) or excavated natural material meeting the requirements of the Excavated Natural Material Exemption (NSW EPA, 2014).  
Certificates verifying that imported fill is virgin excavated natural material or excavated natural material must be provided to Council prior to the issue of an Occupation Certificate. All imported fill must be compatible with the existing soil characteristics of the site.
- 91) Any soils to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) prior to off-site disposal.

Any waste material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines

All soils and material(s), liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014* and related guidelines, in particular the 'Waste Classification Guidelines' (NSW EPA, 2014), prior to off-site disposal.

The waste classification report, including the results of testing, must be compiled, or reviewed and approved by an appropriately qualified and certified consultant, and must be submitted to and approved by Council before off site disposal.

All waste material(s) must be disposed of at an appropriately licensed waste facility for the specific waste. Receipts for the disposal of the waste must be submitted to council within 5 days of the waste being disposed.

All waste must be transported by a contractor licenced to transport the specific waste, and in vehicles capable of carting the waste without spillage and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site.

- 92) All waste material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines.
- 93) Prior to the ground floor slab being poured, an identification report by a Registered Surveyor must be submitted to the principal certifying authority verifying that the proposed buildings finished ground floor level and siting to the property boundaries conforms to the approved plans.
- 94) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 95) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 96) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 97) If an excavation extends below the level of the base of the footings of an adjoining building or a building on an adjoining allotment of land, the person causing the excavation to be made:
  - a) if necessary, must underpin and support the building in an approved manner, and
  - b) must, at least 7 days before excavating below the level of the base of the footings of a building give notice of intention to do so to the owner of that building and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - c) must take all precautions to protect all of the structures from damage.
- 98) All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's

expense. Fencing forward of the building line (including on secondary street frontages) shall be no higher than 1m unless otherwise approved by Council.

- 99) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 100) The wastewater from the car wash bay shall be collected and disposed of, in accordance with the requirements contained in Council's Development Engineering Standards.
- 101) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 102) Tree protection zones must be maintained at all times.
- 103) Requirements of the approved Waste Management Plan (WMP) shall be complied with during all site preparation works, demolition (if proposed) and throughout all construction works.
- When implementing the WMP the developer is to ensure:
- The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*
  - All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*
  - Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
  - All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it
  - Records are required regarding the details and location of the disposal of all demolition and construction waste (including excavated material), description of waste and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal, waste vehicle rego, and confirmation of the waste disposal facility. Records/ details are also to be kept of person removing the waste.
  - All materials and resources that are to be stored on site during construction works are contained on the site, The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses
  - The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works

## **CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

- 104) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 105) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 106) Any lighting of the premises must be installed in accordance with AS 4282-1997, 'Control of the obtrusive effects of outdoor lighting', so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 107) Signage to be installed at the front of the Boarding House that includes a contact number for the registering of all complaints.
- 108) Prior to commencement of the boarding house use, a notification letter shall be forwarded to Council, the Police and all adjoining and adjacent neighbours with the Applicant/Operator providing contact details for the registering of complaints/incidents. Evidence of this letter being forwarded as required in this condition shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate and commencement of the use.
- 109) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 110) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 111) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

The Work As Executed information shall be shown in red on a copy of the approved stormwater plan and shall include all information specified in Council's Canterbury Development Control Plan 2012 Part B5. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the on-site stormwater detention system.

A copy of the Work As Executed Plan and Hydraulic Engineer's Certification shall be submitted to Council for information prior to issue of the final occupation certificate.

- 112) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Bankstown Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act. Where subdivision is not proposed, the surveyor shall show the location of the "On-Site Stormwater Detention System" on an A4 size site plan attached to the Section 88E Instrument to be registered, on the title of the subject property, prior to the issue of the Final Occupation Certificate. Alternatively, where subdivision is proposed, the developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Bankstown Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act. The surveyor shall show the location of the "On-Site Stormwater

Detention System" on the plan of subdivision. The developer shall submit evidence of the final registration of the Restriction and Positive Covenant on the title of the property, to Council.

- 113) Prior to the issue of any Occupation Certificate, the developer is to enter into a formal agreement with Council for the utilisation of Council's Domestic Waste Collection Service. This is to include Council being provided an easement for unimpeded access to and from the waste collection locations for council and its contractors to enter and exit for the purpose of waste and recycling collection. The development is also required to indemnify council and its contractors against claims for loss or damage or wear and tear of access roads or to other parts of the building. A positive covenant shall be placed on the property title, such as section 88B certificate.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Council's Waste Management collection requirements.

The provision of Council's waste collection service will not commence until formalisation of the agreement.

- 114) Twenty-three (23) off street car spaces being provided in accordance with the submitted plans. Two of the car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.
- 115) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 116) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 117) Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 118) The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.
- 119) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development / release of the plan of subdivision.

## **ONGOING OPERATIONAL CONDITIONS**

- 120) The construction and operation of the boarding house shall comply with all applicable legislation/regulation and standards, including:
- a) Boarding Houses Act 2012
  - b) Boarding Houses Regulation 2013
  - c) Local Government Act 1993
  - d) Local Government Regulation 2005
- 121) The use and operation of the premises must:-
- Comply with the requirements of Schedule 2 (Standards for Places of Shared Accommodation) of the Local Government (General) Regulation, 2005 under the Local Government Act 1993, the Public Health Act, 2010 including, Boarding Houses Act 2012 and Boarding Houses Regulation 2013 including:
1. Maximum number of boarders and lodgers.
- 122) Each boarding room sleeping no more than one adult lodger.
- 123) All lodgers shall enter into a residential tenancy agreement before occupation of any room in the development.
- 124) All lodgers are to be provided with a copy of the Plan of Management.
- 125) The Operator of the building must ensure that the forecourt and the surrounds of the building including pavements and gutters are to be kept clean and free of litter at all times
- 126) Appropriate security measures, including security doors and CCTV cameras, shall be installed at the main pedestrian and vehicular entrances and exits. All CCTV cameras shall have the capacity to store footage for a minimum of twenty-one days.
- 127) 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.
- 128) Should a noise issue (relating to the development) not previously identified arise (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the situation. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.
- 129) The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the 'Assessing Vibration: A Technical Guideline' (NSW Department of Environment and Conservation, 2006).
- 130) Music and other amplified sound played on the premises must not give rise to offensive noise as defined under the provisions of the Protection of the Environment Operations Act 1997. The sound level output must not exceed five (5) dB(A) above the ambient background level at the boundary of the premises.
- 131) A Complaints and Incidents Register ('Register') shall be established, maintained and kept up-to-date. The Register shall include the following information about every complaint and/or incident\* received:

- (a) Date and time of complaint and or incident;
- (b) Name of person/entity making the complaint or notifying of the incident;
- (c) Contact details of person/entity;
- (d) Nature of the complaint and/or incident;
- (e) Action taken (by whom and when) in response to complaint and/or incident; and
- (f) Outcome and/or further action required.

A copy of the Register shall be provided to Council or Police upon request.

*\*Incident includes:*

- (a) *Any breach of the Plan of Management; or*
- (b) *Any complaint by any person about the operation of the premises; or*
- (c) *Any event that may cause alarm or concern to residents or persons passing or in the vicinity of the Premises as a result of the conduct or act of any person identifiable as an occupant of the premises at that time.*

- 132) The Plan of Management shall be displayed in prominent locations within the premises and a copy of the Plan shall be provided to all residents of the boarding house. The Operator shall be responsible for ensuring that the terms of the Plan are adhered to at all times.
- 133) The Plan of Management shall be reviewed by Council annually from the date of the issue of an Occupation Certificate by the Principal Certifying Authority. The Operator of the boarding house shall contact Council annually to carry out this review and the review shall include the Incidents/Complaints Register. Should amendments be made to the Plan of Management an updated version of same shall be provided to Council and the residents of the boarding house within one (1) month of the annual review being completed.
- 134) The Operator is to monitor the number and nature of complaints/incidents, shall formally register all incidents/complaints received and shall detail the action taken to rectify the problems that have arisen. This information shall be collated into an Incidents/Complaints Register. This Register must be produced upon demand by any Council officer or NSW Police Officer. The Register must contain a direction that all complaints/incidents of a criminal nature are to be reported to the Police immediately.
- 135) The Operator of the building must ensure that the forecourt and the surrounds of the building including pavements and gutters are to be kept clean and free of litter at all times.
- 136) The hours of use of the communal areas is restricted to between 7:00 am and 10:00 pm, Monday to Sunday.
- 137) The maximum number of occupants is limited 70 persons based on a maximum of two (2) occupants per double room and one (1) occupant per single room. Total rooms limited to forty-four (44) rooms, comprising of eighteen (18) single rooms, and twenty-six (26) double rooms (including a Manager's room).
- 138) The maximum number of boarders is limited 70 persons (including manager).
- 139) All boarders/lodgers shall be required to reside on the premises for a minimum period of three (3) months in accordance with the definition of a Boarding House.
- 140) The boarding house must be registered with NSW Fair Trading within 28 days, where a proprietor takes over an existing, or begins operating a new boarding house.
- 141) Council will carry out initial inspection within the first twelve (12) months and on-going inspections in accordance with the *Boarding Houses Act 2012*, subject to payment of inspection fees as detailed in Council's Fees and Charges schedule.
- 142) Signage to be installed at the front of the Boarding House that includes a contact number for the registering of all complaints.
- 143) The boarding house operator shall ensure that the operation of the premises complies with the relevant sections of the *Protection of the Environment Operations Act 1997* and the

Noise Policy for Industry (2017) and shall not give rise to “offensive noise” as defined under the provisions of the *Protection of the Environment Operations Act 1997*.

- 144) Any activity carried out in accordance with this approval must not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the *Protection of the Environment Operations Act 1997* and Regulations.
- 145) The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 146) Any lighting of the premises shall be installed in accordance with *Australian Standard AS 4282: Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council’s discretion if Council considers there to be adverse effects on the amenity of the area.
- 147) Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed within the boarding house for lodgers information at all times.
- 148) A sign indicating the permissible maximum length of time during which a person may board or lodge in the premises must be conspicuously displayed to public view outside the premises.
- 149) A schedule showing the numeral designating each boarding room and the number of persons permitted to be accommodated in each must be conspicuously displayed on the premises.
- 150) Each bedroom must be numbered in accordance with the schedule and there must be displayed clearly on the door of or in each bedroom the maximum number of persons allowed to be accommodated in the bedroom
- 151) Adequate light and ventilation must be maintained in the premises.
- 152) All partitions forming cubicles in a boarding room must be adequately constructed and provide adequate ventilation.
- 153) Any kitchen facilities and utensils for the storage or preparation of food must be kept in a clean and healthy condition, in good repair, free from foul odours and, as far as practicable, free from dust, flies, insects and vermin.
- 154) The floor of any kitchen must have an approved impervious surface.
- 155) All parts of the premises and all appurtenances (including furniture, fittings, bedsteads, beds and bed linen) must be kept in a clean and healthy condition, and free from vermin.
- 156) Pans, receptacles or other waste storage devices must be kept covered and all waste must be deposited in appropriate pans, receptacles or other waste storage devices.
- 157) Appropriate furniture and fittings must be provided and maintained in good repair.
- 158) If the place is one in which persons may board or lodge for 7 days or longer, an adequate number of beds (each provided with a mattress and pillow and an adequate supply of clean blankets or equivalent bed clothing), adequate storage space and blinds, curtains or similar

devices to screen bedroom and boarding room windows for privacy must be provided for the occupants.

- 159) The owner/manager of the building must ensure that the forecourt and the surrounds of the building including pavements and gutters are to be kept clean and free of litter at all times.
- 160) Speakers must not be installed and music must not be played in any of the outdoor areas associated with the premises, including the open communal area. Speakers located within the premises must not be placed so as to direct the playing of music towards the outdoor areas associated with the premise
- 161) The approved Boarding House must be registered with NSW Fair Trading within twenty eight (28) days of commencing operations. Details about the Boarding Houses Register and the registration process are available on the Fair Trading website. Boarding House owners/operators are also required to lodge an Annual Return within 28 days of the 12 month anniversary of the date of the initial registration. Should the premises cease operating as a Boarding House, NSW Fair Trading must be notified of such within 28 days of the cessation of the use.
- 162) Council must conduct an initial compliance investigation and inspection of the premises within 12 months of its registration with NSW Fair Trading. The development must not cause offensive noise as defined by the Protection of the Environment Operation Act 1997 (NSW) Following occupation, should complaints of a noise nuisance be received and substantiated by an authorised officer, an acoustic assessment shall be conducted by a qualified acoustic consultant and the resulting report shall be provided to Council for approval. Following approval the owner/occupier shall then implement all recommendations contained in the assessment report within a timeframe set by Council, to the satisfaction of Council and in compliance with any additional direction given by Council.
- 163) The activities carried out on site shall not constitute a nuisance in relation to noise, air or water pollution as specified under the Protection of the Environment Operations Act 1997.
- 164) The approved Waste Management Plan is to be implemented throughout the ongoing use of the development.
- 165) The nominated on-site collection point is to be utilised to facilitate the collection of waste and recycling bins for the development. The on-site collection point is always to be kept clear of obstructions so not to restrict the collection of waste and recycling bins.
- 166) The development must operate in full compliance with Council's Waste Management collection requirements.
- 167) Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin.
- 168) Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection system and must clearly identify everyone's role and responsibility. This is to include:
  - (a) Responsibility for cleaning and maintaining waste storage bins and containers
  - (b) Responsibility for cleaning and maintaining waste storage room
  - (c) Responsibility for the transfer of bins to the nominated collection point

- (d) Method of communication to new tenants and residents concerning the developments waste management system.
- (e) Cleaning up and management of bulky waste
- (f) Responsibility for maintaining the compost bin or wormfarm

Where the development incorporates strata title subdivision, the by-laws are to clearly set out the management responsibilities for the developments waste and recycling system.

169) No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.

170) The landscaping and deep soil areas are to be maintained at all times to the Council's satisfaction.

## **SCHEDULE A: ADVICE TO APPLICANTS**

Inspection of building works shall be undertaken as determined by the PCA. If Canterbury-Bankstown Council has been nominated as the PCA then details of inspection type and number required will be determined prior to the issue of a construction certificate.

Where a combined development consent is issued for demolition of buildings and construction of new work, a Construction Certificate must be obtained for the work, including demolition.

Also, 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 to nearest cross street) for underground utility services information for any excavation areas.