



**NOVO group**  
Planning. Traffic. Development.

10 March 2020

Christchurch City Council  
Attention: Commissioner McMahon

**Novo Group Limited**  
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By email: c/- [karen.manson@ccc.govt.nz](mailto:karen.manson@ccc.govt.nz)

Dear Sir,

**RIGHT OF REPLY**  
**RMA/2019/1330, 25 OXFORD STREET AND 3, 5, 7 AND 9**  
**LONDON STREET**

1. Please find below our written right of reply in respect of the hearing of the above resource consent. Our response addresses the matters outlined in the Commissioner's minute dated the 6 March 2020 and other matters arising during the Council hearing on the 5 March 2020.
2. A copy of proposed consent conditions is provided in **Attachment 1**. These consent conditions have been drafted in consultation with Council officers and it is understood that they support the proposed wording and scope/intent of these conditions.

**Consent conditions**

3. Of relevance to the actual and potential effects of the proposal, Ms Jowett's S42A report recommended 6 conditions of consent.
4. The applicant's evidence recommended changes to two of these consent conditions (regarding management of the ground floor concertina mesh gate and management of the car parking within the basement). A further seven consent conditions were recommended relating to acoustic insulation and the provision of an archaeological assessment.
5. The proposed consent conditions in **Attachment 1** do not include conditions relating to the drain, acoustic insulation and archaeological authority process on the basis that these matters are more appropriately addressed by advice notes directing the applicant to other regulatory processes and/or rules that are to be adhered to.
6. Further consent conditions have been proposed in respect of detailed cladding design, security measures for the upper floors, and provision of a mirror within the basement. These matters were detailed in the application and it is considered that consent conditions will provide additional certainty and management of effects associated with these matters.
7. Additional condition wording / refinement of conditions has also been undertaken in respect of certification processes with a view to providing greater certainty.



### **Maintenance of the brick barrel drain**

8. In consultation with Ms Jowett, it has been determined that the drain passing under the site does not meet the definition of a water body under the District Plan, and accordingly this does not require further consideration through the resource consent process. The original interpretation (that the drain is a hill waterway) was based on the drain showing as a water body on one of Council's maps. However according to Ms Jowett, the definition of waterways in the District Plan shows that this water body does not fall within any of those definitions.

9. The District Plans definition of a water body is as follows:

*has the same meaning as defined in s2 of the Resource Management Act 1991.*

*In relation to Sub-chapter 6.6 Water body setbacks of Chapter 6 General Rules and Procedures, water body means any downstream waterway, upstream waterway, environmental asset waterway or environmental asset standing water body identified on the planning maps and any Banks Peninsula waterway (see Rule 6.6.5a.vii and Rule 6.6.6a.vii), hill waterway or network waterway.*

10. While the resource Management Act 1991's definition of a water body is as follows:

*water body means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area*

11. Therefore, it is considered that the existing brick barrel drain does not meet the above definition of a waterbody in the District Plan/ planning maps and the Resource Management Act.

12. It is noted that development over a drain will require separate authorisation from Council under Clause 26 of the Water Supply, Wastewater and Stormwater By-law. On this basis, a resource consent condition pertaining to the management of this drain is considered inappropriate and more effectively addressed through the bylaw process. Accordingly, an advice note has instead been included referring the consent holder to this separate process.

### **Change to the District Plan parking requirements in the CBP zone**

13. The commissioner requested further information regarding the S71 decision made by Council and the Associate Minister for Greater Christchurch Regeneration (Hon Poto Williams) for the removal of on-site parking requirements within the Lyttelton Commercial Zone, except for residential development involving more than two units.

14. The approval made under sections 69 and 71 of the Greater Christchurch Regeneration Act 2016 (GCR Act) for changes to the parking requirements – details are available on the DPMC website: <https://dpmc.govt.nz/our-programmes/greater-christchurch-recovery-and-regeneration/section-71-proposals/lyttelton>

15. The Council's proposal can be found via this link, with effects on on-street parking considered from page 5 onwards: <https://dpmc.govt.nz/sites/default/files/2019-10/s71-lyttelton-parking-proposal.pdf>



16. The decision can be found via this link: <https://dpmc.govt.nz/sites/default/files/2019-12/ministerial-decision-lyttleton-carparking-proposal-section71-gcr.pdf>
17. In summary, and of relevance to this application, the exemption did not cover residential parking other than for sites containing only 1 or 2 residential units. Ms. Williams' evidence noted that the reasoning given in the Council proposal for not exempting larger scale residential developments related to concerns regarding the potential for residential parking demand to regularly occur within the town centre. Accordingly, the status quo essentially prevails, insofar that any shortfall of residential parking must be considered through the resource consent process in respect of the effects of overflow parking and consistency with the relevant objectives and policies. Noting that this application was lodged prior to the s.71 decision, a full and complete assessment of parking related effects and objectives and policies has been undertaken in both the AEE (including the Transport Assessment) and in the Council officers' reports. Those assessments conclude that there is ample unrestricted on-street parking in close proximity to the site to meet the type and duration of parking demand anticipated to occur in conjunction with residential activities.

#### **Further comments following submitters presentation at the hearing**

18. The question of whether the two-bedroom residential units will be used as dual key units was raised by the submitters. In short, these residential units have not been designed as dual key units and none are proposed. The application does not propose use of the units in a dual key configuration and the layout would not naturally lend itself to this type of arrangement (there are no second kitchens or separate doors to the bedrooms etc). Noting that the application does not include dual key use, and that a maximum of 20 units are proposed, condition 1 provides certainty as to the use and number of residential units within the development.
19. In respect of visual effects on the adjoining properties to the south and what is anticipated by the District Plan bulk and location standards, it is noted that that while the basement of the building is located on the southern boundary, the ground, 1<sup>st</sup> and 2<sup>nd</sup> floors are setback over 2.8m from this boundary. This setback is not required by the District Plan rules however it will reduce visual dominance and shading on these adjoining properties relative to a 12m high facade with no setback from this boundary.
20. Two of the submitters (G A Horan (Occupier, 19 Oxford Street) and G Loader (on behalf of the owner of 19 Oxford Street)) stated that the shading effects on the adjoining site would be unacceptable. However, it is considered that the assessment contained in Ms Jowett's S42A report relevantly assessed the shading effects on 19 Oxford Terrace. Although the proposed building would cast a shadow over the adjoining sites to the south, development within the subject site could be up to 12m in height with no boundary setback or recession plane controls and result in equivalent shadows on adjoining sites. Of note, the assessment matters for building height non-compliance do not consider shading on commercially zoned properties. And, whilst proposals exceeding permitted site coverage are to be considered in terms of their amenity effects due to visual dominance and the scale of development (per matter (a)(ii) in rule 15.13.3.7), there is no explicit consideration of shading effects which are a function of building height and position relative to boundaries. In summary, the shading effects of the proposal are considered to be acceptable, accounting for the built form outcomes envisaged by the planning framework in this location.



## Conclusion

21. In conclusion, we consider that the effects of the proposal, including the matters raised by the submitters, will be acceptable and generally consistent with the relevant provisions of the plan. It is therefore concluded that the application could be considered for approval, subject to the conditions contained in **Attachment 1**.

Yours sincerely,

**Novo Group Limited**

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## **Attachment 1: Consent Conditions**

1. Except as required otherwise by the conditions of this consent, the development shall proceed in accordance with the information and plans submitted with the application, including the amended plans dated 04/03/2020. The approved plans include:
  - Concept site plan SK 01, dated 04/03/2020
  - Basement / site concept plan SK10, dated 04/03/2020
  - Ground floor / site concept plan SK11, dated 04/03/2020
  - First floor concept plan SK12, dated 04/03/2020
  - Second floor concept plan SK13, dated 04/03/2020
  - Roof deck concept plan SK14, dated 04/03/2020
  - Balcony and window details SK21, dated 04/03/2020
  - Elevations SK20, dated 04/03/2020,
  
2. Prior to application for Code Compliance for buildings, the consent holder shall submit (by email to rcmon@ccc.govt.nz) for certification:
  - a. Details of the methods for ensuring that the ground floor concertina mesh gates shown on the approved plans shall be closed and locked outside of opening hours for the ground floor tenancies. Examples of such methods may include but are not limited to: directives to ground floor tenants, engagement of security contractors, or automated solutions.
  - b. Details of exterior concrete walls at the ground floor and basement level to confirm that a fine-grain pattern shall be inscribed across the full extent of the walls, except where covered by a cladding material.
  - c. Details of the building cladding, at first floor level and above to confirm that each of the four building modules has different, distinct patterns and/or colours.
  - d. Plans and details of the location and type of lighting to be provided at ground floor level demonstrating compliance with the NZ lighting standards AS/NZS 1158 2005 Standard P7 for “Public Activity Areas” in respect of pedestrian safety (an average horizontal illuminance of 14 lux and a point horizontal illuminance of 4 lux). The certified lighting plan shall be implemented in full prior to the ground floor access way being open to the public.

Where there is dispute over certification of matters b and c above, the Council shall appoint an independent urban designer to certify whether the objectives set out in matters b and c have been satisfied. In such circumstances, the independent certifier’s decision shall be final. In the event that the details proposed by the consent-holder are not certified, or any future changes are proposed, re-certification shall be sought in accordance with this condition. Where there is dispute over certification

the costs associated with obtaining the decision of an independent urban designer shall be borne by the applicant.

The activity shall be undertaken in accordance with the certified specifications on an ongoing basis.

3. Automatic security measures shall be provided on the stairwell and lift to limit access to the first and second floors, and rooftop, to persons residing or staying on-site, and their visitors.
4. Parking spaces within the basement shall be allocated to specific units, or each space shall be managed to ensure it is exclusively available for one user at any one time, to avoid drivers speculatively entering the basement and then having to exit again.
5. Signs to warn drivers of the possible presence of cyclists shall be provided in the following locations:
  - Above the accessway ramp, either affixed to the ceiling or a bulkhead, facing and clearly visible to oncoming drivers; and
  - On the southern wall of the car park midway between the bottom of the accessway ramp and the end of car park 6, facing north

The signs shall comprise a yellow diamond measuring 0.6m by 0.6m, and show a black cycle symbol on a yellow background.

6. The roller door at the access shall open, to its full extent to enabling a vehicle to enter the site, within a maximum of 3 seconds after being activated.
7. A convex mirror shall be affixed to the southern wall of the car park and positioned such that car drivers and cyclists travelling down the ramp can see vehicles and cyclists manoeuvring within the basement.

#### Advice Notes:

- A. This site may be an archaeological site as defined and protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. Archaeological sites are defined in the HNZPTA as any place in New Zealand where there is physical evidence of pre-1900 occupation, regardless whether the site is known or not, recorded in the NZAA Site Recording Scheme or not, or listed with Heritage New Zealand or the local council. Authority from Heritage New Zealand is required for any work that affects or may affect an archaeological site. Please contact the Heritage New Zealand regional archaeologist on 03 363 1880 or [archaeologistcw@heritage.org.nz](mailto:archaeologistcw@heritage.org.nz) before commencing work on the land.
- B. It is unlawful for any person to destroy, damage, or modify the whole or any part of an archaeological site without the prior authority of the Heritage New Zealand Pouhere Taonga. This is the case regardless of the legal status of the land on which the site is located, whether the activity is permitted under the District or Regional Plan or whether a resource or building consent has been

granted. The Heritage New Zealand Pouhere Taonga Act 2014 provides for substantial penalties for unauthorised damage or destruction.

- C. Building over a drain will require a separate application to Council in respect of Clause 26 of the Water Supply, Wastewater and Stormwater By-law.
  
- D. This application has been processed on the basis of compliance with Rule Rule 6.1.7.2.1 Sensitive activities near roads and railways. Compliance with the acceptable solutions in Appendix 6.11.4 or a design report in accordance with 6.1.7.2.1 a. ii. A. must be provided with the application for Building Consent. If compliance is not demonstrated at building consent stage then another resource consent would be required.