

# NOTICE OF APPROVAL FOR DEVELOPMENT

Section 81 (1)(A) of the Environmental Planning and Assessment Act, 1979

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Approval Date	
Authority	Joint Regional Planning Panel
Reference	DA-2011/308
Contact	Marta Sadek 9562 1743

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Krikis Tayler Architects Pty Ltd  
PO BOX 726  
NORTH SYDNEY NSW 2059

**DRAFT**

**Property:** 524-544 Rocky Point Road, SANS SOUCI NSW 2219  
Lot A DP 949012, Lot B DP 949012, Lot C DP 949012, Lot 143 DP 2452,  
Lot 144 DP 2452, Lot 1 DP 5933, Lot 2 DP 5933, Lot 3 DP 5933, Lot B  
DP 380002, Lot A DP 380002

**Proposal:** Construct four(4) residential floors containing 72 units above the retail podium in lieu of the two commercial office levels previously approved by Council in DA-2007/123

The above development is approved subject to the following conditions:

Your Development Application has been approved under Section 80(3) of the Environmental Planning and Assessment Act, 1979 as a **Deferred Commencement** consent.

The consent shall not operate until you satisfy Council about the following matters:

- i. DA-2007/123 is modified, to the extent of any inconsistencies with the residential component approved under this application, in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 and Clause 97 of the Environmental Planning and Assessment Regulation 2000.

The period of the Deferred Commencement is **six** months from the date of this letter. It is important we hear from you about the outstanding matters above as soon as possible so as to avoid any further delay.

Presuming settlement of the above matters, your Deferred Commencement Consent is subject to the following conditions:

## GENERAL CONDITIONS

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of **three** (3) years from the date of approval. The consent will lapse if the development does not commence within this time.

2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.
 

Architectural plans numbered A-DA-A01 Issue 2, A-DA-A02 Issue 5, A-DA-A03 Issue 5, A-DA-A04 Issue 4, A-DA-A05 Issue 4, A-DA-A06 Issue 4, A-DA-A07 Issue 4, A-DA-A08 Issue 4, drawn by KT Architects and received by Council on 28 June 2011,

Architectural plans numbered A-DA-A09 Issue 5, drawn by KT Architects and received by Council on 28 June 2011,

Architectural plans numbered A-DA-A11 Issue 4, A-DA-A16 Issue 3, drawn by KT Architects and received by Council on 28 June 2011,

Landscape plans numbered C101 Issue F, drawn by Site Image and received by Council on 28 June 2011,

Landscape plans numbered 101 Issue F, drawn by Site Image and received by Council on 28 June 2011,

Landscape plans numbered 501 Issue B, drawn by Site Image and received by Council on 17 June 2011,

Landscape plans numbered 502 Issue A, drawn by Site Image and received by Council on 17 June 2011.
3. This consent modifies DA-2007/123 and shall be read in conjunction with development consent DA-2007/123 issued by Council on 6 February 2008.
4. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 357039M\_02 other than superseded by any further amended consent and BASIX certificate.
 

**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -

  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.

**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

**Note:** For further information please see <http://www.basix.nsw.gov.au>.
5. A separate approval is required for the strata subdivision.
6. To ensure clarity and easy identification of the units within the building, unit and street numbers shall be nominated in consultation with Council's Spatial Information team prior to Occupation.
 

Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

7. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

**Allocated Spaces**

Studio apartments, 1 bedroom apartments and 2 bedroom apartments	1 space per apartment
3 bedroom apartments and 3+ bedroom apartments	2 spaces per apartment

**Non-Allocated Spaces**

Residential Visitor Spaces	1 space per 5 apartments
Car wash bays	1 car wash bay per 60 apartments (2 required)

Parking calculations that are not whole numbers must be rounded up to the nearest whole number.

All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.

**Note:** This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the *Environmental Planning and Assessment Act 1979* or a Complying Development Certificate issued in accordance with Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

8. The height of the 'framed balcony surrounds' shall be increased by at least 1m (within the maximum height limit of 19m stipulated for the building). Details shall be shown on the construction certificate documentation.
9. Storage areas within the site shall be allocated to the units to ensure that each unit contains storage space in accordance with the requirements of the RFDC under SEPP 65. Details shall be submitted to the PCA prior to the issue of the construction certificate.
10. The recommendations of the Pedestrian Wind Environment Study report prepared by Windtech dated February 14, 2011, received by Council on 24 February 2011 shall be implemented. Details shall be submitted to the PCA prior to the issue of the Construction Certificate.
11. To achieve better amenity for the residents, Units 3 and 11 in level 3 shall be deleted and replaced with communal areas with direct access to the lift lobbies. Details shall be provided with the Construction Certificate documentation.

## NSW POLICE

The following conditions are specific to the NSW Police requirements:

12. Monitored CCTV facilities shall be installed in entry/exit and common areas such as entry foyer, lift and office areas, in addition to the outside perimeter of the premises (Rocky Point Road, Evans and Russell Streets and Jameson Lane).

13. Monitored CCTV facilities shall be installed throughout the basement car parks, garbage storage, and lobby.
14. Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
15. Appropriate lighting shall be installed in all areas of the development. In particular, all communal areas and walkways throughout the development should be equipped with adequate lighting (as per Australian and New Zealand Standards) to assist with way finding and to ensure the safety of residents and guests.
16. Entries shall be legible and inviting with effective signage erected in foyer entry of premises to inform and assist visitors, and to warn intruders that such areas are private space. A signage plan shall be prepared and approved by Council prior to occupation.
17. Intercom facilities shall be incorporated into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development. An auxiliary lock set shall also be incorporated into the design of each of the entry/exit points to enable emergency services to access the development particularly in emergency situations.

## DEVELOPMENT SPECIFIC CONDITIONS

The following conditions are specific to the Development Application proposal:

18. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
19. Hot and cold water hose cocks shall be installed to the garbage room in all levels.
20. To ensure compliance with clause 13.1(B)(1), the noise impact assessment report prepared by Acoustic Logic Rev 2 dated 14/6/2011 received by Council on 17 June 2011 shall be amended to indicate any additional measures required to achieve an Acoustical Star Rating of 5 between walls and floors in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC).
21. All vertical plumbing, other than roofwater heads and downpipes, shall be concealed within the brickwork of the building.
22. Balustrades shall be constructed from a solid/opaque material to a minimum height of 1000mm.  
The top of the balustrade shall be a minimum height of 1200mm.
23. Ceiling heights for all habitable areas shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling.  
Ceiling heights for all non-habitable areas shall be a minimum of 2.4 m as measured vertically from finished floor level to the underside of the ceiling.

24. All hot water systems/units which are located on the balcony of a dwelling/unit must be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed. Details shall be submitted prior to the issue of the construction certificate.
25. To achieve the minimum standards suggested by SEPP 65, a minimum soil depth is required for planted areas on podiums or roof-tops or any other concrete slab as follows:
  - 300mm for turf,
  - 400mm for groundcovers,
  - 600mm for shrubs,
  - 800mm for small trees (4 to 7 metres canopy diameter at maturity) and minimum soil volume of 9 cubic metres per tree, with approximate soil area 3.5 x 3.5 metres or equivalent,
  - 1 metre for medium trees (8 to 10 metre canopy diameter at maturity) and minimum soil volume of 35 cubic metres per tree, with approximate soil area 6 x 6 metres or equivalent.

Any subsurface drainage requirements are in addition to the minimum soil depths specified above.

Details shall be indicated in the approved landscape plans prior to the issue of the construction certificate.

## PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE

The following conditions must be completed prior to the issue of the Construction Certificate.

26. A fee is payable to Council for a Soil and Water Management Sign (811) of \$14.95. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
27. An environmental enforcement fee of 0.25% of the cost of the works shall be paid to Council prior to the issue of a construction certificate in accordance with Rockdale Council's City Plan (adopted fees and charges).
28. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
29. A Section 94 contribution of \$206,548.32 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels.) The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Open Space	\$165,459.16
Community Services & Facilities	\$13,925.70
Town Centre & Streetscape Improvements	\$5,263.54
Pollution Control	\$20,651.60
Plan Administration & Management	\$1,248.32

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.

30. A Section 94 contribution of \$62,460.80 shall be paid to Council. Such contribution is only used towards the provision of local infrastructure and facilities in the Ramsgate Town Centre. The contribution is to be paid prior to the issue of the Construction Certificate. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in the current Section 94 Contribution Plan.
31. If Council is appointed as the Principal Certifying Authority (PCA) then structural engineer's details shall be submitted prior to the issue of the Construction Certificate; such structural drawings shall be certified by the Structural Engineer that the design complies with the relevant S.A.A. Codes for the following:
  - i) the footings of the proposed structure;
  - ii) the footings of the slab-on-ground (having due regard to the possible differential settlement of the cut and fill areas);
  - iii) all reinforced concrete floor slabs;
  - iv) all reinforced concrete stairs;
  - v) the piers to natural ground or rock, detailing the size and position of the piers;
  - vi) the proposed retaining wall;
  - vii) the work required to stabilise the excavation;
  - viii) the work required to stabilise the footpath area;
  - ix) the design of each roof truss type showing the layout of each truss on a marking plan and the method of connecting each truss to its supporting members of the method of bracing;
  - x) all structural steel work;
  - xi) first floor joists;
  - xii) fire rated ceilings/fire protective ceilings.
32. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.
33. To ensure the development is compatible with the surrounding environment, colours and finishes of the roof and walls are to be submitted to Council **prior** to the issue of the Construction Certificate. Council will advise you on the suitability of the selected samples.
34. Compliance with Council's Development Control Plan (DCP) 28 - Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within residential units 13 (Level 1) and 8 (Level 2), and between these units and its allocated carparking space. The allocated parking space will be located in close

proximity to the access points of the building. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.

**Note:** Compliance with Council's Development Control Plan (DCP) 28 - Requirements for Access and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

35. The contaminated site shall be remediated and made suitable for the proposed residential use in accordance with 'State Environmental Planning Policy No 55 Remediation of Land' (SEPP55) prior to the issue of a Construction Certificate. A Site Remedial action Plan (SRAP) prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority for the management of contaminated land. It is preferable that the plan be prepared by the same consultant who assessed the site for contamination.
36. Within one (1) month of completion of the remedial works and prior to the issue of a Construction Certificate, a copy of the Validation Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land. The Validation Report shall be prepared in accordance with the NSW Environment Protection Authority's (EPA) guidelines, *Consultants Reporting on Contaminated Sites*, and shall include, but not be limited to the following:
  - describe and document all works performed;
  - include results of validation testing and monitoring;
  - include validation results of any fill imported on to the site;
  - show how all agreed cleanup criteria and relevant regulations have been complied with; and
  - include clear justification as to the suitability of the site for the proposed residential use and the potential for off-site migration of any residual contaminants.
37. Detailed mechanical noise assessment shall be carried out by an acoustic consultant who is a member of the Association of Australian Acoustical Consultants and the acoustic report shall be provided to the Principal Certifying Authority prior to the issue of a construction certificate. Any recommendations for noise control measures in the report shall be adopted and implemented.

## PRIOR TO COMMENCEMENT OF WORKS

The following conditions must be completed prior to the commencement of works.

38. A system of fire and smoke alarms and/or detection system (as applicable) shall be provided throughout the building. Details shall be submitted for assessment and approval prior to commencement of works.

## DURING DEMOLITION / EXCAVATION / CONSTRUCTION

The following conditions must be complied with during demolition, excavation and or construction.

39. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
40. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
- i) after excavation for, and before the placement of, any footing, and
  - ii) prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
  - iii) prior to covering any stormwater drainage connections, and
  - iv) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.

41. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
- Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
42. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
- i) After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - ii) Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - iii) Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - iv) On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
  - v) On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels,



accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.

43. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
  - i) spraying water in dry windy weather
  - ii) cover stockpiles
  - iii) fabric fences
44. Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

## PRIOR TO ISSUE OF OCCUPATION CERTIFICATE OR COMMENCEMENT OF USE

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

45. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
46. All landscape works are to be carried out in accordance with the approved landscape plans. The landscaping is to be maintained to the approved standard at all times.
47. Testing and evaluation of the wall and floor insulation system is to be carried out at post construction stage by a suitably qualified acoustical engineer to show an Acoustical Star Rating of 5 has been achieved in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC) in accordance with the report submitted to Council with the Development Application. A validation report is to be submitted to the Principal Certifying authority prior to the issue of the Occupation Certificate.
48. A Certificate of Acoustic Compliance report prepared by an acoustic consultant who is a member of Association of Australian Acoustical Consultants shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently. The report shall validate that the use mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) will not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy.
49. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
50. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.

51. An accredited site auditor under the Contaminated Land Management Act 1997 shall review the Site Remedial Action Plan and Validation Report prepared by the contaminated land consultant and issue Site Audit Statement and Site Audit Report. The Site Audit Statement (SAS) and Site Audit Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of Occupation Certificate, clearly demonstrating that the site is suitable for the proposed residential use. Conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail to the extent of inconsistency and a S96 application pursuant to the Environmental Planning & Assessment Act 1979 will be required.

## ROADS ACT

52. The following details shall be submitted to Council for assessment and approval pursuant to *Section 138* of the *Roads Act 1993*, in relation to the awning over Rocky Point Road and Russell Avenue:

- i) Detailed design plans and specifications, including structural details; and
- ii) Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural).

**Note:** Awnings are required to be set back a minimum of 600 mm from the kerb face and be a minimum height of 2.4 metres above the footpath level. Drainage from the awning shall be connected to the stormwater system for the development.

Following completion of the installation of the awning a certificate from a Chartered Professional Engineer (Structural) shall be submitted to Council stating that the awning has been constructed in accordance with the design plans and specifications.

## DEVELOPMENT CONSENT ADVICE

- a. If Council is appointed as the Principal Certifying Authority (PCA), a fee shall be paid before a Construction Certificate is issued. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges. The fees charged encompass **all** matters related to ensuring that the proposed development is carried out in accordance with the approved plans and any post inspection issues that may arise.
- b. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
  - choosing quiet equipment
  - choosing alternatives to noisy activities
  - relocating noise sources away from affected neighbours
  - educating staff and contractors about quiet work practices
  - informing neighbours of potentially noise activities in advance
  - equipment, such as de-watering pumps, that are needed to operate on any

evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.

- c. Access control should be incorporated into the lifts, to prohibit intruder(s) access, particularly from the car park to the retail podium and residential units.

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## ADDITIONAL INFORMATION

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the Environmental Planning and Assessment Act, 1979. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Section 82A allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- Under Section 97 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within 12 months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

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Should you have any queries please contact Marta Sadek on 9562 1743.

Luis Melim  
**Manager - Development Services**