

Joint Regional Planning Panel

(Sydney East Region)

Meeting Date: 21 November 2012

JRPP Number:	2012SYE067
DA Number:	12(071)
Local Government Area:	City of Botany Bay
Proposed Development:	<p>The construction of two (2) residential flat buildings comprising of 158 apartments and basement parking for 271 vehicles accessed from New Street 1.</p> <p>The residential flat buildings are known as Building E and F located within the wider Park Grove 'Masterplan' site.</p>
Street Address:	25-31 Wilson Street Botany
Applicant:	Krikis Tayler Architects
Number of Submissions:	Nil
Recommendation:	Approval – Deferred Commencement
Report by:	Rodger Dowsett, Director Planning and Development, City of Botany Bay

Précis

Council received development application 12/071 on 9 May 2012. The application sought approval for the construction of two (2) residential flat buildings (Buildings E and F) within the Park Grove 'Masterplan' site. Building E and F comprise of 158 apartments and basement parking for 271 vehicles (accessed via New Street 1) at the property known as 25-31 Wilson Street Botany.

The Park Grove 'Masterplan' (DA-05/459) was approved by Council on 10 August 2006 and included multi-storey residential flat buildings, townhouses (providing a total of 268 dwellings), multi storey commercial buildings, approximately 537 off street parking spaces, internal roads, extension of Rancom Street, internal footpaths / cycle ways, and construction of a public park near the centre of development. The 'Masterplan' development application has also been modified variously via a number of Section 96 Modifications since 2006. The most recent Section 96 Application has been DA-05/459/05, was approved by Council on 5 September 2012 to amend the 'Masterplan' as follows:

- increase the height of Building E from 5 to 6 storeys (an increase of 37 units);
- increase the height of Building F from 4 storeys to 6 storeys (an increase of 13 units);
- deletion of Townhouse I & J and replacement with 8 townhouses to street frontage;
- relocation of northern communal open space from between Buildings E and F to between J and D;
- reduction of the public open space from 3,900sqm to 3,554sqm;
- relocation of New Street 2,
- closure of eastern end of New Street 1 to through traffic;
- closure of the middle of Rancom Street; and
- Provision of traffic signals at the intersection of Pemberton Street and Botany Road.

The subject development application (DA-12/071) for the construction of Buildings E and F is consistent with the height, scale and layout of buildings approved under the above 'Masterplan' as amended in September 2012.

The plans of the Development Application were presented to Council's Design Review Panel (DRP) on 1 February 2012 and subsequently on 29 February 2012, prior to the applications lodgement with Council. The first report of the DRP resulted in the applicant making a series of clarifications and detailed changes to the proposal.

The Development Application was publicly exhibited and adjoining property owners were notified by mail. The exhibition commenced on 29 May 2012 and concluded on 29 June 2012.

No submissions were received in response to the notification.

The application was registered with the JRPP on 2 July 2012.



Figure 1 - illustrates the location of Building E and F in relation to the approved Park Grove 'Masterplan' development and adjoining sites.

As part of the State Environmental Planning Policy 65 (SEPP 65) assessment, Council commissioned an independent consultant to examine the accuracy and compliance of the performance of the proposed development in terms of solar access and natural ventilation. Whilst compliance with the cross ventilation requirements was confirmed, a non-compliance with the solar access provisions was revealed. Council subsequently requested the applicant address the independent analysis and a response from the applicant in relation to solar access/overshadowing was received by Council on 25 October 2012. The applicant's justification and changes relating to solar access were independently reviewed by the consultant and comments were submitted to Council on 7 November 2012, concluding that the total number of dwellings 'deemed to comply' with State Environmental Planning Policy 65 solar access was 77.2%, which is considered to be acceptable.

As the site is flood affected, Council commissioned Brown Consulting as an independent consultant to examine the submitted Flood Study (prepared by KFW Williams and Associates Pty Ltd dated 24 September 2012) in terms of any likely impacts to subject and adjoining sites, and in terms of the appropriateness of the temporary flood mitigation works proposed. Council received Brown Consulting Analysis on 18 October 2012.

As a result of the Flood Study recommendations, a temporary flood drainage basin is proposed to be constructed within the Park Grove 'Masterplan'. It is also proposed to construct New Street 1 to provide vehicle access to Buildings E and F. Council therefore recommends, via condition that:

Construction of New Street 1 and the temporary flood basin are to be carried out to Council's Engineers satisfaction under separate Development Consent(s). The Development Consent(s) and all construction works of New Street 1 and for the temporary flood storage basin shall be completed prior to issue of any Occupation Certificate and Strata Subdivision Certificate for Building E and F.

A development application for the construction of New Street 1 was recently lodged with Council on 24 October 2012. New Street 1 is depicted within Figure 1.

The proposal constitutes Integrated Development as the development involves the construction of a basement that will transect the water table. The application was accordingly referred to the NSW Office of Water for its approval under the *Water Management Act 2000*. The NSW Office of Water determined that a Licence under Part 5 of the Water Act 1912 is required in relation to the subject DA and General Terms of Approval provided by the NSW Office of Water are included as conditions of development consent.

Officer Recommendation

The Development Application No. 12/071 has been assessed in accordance with the relevant requirements of the Environmental Planning Assessment Act, 1979 and is recommended that the Joint Regional Planning Panel (JRPP) for the Sydney East Region, as the Consent Authority, resolve to:

- Grant Development Application No. 12/071 a "Conditional Consent" for the following works:

The construction of two (2) residential buildings (Buildings E & F) within Park Grove 'Masterplan' site, comprising of 158 apartments and basement parking for 271 vehicles, at 25-31 Wilson Street Botany.

SITE DESCRIPTION

The legal description of the allotments to which this development application relates is as follows:

- Lot B - DP 380476
- Lot C - DP 380476
- Lot 1 - DP 158551
- Lot 2 - DP 158551

The site is generally level with a slight cross fall from north to south.

The combined area of the above four lots is 18,738sqm. The four allotments that this development application applies to are located across two land use zones. Zone 2(b) Residential B and zone 4(b1) Mixed Industrial Restricted as outlined within Botany Local Environmental Plan 1995. The development proposed under this application (i.e. Buildings E and F) is wholly located within zone 2(b) Residential.

As identified in Table 1 below, the abovementioned allotments are located within the north eastern corner of the Park Grove 'Masterplan' site (DA-2005/459/05). The combined site area of the wider Park Grove 'Masterplan' site is 34,682sqm.

Table 1 – Summary of the allotment combinations referred to within this report:

Component	Allotment combination	Size
Park Grove 'Masterplan' Site	Approximately 19 separate allotments	34,682sqm
Allotments which form a legal part of the development application (existing allotments)	Four (4) allotments <ul style="list-style-type: none"> • Lot B - DP 380476 • Lot C - DP 380476 • Lot 1 - DP 158551 • Lot 2 - DP 158551 	18,738sqm
Footprint of Building E and F (identified as a future allotment following consolidation and subdivision)	Part of the four (4) allotments	6,880sqm

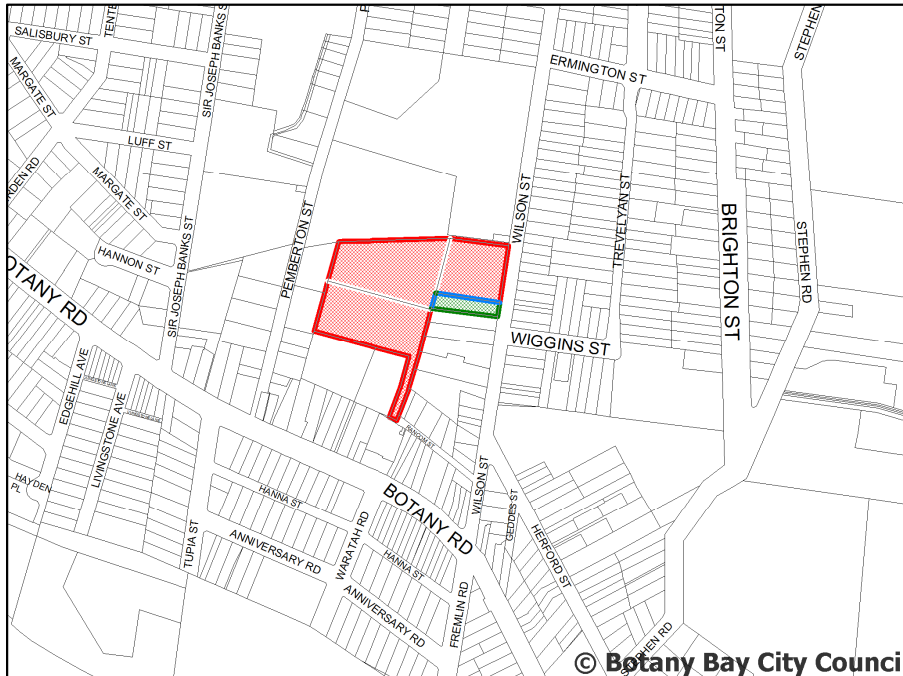


Figure 2 - The four existing allotments which form part of the development application are situated between Pemberton Street and Wilson Street, Botany.

For the purpose of this assessment report, all calculations within this report (unless otherwise stated) are based on the future footprint and proposed subdivision boundary lines for Proposed Lot 20 that will be occupied by Buildings E and F (as identified in Figure 3 below). The future allotment area of the Proposed Lot 20 (occupied by Building E and F) is 6,880sqm (as advised within the supporting Statement of Environmental Effects). This space is referred to in the assessment report as the “site area”.

It is noted that subdivision of the site does not form part of this development application. The future allotment occupied by Buildings E and F will have a frontage of approximately 80 metres to New Street 1, a frontage of approximately 52 metres to New Street 2 and the public open space of a proposed 3554sqm Park.. Both New Street 2 and the Park are on the plan at Figure 1.

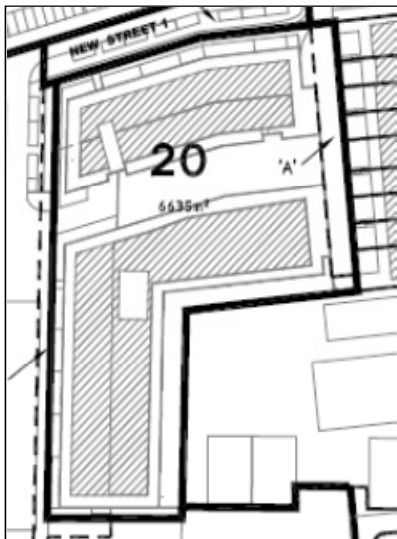


Figure 3 – (above): The proposed subdivision allotment of Building E and F (surrounding the footprint of Building E and F) is identified as future Lot 20 as part of the Park Grove ‘Masterplan’

EXISTING AND SURROUNDING DEVELOPMENT

Existing Development

The suburb of Botany is located within the southern section of the City of Botany Bay and is bounded by the airport, parklands surrounding Botany Bay, industrial areas open space and golf courses.

The Park Grove 'Masterplan' site is a large residential redevelopment site which is located to the rear of Banksmeadow Neighbourhood Shops on the northern side of Botany Road. The 'Masterplan' site has frontages to Wilson Street (to the east), Pemberton Street (to the west) and Rancom Street (to the south) (See Location Plan Figure 1).

The proposed development (Buildings E and F) is within the approved Park Grove 'Masterplan' site (DA-205/459/05). The proposed development is positioned to the west of Buildings G and H, which also form part of the 'Masterplan' site. Buildings G and H (approved under DA-08/261) are currently under construction and consist of nine (9) townhouses fronting Wilson Street.

Residential development under construction currently includes the townhouses located at No. 25-33 Wilson Street and those located at No. 9-17 Wilson Street. Therefore a significant proportion of the Park Grove 'Masterplan' site has yet to be redeveloped and it remains in a disused industrial form, although a portion of the site has been cleared. The site currently houses a number of industrial buildings and spaces from previous uses and shipping containers. These structures are mainly located along Pemberton Street.

Adjoining Development

The properties immediately adjoining the site to the north (as well as those located on the western side of Pemberton Street) are industrial/commercial in nature. To the east on Wilson Street, development consists of predominately low density residential dwellings.

The properties to the south-east of the site (known as No. 19-21 and No. 23 Wilson Street) are existing industrial buildings that do not form part of the overall Park Grove 'Masterplan' area. Redevelopment plans for No's 19-21 Wilson Street have been considered by the Design Review Panel, however no formal DA has been lodged with Council.

Development to the west of Buildings E and F forms part of the future Park Grove 'Masterplan' site. The future uses of the land to the west include New Street 2, Public Park 1, Building A, Building B1 and Building B2. Further to the west beyond the Park Grove 'Masterplan' site, lies Pemberton Street with the sites in this street predominately used for light industrial/commercial purposes.



Picture 1 – View of the north-eastern side of the development site



Picture 3 – View of the north-eastern side of the development site and proximity to adjacent townhouses (left corner) located on Wilson Street



Picture 2 – View of the south-eastern corner of the development site and adjacent property at No. 23 Wilson Street and the townhouses (part of Park Grove ‘Masterplan’ site) located on Wilson Street.

THE PROPOSAL

The development application seeks consent for the erection of two (2) residential flat buildings (known as Buildings E and F) containing 158 apartments and 271 parking spaces. The buildings proposed are within the Park Grove ‘Masterplan’ site.

Buildings E and F consists of a basement carpark level, plus six (6) storeys of residential apartments. Building F includes a roof terrace which includes a lift overrun, stairwell and communal terrace. (For the purpose of this report, the roof terrace is not being considered a storey).

The residential component of the development is located within two towers, and the 271 parking spaces are contained within one level of basement parking and half a level of ground floor parking at the property known as 25-31 Wilson Street Botany.

The specifics of the proposal are detailed below.

General Arrangement

The built form is arranged as two separate tower elements (Building E and F) located over a basement parking level and podia (level 1), with a total GFA 15,613sqm. Vehicular access is proposed carpark located in the Basement and across part of Level 1 via a shared laneway, accessed via New Street 1.

Building E

- Building E is proposed as an “L” shaped building.
- On its northern side it addresses proposed Building F.

- To the east it shares a laneway with Building F and the townhouses fronting Wilson Street.
- To the south Building E adjoins part of the Park Grove 'Masterplan' site, as well as the adjoining site No. 19-23 Wilson Street.
- To the west it faces future New Street 2 and New Park 1.
- Building E achieves a height of 6 storeys (plus basement level) or 20 metres (RL26.39, measured to the top of the lift shaft overrun).
- One basement level. **Note:** The definition provided within Development Control Plan No. 31, nominates that basement parking level protruding more than 1.2 metres above ground level is calculated as a storey. Therefore the total number of storeys is technically 7, as approximately one third of the perimeter of the basement is situated slightly above 1.2metres.

Building F

- Building F's is rectangular in shape.
- On its northern it addresses New Street 1.
- To the east the building addresses the shared lane that divides both Building E and F from the townhouses fronting Wilson Street.
- To the south it addresses Building E and to the west it addresses future New Street 2 and Building A.
- Building F achieves a height of 6 storeys (plus basement level) or approximately 24 metres above ground level (RL 28.5, measured to the top of the lift shaft overrun).
- One basement level. **Note:** The definition provided within Development Control Plan No. 31 nominates that basement parking level protruding more than 1.2 metres above ground level is calculated as a storey. Therefore the total number of storeys is technically 7, as approximately one third of the perimeter of the basement is situated slightly above 1.2metres.

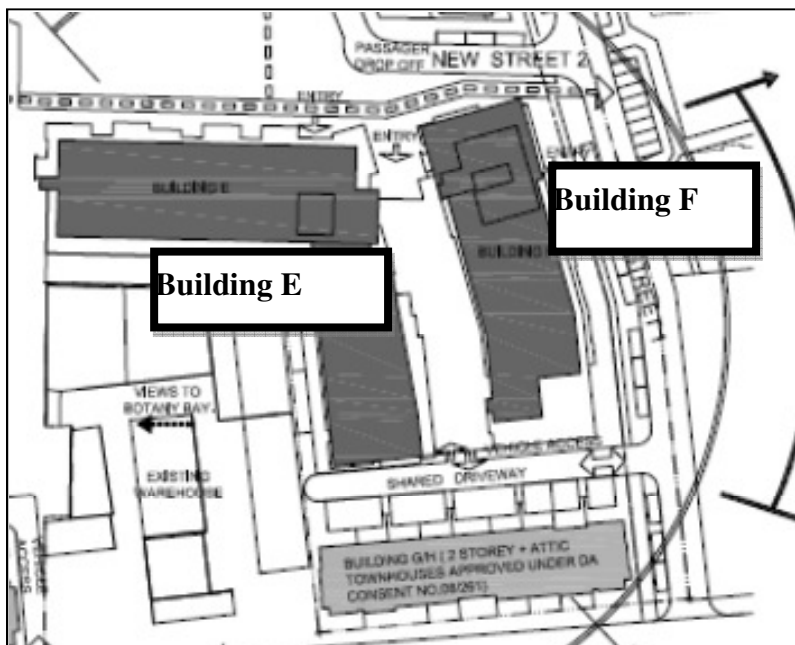


Figure 4 – illustrates the position of Building E and F in relation to the approved Park Grove 'Masterplan' development and adjoining sites.

Overall number of apartments

The number of residential apartments proposed across both Building E and F is **158**.

A summary of the breakdown of unit size and mix for each building is provided in Table 2 below:

Table 2 – The total number of apartments and size breakdown.

Unit size	Building E	Building F
Studio	5	0
One Bed	49	7
Two Bed	45	47
Three Bed	2	3
Total	101	57

Combined Basement and Level 1

The two buildings are constructed over a common basement level car park which provides parking for a total of 177 cars. (It is noted that development plans do not include “ground level”) Level 1 above the basement is proposed to be a shared space and includes parking for 94 cars. The ingress and egress for the parking is via a 6 metre wide driveway located on Level 1 and accesses the shared laneway (serviced by New Street 1) on the eastern side of Buildings E and F.

The southern and eastern corners of the Basement and Level 1 forms an L shape around the adjoining site at No. 19-23 Wilson Street. Both the Basement and Level 1 of the development are proposed to have a zero setback to the boundary with No 19-23 Wilson Street.

Pedestrian access to the residential towers is achieved on Level 1 of the development from New Street 1 and New Street 2. Each building contains an independent lobby and this arrangement provides a discrete “address” for each building.

A total of 15 apartments are proposed to be located on Level 1 across Building E and F. These dwellings have direct street access to New Street 2 and have internal access from within the building. The form and sitting of the buildings provides a residential presence to New Street 1, New Street 2 and the future Public Park 1. The site will have a direct relationship with the public open space within the wider Park Grove ‘Masterplan’ site.

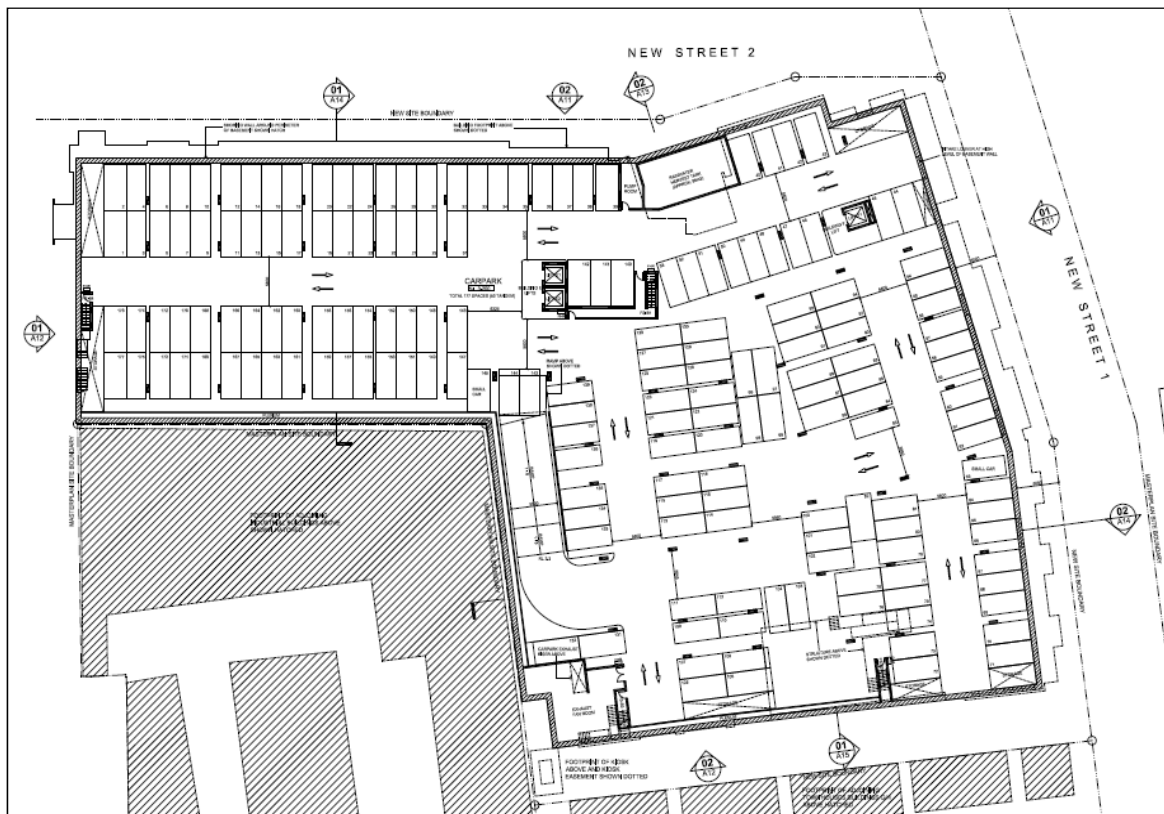


Figure 5 – illustrates the one basement level under Building E and F towers.



Figure 6 – illustrates Level 1 (the development does not propose a Ground Level) under Building E and F towers which includes parking accessed via shared laneway from New Street 1 and residential apartments fronting onto New Street 1 and New Street 2.

Communal Open Space – Level 2

The towers of Building E and F are separated by a communal open space located on a raised podium within Level 2 of the building (figure 7 below). The communal podium is landscaped around the edge and is an area approximately 50 metres long and between 9-11 metres wide. The communal open space is located at RL 9.2, which is approximately 5 metres above natural ground level (measured from the service laneway to the east of the building). Six (6) apartments from Building E have direct access to the communal open space, and 10 apartments within Building F have balconies abutting the communal open space. The communal open space is one of two spaces provided for the residents of the Building E and F. Further communal open space is located on the roof of Building F.



Figure 7 – below illustrates level 2 which includes a central podium between Building E and F towers for use as common open space.

Levels 3 to Level 6

Levels 3 to 6 in both Building E and F contain residential units, varying in size from studios to three bedrooms units.

Communal Open Space - Roof Level

An open communal roof terrace and landscaped area measuring approximately 8 metres wide by 12 metres long with a total area of approximately 35sqm is proposed upon the western end of Building F. The terrace is located at RL 24.2metres AHD. The terrace is lined with landscaping planter boxes, and is setback from the edge of Building F by between 2 metres on the northern edge and 5-6 metres on the western and southern edge.

Development History of the Site

The Park Grove ‘Masterplan’ site relies on ‘Masterplan’ development consent (DA-2005/459 – as modified by Section 96); however it is noted that a subsequent Section 96 modification to the DA - has been submitted to Council and is currently under assessment.

A number of development consents have been issued for the construction of townhouses fronting Wilson Street, however, Building E and F forms the first development application seeking the construction of residential flat buildings within the Park Grove ‘Masterplan’ precinct. This development is therefore within an early stage of the redevelopment process, and it is evident that the site is undergoing significant transition from the historical industrial use.

Table 3 – below outlines the recent development history of the site.

Application Number	Description of development	Status of application (order by date)
DA-2005/459 <i>(Note: New number of application on Council system DA-05/459/01)</i>	Master plan development application included: 9 multi-storey residential flat buildings and 4 x 2.5 storey blocks of townhouses – total 268 dwellings; Construction of 3 x 4 storey commercial buildings that comprise a total of 8 industrial and 8 commercial units; approximately 537 off street parking spaces; internal roads; Extension of Rancom Street from Wilson Street to Pemberton Street; and internal footpaths and cycle ways; Construction of publicly accessible park near the centre of development and associated landscaping.	Approved 10 August 2006
05/459/01 <i>(Note: New number of application on Council System 05/459/02)</i>	Section 96(1) – Application to make minor amendments to conditions of Development Consent DA-2005/459.	Approved 10 November 2006
05/459/02 <i>(Note: New number of application on Council System 05/459/03)</i>	Section 96(2) – Application to make amendments to Development Consent DA-2005/459 including the following: Amendments to layout and configuration of the buildings, namely Buildings A, B1, B2, C, D, E, F, G, H, I and J; reduction in the number of residential flat buildings; an increase in the number of townhouses; An increase in the total number of dwellings and off street parking spaces; A reduction in the industrial/commercial floor area; An increase in the overall gross floor area and reduction in the overall site coverage of buildings; Deletion of building “G” and replacement with	Approved 28 May 2008

	communal open space and communal facilities; Replacement of building “K” with townhouses; Reduction in the basement car park so that it does not extend under the townhouses fronting Wilson Street – and inclusion of below podium car park between B1 and B2; Deletion of New Street 3 and alternative access proposed; and Amendments to the stormwater detention arrangements for the site; and overall increase in deep soil landscaping.	
DA-2008/174	Development Application – Stage 1A development to construct 18 x 3 bedroom townhouses in the southern section of the Park Grove ‘Masterplan’ fronting Wilson Street with a total of 36 parking spaces, communal open space area and shared driveway.	Approved 21 November 2008
05/459/03 <i>(Note: New number of application on Council System 05/459/04)</i>	Section 96(1A) – Application to make amendments to Development Consent DA-2005/459	Withdrawn 9 August 2012
08/174/02	Section 96(1A) – Application to modify Development Consent DA-08/174 to amend condition No. 2 relating to payment of fees.	Approved 1 July 2011
DA-2008/261	Development Application – For Stage 1b development to construct 9 x 3 bedroom townhouses in the north-eastern section of the Park Grove ‘Masterplan’ which includes 18 parking spaces, and demolition of existing warehouse building and associated structures.	Approved 15 October 2008
08/261/02	Section 96(1A) – Application to make amendments to Development Consent DA-08/261 to amend condition No 2 relating to payment of fees.	Approved 26 July 2011
08/261/03	Section 96(1A) – Application to modify Development Consent No. 08/261 to amend Condition No.2 - the requirement for payment of the Section 94 contributions to be delayed, Condition No. 4 – to review the quantum of Section 94 contributions, Condition No. 13 – to increase the floor space ratio, wording to be amended in Condition No. 14, and Condition No.24 – relating to a revised BASIX certificate.	Currently under assessment
DA-2009/120	Development Application – For the demolition of existing buildings	Approved 10 November 2008
09/120/02	Section 96(1A) – Application to modify Development Consent DA-09/120 to amend Condition No 2 of the consent	Approved 26 July 2011
DA-2009/209	Development Application – for consent for the infrastructure works associated with the approved ‘Masterplan’. – Further detail below	Currently under assessment
DA-2012/034	Development Application – The proposed residential development will be located at 9–17 Wilson Street, Botany. The development comprises of eight (8), three (3) storey townhouses with detached garage parking for 16 vehicles.	Approved 4 July 2012
12/034/02	Section 96 – Application to modify Development	Currently under

	Consent DA-12/034 to amend Conditions 2 & 3 in relation to payment of fees.	assessment by Council
DA-2012/063	Development Application – Temporary structure made from shipping containers for marketing of Park Grove development.	Approved 4 July 2012
DA-2012/089	Development Application – Works include the construction of shoring walls and bulk excavation.	Approved 27 August 2012
05/459/05	Section 96 – Application to modify Development Consent DA-05/459 to amend the ‘Masterplan’ – including increase height of Building E from 5 to 6 storeys (an increase of 37 units), increase the height of Building F from 4 storeys to 6 storeys (an increase of 13 units), deletion of Townhouse I & J and replacement with 8 townhouses to street frontage, relocation of northern communal open space from between Buildings E and F to between J and D, reduction of the public open space from 3,900sqm to 3,554sqm relocation of New Street 2, Closure of eastern end of New Street 1, closure of the middle of Rancom Street and introduction of traffic signals at the intersection of Pemberton Street and Botany Road.	Approved 5 September 2012
DA-2012/195	Construction of New Street 1 including pocket park and associated utilities installation as per the master plan approval under DA-05/459	Currently under assessment

PLANNING CONSIDERATIONS

The proposed development has been assessed under the provisions of the Environmental, Planning and Assessment Act, 1979. The matters below are those requiring the consideration of the Joint Regional Planning Panel.

Section 79C (1) Matters for Consideration - General

Provisions of Environmental Planning Instruments (S.79C(1)(a)(i))

Environmental Planning and Assessment Act 1979 – Integrated Development

The proposal constitutes Integrated Development as the development involves the construction of a basement that will transect the water table. The application was accordingly referred to the NSW Office of Water for its approval under the *Water Management Act 2000*.

The NSW Office of Water provided the following comment in correspondence dated 30 July 2012:

“A Licence under Part 5 of the Water Act 1912 is required in relation to the subject development application and General Terms of Approval (GTA’s) appropriate to such an authorisation are attached”

The NSW Office of Water requires that a Water Licence is obtained with the NSW Office of Water. The applicant is to meet all the GTAs required by the Office of Water prior to obtaining a Water Licence with the NSW Office of Water. Consequently, the GTAs made by NSW Office of Water are included as recommended conditions of consent in line with the advice received.

State Environmental Planning Policy (Infrastructure) 2007

In accordance with the provisions of this State Environmental Planning Policy (Infrastructure) 2007, the development application was not considered traffic generating development in accordance with Schedule 3. The most recent Park Grove 'Masterplan' Section 96(2) Modification (DA-05/459/05), (which included concept plans for Building E and F), was referred to the Roads and Maritime Services (RMS) for comment.

In a submission dated 22 February 2012, the RMS raised no objections to the proposed modification "*as it will not have any significant traffic impact on the state road network*".

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

In accordance with the requirements of SEPP (BASIX), the applicant provided a BASIX Certificate with the development application. BASIX Certificate No. 421550M prepared by NSW Planning and Infrastructure dated 7 May 2012 and received by Council on 9 May 2012. The project scored 40 (target 40) for the category of water, a 'Pass' (target 'Pass') for the category of thermal comfort and scored 22 (target 20) for the category of energy. The Certificate satisfies the provisions of SEPP BASIX and forms part of the documents recommended for approval with this development application.

State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land

The provisions of SEPP No. 55 have been considered in the assessment of the development application. Clause 7 of SEPP No. 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application.

Environmental investigations undertaken by the applicant indicated that the site had been used (prior to 1960) for agricultural purposes and post that period for warehouses, open-air storage of cargo containers, and a former aerosols factory for manufacture of personal products.

Council is required to be satisfied that the health and safety of the future residents is ensured as per the requirements of the Environmental Planning and Assessment Regulations 2000. Therefore it is reasonable that Council requires contamination and remediation works to be carried out in each stage of the development.

The applicant submitted the following two reports by Consulting Earth Scientist as supporting documentation with the development application:

- Remediation Action Plan: Part of Former Brambles Site 25-33 Wilson Street Botany – dated 15 June 2005 (Lot C DP 380476 and Lot 1 & 2 DP 158551 are addressed within the report)
- Remediation Action Plan: Former Aerosols Australia Site and Proposed Commercial Redevelopment 1617 Botany Road, 8 Pemberton Street and Part 25-33 Wilson Street Botany – dated 13 February 2006

Council received advice from the applicant on 27 August 2012 that the remediation works relating to the footprint of Building E and F constituted Category 2 works as per State Environmental Planning Policy 55. (Category 2 works do not require development consent; subject the applicant meeting the requirements of State Environmental Planning Policy 55 and Development Control Plan No. 34). The applicant subsequently advised Council that these Category 2 remediation works would commence on 3 September 2012.

The footprint of the Building E and F falls over a portion of the following allotments:

- Lot B DP 380476;

- Lot C DP 380476;
- Lot 1 DP 158551; and
- Lot 2 DP 158551

To facilitate the above Category 2 remediation works over the abovementioned allotments, development consent (DA-12/089) for the construction of shoring walls and bulk excavation was approved by Council on 27 August 2012.

The development application was referred to Council's Environmental Scientist who did not object to the development of Building E and F subject to the imposition of conditions requiring the applicant provide a Site Audit Statement stating the site assessment criteria for the most sensitive use for the site is provided prior to the issue of a construction certificate for Buildings E and F.

State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Flat Buildings

SEPP 65 aims to improve the design quality of residential flat development in New South Wales. The policy recognises the significance of residential flat development and aims to improve the built form and sustainability of development and to satisfy the demand for appropriate development in the social and built form context.

The provisions of SEPP 65 have been considered in the assessment of the development application.

The Design Review Panel (DRP) considered the initial proposal firstly at a meeting held on 1 February 2012. A revised application was then considered at a meeting held on 29 February 2012. The DRP provided comments in the context of the ten design quality principles for residential flat development (discussed below), and concluded as follows:

“The applicant has provided thoughtful responses to many of the issues raised in the initial report of the Panel. The critical issue relating to the resolution of the relationship with the excluded site has not been resolved, and in the absence of an approved ‘Masterplan’ that addresses this concern the location of Building F cannot be supported. As it stands the setback from the southern boundary is not acceptable.”

Following the issue of the DRP comments of 29 February 2012, the proposed Section 96 modifications to Park Grove ‘Masterplan’ DA-05/459, which included amendments to the bulk, scale and density of Building E and F, were approved by Council on 5 September 2012.

Council subsequently requested that the applicant address the building's relationship to the southern and eastern boundaries (the adjoining boundaries with No. 19-23 Wilson Street), as well as address internal building separation distances between Building E and F. The applicant subsequently submitted amended plans to Council on 25 October 2012 incorporating the following changes:

- The building separation between Building E and Building F was increased by approximately 1500mm.
- Building F was shifted towards New Street 1 by approximately 1500mm

Note: Building layout, height, unit number and parking arrangement remained the same.

The applicant provides the following comment in response to the DRP comments and Council's concerns noted above:

"From the scheme presented to the DRP, the DA plans were amended to increase the setback to the southern boundary. As a result of the amendments the setback complies with our share of the minimum separation distances between opposing buildings as recommended by the RFDC. The amended setback provides a minimum setback of 6 metres from the southern boundary of the Parkgrove site.

Any development on the Parkgrove site will impact on the site to the south. However, there is an opportunity to amalgamate the three sites and achieve a compliant and appropriate form of residential development. Consistent with the Parkgrove 'Masterplan' site, these three lots should also provide a consistent townhouse alignment to Wilson Street with a central residential flat building beyond. This site would provide either a consistent 6 metre setback to its northern boundary (to achieve the overall 12 metre separation recommended by the RFDC) or reduce the setback with no openings to the north.

It is on this basis that our development position and the southern setback is appropriate. The position of Building E is in excess of the requirements of DCP 31 which requires a 4 metre side/rear setback.

The basement design has been further refined to reduce the height of the exposed podium on the boundary. As amended the DA provided a terraced wall on the boundary that stepped from the west towards the east. The stepped treatment reduces from RL 8.40 to RL 5.30 at the landscaping at the eastern end. This is indicated on the amended sketches provided to Council (see figure 8) and replicated below:

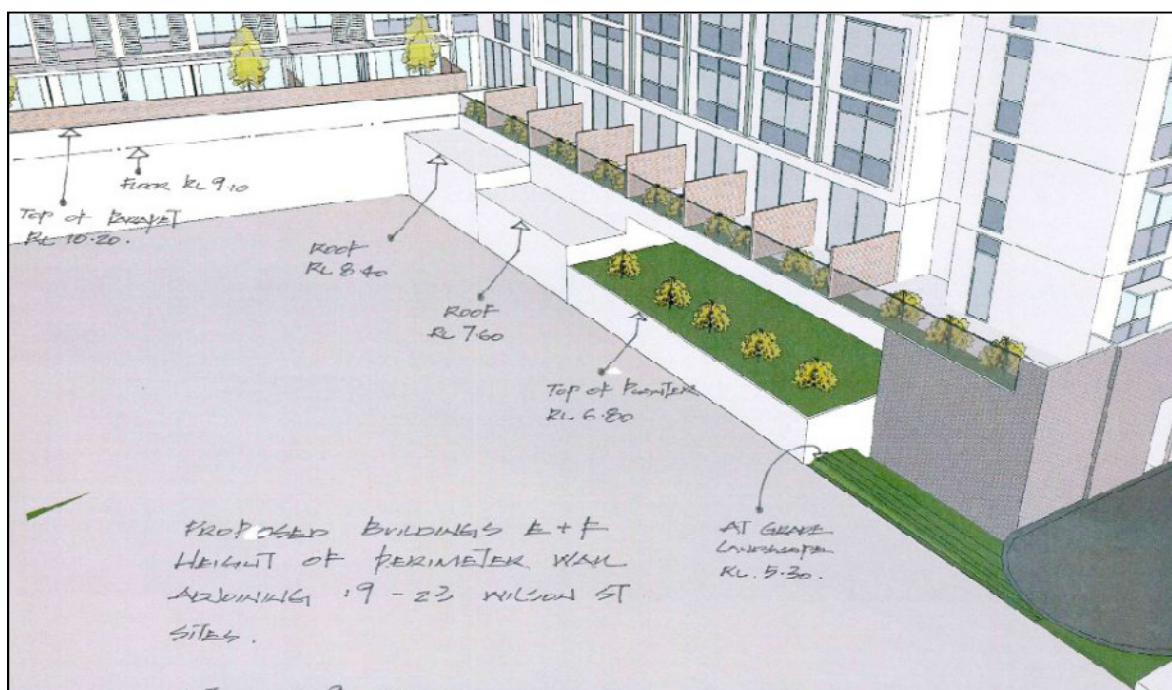


Figure 8 – (Extract from applicant's submission above) – The wall heights and RLs of the proposed development in relation to the adjoining site at No. 19-23 Wilson Street.

The eastern parapet has been changed to a glass balustrade to reduce the bulk of this wall at the boundary. The basement configuration would allow for a similar arrangement on the adjacent sites which would reduce the extent of excavation required and ensure compliance with the high parking rates of DCP 31. It is also noted that the basement location is consistent with the approved 'Masterplan'.

In an area undergoing change, this building arrangement and setback to the southern boundary is considered appropriate. The majority of the boundary wall (more than half) along the southern boundary is no higher than a standard 1.8m high boundary fence which would have a similar appearance to the boundary.

It is therefore considered that the southern boundary treatment as amended with the DA drawings is appropriate and responds to the concerns raised by the DRP."

Officer's Comment: Council met with the applicants for Buildings E and F (Krikis Tayler Architects) and the architect of the adjoining site in Wilson Street (Baker Kavanagh Architects) to resolve the interface issues between the adjoining allotments. This meeting was to enable discussions between the project architects for the two sites in order to resolve any environmental or design issues relating to the proposed developments on either site. At this meeting Council requested that any future design proposed for the adjoining site 19-21 Wilson Street would incorporate No. 23 Wilson Street to avoid its site isolation, and that any proposed buildings would be off-set from the northern boundary.

Site Isolation

Due to the relationship between the proposed development and the adjoining property at No. 23 Wilson Street, Council requested that the applicant address the Planning Principles: *Melissa Grech v Auburn Council [2004] NSWLEC* and *Cornerstone Property Group Pty Ltd v Warringah Council* relating to isolation of development sites.

The applicant's response is detailed as follows:

"The subject development application does not result in the isolation of an adjoining site. The adjacent sites (3 allotments) are capable of being amalgamated to form one consolidated development site.

It is understood that preliminary plans have been prepared seeking to develop two of the three excluded sites. The isolation of the northern site is considered an unreasonable planning outcome and contrary to the Planning Principle established by the Land & Environment Court established. To achieve an appropriate planning outcome on the three sites, one consolidated development is the best planning outcome.

The Case of Melissa Grech v Auburn Council [2004] NSWLEC 40 raised the issue of isolation of allotments, established the following Planning Principle:

"Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.

Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for

the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.

Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.”

The case of Cornerstone Property Group Pty Ltd v Warringah Council further raised issues with isolation of allotments, and the impact development has on the development potential of adjoining sites. It states:

“The key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.

To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.

The subject application may need to be amended, such as by a further setback than the minimum in the planning controls, or the development potential of both sites reduced to enable reasonable development of the isolated site to occur while maintaining the amenity of both developments.”

The subject Development Application does not result in the isolation of an adjoining site, the development application is consistent with the approved ‘Masterplan’. In Councils consideration of the ‘Masterplan’, it was never identified that amalgamation with 23 Wilson Street should occur. It was always considered appropriate that the three lots be amalgamated.

As previously mentioned to Council, my client had previously been offered two of the three development sites, however declined to purchase the two sites as this would result in the isolation of 23 Wilson Street.

This development does not isolate 23 Wilson Street and therefore the provisions of the Planning Principle do not apply to this development application. 23 Wilson has the opportunity to amalgamate with the two adjacent industrial sites to achieve a large development lot that is capable of an appropriate and complaint building form.

We have already provided to Council as part of the precinct ‘Masterplan’ a development footprint for these three sites that would achieve compliance with the planning controls and RFDC guidelines. Refer to extract below: (Figure 9 below)

It is noted that we have reduced our building heights from the above 'Masterplan'. Based on this scheme, the three lots would be capable of achieving a quality development that complies with the requirements of Council's DCP and the RFDC.

The redevelopment of 19-21 Wilson Street would result in the isolation of 23 Wilson Street. The onus is on the applicant of 19-21 Wilson Street to demonstrate compliance with the Planning Principle as they are isolating a site.

In conclusion, the subject development application is not contrary to the Planning Principle in relation to isolation of development sites."

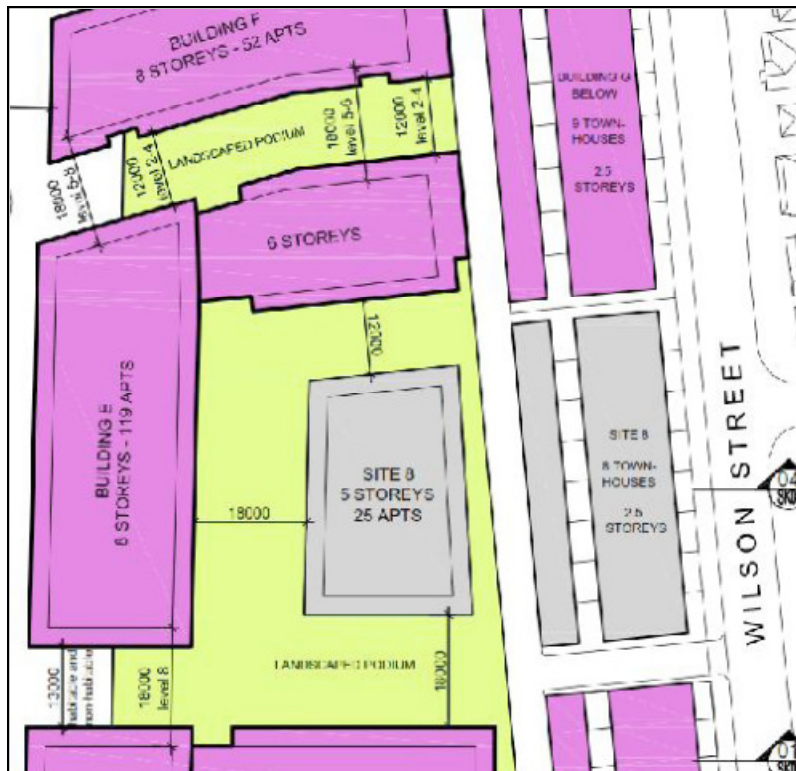


Figure 9 – (Extract from applicants submission above) – identifying a proposed development footprint over three (3) sites located at No. 19-23 Wilson Street

Officer's Comment: Council accepts the comments put forward by the applicant in relation to the abovementioned planning principle on site isolation. As noted, Council met with the applicant for the development site at 19-21 Wilson Street, and discussed that amalgamation with No. 23 Wilson Street was necessary to ensure that this site was not isolated from future redevelopment.

Solar Access and Natural Ventilation

In relation to solar access and natural ventilation within the proposed development, Council commissioned expert opinion from Steven King (independent consultant for Council) with regard to the proposal's compliance with Residential Flat Design Code requirements. Mr King's initial analysis dated 16 September 2012 concluded the following in relation to solar access:

"Based on the accuracy possible with their digital 3D model, and the detailed table of sun access durations provided, the Applicant's overshadowing analysis and

reporting of projected solar access for the individual apartments could reasonably be expected to be rigorous and reliable.

To the contrary, it is evident that the durations of effective sun to glazing of living areas reported in the Applicant's table are not supported by the evidence of the digital 3D model. The primary reason appears to be that the Applicant has not accounted for the self-shading effects of the heavily articulated facades, as clearly shown by their own detailed model. Therefore a significant number of the apartments are incorrectly characterized as receiving either three hours or two hours of sun on June 21 between 9am and 3pm on the living area glazing.

Because it relies on the architects' detailed table, the summary table included in the Statement of Environmental Effects misrepresents the likely compliance with the RFDC for solar access, and may not be relied on for Council's determination of the Development Application.

I have used the Applicant's digital 3D model to independently carry out a more rigorous analysis.

*I find that the total number of dwellings that can be deemed complying is **80 out of the total of 158, being 50.6%**. This is achieved by including without further scrutiny all dwellings that have a minimum two or three hours of direct sun on living area glazing on June 21 between 9am and 3pm.*

The RFDC Rules of Thumb require a minimum of 70% of apartments to comply. There is a significant shortfall compared to that standard. In my considered opinion, the shortfall is too great to allow the exercise of discretion in relation to this amenity issue."

Mr King's Report dated 16 September 2012 concluded the following with respect to natural ventilation:

"The Applicant's reporting of natural ventilation compliance is more rigorous. My analysis and the Applicant's numbers of apartments agree:

Apartments that are nominally cross ventilated = 94 (59.5%)

The Rules of Thumb in the RFDC recommend a minimum of 60% of dwellings to be cross ventilated.

The design of the development therefore complies with the RFDC for natural ventilation performance."

The applicant was subsequently requested by Council to address the matter of non-compliance with solar access raised by Mr King in his report of 16 September 2012 relating to adequate provision of solar access.

The applicant has provided the following justification to address Mr King's analysis of solar access:

"We refer to the above report prepared by Mr Steve King and previous discussions held with Council regarding solar access compliance for the submitted development for Buildings E and F at Pemberton and Wilson Street, Botany.

As indicated to Council, the schedule submitted as part of the Development Application included the incidence of direct sunlight on balconies in the compliance calculation. Mr King has hence identified that only direct sunlight on living area glazing should be included.

We have therefore analysed Mr King's data and modified a number of apartments in order that the maximum number of apartments receive a minimum of 2 hours direct sunlight on living area glazing between 9.00am and 3.00pm on 21 June.

We have also included apartments that receive a minimum of 2 hours direct sunlight on living area glazing between the extended hours of 7.45am and 4.15pm on 21 June and further, identified apartments with balconies that can be reduced in depth in order that 2 hours direct sunlight on living area glazing can be achieved between 9.00am and 3.00pm on 21 June.

In the submitted proposal, generous and usable balconies have been designed for amenity of residents which we wish to retain."

Modification of Facade

For the purposes of this analysis and as assumed in Mr King's report, privacy screens have been assumed to be movable therefore allowing full sun access to apartments.

However, all horizontal louvres to balconies on the west facade of Building E have been deleted. The following 3 units now receive 2 hours direct sunlight on living area glazing between 9.00am and 3.00pm on 21 June: Building E - Units E102, E104, E106 (3 units).

Extended Hours

The following apartments receive a minimum of 2 hours direct sunlight on living room glazing between the hours of 7.45am and 4.15pm on 21 June. Each of these apartments are provided with generous and usable balconies.

Building E

Units E103, E107, E203, E204, E206, E207, E208, E219, E301, E303, E304, E306, E307, E308, E309, E407, E408, E409, E507, E508, E509, E511, E521, E605, E606, E607 (26 units)

Building F

Units F101, F202, F302, F402, F502, F512, F602 (7 units)

Reduction of Balconies – North Facing

The following units receive a minimum of 2 hours direct sunlight on living room glazing between the hours of 9.00am and 3.00pm on 21 June if balconies are reduced in depth. These balconies are north facing where specifically, the narrower the balcony, the greater the incidence of sun that will be received on glazing areas. In our proposal, and for the amenity of residents, the balconies to these units have been designed to be generous and usable. Units F203, F303, F403, F503, F506 (5 units)

Conclusion

Mr King's report identified 80 apartments receiving 2 hours direct sunlight onto the glazing of living areas between the hours of 9.00am and 3.00pm on 21 June. We

have then added units E102, E104 and E106 as a modification of the facade by deleting all horizontal louvres to west facing balconies to Building E.

Our figure for complying apartments between 9.00am and 3.00pm is therefore 83 apartments or 53%. Mr King identifies that extended hours of sun before 9.00am and after 3.00pm can be included for apartments with generally east or west orientation:

“ ... where appropriate, for apartments with generally east or west orientation, which can be demonstrated to have permanent access to sun before 9am or after 3pm respectively, I take such sun into account when quantifying the period of direct solar access. In my considered opinion, this is consistent with the mandated application of discretion to both local controls and SEPP 65.”

Using extended hours between 7.45am and 4.15 pm, we achieve a further 33 apartments receiving 2 hours sun on living room glazing which, when added to complying apartments is a further 21% for a total of 116 apartments or approximately 74%. On this basis, the proposal would comply with SEPP65 amenity criteria.

Further, if reductions to balconies are implemented, 5 more north facing apartments receive a minimum of 2 hours direct sunlight onto the glazing of living areas between the hours of 9.00am and 3.00pm on 21 June. This represents an extra 3% of apartments that when added to the complying apartments and extended hour complying apartments achieves 121 apartments or 77%.

The modifications are minimal and are contained within the existing building envelope. The modifications result in no increase in overall floor space or adjustment to other complying RFDC criteria.”

In response to the amended analysis and justification for consideration of extended solar access periods provided by the applicant, Council engaged Mr King, to review the applicant's additional analysis. Mr King's comments were submitted to Council on 7 November 2012, providing the following conclusion:

“Based on the accuracy possible with their digital 3D model, and the detailed table of sun access durations provided, the Applicant's overshadowing analysis and reporting of projected solar access for the individual apartments could reasonably be expected to be rigorous and reliable. As outlined in my report, I initially came to an adverse conclusion with respect to the reported compliance.

The Applicant has made some detailed design changes now incorporated in an amended design, and carried out a further detailed analysis based on the protocols I noted in my preliminary report to Council.

I have used the Applicant's amended digital 3D model to independently verify this more rigorous analysis.

*I find that the total number of dwellings that can be deemed complying is **122 out of the total of 158, being 77.2%**. This is achieved by including all dwellings that have a minimum two or three hours of direct sun on living area glazing on June 21, with 55.7% being between 9am and 3pm, and the balance at any time between*

7.30am and 4.40pm when the sun can be reasonably shown to be available into the future.

The RFDC Rules of Thumb require a minimum of 70% of apartments to comply. In my considered opinion, it is reasonable to exercise discretion in applying the performance objectives of the RFDC in relation to this amenity issue.”

Officer’s Comment: It is considered that in regard to Mr King’s re-analysis, Council accepts his methodology of the characterisation of solar access compliance. Mr King outlines that:

For the purpose of calculating the compliance with the control, I have examined sun patches on the relevant glazing line of each apartment. Because of its key importance in the determination of what is ‘effective sunlight’ for characterisation of compliance, for both glazing and private open space, I refer specifically to the application of the relevant L+EC Planning Principle (The Benevolent Society v Waverley Council [2010] NSWLEC 1082):

- *I ignore very large angles of incidence to the glazing surface, and unusably small areas of sunlit glazing. I quantify as complying all sun patches of ‘reasonable size’.*
- *I have generally characterised as complying when sun access is over three hours total of partially and fully sunlit glazing between 9am and 3pm mid-winter.*

In addition, I give consideration to the following criteria:

- *I relax the duration of effective sun to a minimum of two hours:*
 - *for apartments that do not have a relatively open exposure to a favourable, generally northerly orientation, or*
 - *which may have similar scale buildings in relatively close proximity, partially overshadowing an otherwise favourably oriented facade.*

In my considered opinion, this is the appropriate interpretation of the RFDC Rule of Thumb, where it states:

- *In dense urban areas a minimum of two hours may be acceptable.*
- *Where appropriate, for apartments with generally east or west orientation, which can be demonstrated to have permanent access to sun before 9am or after 3pm respectively, I take such sun into account when quantifying the period of direct solar access. In my considered opinion, this is consistent with the mandated application of discretion to both local controls and SEPP 65.*

In view of Mr King’s advice, Council accepts the applicant’s comments and justification put forward in relation to the solar access control within the RFDC. Council also accepts that re-modelling identifies that a significant number of units within the development will achieve a minimum of 2 hours solar access during mid winter, subject to consideration of extended analysis periods (between 7.30am and 4.30pm).

Design Quality Principles

The ten design principles identified in the RFDC are addressed below and where relevant, include the specific comments raised by Council's Design Review Panel (from their report dated 29 February 2012) together with a commentary of the manner in which they have been addressed in the current proposal.

Principle 1: Context

The DRP made the following comments regarding 'context':

"The most critical concerns remaining at issue are the relationship of the proposed first stage Buildings E & F with future development within and beyond the 'Masterplan' site. The first and major concern relates to 'Site 8', the separate 3,700m² site which is in different ownership, and the site adjoining it further to the south which is part of the 'Masterplan' site in the ownership of the applicants on which Buildings I & J were sited in the original approved 'Masterplan'. The current proposal, the 'Amended 'Masterplan'' as shown on drawing SK01 does not indicate any building(s) on that site although the architects advised that a lower residential block towards the southern part was the most likely outcome...

...As discussed at the meeting an obvious and reasonable alternative outcome would be for buildings on the excluded site together with Building E as proposed to form together a 'U' shape in plan, thus creating an attractive central courtyard,, thus creating an attractive central courtyard....

...As currently indicated on Drawing SK01A this part of the amended 'Masterplan' including 'Building E' cannot be supported, but if amended for example as suggested above could be reconsidered. It would be essential for such amendments to be formally adopted so as to give legal certainty in relation to future stages of development. In this situation the Panel should then be able support the layout of Buildings E and F as now proposed....

....The second concern as raised in the earlier report relates to the additional height of Building F and its relationship with the height and scale of future buildings along the southern frontage of New Street 1. Subject to confirmation by Council that the southern frontage of buildings on the opposite side of the street are likely to present generally as 5 storeys in scale it is considered that the height of F would be satisfactory as now proposed...

This view has been formed after noting that the lower basement parking level has now been set as low as possible in view of the high water table affecting the site: that the design concept as developed on Drawing SK06A would provide a substantial landscaped frontage screening this basement, and that Level 6, the top level of the building, is to be set back behind the main façade. Further detailed attention to the design of Level 6 in relation to form, colour and materials is needed to further reduce its visual assertiveness."

The applicant addressed the DRP comments as follows:

"The DA drawings have been amended to provide a 6 metre separation from the northern and western boundaries of Site 8. The separation is compliant and allows for increased flexibility in the design of Site 8."

Officer's Comment: Council has had pre development meetings with the land owners of the site identified as No. 19-21 Wilson Street. Concept designs for this site to redevelop it have been presented to Design Review Panel, further the applicant for 19-21 Wilson Street has been advised by Council that they should incorporate No. 23 Wilson Street as part of their development site, to avoid site isolation on. On this basis, Council accepts the applicant's submission in relation to the planning principles: *Melissa Grech v Auburn Council [2004] NSWLEC and Cornerstone Property Group Pty Ltd v Warringah Council* relating to isolation of development sites. Council accepts that the adjoining properties have the scope to achieve a reasonable redevelopment on this parcel of land.

Following discussions with the applicants of both the subject site and the adjoining sites (No.19-23 Wilson Street), the outcome concluded that neither party wished to pursue a 'U' shape form of development across the property boundaries. The 'U' shape would be contrary to the design of the Park Grove 'Masterplan'.

As mentioned above, since the DRP report was published, Council formally adopted the amendments to the Park Grove 'Masterplan', which included (in part) the location plan of Buildings E and F, and the increases to the height, bulk and scale of these buildings.

In light of the challenges of the site, including a high water table, Council considers that the building reflects the desired future form and character of the area, especially given the transition of the immediate precinct from an industrial use to medium density residential use, reflected by way of the Park Grove 'Masterplan' as well as future FSR and building height controls in the Draft Botany Bay Local Environmental Plan 2012.

Principle 2: Scale

The existing development within this locality comprises of low density residential to the east, ranging from single storey to a maximum of three (3) storeys. Industrial and commercial uses are located to the south (along Botany Road) and to the west (along Pemberton Street). The Park Grove 'Masterplan' site is an area that is clearly in a state of transition (which will be fostered by the controls set out in the Draft Botany Bay LEP 2012) and implemented in line with the approved Park Grove 'Masterplan' (DA-05/459/05).

The scale of the development is not inconsistent with recent residential flat buildings within other areas in the municipality achieving heights and scale in the order of 7 storeys. The proposal is consistent with the desired future character of the area and the DRP did not comment this design principle within their second review of the proposal.

Landscaping is provided to screen the lower portion of the residential flat building and provide a lively streetscape appearance of the proposal are requirements reflected by appropriate conditions of consent of the development application.

Principle 3: Built Form

The DRP made the following comments, which are generally supportive of the proposal in terms of the built form:

- *"It is agreed that separation distances between Buildings E and F comply with RFDC recommendations and can be accepted. Detailed design of the profile of Building F should be such as to minimize overshadowing of the podium courtyard and lower-level north-facing units in Building E"*

- *The interface of Buildings F with the townhouses on Wilson Street has been addressed by reconfiguration of the upper levels as illustrated by the images on SK02A and SK03A, and is considered to be acceptable.*
- *The lowering of Level 1 by some 400mm, and additional landscape are proposed in response to the concerns about the impact of the street wall of Building F. This is now considered to be acceptable.”*

The proposal provides an appropriate built form for the site and for the building’s purpose. The building is well proportioned and has elements of architectural interest as presented from New Street 1 and New Street 2. The building is well defined, and contributes to the sense of place and character which is being formed as part of Park Grove ‘Masterplan’. The building will provide habitants with vistas and views of both New Park 1 as well as views to the Botany Port and further afield from the top floors.

Principle 4: Density

The DRP made the following comments regarding ‘density’:

“It is noted that the density for the ‘Masterplan’ site as approved is 1.0:1.0, but that the current draft LEP for the area proposes an increase to 1.5:1.0 for large sites. The density for that part of the ‘Masterplan’ site on which Buildings E & F are located was not stated, but is well in excess of the latter figure. This is not unreasonable in that the FSR for the full site when ultimately developed will need to comply with the control, and higher density at the initial stage should assist in encouraging an earlier start to redevelopment.”

The density of the development is contrasted with the surrounding neighbourhood, however the location is under a transition period, and Buildings E and F is the first residential flat building proposed within the neighbourhood. Council considers that the proposed density is appropriate given the large site area, and that it is consistent with the future desired character of the area, aligning with the Park Grove ‘Masterplan’. As these buildings are the first residential flat buildings proposed for construction, it is imposed as conditions of consent that appropriate infrastructure (i.e. roads and flood mitigation etc) be subject to separate development applications and constructed prior to issue of any occupation certificate for the Buildings E and F. Council supports the density increase proposed within Buildings E and F, to increase the availability of small dwelling sizes which are under demand within the municipality.

Principle 5: Resources, energy and water efficiency

The DRP did not raise any comments regarding this design principle. The proposal incorporates passive solar design techniques, incorporates external protection elements such as sun hoods and screens, as an integral part of the façade design, which will control the heating and cooling requirements of the building. It is proposed to provide a mix of lighting types and high efficient lighting.

Whilst the proposal does not include the use of photovoltaic panels for generation of solar hot water, the roof design is capable of future application of these elements.

The proposal also complies with minimum cross ventilation requirements of the Residential Flat Design Code and the proposal complies with the requirements of BASIX.

Principle 6: Landscape

The DRP Panel did not comment on this matter. In the context of the overall development as situated within the Park Grove 'Masterplan', the proposed development, subject to conditions is considered appropriate given the context of the site in relation to its proximity to future New Park 1 and the existing Sir Joseph Banks Reserve, for residential amenity. The proposal includes planter boxes to all street frontages, a common open space area located between Building E and F on Level 2 as well as a common roof terrace which is provided on the roof of Building F. Appropriate conditions for an amended landscape plan, and additional information relating to satisfactory plant species and other requirements are required as a condition of consent from Council's Landscape Officer. Council finds that the appearance of Building E and F sits well with the desired future image of the future streetscape and with respect to neighbourhood character.

Principle 7: Amenity

The DRP Panel made the following comments in this regard:

"As stated in the previous report, it is considered that the general level of amenity should be of good standard, but the Panel does not resile from its concern about the provision of only a single elevator in Building F, and the unfortunately long corridor access arrangements in both buildings."

The applicant provides the following comments in response to amenity within the development and the DRP comments:

"The apartments achieve a good level of residential amenity. The apartments also take advantage of the outlook and proximity to the proposed central public park."

As Building F extends over 6 storey's and has a total of 57 units the provision on one lift is considered appropriate for the mix of units. Providing an additional lift has significant impacts on the affordability of the units and ongoing maintenance costs of the building.

The length of the corridors is offset by the slight stepping of the corridors which reduces a potential gun barrel effect. All corridors are provided with natural light and ventilation which enhances the experience of the space."

Officer's Comment: Council considers that a single lift within the buildings is appropriate in this circumstance.

Previously mentioned, the rule of thumb for solar access and ventilation was examined by Council's independent expert Steven King. Mr King advised that 60% of the units will achieve acceptable cross ventilation and following re-analysis of amended material (as discussed above) made the following conclusion about solar access:

"The Applicant has made some detailed design changes now incorporated in an amended design, and carried out a further detailed analysis based on the protocols I noted in my preliminary report to Council."

I have used the Applicant's amended digital 3D model to independently verify this more rigorous analysis.

I find that the total number of dwellings that can be deemed complying is 122 out of the total of 158, being 77.2%. This is achieved by including all dwellings that have

a minimum two or three hours of direct sun on living area glazing on June 21, with 55.7% being between 9am and 3pm, and the balance at any time between 7.30am and 4.40pm when the sun can be reasonably shown to be available into the future”

As discussed above, in response to these comments, the applicant submitted amended plans on 25 October 2012 demonstrating an increased building separation (approximately 1500mm) between Buildings E and F and provided an amended detailed analysis to Mr King’s opinion regarding SEPP 65 Amenity Compliance to Council on 30 October 2012. As mentioned, Council accepts the justification provided and acknowledges that extended time frame used in order to achieve compliance with SEPP 65. As outlined, the proposal under the extended time frame will be able to achieve a total of 122 units (77%) which receive solar access for 2 hours in mid winter.

Principle 8: Safety and Security

The residential flat buildings will contain a good level of passive surveillance. It is recommended as a condition of consent that front fences onto New Street 1 and 2 will be limited in height. Lighting will be installed in accordance with Australian Standards. This has been incorporated as a condition of consent.

The proposal has taken into account safer by design principles in the design of communal areas and landscaping. The NSW Police undertook a ‘Safer by Design’ analysis of the proposal and have recommended a number of conditions of consent aimed at enhancing the safety and security of the development. In line with conditions, Council considers that the development will maximise overlooking of public and communal spaces, avoid non-visible areas, have interaction with the streetscape adjacent to the buildings, have clear points of contact and subject to condition, install lighting appropriate to the location.

Principle 9: Social Dimensions

The DRP Panel made the following comments in this regard:

“Previous comment recommended the provision of ‘communal spaces/places for each group of residents’ and the enhancing of entrance lobby areas. The revised submission includes a potentially very attractive room and terrace at level 6 in Building F (Drawing SK 04A), which would provide excellent communal facilities for residents of that block. It is considered that it would be unlikely to be of value to residents of the separate Block E, which desirably should have a similar facility, although an enclosed space and terrace of half the size may well suffice, provided that it has good outlook, winter sunlight and amenity. Further attention should be given to design of main entrance lobbies as attractive spaces for residents and visitors to meet, collect mail etc”

The applicant provides the following response:

“It is considered that the provision of one roof top communal space is sufficient to cater for both buildings. These buildings will be in a single strata and therefore residents of Building E will have unrestricted access to the roof terrace. Residents in Building E will be able to easily access the lift to the roof via the communal space at level 2 podium.

Both buildings have a clearly defined building entry. The main entries enter Building E directly off the Public Park and Building F via the central landscaped podium.”

The development provides a mixed range of unit sizes, including a significant proportion of studio & 1 bedroom units (39%).

The proposed development yields a total of 158 apartments, comprising:

Unit size	Building E	Building F
Studio	5	0
One Bed	49	7
Two Bed	45	47
Three Bed	2	3
Total	101	57

The above apartment mix responds to the social and lifestyle needs of the local community by providing for diversity in the type and affordability of the units.

The building forms and their arrangement on the site define a central portion within the Park Grove 'Masterplan' site. The local shopping precinct along Botany Road provides the development with small retail tenancies nearby. Part of the Park Grove Masterplan includes areas for light industry / commercial to be located along Pemberton Street. The scale of these tenancies could be reasonably expected to accommodate uses which serve the daily needs of local residents in the immediate vicinity.

A separate public open space of 3554sqm is included to the west of the development within the 'Masterplan' area. Communal open space is also located between Buildings E and F on level 2 for the residents to enjoy in addition to their own private open space.

It is considered that the comprehensive range of facilities and services available in the local government area provide an appropriate social context for the proposed development.

Principle 10: Aesthetics

The Panel indicated that it generally supports the proposed selection of external materials, textures and finishes palette to suit the context.

Officer's Comment:

Having regard to the previous discussion, it is considered that the proposed development represents an appropriate design response to the opportunities and constraints offered by the site and its setting and is consistent with the design quality principles outlined in Part 2 of SEPP 65.

Residential Flat Design Code (RFDC)

The following table provides an assessment of the proposed development against the guidelines set out in the RFDC.

Relevant Guidelines	Compliance
Part 1 – Local Context	
Building Height <ul style="list-style-type: none"> Ensure future development responds to desired future scale and character of street 	Minor Non-Compliance: The buildings are generally consistent with building forms within the Park Grove

Relevant Guidelines	Compliance
<p><i>and local area and allow reasonable daylight access to all developments and public domain.</i></p>	<p>‘Masterplan’, which set the limits for Building E and F at RL27.3 (including the lift overrun and other roof elements)</p> <ul style="list-style-type: none"> - Building E has a building height of RL 26.39 metres AHD (measured to the top of the lift overrun). The top of Level 6 is measured to between RL 24.63 and RL 25.24 metres AHD. - Building F has a building height of RL 28.5 metres AHD (measured to the top of the lift overrun). The top of Level 6 is measured to between RL 24.37 and RL 25.36 metres AHD. <p>It is considered that the development has been designed in cognisance of the likely future scale of development in this part of Botany and is a minor non compliance with the ‘Masterplan’ DA.</p>
<p>Building Depth</p> <ul style="list-style-type: none"> • <i>Maximum internal plan depth should be 18 metres from glass line to glass line.</i> 	<p>Non-Compliance:</p> <ul style="list-style-type: none"> - Building E has a building depth of between 19 and 22 metres measured from the outer glazed portions of the building. - Building F has a building depth of between 19 and 22 metres measured from the outer glazed portions of the building. <p>The non compliance is due to the articulation of the balconies around the building forms and a detailed design of the facades which was designed to limit continuous balconies around the building.</p> <p>A large proportion of the apartments occupy corner locations which provide good natural light and cross ventilation. The units are designed with wide frontages ranging from 8-10 metres to promote greater daylight and ventilation.</p> <p>The non-compliance in this regard is at least in part attributable to the fact that the development satisfies the minimum dwelling sizes set out in Councils DCP31, as follows:</p> <p>Studio = 60sqm 1 Bedroom = 75sqm 2 Bedroom = 100sqm 3 Bedroom = 130sqm</p> <p>This has the effect of increasing the size of the floor plates and as a consequence, the depth of the buildings. Balcony dimensions vary across the frontage of each apartment however</p>

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	<p>compliance with Council's DCP31 (which requires min 3m depth) creates a deeper articulation zone beyond the glass line.</p> <p>Having regard to the above, this arrangement is considered to be satisfactory.</p>
<p>Building Separation</p> <ul style="list-style-type: none"> • <i>Suggested dimensions within development, for internal courtyards and between adjoining sites for buildings:</i> • <i>Up to four storeys (up to 12 metres)</i> <ul style="list-style-type: none"> - <i>12 metres between habitable rooms/balconies</i> - <i>9 metres between habitable/balconies and non habitable rooms</i> - <i>6 metres between non-habitable rooms</i> • <i>Buildings five to eight storeys (up to 25 metres)</i> <ul style="list-style-type: none"> - <i>18 metres between habitable rooms/balconies</i> - <i>13 metres between habitable/balconies and non habitable rooms</i> - <i>9 metres between non-habitable rooms</i> 	<p>Non-Compliance:</p> <p>The proposed development <u>up to 12 metres high</u> includes the following separation distances:</p> <p><u>Level 2</u></p> <ul style="list-style-type: none"> - This level is located on a podium, and the "balconies" form courtyards to the dwellings. There is a variable separation between habitable rooms habitable room and habitable room of between 11.5m to up to 18m – which is generally compliant. <p><u>Level 3</u></p> <ul style="list-style-type: none"> - Variable separation between habitable rooms/ balconies of between 11.350m and 14.775m. - (Excluding balconies – there is a variable separation between habitable room and habitable room of between 16.8m to up to 19.5m) <p>The proposed development <u>between 12 metres and up to 25metres high</u> includes the following separation distances:</p> <p><u>Level 4</u></p> <ul style="list-style-type: none"> - Due to the variable ground level between New Street 1 and 2, the height of Level 4 is located between the two height controls. The level has a variable separation between habitable rooms/ balconies of between 11.350m and 13.5m – which is generally compliant with development up to 12 metres high. - (Excluding balconies – there is a variable separation between habitable room and habitable room of between 16.8m to up to 20m) <p><u>Level 5</u></p> <ul style="list-style-type: none"> - Variable separation between habitable rooms/ balconies of between 11.350m and 13.5m - (Excluding balconies – there is a variable separation between habitable room and habitable room of between

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	<p>16.8m to up to 20m).</p> <p><u>Level 6</u></p> <ul style="list-style-type: none"> - Variable separation between habitable rooms/ balconies of between 13.025m and 13.5m - Excluding balconies – there is a variable separation between habitable rooms and habitable rooms of between 16m and 20m. <p>Council accepts the proposed setbacks between building E and F, as the impacts are not likely to be severe.</p>
<p><i>Street Setbacks</i></p> <ul style="list-style-type: none"> • <i>Should establish desired patterns along street, also recognising scale transition, privacy, surveillance and street landscape character.</i> 	<p>The proposal includes the following setbacks to future New Street 1 and New Street 2.</p> <p>The development proposes variable setbacks to New Street 1</p> <p>Level 1: 3500mm (this measurement is to the front elevation of the building rather than to the edge of the terrace//balcony)</p> <p>Level 2: 2500mm - 3500mm</p> <p>Level 3: 2500mm – 3500mm</p> <p>Level 4: 2500mm – 3500mm</p> <p>Level 5: 2500mm – 4200mm</p> <p>Level 6: 3500mm</p> <p>The development proposes variable setbacks to New Street 2</p> <p>Level 1: 2000mm – 3275mm</p> <p>Level 2: 2500mm – 3275mm</p> <p>Level 3: 2350mm - 2850mm</p> <p>Level 4: 2350mm – 2850mm</p> <p>Level 5: 2350mm – 2850mm</p> <p>Level 6: 5025mm</p> <p>The development proposes variable setbacks to the corner of New Street 1 and 2 between 1055mm and 380mm.</p> <p>The development proposes zero setbacks to the shared laneway on the eastern side of the site.</p> <p>The following setbacks indicated below are those between the building line of Buildings E and F to the boundary of the garage to the townhouses fronting Wilson Street (indicated to the indicative future subdivision line)</p> <p>Level 1: 6660mm</p> <p>Level 2: 6410mm – 6710mm</p>

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	<p>Level 3: 6410mm – 8000mm Level 4: 6410mm – 9000mm Level 5: 6410mm – 9500mm Level 6: 6410mm – 11500mm</p> <p>As yet, there is no established street pattern within New Street 1 and 2 to align the development with; Council considers the proposal to be satisfactory as Building E and F provide a transition in density however represent a desired future character for the streetscape. It is considered that privacy, surveillance and streetscape character will not be adversely impacted.</p>
<p>Side and Rear Setbacks</p> <ul style="list-style-type: none"> <i>Minimise impact on light, air, sun, privacy, views and outlook for neighbouring properties. The test relates to appropriate Building Separation, Open Space and Deep Soil Zones on the development site.</i> 	<p>The development proposes variable setbacks from the building facade to the eastern boundary (adjacent to 19-23 Wilson Street)</p> <p>Basement: zero setback Level 1: zero setback Level 2: zero setback (incorporating a 1200mm wide passage) – then 6000-9000mm setback with planters and balconies from the boundary. Level 3-5: The outer façade of the building has a 6000mm setback from the boundary Level 6: Setback of 7500mm to the edge of the balcony and a setback of 9700mm to the façade of the building.</p> <p><u>Setbacks to the southern elevation / building</u></p> <p>Basement: zero setback Level 1: Zero setback Level 2: A raised planter and roof over the basement has a zero setback from the boundary. Balconies have a 4000mm setback, and the building line a 6000mm setback from the boundary. Level 3-5: The building is setback 6000mm from the boundary. Level 6: The balconies have a 6000mm setback and the building line a 9000mm setback from the boundary.</p> <p>All other elevations of the buildings face into the Park Grove ‘Masterplan’ site.</p> <p>The basement level is proposed to be built to the boundary on the southern and eastern sides of the property to minimize the extent of excavation due to the limitations with the watertable at this location.</p> <p>The southern wall of Building E along the adjoining property to the south has been terraced</p>

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	<p>towards the east. The applicant acknowledge that a possible scenario is that the adjoining site may remain unconsolidated with the adjoining two sites fronting Wilson Street.</p> <p>The varying setbacks exhibited by the proposed development allow for an appropriate balance between light, air and outlook for adjoining properties. Council considers that the setbacks proposed are satisfactory.</p> <p>The proportion of practical deep soil across the site is approximately 220sqm (3.2%). These areas are primarily located in the front setback of the units along New Street 1 and New Street 2. (All other areas for planting are located within raised terraces and above the basement parking)</p> <p>The proportion of communal open space equates to the following areas:</p> <ul style="list-style-type: none"> • The communal room (level 1) = 35sqm • The communal open space (podium level 2) = 575sqm • The communal roof terrace = 112sqm • Total = 722sqm (10.5% of site area) <p>(Note: The areas in the front entrance and along the southern boundary of the building (outside of the building envelope) indicated on the submitted plan A22 Issue 2, prepared by Krikis Tayler Architects, are not considered to be spaces which meet the objectives required of 'communal open space' as outlined in SEPP65 and have therefore been excluded from the calculations).</p> <p>Council considers that these quantity of communal open space are appropriate, given that the proposed buildings are directly adjacent to New Park 1 (future park within the Park Grove 'Masterplan') and furthermore, the residents will have access to Sir Joseph Banks Reserve, located approximately 400-500 metres to the south of the development.</p>
Part 2 – Site Design	
<p>Site Configuration</p> <p><i>Deep Soil Zones</i></p> <ul style="list-style-type: none"> • <i>To assist in management of water table, water quality amenity and large scale landscaping 25% of open space should have</i> 	<p>Non-Compliance:</p> <p>220sqm of the site (3.2%) qualifies as deep soil area on the site.</p> <p>The development does not comply with the recommended requirements. This is due to the</p>

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<i>deep soil</i>	large basement parking level that underlies the footprint of the buildings. Council accepts that the development provides raised planter beds for landscaping throughout the development, and that the development is adjacent to the future New Park 1, 3554sqm of public open space and which will provide a landscape setting for the Masterplan Precinct.
<p>Landscape Design</p> <ul style="list-style-type: none"> • <i>Improve amenity of open space with landscape design which provides appropriate shade from trees or structures, accessible routes through site and between buildings.</i> • <i>Contribute to streetscape character visually softening bulk of large development for the person on the street.</i> • <i>Provide a sufficient depth of soil above paving slabs to enable growth of mature trees.</i> 	<p>Satisfactory: A detailed landscape plan was submitted with the application. The proposal includes communal open space measuring an area of approximately 10.5% of the total footprint of Building E and F. The communal open space(s) are located in the following areas:</p> <ul style="list-style-type: none"> - On a podium on Level 2. This area includes seating, raised garden beds and a common path for passive recreation. - Additional communal open space (subject to condition) is located on Level 1 in the form of a communal room for residents. - A roof terrace is provided on the roof of Building F. The roof terrace provides a place to sit and enjoy the vistas, and a small landscaping opportunity around the outside of the terrace. <p>The landscape plan nominates plant species and raised planter beds surrounding Building E and F, notably on all elevations. Due to the layout and scale of the Basement (parking) and Level 1 (part parking and residential) configurations, very little deep soil planting is provided at the site, however this is offset by the 3554sqm park provided by the applicant adjacent to Building E and F.</p> <p>Upon review, Council considers that an amended Landscape Plan is required which is included as a condition of development consent. The condition requires that the planting design be modified, to incorporate other plant species more suitable to the type of development.</p>
<p>Open Space</p> <ul style="list-style-type: none"> • <i>Area of communal open space required should generally be at least between 25 and 30% of site area.</i> • <i>Provide private open space for each apartment capable of enhancing residential amenity, in the form of a balcony, deck, terrace, garden, yard, courtyard and/or roof terrace.</i> • <i>Minimum recommended area of private</i> 	<p>Non-Compliance:</p> <p>Approximately 10.5 % of the site is provided as a communal open space for residents in the form of a podium space (open to the weather) on Level 2 and includes seating, raised garden beds and a common path for passive recreation. Additional communal open space (subject to condition) is located on Level 1 in the form of a communal room for residents. Also a roof terrace is provided on the roof of Building F.</p>

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<p><i>open space for each apartment at ground level or on a structure, such as on a podium, is 25m²; minimum preferred dimension is 4m.</i></p>	<p>The roof terrace provides a place to sit and enjoy the vistas, and a small landscaping opportunity around the outside of the terrace. In view of the highly urbanised context of the site, together with the large balconies provided to each unit, the proposal is therefore considered acceptable in this instance.</p> <p>Complies: Each unit has access to a private courtyard, terrace or balcony, accessed via the primary internal living area.</p> <p>Complies. All ground floor units have private courtyard areas</p>
<p>Orientation</p> <ul style="list-style-type: none"> • <i>Optimise solar access to residential apartments within development and adjacent development.</i> <p><i>The RFDC Rules of Thumb require a minimum of 70% of dwellings to receive at least 3 hours of direct sun to glazing of living areas and to private open space on June 21. The Rules of Thumb do make provision for a concession to reduce this to 2 hours in a densely built up urban context.</i></p>	<p>The orientation of Building F maximises the opportunity to provide north facing units. Shading devices including louvers and metal screens are proposed to enable sun shading. As mentioned above, given additional material provided by the applicant and due to extended assessment times (i.e. between 7.30am and 4.30pm) Mr Kings review concluded that:</p> <p><i>Apartments that comply at 3 hours between 9am and 3pm June 21 = 65 (41.1%)</i></p> <p><i>Additional apartments that comply at 2 hours between 9am and 3pm June 21 = 23 (14.6%)</i></p> <p><i>Additional apartments with minimum 2 to 3 hours sun between 7.30am and 4.40 pm= 34 (21.5%)</i></p> <p><i>Total deemed complying 122 (77.2%)</i></p> <p>Council accepts the amended period of solar access, given that the majority of the units receiving the solar access in the extended hours are east or west facing and considers it satisfactory.</p>
<p>Planting on Structures</p> <ul style="list-style-type: none"> • <i>Encourage establishment and healthy growth of trees in urban areas.</i> 	<p>Non-Compliance: Council's Landscape Architect has raised concerns about the quantum of landscape area and requires further detail regarding planting on structures and soil depths on podium. The additional information will be required to be provided prior to issue of the construction certificate and can be included as a condition of consent.</p>
<p>Stormwater Management</p> <ul style="list-style-type: none"> • <i>Reduce volume impact of stormwater on infrastructure by retaining on site.</i> 	<p>A temporary flood basin is proposed to be constructed adjacent to the site within the Park Grove 'Masterplan' site (with the long term goal of developing a central flood basin within the centre of New Park 1). The temporary flood</p>

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	<p>basin will be subject to a separate development application. Due to the staging proposed, following advice from an independent engineer's consultant, it is conditioned that the temporary flood basin must be constructed prior to any Occupation Certificate being issued for Buildings E and F.</p>
<p>Site Amenity Safety</p> <ul style="list-style-type: none"> • <i>Ensure residential flat developments are safe and secure for residents and visitors and contribute to safety of public domain.</i> 	<p>Complies: The design provides for a clear definition between public and private spaces and communal areas and allows for passive surveillance of both the public and private domain surrounding the buildings.</p> <p>This arrangement will ensure that the site is safe and secure for occupants and visitors and users of the public domain.</p>
<p>Visual Privacy</p> <ul style="list-style-type: none"> • <i>Provide reasonable levels of visual privacy externally and internally, during day and at night and maximise outlook and views from principal rooms and private open space without compromising visual privacy.</i> 	<p>Non-Compliance:</p> <p>The proposal includes a number of units located on the south & eastern boundaries of the site, which have habitable rooms and balconies facing the adjoining site. Given the proposed height of the building it is inevitable that some overlooking is likely. However, as the proposal complies with minimum separation distances under SEPP65 and DCP31, the level of privacy achieved is considered acceptable. Perimeter landscaping in planter boxes on the southern and eastern boundaries will also contribute to privacy of the adjoining site which is proposed to be developed for residential purposes.</p>
<p>Site Access</p> <p>Building Entry</p> <ul style="list-style-type: none"> • Create entrance which provides a desirable residential identity for development, orient visitor and contribute positively to streetscape and building facade design. 	<p>Complies: Clearly identifiable and landscaped residential entry zones are provided at Level 1 (which is at Ground level) on New Street 1 and New Street 2. This arrangement creates a discrete identity for each tower and easy orientation for residents and visitors.</p> <p>These residential entries lead to the residential lift lobbies.</p>
<p>Parking</p> <ul style="list-style-type: none"> • <i>Minimise car dependency but provide adequate car parking for building's users and visitors.</i> • <i>Integrate location and design of car parking with design of site and building.</i> 	<p>Complies: Adequate on-site parking for the building's users and visitors is proposed. The development is in close proximity to Botany Road and the bus services that run operate regular services into the city. (approx. 400m to the south)</p> <p>Complies: The on-site parking is provided over 2 levels and is integrated into the overall site design.</p>
<p>Pedestrian Access</p> <ul style="list-style-type: none"> • <i>Promote residential flat development that is well connected to street and contributes to accessibility.</i> 	<p>Complies: The site is proposed to be well connected with the surrounding streets and pedestrian network through clearly identifiable address points and pedestrian paths within and</p>

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<ul style="list-style-type: none"> Barrier free access to at least 20% of dwellings. 	<p>through the site. Pedestrian access will be provided through New Street 1, New Street 2 and New Park 1</p>
<p>Vehicle Access</p> <ul style="list-style-type: none"> Integrate adequate car parking and servicing access without compromising street character, landscape or pedestrian amenity and safety. Generally limit width of driveways to 6m maximum. 	<p>Complies: Car parking and servicing access have been integrated without compromising the street character, landscape setting or pedestrian amenity and safety.</p> <p>Complies: The driveway from the shared laneway serviced by New Street 1 has a width of 6m. Both ingress and egress is proposed to be via the laneway (through to New Street 1 which leads onto Pemberton Street). This arrangement is consistent with the approved Park Grove 'Masterplan'. Conditions relating to vehicle access have been included.</p>
Part 3 – Building Design	
<p>Building Configuration</p> <p>Apartment Layout</p> <ul style="list-style-type: none"> Single aspect apartments should be limited in depth to 8m from a window. Back of a kitchen should be no more than 8m from a window. Width of through apartments over 15m deep should be 4m or greater to avoid deep narrow apartment layouts. Affordable housing to be considered including small units & minimum sizes 	<p>Non-Compliance:</p> <p>The maximum depth of the single aspect units is 12m. It is noted that none of the single aspect apartments are less than 7 m wide and in the majority of cases are between 9 and 10 m wide. This ensures that these dwellings will have adequate outlook and access to natural light, on this basis the non-compliance is considered to be satisfactory.</p> <p>Complies. The maximum distance between the back wall of a kitchen and a window is approximately 9.5m. Whilst all windows are operable and each apartment has access to generous balconies, it is noted that all the apartments will be air conditioned in order to provide an acceptable level of amenity, given the potential exposure to aircraft noise.</p> <p>Complies. None of the apartments within the proposed development has a width less than 4 metres and all single aspect apartments are greater than 7 m wide.</p> <p>Complies. Various unit sizes are proposed with the highest proportion being 2 bedroom units. It is considered that this mix will allow for an acceptable degree of housing affordability, in line with current market trends.</p>
<p>Apartment Mix</p> <ul style="list-style-type: none"> Provide a diversity of apartment types. 	<p>Complies: An acceptable mix of Studio, 1 bedroom + study, 2 bedroom and 3 bedroom units is proposed.</p>
<p>Balconies</p> <ul style="list-style-type: none"> Provide all apartments with private open space. Ensure balconies are functional and 	<p>Complies: All units will have a principal private balcony / terrace / courtyard that is integrated into the overall architectural form.</p> <p>All private open spaces are accessed from the</p>

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<p><i>integrated with overall architectural design.</i></p> <ul style="list-style-type: none"> • <i>Provide primary balconies for all apartments with a minimum depth of 2m.</i> 	<p>primary internal living spaces and whilst they vary in depth, all include substantial / usable sections which are at least 3m deep.</p> <p>A number of units also have a secondary balcony.</p>
<p>Ceiling Heights</p> <ul style="list-style-type: none"> • <i>2.7m for habitable rooms in residential flats.</i> 	<p>Complies: The minimum ceiling height for all habitable rooms is 2.7m.</p>
<p>Flexibility</p> <ul style="list-style-type: none"> • <i>To promote 'long life, loose fit' buildings and encourage adaptive re-use to save embodied energy expended in building demolition.</i> 	<p>Complies: The design caters for inbuilt adaptability through a structural grid that would allow for some degree of future modification to the internal layout.</p>
<p>Ground Floor Apartments</p> <ul style="list-style-type: none"> • <i>Contribute to streetscape and active safe streets by designing front gardens or terraces while ensuring privacy.</i> 	<p>Complies: The design incorporates a series of ground floor apartments which address either New Street 1 or New Street 2 and New Park 1 which include small private front yards oriented towards the streets.</p>
<p>Internal Circulation</p> <ul style="list-style-type: none"> • <i>In general, where units are arranged off a double loaded corridor, the number of units accessible from a single core / corridor should be limited to 8.</i> 	<p>Satisfactory: Building E proposes a double lift and Building F proposes a single lift, which provides access to / from the basement parking, ground floor and all residential levels.</p> <p>On Level 1 across the two buildings, there are 15 single storey units all of which have individual entries to the street.</p> <p>In Building E, 94 units on levels 2-6 remain accessible from the double lift core.</p> <p>In Building F, 49 units on levels 2-6, and the communal open space provided on the roof, remain accessible from the single lift core.</p>
<p>Storage</p> <ul style="list-style-type: none"> • <i>6m3 per studio or 1 bedroom unit.</i> • <i>8m3 per 2 bedroom unit.</i> • <i>10 m3 per 3 bedroom unit</i> 	<p>Satisfactory: The applicant advises within the submitted Statement of Environmental Effects that storage is provided as follows:</p> <ul style="list-style-type: none"> - Studio apartment 6m3 - 1 bed apartment 8m3 - 2 bed apartment 10m3 - 3 bed apartment 12m3
<p>Building Amenity</p> <ul style="list-style-type: none"> • <i>Acoustic Privacy - Ensure high level of amenity by protecting privacy of residents within residential flat buildings both within the apartments and in private open spaces.</i> 	<p>Complies: The development is within the Australian Noise Exposure Forecast ANEF 20-25 Contour. An acoustic report was submitted with the development application and subject to the recommendations, the development can comply with AS 2021, Acoustic Aircraft Noise Intrusion – Building Siting and Construction and Councils Aircraft Noise DCP.</p> <p>The proposed method and materials of construction will provide adequate acoustic privacy to achieve the BCA requirements in</p>

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	relation to noise transmission.
<p>Daylight Access</p> <ul style="list-style-type: none"> Living rooms and private open space for at least 70% of apartments should receive a minimum of 3 hours direct sunlight between 9 am and 3 pm mid winter. 2hours acceptable in dense precincts Limit number of single aspect apartments with southerly aspect to maximum 10% of total. 	<p>Deemed to comply:</p> <p>Council's independent consultant concludes that the proposed development is deemed to comply with solar access, with some units relying on extended hours from 7.30am to 4.30pm. Council accepts this justification and considers it satisfactory.</p> <p>Minor non-compliance: There are approximately 73 units (46%) with a single aspect – however none of these units have a southerly aspect. This arrangement is considered to be satisfactory, having regard to the minimum width (7m) of these apartments, which provides adequate access to natural light and ventilation.</p>
<p>Natural Ventilation</p> <ul style="list-style-type: none"> Building depths, which support natural ventilation typically range from 10 to 18 m. 60% of residential units should be naturally cross ventilated. 25% of kitchens within a development should have access to natural ventilation. 	<p>Complies: 60% of the apartments achieve natural cross ventilation.</p> <p>Satisfactory. Whilst none of the kitchens have direct access to a window and the maximum distance between the back wall of a kitchen and a window is approximately 9.5m, it is noted that all the apartments will be air conditioned in order to provide an acceptable level of amenity, given the potential exposure to aircraft noise.</p>
<p>Building Form</p> <p><i>Facades</i></p> <ul style="list-style-type: none"> Promote high architectural quality in residential flat buildings, ensure new developments have facades which define and enhance public domain and desired street character and that building elements integrated into overall building form and facade design. 	<p>Complies: The facade design is of a high architectural quality and establishes an appropriate built form, character and streetscape for the urban context of the site.</p>
<p>Roof Design</p> <ul style="list-style-type: none"> Provide quality roof designs, which contribute to overall design and performance of residential flat buildings, integrate as part of overall design. 	<p>Complies: The proposed roof forms are integrated with overall design and provide an appropriate 'top' to the buildings.</p>
<p>Building Performance</p> <p><i>Energy Efficiency</i></p> <ul style="list-style-type: none"> Reduce the necessity for mechanical heating and cooling reducing reliance on fossil fuels and minimize greenhouse gas emissions. 	<p>Complies: The installation of energy efficient plant, equipment and appliances will assist in reducing energy usage. Cross ventilation and appropriate choice of glazing and shading devices will reduce the need for mechanical heating and/or cooling.</p> <p>However it should be noted that the site is located between the 20 and 25 contours on the Aircraft Noise Exposure Forecast (ANEF) chart. In order to provide appropriate levels of internal</p>

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	amenity the apartments will be air conditioned.
Water Conservation <ul style="list-style-type: none"> • <i>Reduce mains consumption of potable water and quantity of urban stormwater runoff.</i> 	Complies: A number of water conserving measures such as the collection and reuse of rain water for use in landscaped area and the installation of water efficient fixtures and fittings will reduce the consumption of potable water.

Botany Local Environmental Plan 1995 (LEP)

Clause 5 – Objectives of the Plan

The provisions of Clause 5 of Botany Local Environmental Plan 1995 have been considered during the development assessment for the use of the site. Clause 5(1) states that the objectives of this plan in relation to form and function of the local government area are:

- (a) *to recognise the importance of the local government area of Botany Bay City as a gateway to Sydney, given its proximity to Sydney (Kingsford-Smith) Airport and Port Botany,*
- (b) *to ensure, as far as practicable, that land uses are compatible with each other in terms of environmental and aesthetic amenity,*
- (c) *to make the local government area of Botany Bay City a more attractive and pleasant place in which to live, work and visit,*
- (d) *to improve the image of the local government area of Botany Bay City by ensuring that developments are of a good standard of design, form and function,*
- (e) *to protect areas from inappropriate development and to ensure that, in particular, residential amenity, health and safety is maintained or improved, where necessary, and*
- (f) *to provide for an appropriate balance and distribution of land for residential, commercial, retail, industrial, advanced technology enterprises, tourism, port-related and airport-related development and recreation, entertainment and community facilities.*

It is considered that the proposed development meets the abovementioned objectives.

Clause 5(2) states that the objectives of this plan in relation to residential development, include the following:

- (a) *to maintain, protect and increase the local government area's permanent residential population,*
- (b) *to encourage, where appropriate, the renovation and upgrading of existing dwellings, while ensuring that dwelling forms, including alterations and additions, are in sympathy with the amenity of surrounding residences,*

- (c) *to ensure the conservation of buildings and structures of architectural or historic significance and that any additions or alterations are in sympathy with the existing building or structure,*
- (d) *to ensure the protection and improvement of the amenity of residential areas,*
- (e) *to provide for a range of housing types to cater for all socio-economic groups without adverse effects on the character and amenity of the local government area of Botany Bay City,*
- (e1) *to provide for affordable housing without adverse effects on the character and amenity of the local government area of Botany Bay City,*
- (f) *to maintain and increase the availability of land for residential use and to prevent the further alienation of residential areas in the local government area of Botany Bay City, and*
- (g) *to permit the use or re-use of existing non-residential buildings in residential areas where such uses improve the amenity of adjoining residents.*

It is considered that the proposed development meets the abovementioned objectives.

Clause 10 – Zoning

The development allotments which form part of the development application are zoned Residential 2(b) and Mixed Industrial – Restricted 4 (b1) under Botany Local Environmental Plan 1995. However, the development of Building E and F falls wholly within the land zoned Residential 2(b).

The proposal for the construction of two (2) residential buildings (Building E & F) containing 158 apartments and basement parking for 271 vehicles which is accessed off New Street 1 is permissible with consent in the Residential 2(b) zone. The development proposal is consistent with the primary and relevant secondary objectives for development within the Residential 2(b) zone.

Clause 12- Floor Space Ratio

The development has been considered against Clause 12 of Botany Local Environmental Plan 1995. Clause 12(1) states that a gross floor ratio on land within zone 2(b) shall not exceed 0.5:1. However Clause 12(2) also applies to the site.

Clause 12(2) outlines the following:

(2) Notwithstanding the provisions of subclause (1), the Council may consent to the carrying out of residential development on land within Zone No 2 (b) to a maximum floor space ratio of 1:1 where the allotment exceeds 2,500 sq m, and where it is of the opinion that:

- (a) the proposed development will satisfy the primary objective of the zone,*
- (b) the scale of the proposed development, if above 2 storeys in height, is compatible with the scale of existing residential development in the locality,*
- (c) the architectural character and design of the proposed development does not adversely affect existing residential development in the locality,*
- (d) the provision of off-street parking for residents and visitors adequately meets the needs of the development,*

- (d1) the provision of on-site car parking does not dominate or detract from the appearance of the proposed development or the streetscape,*
- (e) the provision of private and communal open space on the site is adequate for the proposed development,*
- (e1) the proposed development includes landscaping that screens and softens the visual effect of the buildings on the site, and creates useable and comfortable open space areas,*
- (f) the environmental amenity of the proposed development and of the immediate locality includes measures to confine or reduce noise and to maintain privacy,*
- (g) the proposed development ensures adequate sunlight, ventilation and privacy to its residents, to residents of adjoining development and to users of nearby public and private open space,*
- (h) the proposed development makes provision for the adequate absorption of stormwater, and includes deep root zones for tree planting,*
- (i) the proposed development incorporates pedestrian links at points where they are most prominently and safely connected to the existing street and pedestrian network, and*
- (j) the proposed development provides a safe and secure environment for its residents.*

The proposed gross floor area of the development is **15,613sqm** and the proposed floor space ratio of Building E and F depends on the allotment area that it is considered against. The three relevant comparisons that should be considered are as follows:

“Site” comparison	Total gross floor area	Floor Space Ratio
‘Masterplan’ site area	34,682sqm	0.83:1
Site area existing allotments	18,738sqm	0.92:1
Proposed allotment (Building E and F)	6,880sqm	2.26:1

Given the existing legal subdivision pattern of the area, the development application applies to four allotments being:

- Lot B - DP 380476
- Lot C - DP 380476
- Lot 1 - DP 158551
- Lot 2 - DP 158551

The total area of these allotments is 18,738sqm and therefore the proposed FSR is 0.92:1, and compliant with Clause 12(2) of Botany Local Environmental Plan 1995.

Once the site is subdivided, the density on the future allotment (Proposed Lot 20) is proposed to be an FSR of 2.26:1. However, the proposed Buildings E and F form part of a larger ‘Masterplan’ area, whereby the density is spread over the whole Park Grove site, which has an approved FSR ratio of 1.19:1 under DA-05/459/05. The Proposed FSR over

the four allotments is 0.92:1, which is below the maximum FSR allowed for the wider site under the approved 'Masterplan'.

Clause 12B Floor Space Ratios – Pemberton-Wilson Street Precinct

Clause 12B states:

- (1) *This clause applies to land shown coloured light scarlet and edged red on the map marked "Botany Local Environmental Plan 1995 (Amendment No 3)" (the **Pemberton-Wilson Street Precinct**)*
- (2) *For the purpose of calculating the floor space ratio of a building proposed to be erected on land in the Pemberton-Wilson Street Precinct:*
 - (a) *the Council is to include as part of the site area such part of the land (if any) as is required, by a condition of the relevant development consent, to be dedicated free of cost for the provision, extension or augmentation of public amenities or public services (as referred to in section 94 of the Act), and*
 - (b) *the gross floor area is taken to exclude (in addition to the matters excluded from the definition of that term in the Environmental Planning and Assessment Model Provisions 1980 adopted by this plan) designated storage spaces (if any) designated for personal items associated with residential apartments.*

It is noted that gross floor area is taken to exclude personal storage spaces for items associated with residential apartments.

Clause 13 – Aircraft Noise

The provisions of Clause 13 and Council's Aircraft Noise Development Control Plan have been considered in the assessment of the development application, as the site is partly located within the 20-25 ANEF contour.

In accordance with Council's Aircraft Noise DCP the subject site is classified as "conditional". In accordance with clause 9.2 of this DCP, "where a building is classified as "conditional" under Table 2.1 AS2021-2000, development may take place, subject to Council consent and compliance with the requirements of AS2021-2000". Compliance with relevant noise assessment can be achieved with the installation of acoustic treatment devices, as outlined within Aircraft Noise Intrusion Report, prepared by Day Design Pty Ltd, dated 27 April 2012. As such, appropriate conditions are imposed to ensure that the Construction Certificate complies with the acoustic report.

Clause 13B – Development and Obstacle Limitation Surfaces (OLS)

The subject site lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 25 feet (7.62 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The application was referred to Sydney Airports Corporation Limited (SACL) and approval was granted for the erection of this structure to a height of 28.5 metres AHD. A condition is proposed on the consent requiring further approval to be obtained should the structure exceed this height restriction.

Clause 17(2) – Development in industrial zones

Two of the allotments that form part of this development application, are partially zoned Restricted 4 (b1) under Botany Local Environmental Plan 1995. Notwithstanding, all of the proposed buildings and future allotments (proposed Lot 20) are located within the Residential 2(b) zone. This clause is therefore not relevant to the subject application.

Clause 18C- Development near zone boundaries – Pemberton-Wilson Street Precinct

The development site is located within the Pemberton – Wilson Street Precinct and the provisions of clause 18C have therefore been considered in the assessment of the development application.

Clause 18C states as follows:

- (1) *This clause applies to any land that is within Zone No. 2(b) and that is within 15 metres of a boundary between that Zone and Zone No. 4(b1)*
- (2) *The Council may consent to the carrying out of development on land to which this clause applies if that development would be able to be carried out with consent if the land concerned were within Zone No. 4 (b1)*
- (3) *Before granting consent for development pursuant to this clause, the Council must be satisfied that carrying out the development is generally consistent with the objectives of Zone No. 4 (b1)*

The proposed development is located on the eastern side of the Pemberton–Wilson Street Precinct, and the proposed buildings are wholly within the Residential 2(b) zone. Clause 18C is therefore not applicable to the development application.

Clause 22 – Greenhouse effect, global warming, air pollution and energy efficiency

The requirements of Clause 22 and the Energy Efficiency Development Control Plan have been considered in the assessment of the development application. The development has been designed to ensure that water saving devices and energy efficient appliances are installed to the kitchens, bathrooms and laundries. A BASIX certificate for the proposed development is submitted with the application and is considered acceptable to adequately address the requirements of the clause.

Clause 28 – Excavation and Filling of Land

The provisions of Clause 28 have been considered in the assessment of the development application. The application involves excavation, footings and basement parking.

A Geotechnical Report prepared by Asset Geotechnical forms part of the DA documentation advises the following:

“It is understood that the site Remediation will involve excavating to RL 3m AHD and then carrying out remediation. After remediation is complete, the basement excavation will then be completed.

Dewatering will be required within the site as part of the basement construction (but will not be required for the remediation excavation). The basement finished floor level is understood to be RL 3.2 AHD. Allowing for a 0.6m thick slab, 0.1m granular base, and achieving nominally 0.5m clearance between bulk excavation level and the lowered water table, it would be necessary to lower the watertable to approximate RL 2.0 AHD. This will result in a lowering of the water table by a maximum of about 1.3m below the 12 January 2004 levels. However, it is noted that the present of the clay layer at about 6m depth will substantially mitigate groundwater lowering adjoining the site, assuming that the CSM wall is founded below the clay layer at about 6m depth."

It is advised within the report that *"the impact on adjoining groundwater levels as a result of the construction dewatering is assessed to be negligible, and the risk of damage to adjoining developments and infrastructure is assessed to be very low... notwithstanding... the basement structure should be designed as a "tanked" structure"*

As the development involves works to the basement level that will (during construction) transect the watertable, the proposal was referred to the NSW Office of Water as Integrated Development in accordance with the provisions of section 91 of the EP&A Act.

The NSW Office of Water provided comment and General Terms of Approval in correspondence dated 30 July 2012. The NSW Office of Water requires that a Water Licence is to be obtained with the NSW Office of Water. The applicant is to meet all the GTAs required by the Office of Water prior to obtaining a Water Licence with the NSW Office of Water. These recommendations are included within the conditions of consent.

Clause 30A – Development on land identified on Acid Sulfate Soil Planning Map

The development has been considered against Clause 30A of Botany Local Environmental Plan 1995 as the subject site is located within a Class 4 Acid Sulfate Soil Area. As such any works below 2m AHD or works by which the watertable is likely to be lowered beyond 2 metres AHD require the consent of Council.

An Environmental Site Assessment accompanies the application, prepared by Consulting Earth Scientists. Council's Environmental Scientist has advised that no objection is raised to the proposed works, subject to the inclusion of appropriate conditions.

Clause 38 – Water, wastewater and stormwater systems

The provisions of Clause 38 have been considered in the assessment of the development application. Council must not grant consent to the carrying out of the development as follows:

- (i) *on land or subdivision of land to which this plan applies for the purpose of a habitable building unless it is satisfied that adequate water and sewerage services will be available to the land it is proposed to develop.*
- (ii) *on land or subdivision of land to which this plan applies for the purpose of a habitable building unless it is satisfied that adequate provision has been made for the disposal of stormwater from the land it is proposed to develop.*

The development application was referred to Sydney Water for consideration on 23 May 2012. Correspondence received from Sydney Water dated 30 May 2012 advises in relation to water and wastewater:

Water

“Preliminary investigation indicates that the existing system has adequate capacity to service the proposed development. The proposed development will require amplification and extensions from the existing water mains in the surrounding streets” and

Wastewater

“The current wastewater system has sufficient capacity to service the proposed development

Relevant conditions as requested by Sydney Water have been included in the schedule.

Concept stormwater plans were submitted with the application, which have been reviewed by Council’s Development Engineer. Council’s Engineer has provided conditions of consent with regard to the provision of stormwater drainage for the development. As such the proposed development is considered to satisfy the provisions of Clause 38 of the LEP.

Provisions of any Draft Environmental Planning Instruments (S.79C(1)(a)(ii))

Draft Botany Bay Local Environmental Plan 2012

The Draft Botany Bay Local Environmental Plan (LEP) 2012 is off public exhibition following certification by the Director General of the Department of Planning and Infrastructure. The Draft LEP will be considered by Council at 21 November with a recommendation that it be forwarded to the Department of Planning and Infrastructure under Section 68 of the Environmental Planning Assessment Act 1979. The Draft BLEP 2012 is therefore a matter for consideration under Section 79C of the Environmental Planning and Assessment Act 1979.

Draft Botany Bay LEP 2012 is the comprehensive planning instrument for the whole of the City of Botany Bay. It has been prepared in response to the planning reforms initiated by the State Government, which required all Councils in NSW to standardise their LEPs.

The provisions of the draft BBLEP 2012 have been considered in the assessment of this Development Application and the following information is provided:

Principal Provisions of draft BBLEP 2012	Compliance Yes/No	Comment
Landuse Zone	Yes	Under the draft BBLEP 2012 the land is zoned: - R3 – Medium Density Residential; and - B4 Mixed Use
Is the proposed use/works permitted with development consent?	Yes	The proposed development is permissible with Council’s consent under the draft BBLEP2012.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the objectives outlined within Clause 2.3 of the draft BBLEP 2012
Does Schedule 1 – Additional	N/A	N/A to the development application.

Principal Provisions of draft BBLEP 2012	Compliance Yes/No	Comment
Permitted Uses apply to the site?		
<p>What is the height of the building?</p> <p>Does the height of the building exceed the maximum building height?</p>	<p>Yes (Building E)</p> <p>No (Building F)</p>	<p>The BBLEP permits a maximum building height of 22 metres in accordance with Clause 4.3(2A)</p> <p>Building E has a maximum height of RL 26.39 metres AHD. The height of the building in metres from the proposed ground level is approximately 22 metres</p> <p>Building F's roof is RL 27.30 metres AHD and a maximum height of RL 28.5 metres AHD measured to the stair overrun. The height of the building in metres from the proposed ground level is approximately 24 metres.</p> <p>The Park Grove 'Masterplan' approved heights of Buildings E and F to a maximum RL 27.3 metres AHD.</p> <p>The proposal was notified to Sydney Airport Corporation Limited, who did not raise any concerns and provided relevant conditions.</p>
<p>What is the proposed FSR?</p> <p>Does the FSR of the building exceed the maximum FSR?</p>	Yes	<p>The BBLEP 2012 permits a maximum FSR of 1.5:1 in accordance with Clause 4.4(2A).</p> <p>The proposed FSR is as follows:</p> <ul style="list-style-type: none"> • 0.83:1 in relation to the Park Grove 'Masterplan' site; • 0.92:1 in relation to the existing allotments that form part of the development application; and • 2.26:1 in relation to the proposed allotment of the site – subject to consolidation and future subdivision <p>The proposed development, in accordance with the existing legal subdivision pattern and the allotments that make up the development application, complies with this control with an FSR of 0.92:1.</p>
Is the proposed development in a R3/R4 zone? If so does it comply	Yes	The proposed development is within the R3 zone. The site area is greater

Principal Provisions of draft BBLEP 2012	Compliance Yes/No	Comment
with site of 2000m ² min and maximum height of 22 metres and maximum FSR of 1.5:1?		<p>than 2000sqm.</p> <p>The proposals ground level on New Street 2 adjacent to Building E is RL5.7 metres AHD. The height of the building is between RL24.63 and RL26.39 metres AHD. Therefore the overall height is between 18.93 and 20.69 metres and compliant.</p> <p>The proposals ground level on New Street 1 adjacent to Building F is RL4.76 metres AHD. The height over the building is between RL25.38 and RL 28.5 metres AHD. Therefore the overall height is between 20.62 and 23.74 metres. Generally this is compliant, as the majority of the roof of Level 6 is between RL24.37-RL25.38metres and only one small portion of the lift overrun reaches RL28.5metres AHD.</p> <p>The FSR proposed over the existing allotments of the development application equates to 0.92:1and therefore the height complies with Clause 4.3</p>
Is the site within land marked “Area 1” on the FSR Map?	N/A	NA to the development application
Is the land affected by road widening?	N/A	N/A – The site is not affected by road widening
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	N/A – The subject site is not listed within Schedule 5 or within a Heritage Conservation Area.
<p>The following provisions in Part 6 of the draft LEP apply to the development</p> <ul style="list-style-type: none"> • Stormwater; • Acid Sulfate Soils; • Airspace Operations; and • Development in areas subject to Aircraft noise; 	Yes (Subject to conditions)	<p>The development, subject to conditions, meets the requirements of clause 6.9 within the BBLEP 2012</p> <p>The development, subject to conditions, meets the requirements of clause 6.14 within the BBLEP 2012. An acid sulfate soils management was submitted, and conditions provided by Councils Environmental Scientist.</p> <p>The development was referred to Sydney Airports Corporation Limited (SACL) as the proposal penetrates the Obstacle Limitation Surface for Sydney’s Kingsford Smith Airport. Correspondence from SACL did not raise any concerns, and provided appropriate conditions. Subject to conditions, the proposal meets the</p>

Principal Provisions of draft BBLEP 2012	Compliance Yes/No	Comment
		<p>requirements of Clause 6.15 within BBLEP 2012.</p> <p>The development is located within the 20-25 ANEF Contour. The subject site is classified as 'conditional' under the Australian Standard and that subject to development conditions stipulating compliance with AS2021-2000, the development complies with Clause 6.16 of BBLEP 2012.</p>

The objectives and provisions of the draft BBLEP 2012 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the Draft LEP 2012.

Provisions of Development Control Plans (S.79C(1)(a)(iii))

Development Control Plan – Off Street Parking

The provision of parking to serve the needs of the proposed development has been addressed. The proposal provides a total of 271 parking spaces, which is sufficient in number to meet the numerical requirements for the number of units proposes. An appropriate condition has been included within the consent detailing the parking breakdown.

Development Control Plan – Aircraft Noise

The issue of aircraft noise and the intensification of residential use has been addressed previously in this report in relation to Clause 13 of Botany LEP 1995. As noted a noise report has been submitted and appropriate conditions are imposed to ensure the development incorporates the applicable acoustic treatment.

Development Control Plan – Access

The requirements of the Access DCP have been considered in the assessment of the development application. The proposed development provides disabled access into all main lobbies. Lift access is provided to all levels within each of the buildings including the communal room and roof terrace.

In addition to the requirements of the Access DCP, Council's DCP 31 Pemberton Wilson Street Precinct requires the provision of adaptable dwellings at the rate of 2 adaptable dwellings plus one for each 30 units above 51. Therefore, the number of adaptable housing units required within the development is six (6). The design and provision of these units is a condition of development consent.

Development Control Plan – Energy Efficiency

A BASIX Certificate has been submitted with the application which indicates that the proposal meets the water saving, energy saving and the thermal comfort requirements of the SEPP (BASIX) 2004.

Development Control Plan No. 29 – Waste Minimisation and Management Guidelines

A Waste Management Plan has been submitted detailing waste minimisation and management practices to be implemented for the construction and operational phases of the proposed development. The Waste Management Plan appropriately addresses the requirements of DCP No. 29.

Development Control Plan No. 34 – Contaminated Land

The Contamination Land DCP provides requirements for the environmental assessment of sites that are potentially contaminated.

Remediation Action Plans, prepared by Consulting Earth Scientists accompanies this application. Council received advice from the applicant on 27 August 2012 that remediation works relating to the footprint of Building E and F was Category 2 under the provisions of State Environmental Planning Policy 55 and DCP 34. The applicant advised that Category 2 remediation works would commence within the footprint of the site on 3 September 2012.

Development Control Plan No. 31- Pemberton and Wilson Street Precinct

The development application has been assessed against the numerical controls and objectives contained in the Development Control Plan No 31 – which relates to all development within the Pemberton – Wilson Street Precinct.

Standard	Control	Proposal	Complies
5 DEVELOPMENT AND DESIGN CONTROLS			
A Environmental Sustainable Development –			
A1 Energy Efficiency			
C1 – C2 Compliance with Energy Efficiency DCP and BASIX Certificate	Development meets provisions of Energy Efficiency DCP and BASIX Certificate to be submitted	BASIX Certificate has been submitted with the development application	YES
A2 Water Supply and Conservation			
C1–C3 Water saving fittings	Provide AAA (or higher) showerheads, tap fittings, dual flush toilets, washing machines and dishwashers	The application has complied with BASIX requirements.	YES
C4 – C6 Rainwater tanks, recycled water and BASIX Certificate	Install rainwater tanks/use recycled water for toilet flushing and garden water and submit BASIX Certificate	Rainwater tank is provided and the development is subject to BASIX Certificate requirements	YES
A3 Stormwater Management			
C1 Council's Guidelines for drainage	In accordance with Council's 'Guidelines for the Design of Stormwater Drainage Systems'	Stormwater Drainage Plan has been submitted. Appropriate conditions have been included in the development consent regarding stormwater drainage systems as well as requirement for a temporary flood basin to be constructed prior to the issue of any occupation certificate for Building E and F.	YES (Subject to conditions)

Standard	Control	Proposal	Complies
C2 Soil and water management plan	Soil and water management plan submitted	Soil and Water Management Plan submitted. Appropriate conditions have been included in the development consent regarding soil and water management plans	YES (Subject to conditions)
C3 Location of on-site detention	Underground OSD tanks should not be located under landscaped areas	Appropriate conditions relating to OSD have been included in the development consent regarding on site detentions.	YES (Subject to conditions)
A4 Site Contamination			
C1 Contamination assessment and remediation	Assessment and remediation to be in accordance with DCP 34 (prior to Stage 1 DA)	Investigation has been undertaken for site suitability. Conditions relating to the sites remediation action plan have been included. A Stage 4 – Site Validation Report (SVR) is to be prepared by a suitably qualified contaminated land consultant and submitted prior to the issue of Construction Certificate. In addition a Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 shall be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This shall be provided prior to the release of the Construction Certificate.	YES (Subject to conditions)
C2–C5 Basements below groundwater level	Basements below ground water are discouraged Human Health Risk Assessment to be submitted Ongoing pumping of groundwater not permitted Sydney Water requirements	The development application was referred to NSW Office of Water. General Terms of Approval were received and the applicant is required to obtain a Water Licence. These requirements form part of the recommended conditions including basement waterproofing.	YES
A5 Acid Sulfate Soils			
C1 Acid Sulfate Soils Assessment	ASS assessment is required if development 2m below natural ground level is likely to lower the water table below 2m	The subject site is located in Class 4 of ASS. Consideration of Acid Sulfate Soils was undertaken during the assessment. Appropriate conditions have been included within the consent.	YES
C2 Acid Sulfate Soils Management Plan	ASS Management Plan is required to be submitted	ASS Management Plan was submitted with the application	YES

Standard	Control	Proposal	Complies
A6 Waste Management			
C1 Compliance with DCP 29 – Waste Minimisation and Management Guidelines	Development must comply with DCP 29	Waste Management Plan provided	YES
C2 – C4 Location and incorporation of waste and recycling storage areas/facilities	Development must incorporate adequate garbage and recycling collection areas	Each dwelling is provided with a waste storage area within the garage. Conditions of consent have been included to ensure appropriate levels of storage are provided for each unit.	YES
A7 Environmental Protection Management			
C1 Control of air pollutants	Shall demonstrate ability to control pollutants from non-residential development	Non-residential development is not proposed as part of this application	N/A
C2 – C9 Liquid and solid discharges, trade waste agreements, demolition materials, on-site air tight containers, spray booths	Discharges to conform with Protection of the Environment Operations Act 1997 Trade Waste Agreement to be obtained from Sydney Water Loading docks to be equipped with an airtight container for containment of contaminants that may be transported Spray booths to comply with Guidelines for Spray Booths	Non-residential development is not proposed as part of this application	N/A
C1 Site Analysis Plan	Site Analysis Plan to be lodged with the MP (Stage 1 DA)	Provided with the application	YES
B2 Development Parcels and Subdivision			
C1 Development Parcels	Development parcels to be created in accordance with Figure 5.1	Generally consistent with identified development parcels	YES
C2 – C5 Alternate development parcels	Alternate parcels will be given consideration No part of the site may be separately leased or occupies without development consent from Council Subdivision plans must apportion car parking to individual units and identify common property Any subdivision must comply with DCP 7	Subdivision of the development is not part of this development application	N/A

Standard	Control	Proposal	Complies
B3 Lot Depth			
C1 Pemberton Street	3 storey development along Pemberton Street in 4(b1) zone must be a min of 35m (in addition to road widening of 4m) and can varied by 15m (into the 2b zone)	Not applicable to the development application as the subject site is located on New Street 1 and New Street 2.	N/A
C Parking and Vehicular Access			
C1 Car parking design	To be convenient, safe for all users, address the road, fit in with adjoining street network and not detract from local street network	Access to the basement parking is located from the shared laneway accessed from New Street 1. The arrangement will not detract from the local street network as New Street 1 is proposed to be closed to Wilson Street. All access into New Street 1 will be from Pemberton Street.	YES
C2 Numeric compliance	Compliance with Council's Off Street Car Parking DCP	The development provides sufficient parking per unit size in accordance with the DCP.	YES
C3 – C6 Australian Standards, design of accessways, landscaping of aboveground spaces	Compliance with AS2890.1-2004. Parking and accessways to be designed to facilitate stormwater infiltration. Suitable landscaping. Impact of above ground spaces to be minimised	The proposed parking arrangement generally complies. Appropriate conditions have been included to ensure that all aspects meet with Australian Standards.	YES
C7 Storage of bicycles	Provision of on site parking and storage of bicycles	Storage for bikes has not been included in the design of the basement parking areas.	YES – Subject to conditions
C8 – C9 Traffic Report	Some proposal required to submit a traffic report and be referred to RTA	The application was not required to submit a Traffic Report or be referred to RMS (RTA)	YES
C10 Forward direction	Vehicles entering and leaving must do so in a forward direction	The proposal facilitates vehicles to enter and leave in a forward direction.	YES
C11 Location of car parking 4(b1) zone	All vehicles behind building setback except development in 4(b1) zone	Parking is located within the building envelope	YES
C12 Location of basement car park	Under footprint of building to allow deep soil landscaping along frontages abutting residential land	The basement does permit a small portion of deep soil landscaping along the perimeter of the building.	YES
C13 Above ground parking	Large expanses of bland concrete paving and asphalt not permitted	No large expanses of bland concrete paving is proposed for parking	YES
C14 Visitor car spaces to be clearly labelled	Visitor spaces shall be clearly labelled and numbered to the relevant dwelling	Subject to conditions	YES (Subject to conditions)
C15 Numeric Requirements (residential)	Min spaces required: 1 Bedroom / Studio = 1 space 2 Bedroom = 2 spaces	Total of 271 spaces are provided. The minimum parking requirements per unit size have been provided and are subject to development	YES

Standard	Control	Proposal	Complies
	3 Bedroom = 2 spaces	condition	
C16 Visitor Spaces (residential)	1 visitor space per 10 dwgs in developments of 20 or more dwellings	Visitor parking is subject to conditions of consent.	Yes (subject to conditions)
C17 Wash Bays (residential)	1 wash bay per 10 dwellings	Wash bays are subject to conditions of consent	N/A
C18 Non-residential component	Car parking and loading facilities not to be provided within front setback	Non-residential development is not provided	N/A
C19 – C20 Manoeuvring, line marking and use of loading areas/driveways	Provision must be made for internal loading docks for sole use by delivery vehicles. Car parking areas, driveways, docks etc. to be maintained clear of obstruction	Non-residential development is not provided	N/A
D Building Form – D1 Site Coverage			
C1 & C3 Site coverage	Residential Flat Building Max site coverage 40% (the proportion of ground floor plan area of building including ancillary structures such as garage, awnings, outbuildings to the actual total site area and expressed as a percentage of the site area) Minimum un-built-upon open space 60% (equates to 1015.85sqm) Up to 10% of the unbuilt upon area may be used for single storey structures (i.e. garages etc)	The site coverage of Buildings E and F, in proportion to the site area is approximately 94%. This is due to the basement carpark, the garden terraces that are includes on Level 1, the shared laneway, and the building setbacks from the future site boundaries.	NO
C2 Local shops	Development including local shops in 2(b) zone must comply with 'combination multi unit housing and residential flat building' development type	N/A	N/A
C4 Variations to site coverage	Variations to site coverage may be permitted in exceptional circumstances	Noted. N/A	N/A
D2 Building Height			
C1 – C2 Building Height	Residential Flat Buildings in 2(b) residential zone Maximum storey = 4	The proposed development includes basement parking (classified as a storey – as a portion is more than 1.2 metres above ground level) and	NO – But modified and agreed to under

Standard	Control	Proposal	Complies
	Maximum building height = 17.05metres	six (6) additional storeys. Therefore the proposal includes seven (7) storeys within each building. The highest point of Building F is RL 28.5metres AHD (approximately 24 metres high from ground level)	'Masterplan' (05/459/05)
C3 Max height in metres	Maximum building height = 16.05metres Maximum overall ridge height = 17.05 metres	<p>The proposed ridge height on Building E is between RL24.63 and RL26.39 metres AHD. It is known that the street level adjacent to this building is RL5.7metres AHD. Therefore the overall height is between 18.93 and 20.69 metres. This is a non compliance with DCP31.</p> <p>The proposed ridge height on Building F is The height of the building is between RL25.38 and RL 28.5 metres AHD. Therefore the overall height is between 20.62 and 23.74 metres. This is a non compliance with DCP31.</p> <p>Whilst these heights are non compliant with DCP31, they are a relatively minor non compliance – and the heights are compliant with the Draft BBLEP 2012 controls and are generally compliant with the conditions within the Park Grove 'Masterplan' DA-05/459. The heights are therefore considered to be satisfactory.</p>	Minor non compliance
C8 Amenity to neighbours	The building height and bulk is to be distributed on the site so that there is no significant loss of amenity to adjacent sites, open spaces or public streets	The bulk and scale of the proposal is considered to be appropriate given the location, as the development is consistent with the Park Grove 'Masterplan'.	YES
C11 Multi unit residential heights	The development is to comply with the Civil Aviation Safety Authority (CASA) requirements	The proposal complies with the requirement	YES
C13 Four storey buildings	Permitted behind the 4(b1) zone (fronting Pemberton Street, but may only have a maximum depth of 60m	The proposal has a depth of approximately 70-75 metres. This is a minor non-compliance and considered satisfactory	Minor non compliance
D3 Building Depth			
C1 Maximum depth of multi-unit housing style	Multi-unit buildings have a maximum internal plan depth of 14m	NA	NA
D4 Building Separation			

Standard	Control	Proposal	Complies
C1 Building separation	Minimum internal dimension: 12m (between habitable rooms) and 9m (between habitable and non-habitable rooms) and 6m (between non-habitable rooms)	The proposal is generally compliant.	YES
C2 Zero building separation	Permitted in appropriate contexts	<p>A zero building line is proposed on the southern and eastern boundary adjacent to No. 19-23 Wilson Street for the Basement and Level 1 portion of the buildings. From Level 2, a planter is proposed to be constructed on the boundary, and the building line of the units is setback 6 metres. The 6 metre setback is continued to Level 5 and on Level 6 the setbacks are increased to approximately 7.5 metres to the balcony and 9.7 metres to the building line. The setbacks along these elevations are considered appropriate, as they are consistent with the Park Grove 'Masterplan' and general compliance with SEPP65 controls.</p> <p>Along other sides of the buildings, the proposal is well within the existing allotment boundaries.</p>	YES
C3 Building step backs	Where a building step back creates a terrace, building separation for the floor below applies	<p>Above the basement level, Level 1 is stepped in via terraces along the New Street 1 and New Street 2 frontages. The setbacks are between 2.5 metres to 3.5 metres. Along south-eastern side (next to 19-23 Wilson Street) there are no setbacks on Level 1.</p> <p>Level 2 is stepped in between 2.5m and 3.2 metres along the New Street 1 and New Street 2 frontages. Level 2 is stepped in on the south-eastern side (next to 19-23 Wilson Street) via planters and roof space and balconies. There is a setback of between 6-7metres from the boundary line to the building line.</p> <p>Level 3 to Level 5 is stepped in on all sides by between 2.5-3.5metres facing New Street 1 and 2 and approximately 6 metres along the sides facing No. 19-23 Wilson Street.</p> <p>Level 6 is stepped back from the building line created on Levels 1-5. The proposed balconies and</p>	YES

Standard	Control	Proposal	Complies
		material alternation provides visual intonation and interest	
C4 In 4(b1) zone	Not required	The development is not located within 4(b1) zone	N/A
D5 Building and Landscape Setbacks			
C1 Deep soil zones	No part of a building, car park or above ground structure is to encroach upon the (landscaped) setback zone	3.2% of the site area The basement is not below the deep soil area around the units fronting New Street 1 and New Street 2.	NO
C2 Corner blocks	Setbacks must enable sufficient sightlines for traffic	Building is setback away from the street	YES
C3 Substation and waste facilities	Not to be located within front landscaped setback	Waste collection area is located away from the front landscaped setback	YES
C4 Setbacks to public open space	Minimum 4m setback for buildings from proposed public open spaces	The proposal is not directly adjacent to any public open spaces.	YES
C5 Landscaped setbacks proportional to height of buildings	Landscaped setbacks may need to be increased to enable landscaping in proportion to height of building	N/A	N/A
C6 Building and front landscaping setbacks	New Street 1 Minimum landscape setback is 3 metres Minimum building setback is 5metres	The proposed landscaped setback which is not paved or include hard surfaces is approximately 1.5-2 metres The proposed building setback is approximately 3.5 metres.	NO – refer to note
C7 Rear and side setbacks C8 – C9 Increased setbacks under certain circumstances	With no vehicular access 1 – 2 storeys min. 3m 3 – 4 storeys min. 4m Setbacks increased by 3m for vehicle access Reduction in side setback by 1.5m for 30% of length where setback increased elsewhere	The development proposes a zero setback on the basement floor and level 1. The setback of level 2 – level 6 is 6 metres, which is compliant. The development proposes vehicle access via a shared laneway	NO – refer to note
E Building Exterior – Building Design and Appearance			
C1 Maximum reflectivity	Maximum reflectivity of the glazing shall not exceed 20%	The proposed glazed balustrades are conditioned to be non-reflective at the rear. The material selection is considered satisfactory.	YES (Subject to conditions)
C2 Robust finishes	The finishes are to be robust and graffiti resistant	The materials and finishes are considered to be robust and graffiti resistant	YES
C3 – C6 Roof Fixtures	The visual impact of roof structures are to be minimised	The roof structures will not be visible from the streetscape	YES

Standard	Control	Proposal	Complies
E2 Residential and Non-Residential Interface			
C1 – C2 Lighting & Building Security	Site lighting for building security is not to cause annoyance or glare to neighbours	Appropriate conditions have been included regarding lighting	YES (Subject to conditions)
C7 Non-reflective colours and materials	Walls of buildings adjacent to residential areas are to be made from non-reflective colours and materials	The proposed glazed balustrades are conditioned to be non-reflective at the rear, and timber finish balustrades at the front elevation. Other material choice is considered satisfactory.	YES
E3 Building Entrances			
C2 Entrance Shelters	Entrances are to be sheltered	The entrances are proposed to be sheltered	YES
C3 Main Entry	The main entry is to be separate from car entries	The dwellings are provided with a separate front door	YES
E4 Site Facilities			
C1 Provision of Water and Sewerage Service	Section 73 Compliance Certificate	Appropriate conditions of development consent have been included	YES (Subject to conditions)
C2 – 21 Site Facilities	Site facilities and accessibility to facilities such as clotheslines, utility services, telecommunications/TV antennas, solar water heaters and air conditioning, and compliance with Council's requirements.	All units have access to a balcony for private open space which may be used for drying purposes and potted gardens. Appropriate conditions of development consent have been included to ensure that the applicant is aware of Council's requirements regarding site services Any air-conditioning unit is not to be visible from the Streetscape.	YES (Subject to conditions)
E5 Solar Access and Overshadowing			

Standard	Control	Proposal	Complies
C1 Solar access to proposed dwellings	Living rooms and private open spaces or at least 90% of dwellings receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter.	<p>Shadow diagrams were submitted with the development application.</p> <p>As discussed above, independent analysis of the shadow diagrams conclude that approximately 50.6% of the units will receive 2 hours of direct sunlight between 9am and 3pm in mid winter.</p> <p>Additional information from the applicant outlines that if the time period was taken between 7.45am and 4.15pm during mid winter, the proposal has 116 units which will receive solar access for 2 hours during mid winter.</p> <p>(This was re-assessed by Mr King to result in 122 units (77%) receiving 2 hours solar access between 7.30 and 4.30pm during mid winter)</p> <p>Council accepts this justification and analysis and believes that the solar access in the morning and afternoon is valid.</p>	Yes, subject to broadening the time criteria within the control.
C2 Solar access to open spaces	Locate communal open spaces on site so that solar access to them in winter is maximised	<p>As indicated on the shadow diagrams submitted, the communal pen space located on level 2 will not receive solar access during mid winter.</p> <p>The roof terrace provided as communal open space on Building F's roof will receive sunlight between 9am and 3pm during mid winter.</p>	Satisfactory
E6 Visual Privacy			

Standard	Control	Proposal	Complies
C1 Visual Privacy	Direct overlooking of habitable rooms and private open space of dwellings is to be minimised	<p>The proposal includes a number of units located on the south & eastern boundaries of the site. The units have living rooms, habitable rooms and balconies facing the adjoining site. Given the proposed height of the building it is inevitable that some overlooking is likely.</p> <p>However, as the proposal complies with minimum separation distances under SEPP65 and DCP31, the level of privacy achieved is considered acceptable. Perimeter landscaping in planter boxes on the southern and eastern boundaries will also contribute to privacy of the adjoining site which is proposed to be developed for residential purposes.</p>	Satisfactory
E7 Pedestrian Access and Circulation			
C1 Accessibility	Development is to comply with Development Control Plan – Access	The development is required to comply with Access to Premises Standards. Conditions of development consent are included.	YES (Subject to conditions)
E8 Safety and Security			
C1 Safety and Security general	The dwelling must be designed to ensure casual surveillance of the immediate area around the dwelling	The proposed dwellings are designed in a way that facilitates casual surveillance.	YES
C2 Lighting	To pedestrian ways, front doors, car parking etc	Conditions of development consent have been included to ensure that lighting is provided	YES (Subject to conditions)
C3 Sydney Airport	Lighting is to comply with Section 9.21: Lighting in the Vicinity of Aerodromes Manual of Standards, Part 139 – Aerodromes Version 1.1	Appropriate conditions of development consent have been included	YES (Subject to conditions)
C7	Buildings opening onto public streets shall have at least one habitable room window with an outlook to that area	The proposal includes windows and doors that provide surveillance onto the public road.	YES
E10 Fences and Walls			
C1 Fences at street frontages	Solid metal fences are not permitted along street frontages & all gates shall open inwards	The proposal does not propose solid metal fences along the streetscape	YES

Standard	Control	Proposal	Complies
C2 Fencing over 1m high	Must take into consideration sight line issues	Sightlines over the fence are achievable.	YES
C3 Retaining Walls	Where required over 500mm shall be masonry or finished concrete	Complies	YES
C6 Residential – front fence	Fences over 600mm (masonry) and 1 metre (picket) may be a maximum of 1.7 metres high if not less than 50% is transparent	Fencing along the frontage to New Street 1 and 2 is proposed. The fencing is not proposed to be higher than 1.7 metres high.	YES
C7 Residential Side Fence	Maximum height of side or rear fence is 1.8 metres	NA	NA
E14 Wind Mitigation			
C1 Wind mitigation report	Required when more than 4 storeys are proposed	Submitted, and is satisfactory	YES
E15 Demolition			
C2 – C10	Demolition measures and requirements must comply with AS2601 – The demolition of structures – and Council general requirements	The application does not propose demolition	NA
F Building Interior – Dwelling Layout, Sizes and Mix			
C1 Minimum dwelling sizes	Studio 1 Bedroom 2 Bedroom 3 Bedroom	All units achieve the minimum unit sizes.	YES
C2 No's studio and one-bed units	The combined number of studio units and one bedroom units shall not exceed 25% of the total	The proposal includes 61 units (combined studio and one-bed units). This equates to 39%. This is non compliant, however Council supports the proportion, given the need for small dwellings within the municipality.	NO- refer to note
C3 Internal widths	Cross over units = 4metres	The minimum internal width provided in 4 metres	YES
C4 Distance of window from kitchen	The back of the kitchen should be no more than 8 metres from a window	Generally kitchens are within 8 metres from a window	YES
C5 The crossover width	The width of cross through dwellings should not be more than 15 metres	Complies	YES
C7 – C11 General interior	Dwelling rooms can be closed off, laundry/kitchen in a convenient location, floor to ceiling heights appropriate for kitchen and bathroom, bathrooms are separate from living areas	The units are designed with the ability to close off rooms and separate rooms are provided for bathrooms.	YES

Standard	Control	Proposal	Complies
F4 Adaptable Housing			
C1 Adaptable housing rates	Rates as per Table 5.10 For developments.	A total of six (6) adaptable units are required. Conditions of development consent have been included to provide adaptable housing.	YES (subject to conditions)
F5 Ceiling Heights			
C1 Ceiling heights	Ground floor = 2.7 metres First floor = 2.7 metres Above first floor (habitable) = 2.7 metres Dwelling entry = 2.4 metres	The proposal complies with the required ceiling heights	YES
F8 Balconies			
C1 Min number of balconies	At least one balcony or terrace is to be provided off the living area	The proposed development provides balconies off living areas	YES
C2 Minimum area of balconies off living areas	12sqm	Generally complies. Most units are provided with more than 12 sqm.	YES
C4 Façade	Balconies should not be continuous across the entire façade of the apartment	The balconies do not continue across the entire façade of the dwelling. Level 6 proposes continuous balconies for a large proportion of the façade, however this is setback from the predominant building line of the lower levels.	YES
C5 Privacy	Privacy is to be increased by providing transition areas	The proposed dwellings provide an acceptable level of privacy between the balconies as many have blade walls between each unit.	YES
F9 Acoustic Privacy and Noise Management			
C1	Habitable room windows with a direct outlook to habitable room windows in and adjacent dwelling within 9m	The building line to habitable windows along the southern - eastern corner is setback 6 metres from the boundary and 9.7 metres on Level 6. It is expected that any adjoining dwellings will therefore establish a similar setback, and therefore be more than 9 metres from habitable windows.	YES
C2 Shared walls	Bedroom walls do not share walls with living rooms of adjacent dwellings	Compliant	YES
C3-C7	Plumbing and internal noise levels no greater than 50dBA / and Australian Noise Exposure Forecast	These matters are subject to appropriate development conditions	YES (Subject to Conditions)

Standard	Control	Proposal	Complies
F10 Storage			
C1 Storage within the apartment	At least 50% of the storage is to be accessible from either a hall or living room.	Conditions of development consent require appropriate levels of storage per unit.	YES (subject to conditions)
C2 Storage rates	Studio =6m 1 Bed = 8m 2 Bed =10m 3 Bed =12m	A condition of development consent is included to ensure the dwellings have the appropriate level of storage to meet the control.	YES (Subject to conditions)
G Open Space – G1 Private and Communal Open Space			
C1 Private use	Private open space is to be clearly defined for private use	The proposed private open spaces are provided on the balconies or terraces attached	YES
C2 Gradient and area	Private open space shall be no steeper than 1:10 and be 6m by 4m and be directly accessible from the living areas	The private open space provided is accessible from the living rooms	YES
C4 Private Open Space Requirement	Development type – residential flat building - Studio and 1 Bed = 12sqm - 2 Bed = 15sqm - 3 Bed = 19sqm	The development complies generally with the size requirements for balconies which provides private open space	YES
C5-C7 Communal Open Space Minimum communal open space	Residential Flat Building = 20% of the site area Provided over deep soil zones and not suspended slabs, car parks or stormwater detention tanks To be easy walking distance from units Shall be appropriately landscaped with facilities for recreation and relaxation Shall be designed in conjunction with pedestrian links through the site.	The communal open space proposed equates to 10.5% of the site area. However Council is satisfied that sufficient public open space is available on the wider Park Grove Masterplan site to provide for the residential use and amenity of the residents.	NO- refer to note
G2 Landscape Treatment			
C1	Landscaping shall be in accordance with Development Control Plan No. 32	Subject to development conditions, the development satisfies Development Control Plan No. 32	YES (Subject to conditions)
C2 Existing trees	Major trees through the site are to be retained	N/A	N/A

Standard	Control	Proposal	Complies
C3 – C8	<p>Landscaping is integral to the site planning process</p> <p>The landscaping is to complement the development</p> <p>Landscaping shall take into consider optimum conditions for plant growth</p> <p>Deep soil areas shall be located at a minimum along the front and sides of the development</p>	<p>Council's landscape officer has considered the application and provided appropriate conditions of development consent.</p> <p>All deep soil planting within the development is located along the sides of the development.</p>	YES (Subject to conditions)
C9 Landscaped buffer	A continuous landscape buffer shall be provided between driveways and the site	The driveway is located off the shared laneway. Landscaping along the laneway is not provided.	YES
C10	Planter beds shall be a minimum of 1 metre wide	Conditions of development consent have been included regarding this control.	YES (Subject to conditions)
C11-14	<p>Appropriate mix of small and large sized trees</p> <p>Irrigation system</p>	Council's landscape officer has considered the application and provided appropriate conditions of development consent	YES (Subject to conditions)

Site Coverage

The control outlines that the maximum site coverage across the site be no more than 40%. It also states that the un-built-upon open space be a minimum of 60%. (Up to 10% of the unbuilt upon area may be used for single storey structures (i.e. garages etc). The site coverage of Buildings E and F, in proportion to the site area is approximately 94%. This is due to the basement carpark, the garden terraces that are includes on Level 1, the shared laneway, and the building setbacks from the future site boundaries. Council accepts the design and layout of the basement in this circumstance due to the relative density proposed, which is consistent with the future desired character of the approved Park Grove 'Masterplan' site.

Building Height

The control outlines that the Residential Flat Buildings in 2(b) residential zone shall have a maximum of 4 storeys and a height of 17.05metres. The proposed development includes basement parking (classified as a storey – as a portion is more than 1.2 metres above ground level) and six (6) additional storeys. Therefore the proposal includes seven (7) storeys within each building by reason that part of the Basement exceeds the 1.2metres threshold. Council accepts the height and number of storeys included within the proposed development as the development is consistent with the approved Park Grove 'Masterplan' (DA-05/459) as amended.

Deep Soil Zones

The control outlines that no part of a building, car park or above ground structure is to encroach upon the (landscaped) setback zone. The proposed development includes 3.2% of

the site area as deep soil zones. This is due to the large basement level that underlies the building. Deep soil zones are located around the frontages of the buildings and supply the units fronting New Street 1 and New Street 2. Council accepts the limited deep soil areas on the site and supports the proposal as the development is located adjacent to the future New Part 1, which is located to the west of Building E.

Communal Open Space

The control outlines that the minimum communal open space is required to be 20% of the site area. The communal open space provided equates to 10.5% of the site area. However Council is satisfied that sufficient public open space is available on the wider Park Grove 'Masterplan' site to provide for the residential use and amenity of the residents.

No's studio and one-bed units

The control outlines that the minimum combined number of studio units and one bedroom units shall not exceed 25% of the total. The proposal includes 61 units (combined studio and one-bed units) which equates to 39%. Council supports the proportion of studio and one bedroom units, given the need for these sized dwellings within the municipality.

Building and front landscaping setbacks

The control outlines that the minimum landscape setback to New Street 1 is three (3) metres and the minimum building setback to New Street 1 is five (5) metres. The proposed landscaped setback supplied is approximately 1.5-2 metres and the proposed building setback is approximately 3.5 metres. The applicant was requested by Council to slightly relocate the proposed Building F closer to New Street 1 to increase the separation distance between the two buildings and thus improve the internal amenity of the proposed apartments. The minor non-compliance with the setback to New Street 1 is a result of Council's request and will have a negligible impact on the streetscape.

Solar Access and Overshadowing

With regard to objective O2 of Part E5 within Development Control Plan No.31, it states: "...minimise the negative impact of overshadowing on neighbouring buildings' internal and outdoor areas".

Buildings E and F are located directly north of adjoining sites at No.19-21 and No. 23 Wilson Street. The submitted shadow diagrams indicate that No 23 Wilson Street (in particular) will be overshadowed by the proposed development of Buildings E and F, due to the relative orientation.

In view of the proposed overshadowing impact, Council requested the applicant address the planning principle: *The Benevolent Society v Waverley Council [2010] NSWLEC 1082*. The applicant's response is as follows:

"The Case of The Benevolent Society v Waverley Council [2010] NSWLEC 1082 established the Court's consolidated and revised planning principle on solar access. It states:

"Where guidelines dealing with the hours of sunlight on a window or open space leave open the question what proportion of the window or open space should be in sunlight, and whether the sunlight should be measured at floor, table or a standing person's eye level, assessment of the adequacy of solar

access should be undertaken with the following principles in mind, where relevant:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*
- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*
- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*
- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*
- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*
- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration.*
- *Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*
- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development."*

The above planning principle deals with how solar access should be measured and whether it is measured at a floor, table or standing position. This issue is not in dispute with this application, the method of measuring solar access adopts the conservative approach provided by Council's consultant Steve King. A written response to the report prepared by Mr Steve King dated 29 October 2012 accompanies this submission.

Further, the Planning Principle considers how you measure solar access to units of adjacent developments. As there is no adjacent development to measure compliance with the solar access provisions, a full assessment in this regard cannot be provided. What can be considered is whether sufficient solar access is achieved to the properties to facilitate a compliant level of solar access.

The 'Masterplan' prepared for the entire precinct and duplicated above provided a development option for the three adjacent lots that would enable compliance with the provisions of DCP 31 and the RFDC. The analysis undertaken with the Precinct 'Masterplan' indicates that the 'development lot' was capable of achieving a minimum of 2 hours solar access to 70% of dwellings as measured between 9am to 3pm in mid winter.

The appropriateness of the building forms and heights of Buildings E & F was confirmed by the approval of the amendment to the 'Masterplan' on 5 September 2012. This DA provides building envelopes that are consistent with the approved 'Masterplan'.

In conclusion, the subject development application is not contrary to the Planning Principle in relation to sunlight access.

Council accepts the comments provided by the applicant with regard to the Planning Principle noted above. Council acknowledges that in line with site isolation matters, any future development for the adjoining sites at 19-21 Wilson Street, is required to incorporate No. 23 Wilson Street, and that any proposed buildings would be required to be off-set from the northern boundary. As noted above, the applicants of the DA (Krikis Tayler Architects) and the architect of the adjoining site in Wilson Street (Baker Kavanagh Architects) have met to enable discussions between the two project architects in order to resolve any environmental and design issues relating to the proposed developments on either site.

(b) Impacts of the development S79(c)(1)(b).

These matters have been considered in the assessment of the development application. It is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

Context and Setting

The Draft Botany LEP 2012 anticipates a built form of considerable bulk and scale, in some contrast to the existing residential development in the locality, but consistent with the likely future development of the precinct. In addition, the proposed development is consistent with the built form approved by Park Grove 'Masterplan' (DA-05/459/05). Council in approving the Park Grove Masterplan is cognisant of the scale of development that is likely to be achieved on this site and in the locality.

The proposed Building E and F reflect the scale and form of development approved under Park Grove Masterplan. The resulting development proposal is considered to represent an acceptable design solution that will provide for a high standard of amenity, minimises potential impacts on surrounding development and will make a positive contribution to the streetscape and amenity of the locality.

These matters have been considered in the assessment of the development application. It is considered that whilst the environmental impacts associated with the proposed development are within reasonable limits having regard to the urban context. No significant social or economic impacts on the locality are anticipated.

(c) The suitability of the site for the development S79C(1)(c)

The site is considered to be suitable for the proposed residential development. It is located in close proximity to the commercial centres of Banksmeadow and Botany, as well as Botany Road and has the environmental capacity to support the proposed additional density and built form. Having regard to the characteristics of the site and its location, the proposed residential development is considered appropriate in that:

- the site is zoned to accommodate this type of development;
- the nature and form of the proposed development is generally consistent with the desired future character of the locality as identified in the Draft BBLEP 2012;
- the size and dimensions of the land can accommodate the scale of the proposed development;
- the site will have access to all utility services to accommodate the demand generated by the proposed development;
- the proposed development is unlikely to result in any adverse traffic impacts;
- there are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

Additional conditions of consent are included which are aimed at further minimising any potential impacts on neighbouring properties, particularly during the construction phase.

(d) Any submission made in accordance with the Act or Regulations.

These matters have been considered in the assessment of the development application. In accordance with Council's Notification Policy (Development Control Plan No. 24), the development application was notified to surrounding property owners and occupants and advertised in the local newspaper from 22 May 2012 until 22 June 2012.

Nil submissions were received.

(e) The public interest

These matters have been considered in the assessment of the development application. It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

The proposed development is considered to be in the wider public interest for the following reasons:

- it is consistent with the objects of the Environmental Planning and Assessment Act 1979, specifically because it represents the economic and orderly development of land;
- the proposal generally satisfies the objectives and intent of Botany Local Environmental Plan 1995 and Council's DCP 31;

- the proposal generally satisfies the objectives and controls identified in draft BBLEP 2012, which incorporates Council's future planning intentions for the site;
- the proposal provides a responsive design in terms of its relationship to its position within New Street 1, New Street 2 and adjoining New Park 1 within the Park Grove 'Masterplan' site and establishes an appropriate streetscape and human scale through sound urban design principles;
- the design incorporates a number of ESD initiatives that will achieve a high standard of environmental design and sustainability;
- the proposal provides a satisfactory response to the design principles set out in SEPP 65; and
- the proposal provides the community with additional housing, taking advantage of the site's proximity to local and regional facilities, public transport and open space areas.

These matters have been considered in the assessment of the development application. The public interest is served through the detailed assessment of the development application under the relevant planning controls and legislation. Based on this assessment it is considered that approval of the proposed development will be in the wider public interest by virtue of the fact that it will contribute to the quantum and range of housing stock available in the Botany Bay LGA.

Other Matters

Internal Referrals

The development application was referred to Council's Engineering Services Department, Parks and Landscape Department; Traffic Department; Environmental Health and Council's Environmental Scientist for comment. Appropriate conditions have been imposed on the development consent to address the relevant issues raised.

External Referrals

NSW Police – Botany Bay Local Area Command

In correspondence dated 11 July 2012 the Mascot Police Local Area Command advised that a medium crime risk rating has been identified for the proposed development. The advice includes a range of recommendations regarding security, lighting and access control which are most appropriately incorporated as conditions or advices in any consent issued in respect of this application.

Sydney Water

The development application was referred to Sydney Water for consideration on 23 May 2012. Correspondence received from Sydney water dated 30 May 2012 raised no objection to the proposed development subject to the imposition of a number of conditions.

Ausgrid

The development application was referred to Ausgrid for consideration on 23 May 2012. Council sent further correspondence on 24th and 30th October 2012, however formal response was not received from Ausgrid.

Sydney Airport Corporation

The subject site lies within an area defined in schedules of the Civil Aviation (Building Control) Regulations, which limit the height of the structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority.

Correspondence received on 23 June 2012 confirms that the Corporation has no objection to the erection of the proposed development to a maximum height of 28.5 metres AHD. The advice also notes that construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulation.

SACL advises that approval to operate construction equipment (ie. cranes) should be obtained by the applicant prior to any commitment to construct.

The matters identified by SACL have been incorporated as conditions.

Design Review Panel (DRP)

Council's Design Review Panel (DRP) considered the proposed twice, once on 1 February 2012 and following amendments on 29 February 2012.

The DRP acknowledged that many of the issues raised during the first meeting were addressed during the second meeting, however the DRP expressed concern relating to the relationship with the adjoining excluded site not part of the 'Masterplan', and were critical regarding the setback of the development from the southern boundary.

Section 94 Contributions

The development application seeks approval for 158 new apartments, comprising:

- 5 x studio apartment
- 56 x 1 bed apartment
- 92 x 2 bed apartments
- 5 x 3 bed apartments

The Department of Planning and Infrastructure's direction under Section 94E of the *Environmental Planning and Assessment Act 1979* states that residential development contributions have a maximum threshold of \$20,000 per dwelling. In accordance with Council's policy, the following Section 94 Contribution applies:

$$158 \text{ dwellings} \times \$20,000 = \$3,160,000$$

Therefore, the **total Section 94 Contributions** required is \$3,160,000

The consent will be conditioned to require payment to be made prior to the issue of a Construction Certificate as follows:

• Community Facilities:	\$292,268.40
• Administration	\$11,028.40
• Open Space and Recreation (outside Mascot Station)	\$2,253,933.20
• Drainage (Wilson / Pemberton Precinct)	\$257,224.00
• Transport Management (Wilson / Pemberton Precinct)	\$345,546.00
TOTAL SECTION 94 CONTRIBUTIONS =	\$3,160,000

Conclusion

Development Application DA-12/071 for the construction of two (2) residential flat buildings (Buildings E and F) within the Park Grove ‘Masterplan’ site. Building E and F comprise of 158 apartments and basement parking for 271 vehicles (accessed via New Street 1) at the property known as 25-31 Wilson Street Botany has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979.

In view of the independent expert advice received in relation to solar access, it is considered that the proposed units will receive a high level of overall amenity given their acceptable level of solar access and ventilation.

The overall form, bulk and scale of Buildings E and F accords with the approved ‘Masterplan’ for the Park Grove site. This ‘Masterplan’ has established Council’s direction and vision for the wider Park Grove site.

The proposed FSR, height of Buildings E and F is within the limits established by the approved ‘Masterplan’ and consistent with the objectives and relevant statutory requirements under Botany Local Environmental Plan 1995.

The areas of non-compliance with the relevant controls under Council’s Development Control Plan No. 31 (Pemberton and Wilson Street Precinct) have been discussed earlier in the report and on merit are considered to be minor and are worthy of support. As such, it is recommended that the proposed development be approved subject to conditions.

RECOMMENDATION

In view of the preceding assessment, it is RECOMMENDED that the Joint Regional Planning Panel for the Sydney East Region, as the Consent Authority, resolve to grant Development Application Nos. 12/071 a “Conditional Consent” for the following works:

- The construction of two (2) residential buildings (Buildings E & F) within Park Grove ‘Masterplan’ site, comprising of 158 apartments and basement parking for 271 vehicles, at 25-31 Wilson Street Botany.

Premises: 25-31 Wilson Street Botany

DA-2012/071

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

1. The development is to be carried in accordance with the following plans and reference documentation listed below and endorsed with Council’s stamp, except where amended by other conditions of this consent.

Drawing No.	Author	Date Received by Council
Cover Sheet Project 1512 – A00 – Issue 02	Krikis Tayler Architects Pty Ltd	9 May 2012

Drawing No.	Author	Date Received by Council
Basement Plan Project 1512 – A02 – Issue 06	Krikis Tayler Architects Pty Ltd	25 October 2012
Level 1 Plan Project 1512 – A03 – Issue 07	Krikis Tayler Architects Pty Ltd	25 October 2012
Revised Level 1 Part Plan Project 1512 – SK 120709-01 Issue A	Krikis Tayler Architects Pty Ltd	11 July 2012
Level 2 Plan Project 1512 – A04 – Issue 07	Krikis Tayler Architects Pty Ltd	25 October 2012
Level 3 Plan Project 1512 – A05 – Issue 07	Krikis Tayler Architects Pty Ltd	25 October 2012
Level 4 Plan Project 1512 – A06 – Issue 07	Krikis Tayler Architects Pty Ltd	25 October 2012
Level 5 Plan Project 1512 – A07 – Issue 07	Krikis Tayler Architects Pty Ltd	25 October 2012
Level 6 Plan Project 1512 – A08 – Issue 07	Krikis Tayler Architects Pty Ltd	25 October 2012
Level 7 Plan Project 1512 - A09 – Issue 07	Krikis Tayler Architects Pty Ltd	25 October 2012
Roof Plan Project 1512 – A10 – Issue 07	Krikis Tayler Architects Pty Ltd	25 October 2012
Elevations 1 Project 1512 – A11 – Issue 05	Krikis Tayler Architects Pty Ltd	9 May 2012
Elevations 2 Project 1512 – A12 – Issue 05	Krikis Tayler Architects Pty Ltd	9 May 2012
Elevations 3 Project 1512 – A13 – Issue 05	Krikis Tayler Architects Pty Ltd	9 May 2012
Sections Project 1512 – A14 – Issue 05	Krikis Tayler Architects Pty Ltd	25 October 2012
Material Board Project 1512 – A20 – Issue 3	Krikis Tayler Architects Pty Ltd	9 May 2012
Area Calculations – Communal Area	Krikis Tayler Architects Pty Ltd	9 May 2012

Drawing No.	Author	Date Received by Council
Project 1512 – A22 – Issue 1		
Area Calculations Project 1512 – A21 – Issue 1	Krikis Tayler Architects Pty Ltd	9 May 2012
Longitudinal and Typical Cross Sections – Project KF110883 – C04 – Revision B	KF Williams & Associates Pty Ltd	9 May 2012
Grading Surface Treatment and Turning – Project KF110883 – C03 – Revision B	KF Williams & Associates Pty Ltd	9 May 2012
General Arrangement Plan – Project KF110883 – C02 – Revision B	KF Williams & Associates Pty Ltd	9 May 2012
Civil Design Standard Notes – Project KF110883 – C01 – Revision A	KF Williams & Associates Pty Ltd	9 May 2012
Level 2 Stormwater Plan and Drainage Details Job 120138 – D04 – Revision C	Australian Consulting Engineers Pty Ltd	9 May 2012
Level 1 Stormwater Plan and Drainage Details Job 120138 – D03 – Revision C	Australian Consulting Engineers Pty Ltd	9 May 2012
Basement Stormwater Plan & Drainage Details Job 120138 – D02 – Revision C	Australian Consulting Engineers Pty Ltd	9 May 2012
Cover Sheet, Legend and Drawing Schedule – Job 120138 – D01 – Revision A	Australian Consulting Engineers Pty Ltd	9 May 2012
Landscape Plan April 2012 – Job 17.12/083	iScape Landscape Architecture	9 May 2012

Document Name	Author	Date Received by Council
Statement of Environmental Effects – Dated 7 May 2012	LJB Planning Pty Ltd	9 May 2012
Design Verification Statement	Krikis Tayler Architects Pty Ltd	9 May 2012
Apartment Schedule	Krikis Tayler Architects Pty Ltd	9 May 2012

Infrastructure Report April 2012 – KF110882	KF Williams & Associates Pty Ltd	9 May 2012
Survey Plan Ref: 04003-1/P	Brunskill McClenahan & Associates Pty Ltd	9 May 2012
Environmental Noise Impact No 4803-2 – 27 April 2012	Day Design Pty Ltd	9 May 2012
Aircraft Noise Report No 4803 – 27 April 2012	Day Design Pty Ltd	9 May 2012
Acid Sulfate Soil Management Plan – Report ID CES021209-AUS-ASSMP – Revision 0	Consulting Earth Scientists	9 May 2012
Remediation Action Plan Report ID CES021209-AUS-12-F2	Consulting Earth Scientists	9 May 2012
Remediation Action Plan Report ID CES021209-AUS-11-F	Consulting Earth Scientists	9 May 2012
Assessor Certificate No. 47325388	Association of Building Sustainability Assessors	9 May 2012
BASIX Certificate Certificate No. 421550M Dated 7 May 2012	Planning and Infrastructure – NSW Government	9 May 2012
Internal Traffic Assessment Ref: 12-028 – April 2012	Thompson Stanbury Associates	9 May 2012
Pedestrian Wind Environment Statement WB320-01F02(REV2)-WS Report - Dated 30 April 2012	Windtech	9 May 2012
Waste Management Plan Dated 27 April 2012	Elephants Foot Recycling Solutions	9 May 2012
FSR Summary Sheet Dated 4 May 2012 – Issue 3a	Krikis Tayler Architects Pty Ltd	9 May 2012
Traffic Report Ref: 8571 – June 2012	Colston Budd Hunt and Kafes Ltd	9 May 2012
Geotechnical Investigation Ref: 1855-AA – Dated 23 July 2012	Asset Geotechnical Engineering Pty Ltd	9 May 2012

Ground water levels within remediation excavation – Ref: 1855-B – Dated 16 June 2012	Asset Geotechnical Engineering Pty Ltd	9 May 2012
Flood Study Ref: 110745 – Revision A Dated September 2012	KF Williams & Associates Pty Ltd	September 2012
Letter – Stage 1A, 9 Wilson Street, Flood and Stormwater Strategy – Dated 12 July 2012 KF110880-C01-B	KF Williams & Associates Pty Ltd	July 2012

No construction works shall be undertaken prior to the issue of the Construction Certificate.

2. The applicant must, prior to the obtainment of the approved plans and specifications pay the following fees:-
 - (a) Builders Security Deposit \$25,000.00
 - (b) Development Control \$11,055.00
 - (c) Inspection and Plans checking fee \$1,000.00
 - (d) Waste Levy \$12,000.00

3.
 - (a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - (b) All plumbing stacks, vent pipes, stormwater downpipes including balcony drainage and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level;
 - (c) All air conditioning units shall be appropriately treated to ensure that they are concealed from view and compliant with Australian Standard AS1668.2;
 - (d) The basement of the building must be designed and built so that on completion, the basement is a “fully tanked” structure, i.e. it is designed and built to prevent the entry of ground water / ground moisture into the inner parts of the basement car park; and

4. This Consent relates to land in Lots B and C in DP380476 and Lots 1 and 2 in DP158551 as such, building works must not encroach on to adjoining lands or other public places.

5. The Strata subdivision of the development shall be the subject of a further Development Application to Council;

Note: The Strata Subdivision Application must be accompanied by a formal copy of the By-Laws which shall be in accordance with the plans and documentation approved under this Consent and should also address the following matters:

- (i) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 12/070.
- (ii) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 12/071.
- (iii) Responsibilities regarding the maintenance of the car wash bays by the Owners Corporation / building owner.
- (iv) Responsibilities for ensuring owners and/or tenants have adequate and hygienic disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times in accordance the conditions of this consent.
- (v) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises by 12.00 noon.
- (vi) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997.
- (vii) Responsibilities to ensure that graffiti is removed as soon as practicable. In this regard a graffiti management plan is to be incorporated into the maintenance plan for the development.
- (viii) Responsibilities to ensure the appropriate management and operation of the communal building and associated facilities located in the south eastern corner of the site. In this regard it should be noted that:
 - separate commercial letting of the facility for parties etc is not permitted;
 - hours of operation of the facility shall be limited to between 7.00am and 9.00pm; and
 - the use of amplified music is not permitted.
- (ix) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.
- (x) The linen plan must include details of required easements, encroachments, rights of way including footway (and specifically a

Right of Way for public access through the site between Flack Avenue and Rhodes Street Reserve, identified as Plaza 1 on the approved plans), restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants.

- (xi) The landscape contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time monthly maintenance is required.
- (xii) New street trees shall be maintained by the Owner/Strata Corporation for 24 months after planting. Maintenance includes watering twice weekly for a period of 4 months min. (or until established) and after that at a frequency to sustain adequate growth, bi-annual feeding with a suitable fertilizer, weed removal and replenishment of the mulched base, but does not include trimming or pruning the trees under any circumstances. Any trees that fail to thrive shall be replaced by the owner/strata corporation to Council's satisfaction at their expense.

6. Construction of New Street 1 and the temporary flood basin are to be carried out and completed prior to issue of any Occupation Certificate (either Interim or Final) for Building E and F.

Note:

- (i) The extent of temporary flood storage area is identified in "Flood Study- Amendments to Master Plan (Rev A), Parkgrove, Botany", prepared by KF Williams & Associates Pty Ltd., Reference No. KF 110745, dated 24 Sep 2012.
- (ii) On-Site Detention system shall be provided to the Building E & F unless the storage volume of OSD has been included in the proposed temporary flood storage basin.

7. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. 421550M for the development are fulfilled.

Note Relevant BASIX Certificate means:

- (a) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or

- (b) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - (c) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
 - 8. The consent given does not imply that works can commence until such time that:-
 - (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
 - (i) the consent authority; or,
 - (ii) an accredited certifier; and,
 - (b) the person having the benefit of the development consent:-
 - (i) has appointed a principal certifying authority; and,
 - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - (iii) the person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
 - 9. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these Conditions, Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the applicant.
 - 10. All remediation work must be carried out in regards to and in accordance with:
 - (a) Managing Land Contamination: Planning Guidelines SEPP 55 Remediation of Land;
 - (b) EPA Guidelines made under the Contaminated Land Management Act 1997; and
 - (c) the Status Report on Investigations and Assessment: Parkgrove Development Site, Wilson Street and Pemberton Street, Botany prepared by Consulting Earth Scientists, Report ID: CES100403-LPP-01-F , dated 28 May 2010;
 - (d) the Report on Groundwater Remediation Pilot Trial: Remedial Design Optimisation Programme-Former Aerosols Australia Site, 1617 Botany Road, Botany prepared by Consulting Earth Scientists, Report ID: CES021209-AUS-20-D, dated 11 January 2007;
 - (e) the Remedial Action Plan: Former Aerosols Australia Site and Proposed Commercial Redevelopment, 1617 Botany Road, 8 Pemberton Street and Part 25-33 Wilson Street Botany prepared by Consulting Earth Scientists, Report ID: CES021209-AUS-12-F2, dated 13 February 2006; and
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- (f) the Additional Soil and Groundwater Investigation: Former Aerosols Australia Site, 1617 Botany Road, Botany, prepared by Consulting Earth Scientists, Report ID: CES021209-AUS-18-F2, dated 6 February 2006.
- (g) the Remedial Action Plan: Part of Former Brambles Site 25-33 Wilson Street, Botany, prepared by Consulting Earth Scientists, Report ID: CES021209-AUS-11-F, dated 15 June 2005.

Monitoring

- (h) Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

Waste Classification – Excavated Materials

- (i) All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.

Importation of Fill

- (j) To prevent contaminated soil being used onsite, all imported fill shall be certified VENM material and shall be validated in accordance with the Department of Environment, Climate Change and Water (DECCW) approved guidelines to ensure that it is suitable for the proposed development. Imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

Dewatering Water Quality Requirements

- (k) For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Freshwater. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system.

Additional information - Contamination

- (l) Any new information that comes to light during construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

11. The proposed development is to comply with the General Terms of Approval dated 30 July 2012 issued by NSW Office of Water. The conditions are outlined as follows:

- (a) Prior to issue of Construction Certificate the General Terms of Approval (GTA) listed below are to be met. The technical documentation require by the GTAs must be provided to the NSW Office of Water at the time an application for a Water Licence for temporary construction dewatering is made.

General Terms of Approval

1. General and Administrative Issues.

- a. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering.
- b. Pumped water (tailwater) shall not be allowed to discharge off-site (eg adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent.
- c. The licensee shall allow (subject to Occupational Health and Safety Provisions) the NSW Office of Water or any person authorised by it, full and free access to the works (excavation or bore/borefield), either during or after construction, for the purpose of carrying out inspection or test of the works and its fittings and shall carry out any work or alterations deemed necessary by the NSW Office of Water for the protection and proper maintenance of the works, or the control of the water extracted to prevent wastage and for the protection of the quality and prevention from pollution or contamination of the groundwater.
- d. If a work is abandoned at any time the licensee shall notify the NSW Office of Water that the work has been abandoned and seal off the aquifer by such methods as agreed to or directed by the NSW Office of Water.
- e. Suitable documents are to be supplied to the NSW Office of Water of the following:
 - A report of prediction of the impacts of pumping on any licensed groundwater users or groundwater dependent ecosystems in the vicinity of the site. Any adverse impacts will not be allowed and the project will need to be modified.
 - A report of assessment of the potential for salt water intrusion to occur as a result of the dewatering. This report is only required for sites within 250m of any marine or estuarine foreshore area. The generation of conditions leading to salt water intrusion will not be allowed, and the proposal will need to be modified.
 - Descriptions of the methods used and actual volume of groundwater to be pumped (kilolitres/megalitres) from the dewatering works, the works locations, the discharge rate (litres per second), duration of pumping (number of days/weeks), the amount of lowering of the water table and the anticipated quality of the pumped water.

- Descriptions of the actual volume of pumped water (tailwater) to be reinjected (kilolitres/megalitres), the reinjection locations, the disposal rate (litres per second), duration of operation (number of days/weeks) and anticipated quality of treated water to be reinjected.
- Monitoring of groundwater levels (minimum of 3 weekly measurements of depth to water at a minimum of 3 locations broadly distributed across the site) beneath the proposed development site prior to construction. This requirement is only for sites where the proposed structure shall extend greater than one floor level into the existing ground level.

2. Specific Conditions.

- a. The design and construction of the structure must preclude the need for permanent dewatering.
- b. The design and construction of the structure that may be impacted by any watertable must include a water proof retention system (i.e. a fully tanked structure) with adequate provision for future fluctuations of water table levels. (It is recommended that a minimum allowance for a water table variation of at least +/-1.0 metre beyond any expected fluctuation be provided). The actual water table fluctuation and fluctuation safety margin must be determined by a suitably qualified professional.
- c. Construction methods and material used in and for construction are not to cause pollution of the groundwater.
- d. Monitoring of groundwater levels is to be continued at least weekly during the construction stage and at least weekly over a period of at least 2 months following cessation of dewatering, with all records being provided to the NSW Office of Water on expiration of the licence. This requirement is only for sites where the proposed structure shall extend greater than one floor level into the existing ground level.
- e. Groundwater quality testing must be conducted (and report supplied to the NSW Office of Water). Samples must be taken prior to the commencement of dewatering, (and ongoing to the satisfaction of the NSW Office of Water for any extraction and reinjection activities). Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
- f. Discharge of any contaminated pumped water (tailwater) that is not to be reinjected, must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority. The method of disposal of pumped water (i.e. street drainage to the stormwater system or discharge to sewer) and written permission from the relevant controlling authority must be presented to the NSW Office of Water in support of the licence application.

- g. Discharge of any contaminated pumped water (tailwater) that is to be reinjected, must comply with the provisions of the *Protection of the Environment Operations Act 1997*. The quality of any pumped water (tailwater) that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site. Contaminated groundwater is not to be reinjected into any aquifer. The following must be demonstrated in writing:
- The treatment to be applied to the pumped water (tailwater) to remove any contamination.
 - The measures to be adopted to prevent redistribution of any contamination in the groundwater system. Any reinjection proposal that is likely to further spread contamination within the groundwater system will not be allowed and the project will need to be modified.
 - The means to avoid degrading impacts on the identified beneficial use of the groundwater. Any reinjection proposal that is likely to lower the identified beneficial use of a groundwater system will not be allowed and the project will need to be modified.
- h. Written advice be provided from the Certifying Authority to the NSW Office of Water to certify that the following ground settlement issues have been addressed in reports submitted by the proponent:
- Assessment by a suitably qualified geotechnical professional that the proposed dewatering activity does not pose an unacceptable risk of off-site impacts such as damage to surrounding buildings or infrastructure as a result of differential sediment compaction and surface settlement during and following pumping of groundwater.
 - Settlement monitoring activities to be undertaken prior to, during and for the required period of time following the dewatering pumping to confirm the impact predictions.
 - Locations of settlement monitoring points, and schedules of measurement.

3. Formal Application Issues.

- a. An application must be completed on the prescribed form for the specific purpose of temporary construction dewatering and a licence obtained from the NSW Office of Water prior to the installation of the groundwater extraction works. A plan drawn to scale will be required with the application clearly identifying the location of the dewatering installations.
- b. Upon receipt of a Development Consent from City of Botany Bay Council, a fully completed licence application form, unambiguous documentation of the means by which the below-ground areas of the development will be designed and constructed to prevent any groundwater seepage inflows (and therefore preclude any need for permanent or semi-permanent pumping), together with all other

required supporting information, the NSW Office of Water will issue a Water Licence under Part 5 of the *Water Act, 1912*.

- c. A licence application under Part 5 of the *Water Act 1912* must be accompanied by a \$151.00 fee and must specify the proposed volume of groundwater to be pumped in total (megalitres). The licence is also subject to administrative charges as determined from time to time by the Independent Pricing and Regulatory Tribunal (IPART).
 - (b) Prior to the issue of any Construction Certificate, the applicant must present proof of receiving the Water Licence from the NSW Office of Water to the Certifying Authority.
12. The proposed development is to comply with the General Terms of Approval dated 29 June 2012 issued by Sydney Airport Corporation Limited (SACL). The conditions are outlined as follows:

Height Restrictions

- (a) The site at 25 – 31 WILSON STREET, BOTANY lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
- (b) In this instance, I, Peter Bleasdale, as an authorised person of the Civil Aviation Safety Authority (CASA), under Instrument Number: CASA 229/11, and in my capacity as Airfield Design Manager, have no objection to the proposed development at 25 – 31 WILSON STREET, BOTANY to a height of 28.5 metres above Australian Height Datum (AHD).
- (c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
- (d) Should you wish to exceed 28.5 metres above Australian Height Datum (AHD), a new application must be submitted.
- (e) Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- (f) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.
- (g) SACL advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.
- (h) Information required by SACL prior to any approval is to include:
 - (i) the location of any temporary structure or equipment, ie. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);

- (ii) the swing circle of any temporary structure/equipment used during construction;
 - (iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
 - (iv) the period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
- (i) Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.
- For further information on Height Restrictions please contact me on (02) 9667-9246.
- (j) Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units.
- (k) The height of the prescribed airspace at the site is 51 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, "a thing to be used in erecting the building, structure or thing would, during the erection of the building, structure or thing, intrude into PANS OPS airspace for the Airport, cannot be approved".

Bird and Obstacle Hazard Management

- (l) The area in which the proposed development is located is in the vicinity of Sydney (KS) Airport.
- (m) To minimise the potential for bird habitation and roosting, the Proponent must ensure that non-bird attracting plant species are used in any landscaping design.
- (n) Any landscaping design must minimise the attractiveness for foraging birds, i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted.
- (o) All trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.

Planning for Aircraft Noise and Public Safety Zones

- (p) Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Air services Australia on 13 March 2009 (Sydney Airport 2029 ANEF).
- (q) Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is

recommended that proposed land uses which have high population densities should be avoided.

13. The proposed development is to comply with the conditions provided by Sydney Water dated 28 May 2012. The conditions are outlined as follows:

Water

- (a) Preliminary investigation indicates that the existing system has adequate capacity to service the proposed development. The proposed development will require amplification and extensions from the existing water mains in the surrounding streets. A preliminary concept scheme plan, based on the proposed building heights and identifying the drinking water main sizes, is shown on the enclosed plan.
- (b) Detailed requirements will be provided at the section 73 application phase. The accredited Water Servicing Coordinator/Designer will need to ensure that the submitted design is sized and configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03- 2002). Evidence of Code compliance should be attached with the design.

Wastewater

- (c) The current wastewater system has sufficient capacity to service the proposed development.
- (d) The developer will be required to produce an overall wastewater scheme plan for the ultimate development. This can be in the format of a catchment plan indicating proposed extensions, connection points and flows (EP) to the existing system.
- (e) An accredited Hydraulic Designer will be engaged by the developer to ensure that the proposed wastewater infrastructure for this development will be sized & configured according to the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002). Evidence of Code compliance should be attached with the design. Detailed servicing requirement will be provided at the section 73 phase after reviewing the proposed servicing scheme.

Sydney Water Servicing

- (f) Sydney Water will further assess the impact of any subsequent development when the developer applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of future development and to assess if amplification and/or changes to the system are applicable. The developer must fund any adjustments needed to Sydney Water infrastructure as a result of the development.
- (g) The developer should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. The Water Servicing Coordinator will ensure submitted infrastructure designs are sized and configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002) and the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

- (h) Sydney Water requests the Council to continue to instruct proponents to obtain a Section 73 Certificate from Sydney Water. Details are available from any Sydney Water Customer Centre on 13 20 92 or Sydney Water's website at www.sydneypwater.com.au.

Sydney Water e-planning

- (i) Sydney Water has created a new email address for planning authorities to use to submit statutory or strategic planning documents for review. This email address is urbanqgrowth@sydneywater.com.au. The use of this email will help Sydney Water provide advice on planning projects faster, in line with current planning reforms. It will also reduce the amount of printed material being produced. This email should be used for:
 - (i) Section 62 consultations under the Environmental Planning and Assessment Act 1979
 - (ii) consultations where Sydney Water is an adjoining land owner to a proposed development
 - (iii) consultations and referrals required under any Environmental Planning Instrument
 - (iv) draft LEPs, SEPPs or other planning controls, such as DCPs
 - (v) any proposed development or rezoning that will be impacted by the operation of a Sydney Water Wastewater Treatment Plant
 - (vi) any proposed planning reforms or other general planning or development inquiries

If you require any further information, please contact Ainsley Rotgans of the Urban Growth Branch on 02 8849 4004 or e-mail ainsley.rotgans@sydneywater.com.au

- 14. The applicant should have regard to the following matters provided by NSW Police - Botany Bay Local Area Command, dated 11 July 2012:
 - (a) As the proposed development may be exposed to Break Enter and Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit television system (CCTV) which complies with the Australian Standard – Closed Circuit Television System (CCTV) AS4806.2006 needs to be implemented to receive, hold or process data for the identification of people involved in anti social behaviour or criminal behaviour. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation.
 - (b) This system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas which are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or more cameras should be positioned at the entry and exit points to monitor these areas (underground car park, foyer entrance).
 - (c) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to

restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis.

- (d) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare / high uniformity lighting levels in line with Australian Standard AS:1158. Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens). The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis. A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the development.

Notes:

- (i) It is crucial that the aforementioned cameras are installed as soon as power is available to the site.
- (ii) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
- (iii) Any proposed seating area, playground or grass area should be positioned somewhere which can be viewed easily by the community. Consider whether the area will be used enough to warrant its development. Areas which are isolated, unused and maintained poorly become a breeding ground for anti-social behaviour.
- (iv) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external lighting.
- (v) The configuration of car parking spaces can impact the risk to car thieves. Grid rows increase natural surveillance. Avoid dark spots, corners and isolated car spaces.
- (vi) Public laundries, garbage disposal areas and other communal spaces should not be located in a buildings 'leftover space.' Poor supervision of communal facilities can greatly increase the risk of predatory crime, theft and vandalism. Areas that are unused or sporadically used after hours and unsupervised should not be accessible to the public.
- (vii) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.
- (viii) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime.
- (ix) Clear street numbers signs should be displayed and appropriately positioned at the front of the business to comply with Local government Act, 1993, Section 124(8). Failure to comply with any such order is an offence under Section 628 of the act. Offences committed under Section

628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (\$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.

- (x) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
 - Warning, trespasser will be prosecuted.
 - Warning, these premises are under electronic surveillance.
- (xi) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
- (xii) The main access to the underground car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering.
- (xiii) A boom gate should be installed within the underground car park located immediately after the roller door entrance. This will hold residents in the vicinity of the roller door to ensure no unauthorised persons enter after them. The boom gate will rise when the roller door is completely closed and allow the residents vehicle to move on.

The main entry/egress doors to the development should have an electronically operated lock which require security swipe pass for entry. The lifts operating in the building should have the same security swipe pass technology. When an occupant buzzes in a visitor the lift should recognise the floor the occupant resides and only allow the visitor access to that floor in the lift.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE RELEVANT CONSTRUCTION CERTIFICATE

15. Section 94 Contributions are required to be paid prior to the issue of the Construction Certificate in accordance with the City of Botany Bay Section 94 Contributions Plan 2005-2010. The Section 94 Contribution of \$3,160,000.00 is required as follows:

(a)	Community Facilities:	\$292,268.40
(b)	Administration	\$11,028.40
(c)	Open Space and Recreation (outside Mascot Station)	\$2,253,933.20
(d)	Drainage (Wilson / Pemberton Precinct)	\$257,224.00
(e)	Transport Management (Wilson / Pemberton Precinct)	\$345,546.00

The total Section 94 Contribution of \$3,160,000.00 is to be paid to Council prior to the issue of the Construction Certificate.

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16. Prior to issue of any Construction Certificate A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
17. Prior to issue of any Construction Certificate A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- (a) NSW Department of Environment, Climate Change and Water (DECCW) ‘Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites’; and
 - (b) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.
 - (c) The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority for review and concurrence). The report is to be submitted after completion of remediation works and prior to the issue of a construction certificate.
18. Prior to issue of any Construction Certificate To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 shall be submitted to Council/PCA clearly demonstrating that the site is suitable for the proposed development. This shall be provided prior to the release of the Construction Certificate.
- Any 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, a s96 application pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to ensure that they form part of the consent conditions. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Statutory Site Audit Statement (SAS), confirming the suitability of the site for the proposed development prior to the release of the Construction Certificate.
19. Prior to issue of any Construction Certificate, a dilapidation report on public infrastructure (including Council and public utility infrastructure) adjoining the development site shall be prepared by a suitably qualified person and submitted to Council/PCA. The report shall include records and photographs of the following area that will be impacted by the development: -
- (a) Pemberton Street
 - (b) Wilson Street
-

- (c) Council's drainage assets in Wilson Street, Pemberton Street and the existing drainage easement along the northern boundary of the site
- (d) All properties immediately adjoining the site

The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course the construction. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer's expense.

20. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

21. Prior to the issue of any Construction Certificate to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -

- (a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
- (b) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
 - (i) The additional load on the system; and
 - (ii) The relocation and/or adjustment of the services affected by the construction.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

22. Prior to the issue of any Construction Certificate, the construction plans shall be revised to address the following: -

- (a) Six (6) Adaptable housing units shall be designed and incorporated into the construction plans to comply with Adaptable Housing Class A, in accordance with Development Control Plan No. 31.
- (b) The Communal Room located on Level 1 as indicated on Revised Level Part Plan - SK 120709-01 Issue A, prepared by Krikis Tayler Architects Pty Ltd and dated 9 July 2012 shall be included in into the construction plans.
- (c) All recommendations stated in the Internal Traffic Assessment Report, prepared by Thompson Stanbury Associates, Ref 12-028, dated Apr 2012 shall be incorporated into the construction plans.
- (d) Minimum three (3) car wash bays shall be provided

- (e) The columns that are located on the vehicular paths shall be relocated
 - (f) The aisle width adjacent to parking bay no. 111 in basement level shall be revised to comply with AS2890.1
 - (g) Bollards shall be installed at the shared spaces of the disabled parking bays to comply with AS2890.6.
 - (h) The number of disabled parking bays shall comply with BCA requirements
 - (i) The length of parking bay no. 1 in ground level shall be have minimum length of 5.4m to comply with AS2890.1
 - (j) The design of the shared vehicle access driveway between the proposed development and the townhouses east of the site shall be revised to address the following:-
 - (i) Separate and safe pedestrian footpath shall be provided to the shared vehicle access driveway
 - (ii) The proposed substation at the end of the shared vehicle access driveway shall be relocated to ensure any maintenance vehicle servicing the substation will not obstruct vehicle movements in and out of the townhouse garages.
 - (iii) In order to ensure the shared vehicle access driveway can accommodate the turning of 8.8m long Medium Rigid Vehicle (MRV) (as denoted in AS2890.2), swept path diagram showing turning movements of MRV entering and exiting New Street 1 in a forward direction from the shared vehicle access driveway shall be shown on the construction plans.
 - (iv) Garbage bins collection area shall not obstruct the shared vehicle access driveway, fire escape exits, vehicle entrance to the basement car parking area and the townhouses' garages east of the site.
 - (v) Intercom system shall be provided at the vehicle entrance to the development. This is to ensure visitors can gain access to the visitor parking bays located within the basement car parking area.
 - (vi) Measures shall be implemented to ensure the shared vehicle access driveway, the fire escape exits, vehicle entrance to the basement car parking area and the townhouses' garages east of the site will not be obstructed by parking on driveway.
23. Prior to the issue of any Construction Certificate, the landscape plans shown on the plan by isScape and dated April 2012 shall be revised to address the following: -
- (a) A planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be a dense layered planting of trees, scrubs of varying height, accent plants and groundcovers in all landscaped areas. The plant schedule is to list plants by botanical name, include total numbers, spacings, pot sizes and staking. Specifications shall detail soil and mulch finishes, root barriers (if required), irrigation edging and landscape hardworks such as retaining walls. Include all areas to be paved, a schedule of finishes, edge treatments and selectional construction details. All

fencing, privacy screening and the like – elevations and material shall be specified as well as other landscape and recreational elements – amenity furniture, pedestrian lighting and water features.

- (b) The additional communal open space area on the roof of Building F that is nominated on the stamped plans. The area is to contain paving, balustrades and planter boxes of ample area to allow mass planting (min 400-500mm deep) to allow the creation of small recreation spaces for use by residents. Appropriate waterproofing, drainage and landscape substructure will be required and are to be documented in the landscape plan.
- (c) The landscape area surrounding the Pedestrian entry off New Street 2, between Blocks E and F and adjacent the communal room is to be revised to provide integrated usage and a more detailed design resolution and plant interest using flowering and foliage plants.
- (d) The planting design is to be modified and is to incorporate species with more structured and architectural forms and that are decorate with feature foliage and flowers. (Eg: Agave, Cycas, Strelitzia, etc with a reduced reliance on the hardy type natives. The following plants are considered unsuitable for the type of development: Kunzea, Correa, Dianella caerulea. Limited use of Lomandra Dodonaea, Poa, Dianella (use cultivar only)).
 - (i) Species suitable for a containerised environment with imported soils shall be used in podium areas/planter boxes.
 - (ii) Plants that will enhance the visual amenity of the space as well as its uses and enjoyment are to be used in communal spaces
 - (iii) Plants that will enhance the outdoor private living area and provide screening shall be used private planter boxes.
 - (iv) Trees are to be included within the dwelling frontages and plants that will enhance the streetscape and soften the development shall also be used.
 - (v) The main communal open spaces shall incorporate trees of various varieties. Use appropriate for foliage colour, flower and decorate form. Select suitable species to ameliorate the building massing and provide an appropriate scaling for residents and users eg: Bauhinia, Magnolia, Crepe Myrtle, Native Frangipanni, Pyrus etc.
 - (vi) The roof garden is to contain planters of generous dimensions. Plants can be kept low using succulent types and dwarf varieties suitable for high heat and windy conditions. Planter boxes are to be designed accordingly – waterproofing, drainage, soil substrate.
 - (vii) Vertical/ green walls could be incorporated into the development proposal in effective and sustainable locations.
 - (viii) Limit the use of palms to selected locations where space is constrained or a vertical element is required as an entry or visual statement. Palms should have a minimum trunk height of 3-4 metres for effect and are to be native.
 - (ix) The planter box depths shown are insufficient for trees and depths are to be increased to 1 metre. This will be required in the

frontages and the communal open space between buildings where trees and palms are necessary for scale and amenity. The communal open space must include trees.

- (x) The detailed design for all podium planters shall meet Landscape DCP 32.
- (xi) In communal open spaces soft landscaping is to be maximised and accessways/ dissecting pathways minimised. Trees shall be used extensively and be of an appropriate scale to complement the built form and impact comfort and amenity to communal areas and open spaces. Deep soil zones must include larger canopy trees. Consider avenue plantings and specimen tree entry features. Trees are to be predominately native, evergreen species using open canopy form evergreens or selected deciduous for solar penetration.
- (xii) Ensure setbacks are entirely permeable, deep soil zones available for canopy tree planting. OSD and infiltration trenches are not permitted in street setbacks/deep soil areas.
- (xiii) Indicate the location of any electrical kiosk and indicate how it is to be screened. Fire booster assemblies are to be housed within the building structure. Both utilities are not to be located within the setbacks to the property or at main entries.

The amended Landscape Plan is to be stamped by Council's Landscape Architect. This amended plan will supersede the previous landscape plan. The landscape areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.

24. Prior to the issue of any Construction Certificate a public domain improvements plan shall be submitted for approval by Council's Landscape Architect. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to street tree planting, footpaths, street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation and lighting. Paving shall be in accordance with relevant DCP's for the site. Civil drawings shall include levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. The Plan shall include:

- (a) The proposal shall be for the road reserve / footpaths areas of New Street 1 and New Street 2 as they provide frontage to the development and are to ensure high quality amenity, appropriate function and an integrated treatment with the private domain. The public domain treatment is to be integrated with the proposed plaza design for the southern end of New Street 1.
- (b) The public domain treatment to the frontage of Building E demonstrating integration with the public park design.
- (c) Consideration of the position of electrical pillar in relation to public footpaths and inclusion of landscaping for their screening.

25. Prior to the issue of any Construction Certificate, design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the ramps, turning area and car parking area shown on the construction plans have been designed in accordance with AS 2890.1, AS2890.2 and AS2890.6
26. Prior to the issue of any Construction Certificate, detailed construction plans in relation to the stormwater management and disposal system for the development shall be prepared by a suitably qualified civil engineer experienced in drainage design and submitted to **Council** and Principal Certifying Authority for approval. The layout of the stormwater drainage system shall be generally in accordance with the following stormwater management plans, prepared by Australian Consulting Engineers,
- Drawing No. D01, Rev A, dated 1 May 2012
 - Drawing No. D02, Rev C, dated 26 Apr 2012
 - Drawing No. D03, Rev C, dated 1 May 2012
 - Drawing No. D04, Rev C, dated 1 May 2012

In addition, the following issues shall be addressed: -

- (a) An On-Site Detention (OSD) system shall be provided to the development and shall be designed to comply with the following:
- (i) Stormwater runoff generated from the development shall be detained on-site for all storm events up to and including 1 in 100 year ARI design storms and the permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the **“State of Nature”** condition (i.e. the site is totally grassed/turfed).
 - (ii) Computer modeling, such as DRAINS can be used to design the OSD system. Copy of the input data and results from the modeling shall be submitted to Council/PCA for review in order to verify the input parameters and layout of the model
 - (iii) Emergency overflow path of the OSD system shall be shown on the plans to ensure any overflow from the OSD system will be conveyed to New Street 1 or public reserve. Consideration shall be given to ensure stormwater in the emergency overland flow path will not be diverted into the buildings.
 - (iv) Submerged outlet conditions shall be considered if the invert level of the orifice is below the 1 in 100 year ARI flood level at the connection point. The required storage of OSD tank shall be increased accordingly.
 - (v) Area bypassing the OSD system shall not exceed 25% of the site.
- (b) All stormwater runoff generated from the site (including discharge from the OSD system, surface runoff and runoff bypassing the OSD system) shall pass through Stormwater Quality Improvement Devices (SQID) (e.g. Gross Pollutant Trap (GPT)) capable of removing litter and sediment and meeting the stormwater pollution reduction targets stated in Botany Bay &

Catchment Water Quality Improvement Plan. Details of the Stormwater Quality Improvement Devices shall be shown on stormwater management plan.

- (c) The discharge outlet of the site stormwater drainage system shall directly connect to a new kerb inlet gully pit (with lintel minimum 2.4m long) on proposed New Street 1.
- (d) Grated boundary pit (minimum 900mm x 900mm) shall be provided to the site stormwater drainage system prior to discharging stormwater into new kerb inlet gully pit.
- (e) Pump-out system shall be provided to the basement car parking area in order to collect stormwater runoff from the driveway ramp. Subsoil drainage lines shall not be provided to the basement area if it is below to the groundwater table. The storage volume of the pump-out tank shall be designed with a minimum storage capacity equivalent to the runoff volume generated from of the area that draining into the tank for the 1 in 100 year ARI 2-hours duration storm event.

All drawings and specifications shall be prepared in accordance with Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', Australian Rainfall and Runoff (AR&R), AS 3500.3 and BCA. All drawings shall correspond with the approved architectural plans. **Design certification from the engineer shall be submitted to Principal Certifying Authority.**

27. Prior to the issue of Construction Certificate, detailed Construction Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to Principal Certifying Authority and Council for approval. The plan shall: -
- (a) be prepared by an RMS accredited qualified person.
 - (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
 - (c) indicate the construction vehicle access point to the site be limited on Denison Street only.
 - (d) indicate the frequency of truck movements
 - (e) ensure any vehicles accessing the site or associated with construction activities be restricted to 12.5 metres (defined as Heavy Rigid Vehicle in AS2890.2). Trucks with trailers are not allowed to access the site
 - (f) ensure all traffic (including worker's vehicles) generated from the construction activities shall enter and leave the site in a forward direction.
 - (g) ensure vehicles associated with construction activities not permitted to travel on Wilson Street or Pemberton Street north of the site
28. Prior to the issue of Construction Certificate, detailed Construction Management Plan (CMP) shall be submitted to Principal Certifying Authority and Council for approval of the site works. The CMP shall address the following: -

- (a) All vehicles (including worker's vehicles) associated with construction activities shall enter and leave the site in a forward direction ONLY.
 - (b) All vehicles (including worker's vehicles) associated with the construction activities shall only be allowed to park within the site.
 - (c) Construction building materials shall be stored wholly within the site. However, the storage locations shall not obstruct the floodway, identified in "Flood Study- Amendments to Master Plan (Rev A), Parkgrove, Botany", prepared by KF Williams & Associates Pty Ltd., Reference No. KF 110745, dated 24 Sep 2012.
 - (d) Access to adjacent buildings and pedestrian and vehicle access fronting Anderson Street shall be maintained at all times. No closure of any road reserve will be permitted without Council approval.
 - (e) Under no circumstances (except emergency) shall any trucks be permitted to queue and wait on public places, public streets or any road related area (eg. footpath, nature strip, road shoulder, road reserve etc) prior to entering the site.
 - (f) Locations of site office, accommodation and the storage of major materials related to the project shall be within the site.
 - (g) Protection of adjoining properties, pedestrians, vehicles and public assets shall be implemented at all times.
 - (h) Location and extent of proposed builder's hoarding and Work Zones, if there is any, shall be shown on the plan.
 - (i) Tree protection management measures for all protected and retained trees shall be implemented at all times.
29. Prior to the release of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.
30. Prior to the release of the Construction Certificate Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certifying Authority with the application for Certificate. Storage of Waste and recycling shall meet the following requirements:
- (a) Waste and recycling for commercial users shall be in a separate room from the storage of waste and recycling for residential users;
 - (b) The rooms for the storage of garbage and recyclable materials shall be fully enclosed;
 - (c) Adequately ventilated and of a suitable size to contain compaction equipment;
 - (d) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
-

- (e) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation;
 - (f) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
- 31. The following requirements apply to telecommunication facilities in the building:
 - (a) Appropriate access and space within the plant area of the building shall be provided for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery.
 - (b) Appropriate ducting and cabling shall be provided for a minimum of three telecommunication carriers or other providers for telecommunication access and broad-band cabling to each apartment of the building.
 - (c) The details of (i) and (ii) above shall be submitted for the approval of the certifying authority, prior to issue of a Construction Certificate.
- 32.
 - (a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill.
 - (b) All lighting shall comply with AS4282-1997 Control of the obtrusive effects of outdoor lighting; and
 - (c) The installation of solar power to external space lighting. Details shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.
- 33. Prior to the issue of a Construction Certificate, the measures required in the Aircraft Noise Intrusion Report prepared by Day Design Pty Ltd dated 27th April 2012 shall be undertaken in accordance with the provisions of AS2021-2000: Acoustics – Aircraft Noise Intrusion – Building Siting and Construction to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021-2000 shall be incorporated into the construction of the building. Acoustic measures required are to be incorporated into the Construction Certificate plans.
- 34. Prior to the issue of a Construction Certificate, details addressing the following matters shall be submitted to the Principal Certifying Authority:
 - (a) Storage shall be provided for each unit in accordance with the following:
 - (i) The proposal shall comply with the minimum storage requirements contained within Section F10 of Council's DCP No. 31 which are as follows:
 - Studio apartment = 6m³

- 1 bedroom apartment = 8m³
 - 2 bedroom apartment = 10m³
 - 3 bedroom apartment = 12m³
- (b) Adequate storage area is to be provided for each retail tenancy in accordance with DCP 31.
- (c) A minimum of 50% of the storage requirements shall be provided within the unit, and the remainder shall be provided in the basement, in accordance with DCP No. 31;
- (d) The storage areas shall have a minimum height of 1.5 metres in accordance with DCP 31;
- (e) Storage areas proposed within the living room or any other habitable room within a dwelling shall not be included as storage space for these purposes.
- (f) Storage space provided within a dwelling shall not be included as part of the floor area of the dwelling (i.e. the units must comply with Council's minimum unit sizes contained in DCP No. 31 excluding any proposed storage area);
- (g) Storage areas within the basement shall be constructed in accordance with the following requirements as recommended by the NSW Police:
- (i) The construction shall be undertaken using solid frame construction and each storage area shall be provided with a proper key lock that complies with Australian Standard AS:4145:1993; and
 - (ii) These storage areas shall be monitored by CCTV cameras at all times.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK

35. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.

36. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: -

(It should be noted that no works or occupancy shall be carried out in road reserve until permits have been granted from Council's engineers. Any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve

- (b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
- (c) Permit for roads and footways occupancy (long term/ short term)
- (d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve
- (e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services.
- (f) Permit to place skip/waste bin on footpath and/or nature strip
- (g) Permit to use any part of Council's road reserve or other Council lands
- (h) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area

(It should be noted that the issue of such permits may involve approval from RTA and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.)

- (i) Permit to establish "Works Zone" on public roads adjacent to the development site, including use of footpath area.

(Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Traffic Engineer for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s))

Copy of the approved permits shall be submitted to the Principal Certifying Authority attesting this condition has been appropriately satisfied.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

- 37. During excavation and construction the management of potential and actual acid sulfate soils shall be conducted in accordance with the approved Acid Sulfate Soils Management Plan-1617 Botany Road, 9-17 Wilson Street, 25-33 Wilson Street and 8 Pemberton Street Botany dated 17 February 2006 (Report ID: CES21209-AUS-ASSMP) prepared by Consulting Earth Scientists.
- 38. During excavation and construction All management measures recommended and contained within the Soil and Water Management Plan (SWMP) submitted as part of the construction certificate shall be implemented in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times and made available to council officers on request.

39. During excavation and construction The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- (a) The Soil and Water Management Plan if required under this consent;
 - (b) “Managing Urban Stormwater - Soils and Construction” (2004) Landcom (‘The Blue Book’); and
 - (c) Protection of the Environment Operations Act 1997.

Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The “Do it Right On Site,” can be down loaded free of charge from Council’s website and further information on sediment control can be obtained from www.ssroc.nsw.gov.au.

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

40. During excavation and construction For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for freshwater. The results of all testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water is acceptable to be released into council’s stormwater system.
41. During excavation and construction All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.

42.

- (a) The applicant shall conduct all demolition, excavation, construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- (b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- (c) Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- (d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
- (e) Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and /or other plant and equipment.

43. During excavation and construction and any associated deliveries activities, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

44. During excavation and construction and any associated deliveries activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.

45. During excavation and construction and any associated deliveries activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times: -

- (a) Approved Erosion and Sediment Control Plan
- (b) Approved Construction Traffic Management Plan and;
- (c) Approved Construction Management Plan

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46. The development is to be constructed to meet the requirements detailed in the approved acoustic report (Day Design Pty Ltd 27th April 2012) and the following construction noise requirements:
- (a) Construction Noise
 - (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
 - (b) Level Restrictions
 - (i) Construction period of 4 weeks and under:
 - a. The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
 - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - a. The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - (c) Time Restrictions
 - (i) Monday to Friday 07:00am to 06:00pm
 - (ii) Saturday 07:00am to 01:00pm
 - (iii) No Construction to take place on Sundays or Public Holidays.
 - (d) Silencing
 - (i) All possible steps should be taken to silence construction site equipment.
47. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
48. The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA Environmental Noise Control Manual.
49. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
50. To prevent contaminated soil being used onsite, all imported fill shall be certified VENM material and shall be validated in accordance with the Office of
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Environment and Heritage (OEH) approved guidelines to ensure that it is suitable for the proposed development. Imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

51. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
52. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
 - (a) Erection of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - (b) Each toilet provided:
 - (i) must be standard flushing toilet; and,
 - (ii) must be connected:-
 - (1) to a public sewer; or
 - (2) if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - (3) if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - (c) The provisions of toilet facilities in accordance with this clause must be completed before any other work is commenced.
53. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (a) stating that unauthorised entry to the work site is prohibited;
 - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - (c) the Development Approval number;
 - (d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - (e) any such sign is to be removed when the work has been completed.
54.
 - (a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and
 - (b) All excavations shall be properly guarded and protected to prevent them from being dangerous to life or property; and,
 - (c) If the soil conditions require it:-

- (i) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and:-
 - (ii) adequate provision must be made for drainage.
- (d) Existing structures and or services on this and adjoining properties are not endangered during any excavation or construction work associated with the development. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
- (e) As 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:
 - (i) Protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) Where necessary, underpin the adjoining premises to prevent any such damage.

55.

- (a) To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
- (b) A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable except between garden beds and grassed areas.
- (c) Planter boxes constructed over a concrete slab shall be built in accordance with the following minimum details
 - (i) Ensure soil depths in accordance with Council's Landscape DCP.
 - (ii) The base of the planter must be screened to ensure drainage to piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes. Turfed areas require a min 5% cross fall.
 - (iii) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - (iv) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil.

An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.

- (v) Drainage cell must be supplied to the base and sides of the planter to minimise damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand of filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS4419 and AS3743. Install a drip irrigation including to lawns.
- (vi) Planter boxes shall be finished externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
- (vii) All paved pedestrian areas shall be finished in a decorate treatment, such as paving. Large areas of concrete are not permitted. Asphalt is not a suitable finish. Driveway crossovers shall be constructed of plain broom finished concrete. Public footpaths shall be in accordance with relevant DCP's for the site.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- 56. Prior to the issue of any Occupation Certificate any damage not shown in the dilapidation report submitted to Council/PCA before site works have commenced, will be assumed to have been caused by the site works undertaken (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction.
- 57. Prior to the issue of any Occupation Certificate, *Two hundred and seventy-one (271)* for car parking off-street parking bays shall be provided to the development in accordance with the approved plans.
- 58. Prior to the issue of any Occupation Certificate, documentation from suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying that the car parking area, turning area access ramps and driveways have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1 and AS2890.6 requirements. The internal road network and parking area shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current version of Australian Standards.
- 59. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
- 60. In order to ensure that the floodway and temporary flood storage area will be adequately maintained, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built floodway and

temporary flood storage area. The wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. The relative location of the as-built overland flow path, in relation to the building footprint, shall be shown on a scale sketch, attached as an annexure to the plans/ forms. City of Botany Bay Council shall be the authority empowered to release, carry or modify the restriction. Proof of registration shall be submitted to the Principal Certifying Authority prior to the issue of Final Occupation Certificate.

61. Prior to the issue of any Occupation Certificate, the construction of the stormwater drainage system of the proposed development shall be completed generally in accordance with the approved stormwater management construction plan(s), Council's '*Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay*', Australian Rainfall & Runoff (AR&R), AS 3500 and BCA.

Documentation from a qualified civil engineer experienced in stormwater drainage design shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and accepted practice.

62. Prior to the issue of any Occupation Certificate, maintenance schedule of the stormwater drainage system (including on-site detention system, pump-out system and stormwater quality improvement devices) shall be prepared by a qualified engineer and submitted to Principal Certifying Authority. A copy of maintenance schedule shall also be submitted to Council/PCA for record purpose.
63. Prior to the issue of any Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels shown upon the approved plans, with relation to drainage, boundary and road reserve levels, have been strictly adhered to.
64. Prior to the issue of any Occupation Certificate, proof of registration of the Right of Carriageway for the shared vehicle access driveway between the proposed development and the townhouses east of the site shall be submitted to the Principal Certifying Authority.
65. Prior to issue of any Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the Aircraft Intrusion report referred to in Condition 33 have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
66. The name of the development, street numbers and unit numbers shall be clearly displayed with such numbers being in contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering

shall be submitted to Council/PCA for approval prior to the release of the Occupation Certificate.

67. Prior to the issue of any Occupation Certificate, minimum 271 off-street car parking bays as defined in AS2890.2 shall be provided to the development as shown on the approved architectural plans. All parking bays and loading bays shall be line marked. The allocation of parking bays shall be in accordance with the following:-

- (a) **255 parking bays** shall be allocated to residents parking only. The allocation of parking bays shall be based on the following rate:

- | | |
|--------------------------|-----------------|
| • Studio/ 1-bedroom unit | 1 space / unit |
| • 2-bedroom /3-bedroom | 2 spaces / unit |

- (b) **Sixteen (16)** off-street parking bays shall be made available at all times for visitors parking, with minimum three (3) parking bays to also be used as car wash bays.
- (c) Minimum **six (6)** parking bays shall be dedicated to disabled parking
- (d) Stacked parking spaces shall only be allocated to a single unit (2-bedroom /3-bedroom).

68. Prior to the issue of any Occupation Certificate landscaping shall be installed in accordance with the amended landscape plan only as stamped by Councils Landscape Architect.

69.

- (a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.
- (b) Condition Nos. 5, 6, and 56 to 68 are pre-conditions prior to the issue of the Occupation Certificate.

OPERATIONAL CONDITIONS

70. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired in accordance with the maintenance schedule submitted to Council/PCA to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.

71. All vehicles (including deliveries) shall enter and exit the premises to the public roads in a forward direction.

72. The landscaped areas on the property shall be installed and maintained in accordance with approved landscaped documents, the conditions of consent, Council's DCP and to Council's satisfaction at all times.
73. All parking areas shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.
74. The proposal shall comply with the City of Botany Bay's General Noise Criteria is as follows:
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration). The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - (b) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 'Offensive noise' as defined in the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Noise Control) Regulation 2000, (See advisory notes).
75. A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the businesses and ground floor common areas.
76. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 12/071 dated as 9 May 2012 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

Certified Mr Rodger Dowsett.....
Director - Planning and Development