

Joint Regional Planning Panel

(Sydney East Region)

JRPP Number:	2013SYE004
DA Number:	12(071)
Local Government Area:	City of Botany Bay
Proposed Development:	Demolition of existing structures and construction of New Street 1, its connection to Pemberton Street, associated footpath, verge and landscaping works, including construction of a pocket park located at the Wilson Street end.
Street Address:	14 Pemberton Street, Botany
Applicant:	Krikis Tayler Architects
Number of Submissions:	Nil
Recommendation:	Approval
Report by:	Rodger Dowsett, Director Planning and Development, City of Botany Bay

Précis

Council received DA12/195 on 24 October 2012. The application seeks approval for the construction of New Street 1 and associated infrastructure works along the boundary between two significant Masterplan sites which are currently being developed by the same developer (Topplace Pty Ltd).

The significant Masterplan site to the south of New Street 1 is now to be known as the 'Parkgrove One' site (and comprises Nos.8, 10 and 14 Pemberton Street, and Nos.9, 11, 13 and 25 Wilson Street).

Parkgrove One has a combined total site area of 3.49ha.

The significant site to the north of New Street 1 is to be now known as 'Parkgrove Two' (and comprises Nos.42-44 Pemberton Street).

Parkgrove Two has a total site area of 13,160m².

The two major sites which comprise the land for New Street 1 being 'Parkgrove One' and 'Parkgrove Two' and the majority of the adjoining verges are owned by the same developer (Topplace Pty Ltd).

A development history and description of each Masterplan site is provided below.

Parkgrove One:

The Parkgrove One Masterplan (DA-05/459) was originally approved by Council at its Development Committee meeting held on 2 August 2006. Consent was granted (10 August 2006) for the demolition of the existing building/s at the subject site and for a Masterplan development comprising:

- 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;
- Construction of approximately 537 off street parking spaces;
- Construction of a number of internal roads;
- Extension of Rancom Street from Wilson Street to Pemberton Street; and
- Construction of internal footpaths and cycle ways; Construction of publicly accessible park near the centre of development and associated landscaping.

A significant amendment to the approved Masterplan (DA-05/459/02) was considered by Council at its Development Committee meeting held on 21 May 2008. Consent was granted (28 May 2008) under Section 96 of the Environmental Planning and Assessment Act to the following amendments to the original Masterplan:

- Building A (replaces Buildings B and C and part of A1) is at the northern end of the site between New Street 1 and Pemberton Street. Building A has an east-west orientation and comprises a partial 3 storey and partial 5–6 storey “mixed-use” building. The 3 storey component is limited to that part of the site which faces Pemberton Street and is currently zoned 4(b1) Mixed Industrial – Restricted. The remainder of the building comprises a 5 – 6 storey residential flat building and has a total combined GFA of 6,516m²; and
- Building B1 (replaces Building A1 and A2) is a 3 storey factory/commercial building facing Pemberton Street and having a total GFA of 1,275m²; and

- Building B2 (replaces Building A2 and D) sits directly behind Building B1 to its east and has a landscaped podium in between. Building B2 comprises a 5–6 storey residential flat building having a total GFA of 4,689m²; and
- Building C (replaces Building A3 and part of Building D) is a new building at the southern end of this section of the site and is bounded by Pemberton Street to the west and Rancom Street to the south. It has a similar split partial 3 and 5 storey construction to that of Building A. It has a similar east-west orientation whereby the 3 storey component is limited to the area zoned 4(b1), whilst the remainder of the building comprises a 5 storey residential flat building and has a total combined GFA of 5,969m².
- Building D (replaces Building J) is at the southern end of the site facing New Street 2 and Rancom Street. This building has a north-south orientation and is a 4 storey residential flat building with a total combined GFA of 2,523m²; and
- Building E (replaces Buildings E and H) orientates in a north-south line and faces New Street 2. This building is a 5 storey residential flat building with a total combined GFA of 6,605m²; and
- Building F (replaces Buildings F and G) orientates in an east-west line and faces New Street 1 at the northern end of the site. This building comprises a 4–5 storey residential flat building with a total combined GFA of 4,070m²; and
- Buildings G and H (replaces Building M) comprise 8 x 2.5 storey townhouses facing Wilson Street (No. 25) and has a total combined GFA of 1,680m²; and
- Buildings I and J (replacing Buildings K, L, N and P) comprise 18 townhouses with an estimated GFA of 3,081m². This is the subject of a separate application to Council (DA 08/174), the details of which are addressed by separate report and assessment.

The most recent significant amendment to the Parkgrove One Masterplan DA (DA-05/459/05) which was considered by Council's Development Committee on 1 August 2012. Consent was granted (5 September 2012) under Section 96 of the Environmental Planning and Assessment Act to the following amendments to the original Masterplan:

- Increase the height of building E from 5 storeys to 6 storeys and extension of building to the north. Increase in the number of units from 57 to 94;
- Increase the height of building F from 4 storeys to 6 storeys. Increase in units from 40 to 53 units;
- Deletion of townhouses I & J (approved 18 townhouses) and replacement with 8 townhouses to street frontage;
- Relocation of northern communal open space from between buildings E & F to between J & D;
- Partial deletion of New Street 2;
- Closure of the eastern end of New Street 1;
- Closure of the middle of Rancom Street; and
- Increasing the height of various buildings;
- Introduction of traffic signals at the intersection of Pemberton Street and Botany Road.

The figure below shows the extent of the currently approved Parkgrove One site and its relationship to New Street 1.



Figure 1 Approved s.96 modification DA05/459/05 (New Street 1 at northern/top end).

Parkgrove One (Current Proposal):

On 19 October 2012, Council received a Section 96(2) Application to modify Development Consent No. 05/459 to amend the Masterplan on the Parkgrove One site as follows:

- Increase the height of Building D from 4 storeys to 6 storeys (additional 6m) and increase its building footprint to become an L-shaped building extending to the east, and increase the number of units from 24 to 99 units and contain a total of 173 car parking spaces;
- Increase the overall floor space ratio for the residential portion of the site to not greater than 1.37:1 (under BBLEP 2013 which permits a max FSR of 1.5:1).
- Relocation of south-eastern area of communal open space from between Buildings J & D to be dispersed throughout the entire site and to increase the overall site area of the central main area of public open space to be not less than 4,000m²;

- Provision of a pedestrian and cycleway connecting the public park with Wilson Street; and
- To increase the overall Parkgrove One Masterplan site by including No. 12 Rancom Street upon which the site will have a total site area of 3.49ha.

The above proposal remains under consideration.

Parkgrove Two (History):

The site immediately to the north of New Street 1 and with frontage to Pemberton Street, (being Lot 100 DP 875508), comprises land known as the Parkgrove Two site (42-44 Pemberton Street, Botany).

Development Application No. 06/311 was considered by Council at its Development Committee meeting held on 3 October 2007. Consent was issued (10 October 2007) for a Masterplan development consisting of mixed residential and studio workshops including industrial, commercial and retail comprising the following:

- Demolition of all existing structures on the site including bitumen car park and paved areas;
- Building envelope of six buildings which incorporates residential flat buildings of 3 to 5 storeys, studio-workshops (industrial, commercial and retail) including 129 residential units and 9 commercial/industrial units;
- 264 car spaces (including visitor and disabled car spaces);
- Gross Floor Area of 16,047m² comprising 14,929m² residential floor area and 1,118m² non-residential floor area in form of 9 mixed industrial, commercial and studio workshop; and
- FSR of 1.21:1 over the 2(b) and 4(b1) zone

A subsequent Masterplan development application (DA-10/313) was approved by Council at its Development Committee meeting held on 18 May 2011. Council granted a 12-month Deferred Commencement consent (27 May 2011) for a staged Masterplan comprising a mixed residential development and for demolition of all existing structures comprising:

Stage 1:

- Modification of the approved building envelopes for Blocks A to F under DA 06/311;
- Increase the number of residential apartments from 129 to 165;
- Increase the number of car parking spaces (over the entire site) from 252 to 270.

Stage 2:

- Demolition of all existing structures on the site including the bitumen car park and paved areas.

This consent (DA-10/313) was valid for 12 months (until 27 May 2012) subject to the submission of additional modelling information for flooding that verifies the site can be developed without flooding and will not impact on any adjoining properties, and, the submission of a geotechnical report to model the consequences of the basement and its effect upon groundwater flow, flooding of the locality and building stability (including nearby sites).

A Section 96(2) Application to extend the consent by a further 12 months was originally received on 20 March 2012, prior to the formal expiration of the original Deferred Commencement consent.

That consent was extended for an additional 12 months (expiring on 27 May 2013). The applicant has subsequently fulfilled the requirements of the original Deferred Commencement conditions and the consent is now operational (since 2 April 2013).

A Section 96(2) Application (DA-10/313/02) seeking to amend the approved Masterplan consent for the Parkgrove Two site was considered by Council's Development Committee on 3 April 2013. The S96 Application proposed the following:

- Amend the number of approved residential units on the site from 165 to 196;
- Increase the total number of residential carparking spaces from 230 to 361 spaces;
- Amend the basement parking;
- Increase the height of Building D from 5 to 6 storeys;
- Increase the height of Building E from 5 to 7 storeys;
- Increase the height of Building F from 4 to 6 storeys;
- Increase in the overall floor space ratio to 1.38:1 (under BBLEP 2013 which permits a max. FSR of 1.5:1),
- Modification to the description of the development and amendment to Conditions 1, 7, 13, 14, 15 and 22.

This application was refused by the Committee for the following reasons:

1. *Council is not satisfied that the development to which the consent, as proposed to be modified relates, is substantially the same development as the development for which consent was originally granted. Therefore the proposed development is not considered to fulfill the requirements of Section 96(2) of the Environmental Planning and Assessment Act, 1979.*
2. *The proposed development is considered to be an excessive form of development and is inconsistent with the maximum floor space ratio controls as specified under clause 12A of the Botany Local Environmental Plan 1995 (Environmental Planning and Assessment Act 1979 s79C(1)(a)(i)).*
3. *The proposed development is considered to be an excessive form of development and is inconsistent with the maximum building height controls as specified under the Draft Botany Bay Local Environmental Plan 2012 which is imminent in its making (Environmental Planning and Assessment Act 1979 s79C(1)(a)(ii)).*

Parkgrove Two (Current Proposal):

On 7 May 2013, Council received a Section 96(2) Application to modify Development Consent No. 10/313 to amend the Masterplan on the Parkgrove Two site as follows:

- Amend the number of approved residential units on the site from 165 to 195;
- Increase the total number of residential carparking spaces from 230 to 361 spaces;

- Amend the basement parking;
- Increase the height of Building D from 5 to 6 storeys;
- Increase the height of Building E from 5 to 7 storeys;
- Increase the height of Building F from 4 to 6 storeys;
- Increase in the overall floor space ratio to 1.37:1 (under BBLEP 2013 which permits a max FSR of 1.5:1); and
- Modification to the description of the development and amendment to Conditions 1, 7, 13, 14, 15 and 22.

The above proposal remains under consideration.

Below is a plan showing the location of Buildings A to F within 42-44 Pemberton Street and their relationship to New Street 1.

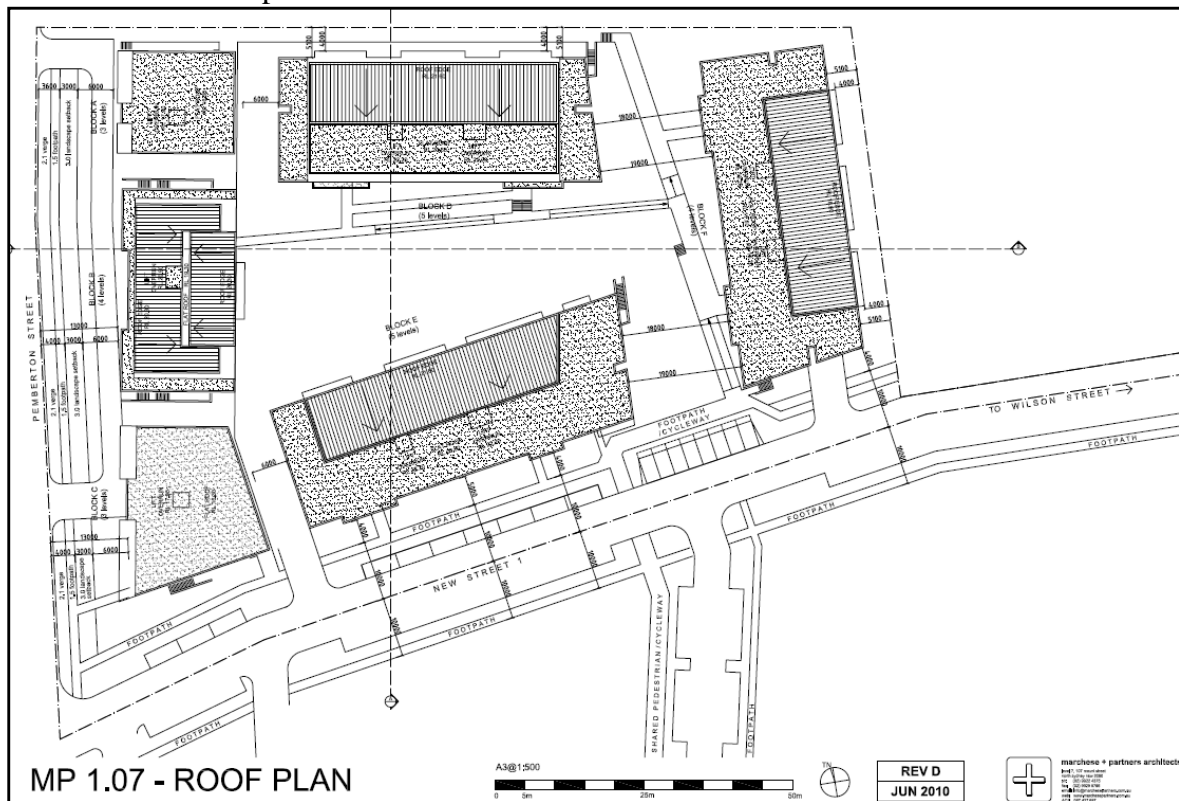


Figure 2 Roof Plan of Buildings A to F approved under DA10/313 and New Street 1 (to the south) – source Marchese + Partners Architects.

DA-12/195 – New Street 1:

The subject development application (DA-12/195) proposes the demolition of existing redundant buildings and construction of New Street 1 and associated works (see detailed plans below).

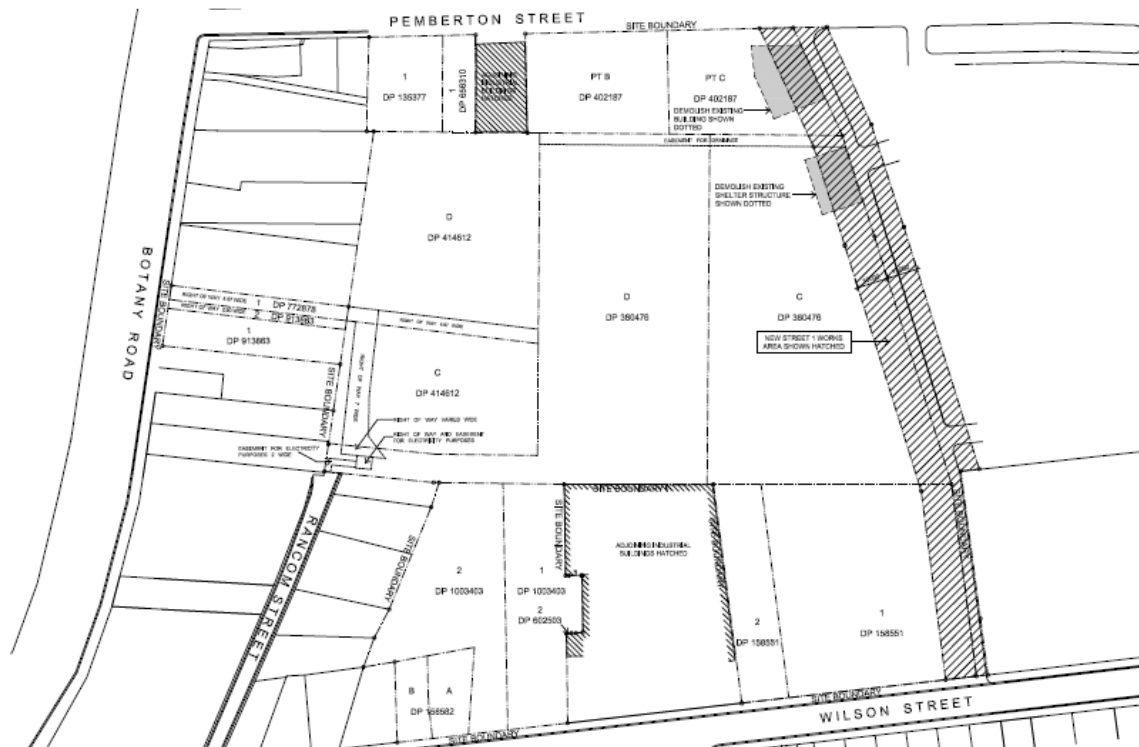


Figure 3 Site plan and location of New Street 1

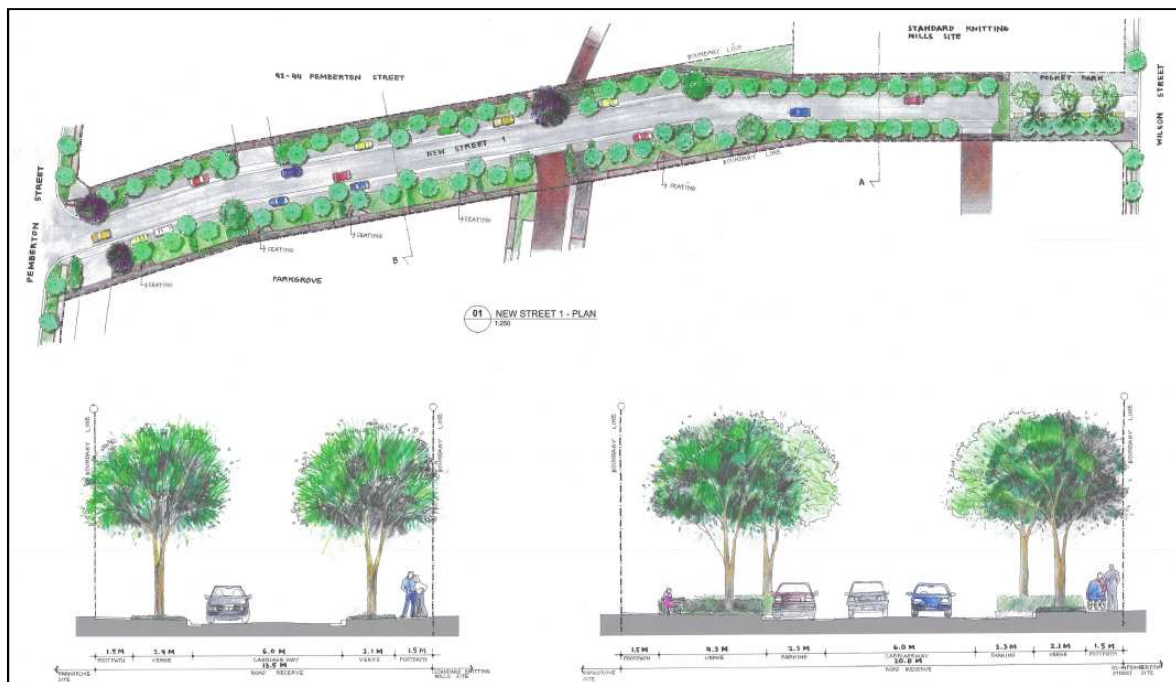


Figure 4 Proposed Streetscape as recently amended (source: Krikis Tayler Architects)

The plan below shows the location of New Street 1 and its relationship to adjoining properties.

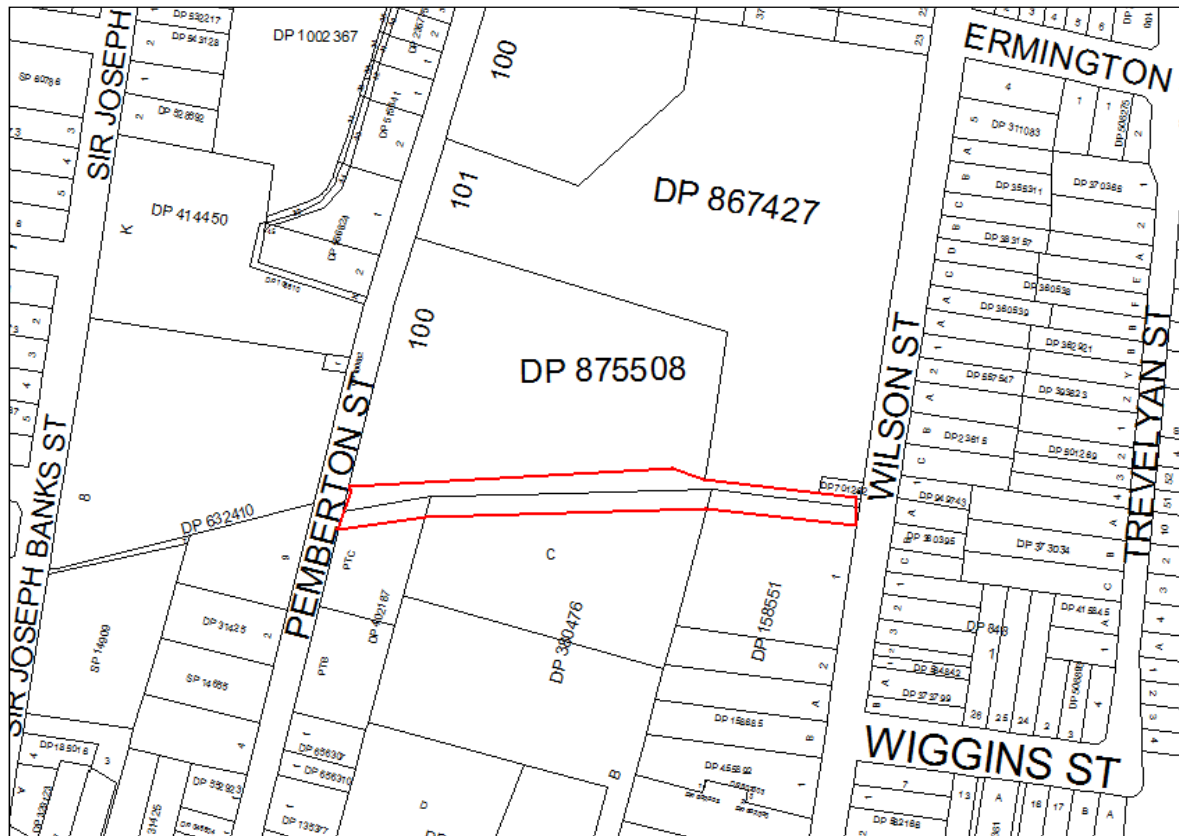


Figure 5 Proposed New Street 1 (in red) and surrounding allotments.

The developer of the land to the north-east of New Street 1 (being Lot 101 DP 867427 – see Figure 5) will be required to dedicate the connecting verge on the northern side of New Street 1 and adjoining the Pocket Park. This will form part of their planning proposal to Council with the redevelopment of the last remaining significant allotment of land comprising the Pemberton-Wilson Street precinct.

Due to the nature of the proposal, the application was referred to the NSW Roads and Maritime Services who provided their comments and conditions in correspondence dated 24 January 2013.

The DA was advertised and publicly exhibited for a period of 30 days from 20 November 2012 until 20 December 2012. Surrounding and adjoining property owners were also notified by mail.

No submissions were received in response to the notification and advertising.

The application was registered with the JRPP on 24 October 2012. The Panel were briefed about the subject application on 16 January 2013 where it was resolved that having regard to the nature of this development proposal, it could be determined by the JRPP by forwarding the report electronically to the Panel without necessitating a personal representation by members of the Council or any other third party.

As the site is flood affected, Council commissioned Brown Consulting as an independent consultant to examine the submitted flood study (prepared by KFW and Associates Pty Ltd dated 24 September 2012).

As a result of the Flood Study recommendations, a temporary flood drainage basin is proposed to be constructed within the Parkgrove One Masterplan site until such time as the temporary flood basin is replaced by the public park in the centre of the site which has a dual purpose, for recreation and flood mitigation.

Construction of New Street 1 and the temporary flood basin are to be carried out to Council's Engineers specifications. As required by consent conditions, all construction works of New Street 1 must be completed with similar flood characteristics as the flood modelling prepared by KFW. Similar consent conditions already exist in the Masterplan approvals for the 2 sites which comprise New Street 1.

Officer Recommendation

DA No.12/195 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. 12/195 a "Conditional Consent" for the following works:
The construction of New Street 1 and associated works within Parkgrove Masterplan sites, at 14 Pemberton Street, Botany.

SITE DESCRIPTION

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

- Lot 1 - DP 158551
- Lot C - DP 380476
- Part C - DP 402187, and
- Lot 100 - DP 875508

The site is generally level with a slight fall from east (Wilson Street) to west (Pemberton Street).

The abovementioned allotments are located on and to the north of the Parkgrove One Masterplan site. The combined site area of the wider Parkgrove One Masterplan site is 34,682m².

EXISTING AND SURROUNDING DEVELOPMENT

Existing Development

The Parkgrove One Masterplan site is a large residential redevelopment site which is located to the north of the Banksmeadow Neighbourhood Shops. The Masterplan site has frontages to Wilson Street (to the east), Pemberton Street (to the west) and Rancorn Street (to the south) (See Location Plan Figure 1).

The proposed development is within the two approved Parkgrove Masterplan sites.

Residential development currently adjoining New Street 1 comprises the townhouses located at No. 25-33 Wilson Street. A significant proportion of the Parkgrove Masterplan site has yet to be redeveloped and it remains in a disused industrial form, although a significant portion of the site has been cleared. The site currently houses a number of industrial buildings and shipping containers resulting from previous industrial tenancies. 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 adjoining the Parkgrove One site to the south-east (known as No. 19-21 and No. 23 Wilson Street) are existing industrial buildings that do not form part of the overall Parkgrove Masterplan site. A separate application for the redevelopment of 19-21 Wilson Street for residential development is currently being considered by Council. Access to this development is proposed to be gained via Wilson Street.

Development to the west of Buildings D, E and F on the Parkgrove One Masterplan site (See Figure 1) includes:

- New Street 2, which provides for vehicular access from Pemberton Street to Residential Flat Building A;
- New Street 3, which has been divided into 2 parts comprising a north-south link from Rancom Street to the extended Public Park and then extends further north through the Pemberton-Wilson Street Precinct and will be a designated public pedestrian path only;
- Public Park 1, which is the main area of publically available open space within the site and acts as an intermittent flood detention basin; and
- Buildings A, B1, B2 and C, which are the currently approved residential flat buildings and mixed-use buildings facing Pemberton Street, New Street 1 and Rancom Street (see previous Figure 1 and Figure 5 from Council's DCP below).

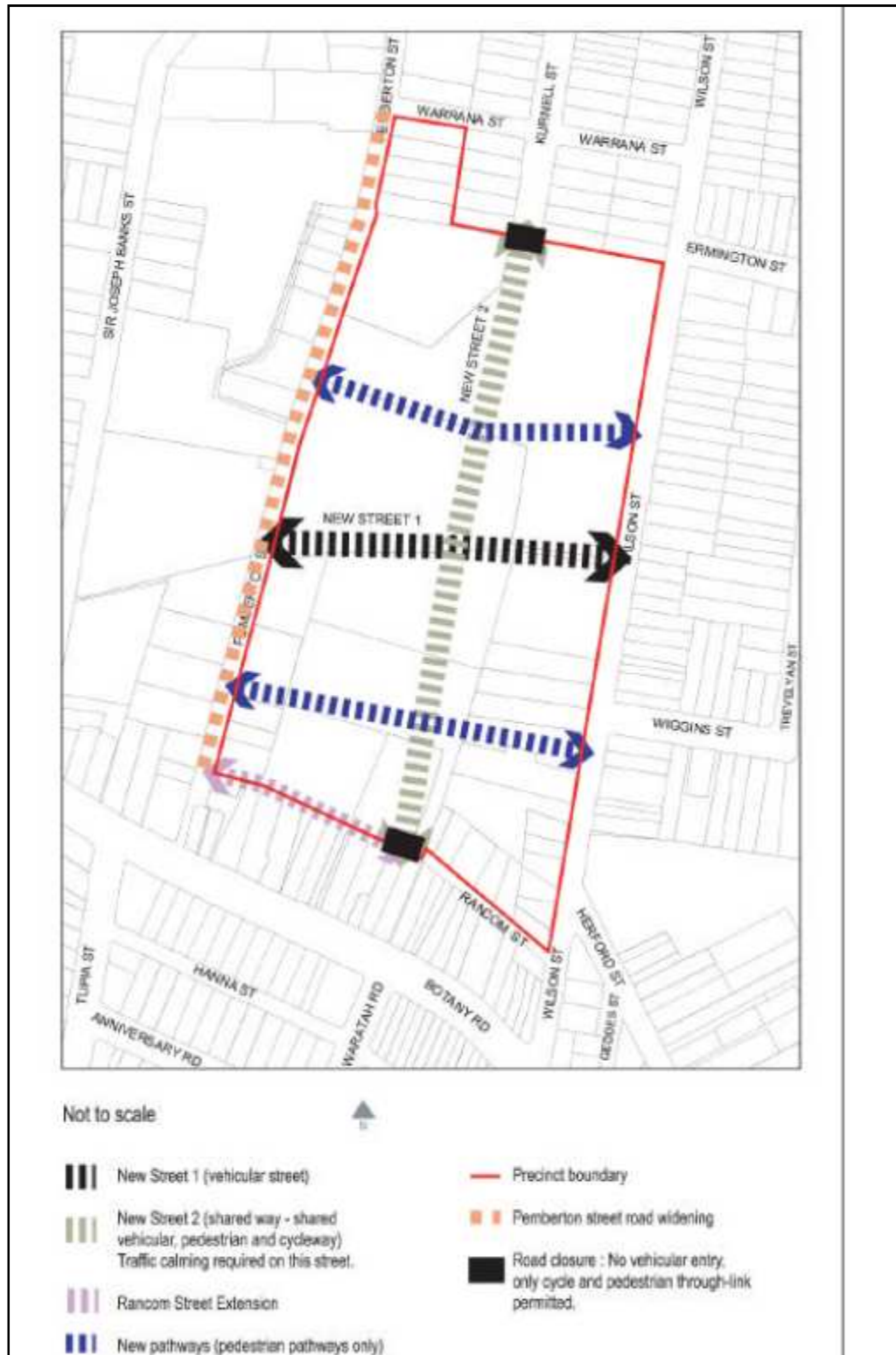


Figure 6 Road, pedestrian and cycle network (source Pemberton-Wilson Street Precinct DCP).

Note: New Street 2 is to become a pedestrian link through the various sites

Further to the west beyond the two Parkgrove Masterplan sites, lies Pemberton Street, with the sites in this street predominately used for light industrial/commercial purposes (see following pictures).



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



Picture 2 – View of the north-eastern side of the development site and proximity to adjacent townhouses (left corner) located on Wilson Street



Picture 3 – View of the south-eastern corner of the development site and adjacent property at No. 23 Wilson Street and the townhouses (part of Parkgrove Masterplan site) located on Wilson Street.

THE PROPOSAL

The DA seeks consent for the construction of New Street 1, which will form the northern boundary of the two existing Parkgrove Masterplan sites.

New Street 1 will connect from Pemberton Street and run east towards Wilson Street. Originally (and as part of Council's DCP), it was to connect to Wilson Street, but will now not provide a connection for through traffic and a pocket park will be built at the Wilson Street end.

The purpose of New Street 1 is to provide access to the Parkgrove development sites from Pemberton Street and will provide vehicular access to approved developments on its northern and southern side with the inclusion of approved driveways. It will also provide vehicular access to the undeveloped site to the north-east.

The road will provide a 20m reserve along its western end and a 13.5m reserve along its eastern end. This eastern end will become symmetrical with the remainder of the road as the property to the north along Wilson Street is redeveloped and that part of the roadway which forms part of the adjoining site to the north (facing Wilson Street – being Lot101 in DP867427) is dedicated to Council.

A 10.6m carriageway narrows to 6m (at Wilson Street). The western end will provide on-street parking on both sides of the carriageway. To accommodate service vehicles, the eastern end will accommodate service vehicles (up to 8.8m medium trucks) and Council garbage trucks to undertake a 3-point turn.

The carriageway will comprise a parallel parking lane (on both sides along the western end) of 2.3m each and 2x3m wide travel lanes which will accommodate two-way traffic. A 4.3m wide landscape verge will exist along its southern length (at the western end),

narrowing to 2.4m towards Wilson Street. The northern side will have a 2.1m verge, and both sides will have a 1.5m footpath (see sections below).

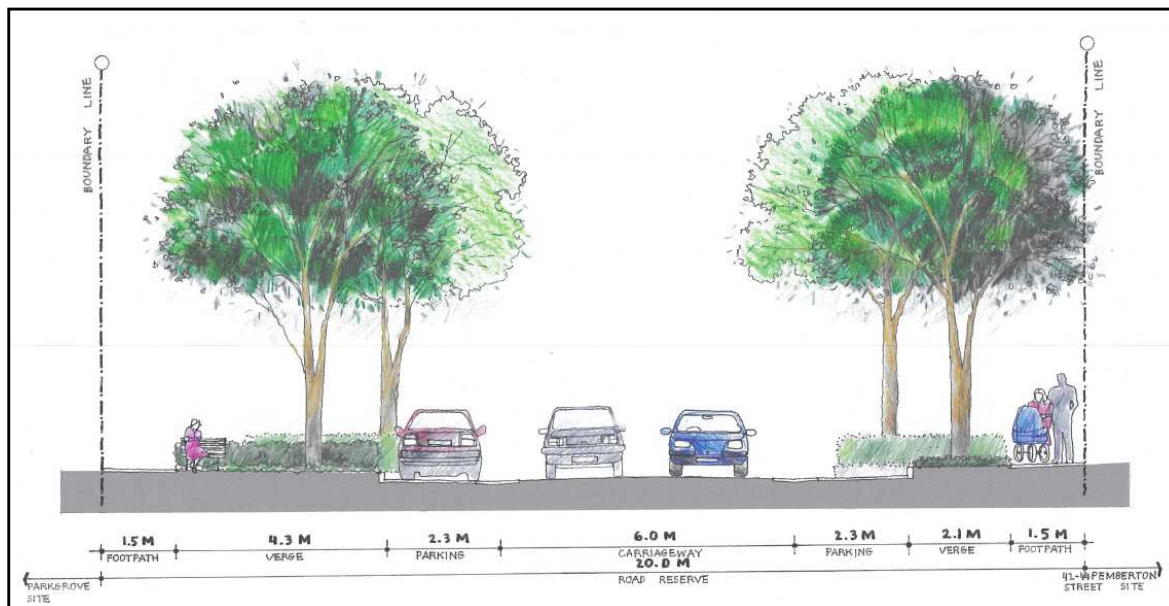


Figure 7 Cross-section (western/Pemberton Street end).



Figure 8 Cross-section (eastern/Wilson Street end).

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.

Environmental Planning and Assessment Act, 1979 – Division 5 – Special Procedures for Integrated Development

The relevant requirements under Division 5 of the Act have been appropriately considered in the assessment of the DA. The subject application is not defined as ‘Integrated Development’.

Some of the ancillary services associated with the proposed roadway will penetrate groundwater and this matter was discussed with the Controlled Activity Assessment Team at the NSW Office of Water. The Office of Water are usually only concerned with DA’s which result in the Office of Water having to grant a licence for dewatering.

Sections 89, 90 and 91 of the Water Management Act 2000 determine water use, water management and activity approvals under the Act. Activity approvals include “controlled activity approvals” and “aquifer interference approvals”, neither of which are required for the intrusion of services into the ground water.

In short, the extent of work in this case does not require dewatering and therefore did not necessitate a formal referral to the NSW Office of Water or the preparation of a General Terms of Approval.

Section 79C (1) Matters for Consideration - General

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

State Environmental Planning Policy (Infrastructure) 2007

In accordance with the provisions of this State Environmental Planning Policy (Infrastructure) 2007, the DA was not considered traffic generating development in accordance with Schedule 3. The DA however was referred to the Roads and Maritime Services (RMS) for comment.

In a submission dated 24 January 2013, the RMS provided the following advisory comments to Council for its consideration in the determination of the development application:

1. *The proposed signage and linemarking along New Street (Drawing No.C14) should be referred to Council’s Local Traffic Committee for consideration.*
2. *The proposed New Street should be designed and constructed in accordance with Austroads and Council’s requirements.*
3. *All works associated with the proposed development shall be at no cost to the RMS.”*

In response to point no.1, it is considered appropriate to refer the matter of signage and linemarking to Council’s Local Traffic Committee prior to the receipt of the Occupation Certificate for the proposed works. Consequently, the above points have all been included as conditions of development consent.

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.

Previously submitted environmental investigations undertaken by the applicant indicate that the site has been used for agricultural development purposes and more recently for purposes of warehousing and open-air storage of cargo containers.

Council is required to be satisfied that the health and safety of the future residents of the Transport Terminal 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 previously submitted the following two reports by Consulting Earth Scientist as supporting documentation with the previous DA's for the subject site/s:

- Remediation Action Plan: Part of Former Brambles Site 25-33 Wilson Street Botany – dated 15 June 2005, and
- 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.

To facilitate (any) remediation works over the subject allotments, the DA was referred to Council's Environmental Scientist who did not object to the development. Conditions of consent requiring the applicant provide a Site Audit Statement stating the site assessment criteria for the most sensitive use for the site has been imposed prior to the issue of a Construction Certificate for the residential components of the site. Conditions of consent have been imposed requiring the remediation of land and a separate DA having to be submitted to Council for any remediation works required for the civil works of that part of the site comprising this application (being Lot 1 in DP 158551, Lot C in DP 380476, Part Lot C in DP 402187 and Lot 100 in DP 875508) and which have not already been included by previously approved remediation works under the two Parkgrove Masterplan sites.

Botany Local Environmental Plan 1995 (LEP)**Clause 5 – Objectives of the Plan**

The provisions of cl.5 of Botany LEP 1995 have been considered during the 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.*

The proposed development is considered to adequately fulfill the abovementioned objectives.

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

- (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.*

The proposed development is considered to adequately fulfill the abovementioned objectives.

Clause 10 – Zoning

The development allotments which form part of the proposal are zoned Part 2(b) Residential “B” and part 4(b1) Mixed Industrial – Restricted, under Botany Local Environmental Plan 1995.

The proposal for the construction of a roadway which provides for the necessary infrastructure which facilitates vehicular access within the approved development and specifically vehicular access to the approved residential developments within the two Parkgrove Masterplan sites. The proposal is a permissible form of development and consistent with the relevant zoning objectives, by reason that the proposal will service the previously approved residential developments and will improve the quality of future residential amenity by widening of the landscaped verge. Amendments to the design of the road and its closure at Wilson Street will maintain the amenity of the broader existing residential locality.

Clause 17(2) – Development in industrial zones

Part of the allotments that form part of this proposal are partially zoned 4(b1) Mixed Industrial – Restricted.

Clause 17(2) states that before granting consent to any development within the 4(b1) zone, Council must be satisfied that:

- (a) *the development provides adequate off-street parking,*
- (b) *the development provides an efficient and safe system for the manoeuvring, loading and unloading of vehicles,*
- (c) *the operations of the development will not have an adverse impact on the functions of the surrounding road network,*
- (d) *any goods, plant, equipment and other material resulting from the operations of the development will be stored within a building or wholly within the site and screened suitably from public view,*
- (e) *the operation of the development will not have an adverse impact on the surrounding area as a result of traffic movement, the discharge of pollutants, emissions, waste storage, hours of operation and the like,*
- (f) *landscaping will be provided that is integral to the design and function of the building and the site to improve the appearance of the development, enhance the streetscape and add to the amenity of the adjoining area,*
- (g) *the development is of a height, scale and design that is sympathetic to adjoining land uses and built form,*
- (ga) *the development is of a high standard of design, provides a high level of environmental amenity and is compatible with adjoining land uses and development,*
- (h) *the building design and finishes are sympathetic and complementary to the built form, the streetscape and the public domain in the vicinity,*
- (i) *the design and operation of the development will protect the visual and aural amenity of adjoining non-industrial uses,*
- (j) *the levels of noise generated from the operations or vehicles associated with the development are compatible with adjoining non-industrial uses, and*
- (k) *the provisions of State Environmental Planning Policy No 55—Remediation of Land will be complied with in relation to the land.*

The proposed development satisfies all of the relevant criteria for development within the 4(b1) zone as stated above.

The location and design of New Street 1 is consistent with the approved Masterplans for the land over which the road is to be constructed, while its closure at the Wilson Street end has resulted following consultation with the local residents.

The design and operation of New Street 1 will be in accordance with the relevant Australian Standards and has been conditioned accordingly. Matters relating to the remediation of land have been addressed previously in this report.

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 need to be 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 road will cross both zone boundaries. The permissibility of the proposal has been addressed and is permitted subject to development consent within the Mixed Industrial 4(b1) and Residential 2(b) zones.

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

The development has been considered against cl.30A of Botany LEP 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.

The extent of works associated with the construction of the roadway will not extend beyond 600mm below natural ground level. Infrastructure below the roadway will penetrate areas that may be affected by Acid Sulfate Soils. An Acid Sulfate Soils Management Plan has previously been submitted for the land/s comprising New Street 1 (ie: the two Parkgrove Masterplan sites).

Conditions of consent for the management of acid sulphate soils have been previously imposed upon the existing Masterplan sites. Should (by chance) acid sulphate soils be encountered as part of the current proposal, an appropriate condition of consent for the management of such soils has been included in this development consent.

Clause 38 – Water, wastewater and stormwater systems

The provisions of cl.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 made for the disposal of stormwater from the land it is proposed to develop.*

The development application was referred to Sydney Water for their consideration. Correspondence received from Sydney Water dated 17 December 2012 provided the following advice:

The developer must ensure extreme caution is taken when using heavy plant machinery

and equipment in close proximity to Sydney Water assets. This will ensure that pipes and fittings are not disturbed or subject to vibration which could cause deterioration and subsequent leakage.

The developer must engage a Water Servicing Coordinator (WSC) to get a Section 73 Certificate and manage the strategic aspects of the development. Sydney Water will further assess the impact of the internal road and associated works when the developer applies for a Section 73 Certificate.

At the Section 73 Application stage the developer should provide the following information:

- *Detailed Construction Plans.*
- *Detailed Intersection Plans and the impact on existing Sydney Water mains on Pemberton Street.*
- *If sheet pile is adjoining a Sydney Water asset written approval must be obtained.*
- *If dewatering is involved - impact of groundwater dewatering on the wastewater is to be analysed and submitted to Sydney Water.*
- *Design service to verify loading conditions over Wastewater assets.*
- *Building Over and Adjacent to Sydney Water Wastewater Asset Guidelines apply.*

Sydney Water Servicing

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.

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).

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 Waters website at www.sdnewater.com.au

Sydney Water e-planning

Sydney Water has an email address for planning authorities to use to planning documents for review. This email address is urbangrowth@sydneywater.com.au The use of this email will help Sydney Water provide advice on planning projects faster, in line with current planning reforms.

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

Concept stormwater plans were submitted with the application. Appropriate conditions of consent have been imposed which require detailed construction plans to be submitted to Council prior to the issuing of a Construction Certificate. This will ensure that the design

of the road will incorporate adequate stormwater provisions in a flood prone area. As such the proposed development is considered to satisfy the provisions of cl.38 of the LEP.

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

Botany Bay Local Environmental Plan 2013

Botany Bay LEP 2013 was gazetted on 21 June 2013 and has been considered in the assessment of this DA with the following information being provided:

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Landuse Zone	Yes	Under the BBLEP 2013 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 BBLEP 2013.
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 BBLEP 2013
Does Schedule 1 – Additional Permitted Uses apply to the site?	N/A	N/A to the development application.
What is the height of the building? Does the height of the building exceed the maximum building height?	Yes	The proposal is for the construction of a roadway only.
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	N/A	The proposal is for the construction of a roadway only.
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m ² min and maximum height of 22m and maximum FSR of 1.5:1?	N/A	The proposal is for the construction of a roadway only.
Is the site within land marked "Area 1" on the FSR Map?	N/A	N/A to the DA
Is the land affected by road widening?	N/A	N/A – That part of the site to which the DA relates is not affected by provisions related to 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.
The following provisions in Part 6 of the LEP apply to the development • Stormwater; • Acid Sulfate Soils; • Airspace Operations; and • Development in areas subject to Aircraft noise;	Yes (Subject to conditions)	The development, subject to conditions, meets the requirements of clause 6.9 within the BBLEP 2013 Clause 6.14 has been fulfilled by the submission of an acid sulfate soils management plan with the

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		<p>redevelopment proposal for the approved Masterplan sites.</p> <p>Having regard to the nature of the proposal, no referral was considered necessary for provisions relating to aircraft noise or airspace operations.</p>

The objectives and provisions of the BBLEP 2013 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the LEP.

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

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

The DA has been assessed against the controls and objectives contained in DCP 31 – which applies to all development within the Pemberton–Wilson Street Precinct.

Below is a compliance table showing how New Street 1 complies with the relevant provisions of the DCP.

4.1.3 Specific Guidelines			
A. New Street 1 – Public Street			
Standard	Control	Proposal	Complies
Role	Main east-west street and dedicated to Council	Road closure at Wilson St as previously approved by Council (DA05/459/05).	YES – as approved by Council
Location	Along existing drainage reserve	No change from original Masterplan.	YES
Road Reservation	20m (at western end) 13.5m (at eastern end)	No change from approved Masterplan.	NO – Road reservation widths will comply with development of northern site & proposed dead end at Wilson Street.
Carriageway	12.8m	10.6m (due to widened landscaped verge).	YES – compliant with relevant AS for roadways.
Footpath	On both sides 1.5m wide	No change from original Masterplan.	YES
Street Trees	2.4 metre high <i>Pyrus calleryana</i>	The verge of New Street 1 will become wider and will provide for more open space and trees.	Condition imposed in original MP DA
Traffic Capacity	Two-way traffic	Only between Pemberton St and developments to the north and south. New	YES

		Street 1 will be closed off to Wilson Street.	
Parking	Both sides	Southern site boundary runs through road.	YES
Traffic Management	Devices to be incorporated to discourage heavy vehicles	Details not provided.	Conditions exist in current MP DA

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

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

Context and Setting

The Botany Bay LEP 2013 anticipates a future residential and mixed-use built form of a bulk and scale which is in contrast to the existing predominant residential development being detached dwelling houses.

The proposed development will provide valuable infrastructure under New Street 1 for stormwater disposal and will assist for the dispersion of above ground flooding. It will also facilitate vehicular access and egress to both significant Masterplan sites north and south of proposed New Street 1.

The environmental impacts associated with the proposed development is within reasonable limits having regard to the urban context and no significant adverse 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 future density and built form.

Conditions of consent have been included which will minimise 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 DA was notified to surrounding property owners and occupants and advertised in the local newspaper from 20 November 2012 until 20 December 2012.

No 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 a benefit to the wider public interest for the following reasons:

- the proposal 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 for the Pemberton–Wilson Street Precinct;
- the proposal generally satisfies the objectives and controls identified in BBLEP 2013, which incorporates Council's future planning intentions for the site; and
- the matters raised in the development proposal have been consulted extensively with the neighbouring and surrounding residences.

These matters have been considered in the assessment of the DA. The public interest is served through the detailed assessment of the development application under the relevant planning controls and legislation and the design of the proposal has been amended following detailed resident consultations (ie: Pocket Park). 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 provide accessibility to approved and increased housing stock available in the Botany Bay LGA.

Other Matters

Narrowing of the carriageway

The Pemberton–Wilson Street DCP requires a 20m wide road reservation. Fourteen (14) parallel parking spaces were originally proposed to be constructed along both the southern and northern sides of New Street 1, and a pedestrian pathway was to be provided immediately adjacent to the proposed parking spaces.

The design as submitted, has a 20m road reserve on the western side (Pemberton Street) which narrows down to approximately 13.5 metres wide for the eastern third of its length. The closing off of New Street 1 at Wilson Street has come about following extensive negotiations at the request of local residents which was agreed to by the developer of the Parkgrove Masterplan sites. That narrowed portion of New Street 1 will only serve the residential parking and servicing needs of Buildings E+F and the townhouses at 25-33 Wilson Street on the Parkgrove One site. Consequently, a narrow carriageway was deemed to be suitable in this location. The amended design will provide for at least 14 parallel spaces along its northern and southern sides as originally proposed.

Following detailed discussions with the applicant, and having regard to the closure of New Street 1 at the Wilson Street end, the function of New Street 1 now provides for resident and visitor access to the site and to underground parking spaces for buildings that front onto its roadway. Consequently, the necessity for such a wide carriageway is seen as being superfluous to the needs of such a large development site and where the quantum of visitor spaces are met within the future basement parking structures. The visitor spaces along the carriageway will still be maintained and the remaining verge will be dedicated as a public footway and for landscaping. New Street 1 will be dedicated to Council as part of the overall staging of the site.

The minor redesign of New Street 1 will result in less conflict with pedestrian links which pass across it and link with the future developed sites to the north of the street.

Internal Referrals

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

External Referrals

Sydney Water

As mentioned in this report, correspondence received from Sydney Water dated 17 December 2012 raised no objection to the proposed development subject to the imposition of a number of conditions.

Ausgrid

Council received correspondence from Ausgrid dated 15 November 2012 which stated the following:

I wish to advise that, Ausgrid has recently commissioned a new substation within this stage development in close proximity to New Street 1 near Wilson Street. It is critical that the newly installed cable and ducts within the development are correctly identified and that cover over them is not altered. It is also important the plant material is not installed directly above the cable and ducts.

The above comments have been included as appropriate conditions of development consent.

Conclusion

After consideration of the development against s.79C of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, and based on a merit assessment of these provisions, Development Application No.12/195 for the construction of New Street 1 and associated works is recommended for approval 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. 12/195 a "Conditional Consent" for the following works:

- The construction of New Street 1 and associated footpath and verge works;
- Landscaping, including the construction of the pocket park at the eastern end, and
- Reticulation of services and drainage

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

1.

- (a) The development is to be carried out generally 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 Nos.	Author	Date Received by Council
Cover Sheet C00 Project No. KF110882C	KFW Infrastructure Professionals	24 October 2012
General Notes C01 Project No. KF110882C	KFW Infrastructure Professionals	24 October 2012
C02, C03, C04, C09, C10 & C14 Revision B, C05, C06, C07, C08 & C11 Revision A, C12 and C13 Project No. KF110882C	KFW Infrastructure Professionals	24 October 2012
Landscape Plan 20.12/369 Dated October 2012	iScape Landscape Architecture	24 October 2012
Landscape Plan L01 & L02, Revision C dated 21 Sept 2012	habitation	24 October 2012
Street Lighting & Duct Layout SC 3458 SK061, Sheet 1 of 1, Amendment B	I Lawrence and G Cooper	24 October 2012
Demolition Plan (New Street 1) 0312 SK121115-01 Issue A	Krikis Tayler Architects	19 November 2012
Document Name	Author	Date Received by Council
Statement of Environmental Effects – DA For Construction of New Street 1– Dated 7 November 2012	LJB Planning Pty Ltd	14 November 2012

- (b) The above plans shall be amended as far as the location of the roadside parking spaces are concerned and shall be in accordance with plan marked as “New Street 1 Pemberton-Wilson Street Precinct”, prepared by Krikis Tayler Architects and stamped as received by Council on 5 April 2013; and,
- (c) All the civil drawings prepared by KFW for New Street 1, Project No. KF 110882, are considered as **concept plans only and not detailed construction plans**. As such, revised detailed construction plans of all the civil works for New Street 1 shall be prepared and submitted to Council for approval prior to the issue of Construction Certificate.
2. This Consent relates to land in Lot 100 in DP875508, Part C in DP 402187, Lot C in DP 380476 and Lot 1 in DP 158551, as such, building works must not encroach on to adjoining lands or other public places.

3. **Costs associated with DA conditions** – All costs associated with these development conditions shall be borne by the applicant.

Note: If when complying with 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.

4. **Dedication of road reserve to Council** – Upon satisfactory completion of all works (including the pocket park) and following issuing of the **Final Occupation Certificate** a subdivision application shall be lodged to Council under the Conveyancing Act 1919 which dedicates the entire road reserve to Council without any cost to Council.

5. 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; and,
- (b) EPA Guidelines made under the Contaminated Land Management Act 1997, and,

Monitoring

- (c) 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 upon request throughout the remediation and construction works.

Waste Classification – Excavated Materials

- (d) 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

- (e) 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's (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

- (f) 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

- (g) 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.
6. All electricity, telecommunication cables and associated infrastructure adjoining the proposed roadway is to be undergrounded in accordance with the guidelines and requirements of the relevant utility authorities. The applicant shall bear all the cost of the construction and installation of the cables and any necessary adjustment works. These works and payments shall be completed prior to the issue of any Occupation Certificate.
7. Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act, 1997, shall be complied with:
- (a) A **Construction Certificate** is to be obtained in accordance with Section 81A (2)(a) of the Act.
 - (b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A (2)(b) of the Act and Form 7 of Schedule 1 to the Regulations.
 - (c) Council is to be notified at least two (2) days prior to the intention to commence building works, in accordance with Section 81A (2)(c) of the Act and Form 7 of Schedule 1 to the Regulations.

Note: The applicant may apply to the Council or an Accredited Certifier for the issuing of a **Construction Certificate** and to Council or an Accredited Certifier to monitor compliance with the approval and issue any relevant documentary evidence or certificate/s.

DURING DEMOLITION

8. Any demolition work associated with this consent is to be carried out in accordance with the requirements of AS 2601 (*The Demolition of Structures*).
9. 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 prevent unauthorised entries of the site at all times during demolition and construction. Such fencing or other measures must be in place before the approved activity commences.
10. Signage is to be provided on the site as follows:
- (a) During the demolition process notices lettered in accordance with AS1319 displaying the words “**DANGER - DEMOLITION IN PROGRESS**” or a similar message shall be fixed to the security fencing at appropriate places to warn the public; and,

- (b) During the entire construction phase signage shall be fixed on site identifying the PCA and principal contractor (the coordinator of the building work), and providing phone numbers.
- 11. All demolition and all construction and associated work is to be restricted to between the hours of 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No work is to be carried out on Sunday or public holidays.
- 12. Adequate precautions must be taken to control the emission of dust from the site during demolition and construction work. These precautions could include minimizing soil disturbance, use of water sprays, erecting screens and not carrying out dusty work during windy conditions.
- 13.
 - (a) All work involving asbestos products and materials, including asbestos-cement sheeting (i.e. fibro) must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales; and,
 - (b) All asbestos wastes including used asbestos-cement sheeting (i.e. fibro), must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be kept by the applicant for at least 3 years and be submitted to Council on request.
- 14. Adequate arrangements must be made for the storage and disposal of demolition and building waste generated on the premises. In this regard the demolishers and builders are encouraged to maximize the re-use and recycling of materials (e.g. Concrete, bricks, roof tiles, timber, doors, windows, fittings, etc.) by separating these materials from other wastes.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

- 15. New Street 1 shall be designed and constructed in accordance with Austroads and Council's requirements.
- 16. All works associated with the proposed development shall be at no cost to the NSW Department of Transport or Roads and Maritime Services.
- 17. The proposed development shall comply with the conditions provided by Sydney Water dated 17 December 2012. The conditions are outlined as follows:

Existing Infrastructure

- (a) The developer must ensure extreme caution is taken when using heavy plant machinery and equipment in close proximity to Sydney Water assets.

This will ensure that pipes and fittings are not disturbed or subject to vibration which could cause deterioration and subsequent leakage.

Section 73 Certificate

- (b) The developer must engage a Water Servicing Coordinator (WSC) to get a Section 73 Certificate and manage the strategic aspects of the development. Sydney Water will further assess the impact of the internal road and associated works when the developer applies for a Section 73 Certificate; and,
- (c) At the Section 73 Application stage the developer should provide the following information:
 - (i) Detailed Construction Plans,
 - (ii) Detailed Intersection Plans and the impact on existing Sydney Water mains on Pemberton Street,
 - (iii) If sheet pile is adjoining a Sydney Water asset, written approval must be obtained,
 - (iv) If dewatering is involved – impact of ground water dewatering on the wastewater is to be analysed and submitted to Sydney Water,
 - (v) Design service to verify loading conditions over Wastewater assets, *Building Over and Adjacent to Sydney Water Wastewater Assets* Guidelines apply.

Sydney Water Servicing

- (d) 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; and,
- (e) 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).

A Section 73 Certificate from Sydney Water. Details is available from any Sydney Water Customer Centre on 13 20 92 or Sydney Water's website at www.svdnewater.com.au.

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

18. **Public Utility Adjustment & Service Diagram** – Prior to the issue of Construction Certificate, the applicant and/or contractor shall contact “Dial Before You Dig on 1100” to locate and establish the size and levels of all utility services in the proposed footpath and road reserve area and adjacent to the site. Survey of all utility and Council services within the site including relevant information from

utility authorities and excavation shall be carried out to determine the position and level of services. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Council for its records.

In addition, all public utilities services shall be relocated to the new footpath area to the requirements of relevant utilities authorities. The applicant and/or contractor shall negotiate with the utility authorities (e.g. Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with the additional load on the system and the relocation and/or adjustment of the services affected by the construction. Light poles shall be installed with the standard galvanised metal pole near the road boundary and all cabling shall be underground.

Any 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 and all cost associated with the relocation, adjustment and provision of land or support services as requested by the service authorities shall be borne by the applicant.

19. **Construction Management Plan** – Prior to the issue of any Construction Certificate, detailed Construction Management Plan (CMP) shall be submitted to the Principal Certifying Authority for approval. The CMP shall address:

- (i) The method of access of building materials and plant to the site, including access routes through the Council area;
- (ii) Storage location on the property during construction;
- (iii) Traffic movements of construction-related vehicles to the site;
- (iv) Parking of construction-related vehicles

(**Note:** Construction-related vehicles are not permitted to park on public streets unless approval has been obtained from Council);

- (v) Locations of site office, accommodation and the storage of major materials related to the project;
- (vi) Protection of adjoining properties, pedestrians, vehicles and public assets;
- (vii) Location and extent of proposed builder’s hoarding and Work Zones, if there is any;
- (viii) Tree protection management measures for all protected and retained trees, if there is any;
- (ix) The proposed phases of construction works on the site and the expected duration of each construction phase;
- (x) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- (xi) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process; and,
- (xii) The location of any Construction Zone (if required) approved by Council’s Local Traffic Committee, including a copy of that approval.

20. **Traffic Management Plans** – Prior to the issue of Construction Certificate, a detailed Construction Traffic Management Plan for the traffic management, pedestrian safety and car parking availability during demolition/ construction phase of development shall be prepared and submitted to the Principal Certifying Authority for approval. The plan shall:
- (i) be prepared by an RMS accredited qualified person;
 - (ii) 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;
 - (iii) indicate the construction vehicle access points of the site;
 - (iv) indicate the frequency of truck movements.;
 - (v) assess existing traffic conditions within the road network and key intersections in the locality;
 - (vi) assess existing public domain and pedestrian areas in proximity to the proposed development;
 - (vii) assess anticipated traffic generation associated with the construction and its impact upon the surrounding road network, on-street parking and pedestrian movements;
 - (viii) ensure temporary parking arrangement for workers is adequate and does not have adverse impact to the amenity;
 - (ix) ensure parking and storage arrangements of heavy vehicles accessing the site is adequate and does not have adverse impact to the amenity; and,
 - (x) 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.
21. **Soil and Water Management Plan** – A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to *'Do It Right On-Site' Soil and Water Management for the Construction Industry* (available from Council) and NSW EPA's *Managing Urban Stormwater: Construction Activities* and submitted to the Principal Certifying Authority prior to issue of any 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 Soil and Water Management Plan shall be kept on-site at all times and made available to Council Officers on request.
22. **Detailed Construction Plans of Street Drainage System for New Street 1** – Prior to the issue of any Construction Certificate, detailed construction plans and a **design compliance certificate** in relation to the proposed street drainage system of New Street 1 shall be submitted to the Principal Certifying Authority for approval. The construction plans shall be prepared by a suitably qualified and experienced civil engineer with NPER3 accreditation and in accordance with Australian Rainfall and Runoff (ARR). The following information and construction details shall be included in the plans:
- (a) Hydraulic design report of the new street drainage system including:

- (i) Overall upstream catchment plan;
 - (ii) Sub-catchment plans for each pit;
 - (iii) Hydraulic Grade Line (HGL) analysis of the new street drainage system;
 - (iv) Capacity of the existing downstream system;
 - (v) Extent of future overland flood path along New Street 1 for 1 in 20 year ARI storm events to be kept within the proposed road reserve; and,
 - (vi) Extent of future of overland flood path along New Street 1 for 1 in 100 year ARI storm events to comply with the modelling in flood study report, prepared by KF Williams & Associates Pty Ltd for 42-44 Pemberton Street, Botany NSW, Lot 100 DP 875508, Review A, dated 26 Feb 2013.
- (b) Plan view of the new street drainage system showing:
- (i) Location of pipes and pits;
 - (ii) Size of the pits and pipes;
 - (iii) Pipe class and type;
 - (iv) Grade of each pipeline; and,
 - (v) Existing services locations, including trees.
- (c) Longitudinal section of the new street drainage system showing:
- (i) Road and pipe chainages;
 - (ii) Design surface level;
 - (iii) Design invert level;
 - (iv) Pipe size, class and type (minimum 375mm diameter and RRJ concrete pipes);
 - (v) Grade of each pipeline (1% preferable minimum, 0.5% absolutely minimum);
 - (vi) Water surface levels;
 - (vii) Hydraulic grade line;
 - (viii) Flow rate within the pipeline;
 - (ix) Pit type;
 - (x) Pit levels;
 - (xi) Pit number;
 - (xii) Drainage details at the connection point downstream; and,
 - (xiii) Accurate public utility service location
- (d) Typical cross-section details of the pipes (including cover and depth of bedding materials); and,

- (e) Kerb inlet pit construction details (Minimum 1.8m long opening lintel is required) at the intersection of New Street 1/ Pemberton Street and along the northern side and the southern side of New Street 1.

23. **Detailed Construction Plans of New Street 1 – Prior to the issue of any Construction Certificate**, detailed construction plans in relation to the civil works on New Street 1 shall be submitted to the Principal Certifying Authority for approval. The construction plans shall be prepared by a suitably qualified and experienced civil engineer with NPER3 accreditation and shall include the following details:

- (a) Plan/s showing the extent of civil works on New Street 1, including half road resealing on Pemberton Street/ New Street 1 intersection;
- (b) Cross-section details of New Street 1, including existing and proposed surface levels at minimum every 10 metres interval between the proposed road reserve boundary and extended 2 metres outside the boundary to ensure the extent of flood path is kept within the proposed road reserve and access points to the site/building are feasible;
(**Note:** The minimum and maximum crossfall of road pavement shall not be less than 1% or exceed 3% respectively);
- (c) Longitudinal section profiles of the centreline and the kerb and gutter on New Street 1;
(**Note:** The absolute minimum longitudinal grade of kerb and gutter shall not less than 0.5%);
- (d) Details showing the kerb return alignments (including kerb development and the longitudinal section profiles) at the intersection of New Street 1 and Pemberton Street;
- (e) Construction details and specification of kerb and gutter, kerb ramps, vehicular crossings, cycleway and footpath;
- (f) Construction details showing the road pavement thickness between the proposed kerb and gutter of New Street 1;
(**Note:** The road pavement shall be in concrete construction and the thickness shall be designed by a qualified geotechnical engineer, based upon ESA 1 x 107, but not less than minimum 200mm);
- (g) Street landscaping details in the proposed footpath area;
- (h) Dimension of on-street parking bays to the requirements of AS2890.5;
- (i) Location of street lighting on New Street 1 and intersection of New Street 1 / Wilson Street and new Street 1/ Pemberton Street;
- (j) Location of bollards at the eastern end of New Street 1; and,
- (k) Proposed road signage and line-marking Plan – to be assessed and approved by Council's Local Traffic Committee;

In addition, the following issues shall also be addressed:

- (l) The proposed vehicular crossing adjacent to the intersection of New Street 1/ Pemberton Street shall be removed; and,

- (m) Swept path diagrams showing the turning movements of Council's garbage collection vehicle at the eastern end of New Street 1 shall be attached to the construction plans.

24. Street lighting

- (a) After the approval has been obtained from the responsible utility for street lighting, detailed street lighting design and construction plans, prepared by a suitably qualified person, shall be submitted to the Principal Certifying Authority for approval. The design shall be in accordance with AS 1158 and to AusGrid's requirements;
- (b) Alterations/additions to street lighting shall be carried out by the responsible utility authority for lighting, or to the satisfaction of that authority, and all capital contributions associated with the installation of the lighting shall be borne by the applicant. The proposal shall include details of all fixtures being proposed and underground power reticulation shall be allowed for in the design. The following lighting design categories shall be provided:
 - New Street 1 – P2 design category;
- (c) 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;
- (d) All lighting shall comply with AS4282-1997 Control of the obtrusive effects of outdoor lighting; and,
- (e) Prior to the issue of Construction Certificate, details showing the installation of solar power to external space lighting shall be submitted to Council for approval.

25. 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 the Principal Certifying Authority prior to the issue of any Construction Certificate. 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 ; and,
- (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.

26. **CCTV Report of Existing Council Pipe System** – A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the Council drainage pipeline (between Wilson Street and Pemberton Street). The camera and its operation shall comply with the following:

- (a) The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner;
- (b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints;
- (c) Distance from the manholes shall be accurately measured; and,
- (d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to the Principal Certifying Authority. A written acknowledgment shall be obtained from Council attesting this condition being appropriately satisfied.

27. **Revised Landscape Plan** – Prior to the issue of any Construction Certificate, the landscape plans shown on the plan by iScape and dated October 2012 shall be revised to address the following: -

- (a) Provide details of the increase in the number of evergreen street tree species to ensure green canopy during the winter period. (The Pears could be alternated with a suitable evergreen of similar form.);
- (b) Agapanthus or similar are to be planted underneath the Jacaranda to provide more compatible foliage;
- (c) The proposed bollard is to be stainless steel and to Council's specifications (**Note** : the underground electricity supply must be installed before any street tree planting takes place.); and,
- (d) The landscape plan for the pocket park at the eastern end of New Street 1 should be amended by the following:
 - (i) Magnolia to be planted in larger tree pits to accommodate future root structure and a root barrier installed to protect pavements.
 - (ii) Tristaniopsis Luscious to be planted in tree pits rather than pots to reduce maintenance and improved growing conditions for tree roots and canopy.
 - (iii) All tree pits to be finished with porous stabilised coloured aggregate with Arborgreen rootrain irrigation system installed (or similar) with inlet pipe cover.
 - (iv) Steel animal outlines to be discussed further with Council prior installation to determine suitability and design.
 - (v) Light selection to consider lux level and light spill and impact on adjoining properties.

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 and the conditions of consent at all times.

28. **Design Certification** – Prior to the issue of any Construction Certificate, design certification, prepared by a suitably qualified engineer with NPER3 accreditation, shall be submitted to Council certifying the construction plans for road and drainage works of New Street 1 have been designed in accordance with Australian Rainfall Runoff (ARR) , AUSROADS, Council's specifications and the relevant Australian Standards.
29. **Civil Works Infrastructure Performance Bond** – Prior to the issue of any Construction Certificate, the applicant shall lodge with the Council an Infrastructure Performance Bond of **\$100,000** against defective public civil works undertaken by the main contractor for a period of **six (6)** months from the date when the road is dedicated to Council or at the completion of works accepted by Council in writing, whichever is later. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee, which will be refundable (with no interest) subject to the approval of Council at the end of the maintenance period. In this period, the applicant is liable for any part of the work which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.
30. **Long Service Levy** – 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.

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

31. **Approval and Permits under Roads Act and Local Government Act** – 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 Roads Act 1993 and Local Government Act 1993:
- (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; and
 - (i) Permit to establish "Works Zone" on public roads adjacent to the development site, including use of footpath area.
32. **Erosion and Sediment Control Measures** – Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
33. **Sweep & Clean Pavement** – Sweep and clean pavement surface adjacent to the ingress and egress points 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.
34. **Public Liability** – The applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work on Council's road reserve and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal and keep such policy in force at the applicant's own expense. A certificate from the applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

35. **Inspection of Civil Works on New Street 1 (including New Street 1/ Pemberton Street intersection and New Street 1/ Wilson Street intersection)** – All civil works carried out on New Street 1, including associated works on New Street 1/ Pemberton Street intersection and New Street 1/ Wilson Street intersection, shall be inspected and approved by Council's Engineer. **Documentary evidence of compliance with this condition shall be obtained prior to proceeding to the**

subsequent stages of construction, encompassing not less than the following key stages: -

- (i) Initial pre-construction on-site meeting with Council's Engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works on New Street 1, Pemberton Street and Wilson Street;
 - (ii) Following the placement of stormwater drainage pipes in the New Street 1;
 - (iii) Following the compaction of the sand backfill material to subgrade level;
 - (iv) Prior to pouring of concrete pits;
 - (v) Following the compaction of road subgrade materials;
 - (vi) Prior to placement of concrete (road pavement, vehicular crossings, kerb and gutter, kerb ramps, cycleway and footpath; and,
 - (vii) Final inspection.
36. **Acid Sulfate Soils** – 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.
37. **Water pollution and sedimentation controls** – 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.

38. During demolition, excavation, construction and any associated delivery 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.
39. During demolition, excavation, and any associated delivery activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:
- (a) Approved Soil and Water Management Plan;
 - (b) Approved Construction Traffic Management Plan; and,
 - (c) Approved Construction Management Plan.
40. 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.
41. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
42. To prevent contaminated soil being used onsite, all imported fill shall be certified and shall be validated in accordance with the Office of 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.
43. 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.

44.

- (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; and,
 - (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

45. The proposed traffic regulatory signage and line marking along New Street 1 shall be referred to Council's Local Traffic Committee for approval. All signage and line-marking shall be installed with approval from Local Traffic Committee prior to the issue of Occupation Certificate.
46. **Damage to Council Infrastructure – Major Development** – Any damage not shown in the dilapidation report submitted to Council before site works have commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to the issue of Final Occupation Certificate.
47. **Applications Associated with Works on Council's Land** – Prior to the issue of an 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.
48. **Civil Works in Public Domain – Completion Documentation** – Prior to the issue of an Occupation Certificate, all civil works associated with New Street 1 (including street lighting and road drainage system) shall be completed to Council's satisfaction. The following documentation shall be submitted to Council attesting this condition has been appropriately satisfied:
- (a) Written confirmation / completion certificate obtained from Council's engineers;
 - (b) Inspection reports (formwork and final) for the works on New Street 1 obtained from Council's engineer;
 - (c) Two (2) copies of the approved engineering construction plans showing Work-as-Executed details (together with an electronic copy (DWG format)) for all the constructed civil works (roads, drainage, kerb and gutter, footpath, including cross-sections and long-sections of the kerb and gutter profile) on New Street 1, prepared by a registered surveyor;

(**Note:** The surveyor shall also confirm the surface levels of New Street 1 generally correspond with the levels shown in the flood study report, prepared by KF Williams & Associates Pty Ltd for 42-44 Pemberton Street, Botany NSW, Lot 100 DP 875508, Review A, dated 26 Feb 2013.) and,
 - (d) Written documentation from a qualified civil engineer with flood modelling experience and NPER3 accreditation certifying the constructed New Street 1 will generally have similar flood characteristic as the flood modelling shown in the flood study report, prepared by KF Williams & Associates Pty Ltd for 42-44 Pemberton Street, Botany NSW, Lot 100 DP 875508, Review A, dated 26 Feb 2013.

49. **Asset Valuation Data** – Data on the following public asset grouping shall be submitted to Council, on completion of the works, as follows: -

Road Works (Public) - Data shall be submitted to Council in electronic EXCEL format with the issue of WAE drawings. EXCEL spreadsheets shall contain the following table for **each** public road of the development: -

	Type	Length (m)	Area (M ²)	Volume (m ³)	Number	Construction Completion date (month & year)	Total Value (\$) (*nearest \$1000)
Road (inc. Boxing, traffic device)	n/a			n/a	(street name)		*
Kerb and Gutter (by type)			n/a	n/a	n/a		*
Path paving (by type)			n/a	n/a			*
Street Signs	n/a	n/a	n/a	n/a			
Traffic Signs (by type)		n/a	n/a	n/a			

Stormwater Drainage - Pit and pipe data shall be submitted to Council in electronic EXCEL format with the issue of WAE drawings. EXCEL spreadsheets shall contain the following table for **each** public road of the development: -

(a) Pits

Pit Code as per WAE	Pit Type & Lintel Size	Total Values (\$) (nearest \$1,000)	Construction Completion date (month & year)	Built by (contractors)	Grate Level (mAHD)	Invert Level (mAHD)	Street Name
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(b) Pipes and Conduits

Line/Pit Code as per WAE	Conduit description (e.g Creek, Culvert, FRC, RRJ etc)	Size (mm)	Length (mm)	Total Values (\$) (nearest \$1,000)	Construction Completion date (month & year)	Built by (contractors)	Street Name
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50. **Nature Strip** – Any damaged Council's nature strip area shall be suitably replaced in accordance with Council's specification at the completion of construction works. The ongoing maintenance of the nature strip shall then be undertaken by the occupier/owner. Maintenance shall include mowing, the removal of weeds and rubbish and maintaining a good, even coverage of grass at all times.

51. **Installation of Street Signs** – The applicant is responsible for the installation of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
52. 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.
53. Prior to the issue of any Occupation Certificate, landscaping shall be installed in accordance with the approved landscape plan.
54. Prior to issue of any Occupation 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’;
 - (b) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and,
 - (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 a copy forwarded to Council. The report is to be submitted after completion of remediation works and prior to the issue of an Occupation Certificate.
55. 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 the Principal Certifying Authority clearly demonstrating that the site is suitable for the proposed development. This shall be provided prior to the release of the Occupation 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, confirming the suitability of the site for the proposed development prior to the release of an Occupation Certificate.

56.

- (a) An **Occupation Certificate (Interim or Final)** must be obtained from the Principal Certifying Authority (PCA) and a copy furnished to Council in accordance with Clause 151 of the Environmental Planning and Assessment Regulation 2000 prior to commencement of occupation or use of the whole or any part of the new building.
- (b) Conditions 45 to 55 (inclusive) are preconditions to the issue of any Occupation Certificate.

OPERATIONAL CONDITIONS

57. Ausgrid Conditions/Advisory Note: Ausgrid has recently commissioned a new substation within this staged development in close proximity to New Street 1 near Wilson Street. It is critical that the newly installed cable and ducts within the development are correctly identified and that cover over them is not altered. It is also important that plant material is not installed directly above the cable and ducts.
58. 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.
59. 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. 12/195 dated as 24 October 2012 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.