

DA 150/2014

19-21 Tennyson Road, Breakfast Point

JRPP No.	2014SYE058
DA Number	150/2014
Local Government Area	City of Canada Bay
Proposed Development	Construction of a six storey building comprising 100 apartments with basement car parking. The application includes Strata subdivision of 100 lots.
Street Address	19-21 Tennyson Road, Building 7D4 – Seashore Precinct, Breakfast Point (Lot 91 in DP 270347)
Applicant	Rosecorp Management Services Pty Ltd
Owner	Breakfast Point Pty Ltd
No. of Submissions	Three (3)
Assessment Officer	Ms E Sorensen - Statutory Planner, City of Canada Bay

1. BACKGROUND

1.1. SITE - CONTEXT

Breakfast Point is located within the Canada Bay LGA and is approximately 9 kilometres west of the Sydney CBD. The site is located on the Mortlake Peninsula within the Breakfast Point Housing Estate and has an overall area of 51.82 hectares (ha) (refer to **Figures 1 and 2**).

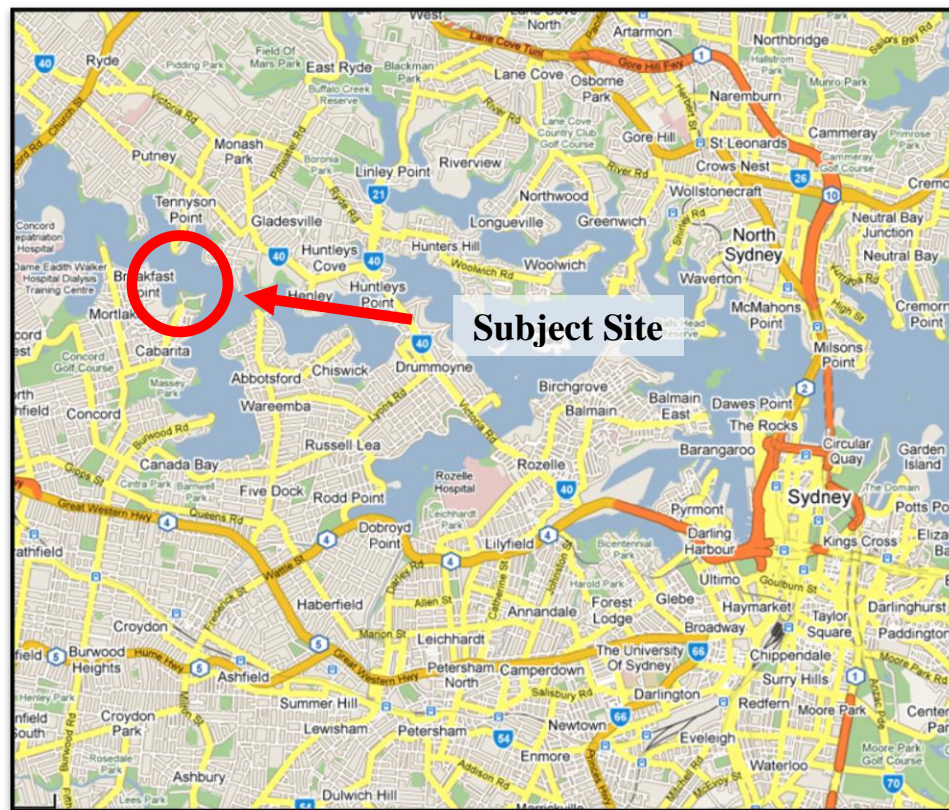


Figure 1 - Site Location in context with Sydney CBD

1.2. THE SUBJECT SITE

The subject site is known as Lot 91 in DP 270347. It covers an area of 3450sqm and is located within the Seashore Precinct at Breakfast Point. The precinct is bounded by Woodland Avenue to the west, Magnolia Drive to the south, Palm Avenue to the east and Peninsula Drive to the north (refer to **Figure 3**).

The Concept Plan (as modified) provides for seven residential flat buildings in the Seashore Precinct. This application is for a six storey building with two levels of basement parking. The buildings known as 5J and 7D5 within the Seashore precinct have been constructed/are under construction.

The proposed development lot which is currently vacant has a frontage to Palm Avenue of approximate 87m. Completed remediation works have left the site void of any significant vegetation. The site is currently used for the parking of construction vehicles associated with neighbouring developments.

Surrounding development includes:

- a 5 storey residential apartment building under construction to the south (7D5)
- a vacant site to the north with master plan approval for a six storey residential building (7D3)
- an existing brick building to the west with master plan approval for conversion into residential apartments (7D6) and
- existing 5 storey residential apartment buildings to the east within the “Harbour Precinct” (6F1 Scarborough & 6F2 Endeavour)



Figure 2 – Location Plan

1.3. CONCEPT PLAN AND SITE HISTORY

In 1999, the Breakfast Point Master plan was adopted by the City of Canada Bay (Council) in accordance with State Environmental Planning Policy No. 56 – Sydney Harbour Foreshores and Tributaries (SEPP 56), allowing 1650 residential dwellings and 18,800m² of commercial floor space.

In 2002, the Master Plan was amended by Council to allow for 1,865 dwellings and 12,300m² of commercial uses on the site.

On 31 August 2005, the then Minister for Planning assumed the role of approval authority for outstanding development at Breakfast Point under the former provisions of State Environmental Planning Policy (Major Projects) 2005.

On 7 April 2006, the then Minister for Planning approved the *Breakfast Point Concept Plan 2005* for a mixed use residential/commercial/retail development comprising (additional to the approvals granted by the Council):

- 176,222m² of GFA, including 1,519m² of non-residential GFA;
- 989 dwellings; and
- subdivision into Torrens title and strata lots.

On 4 August 2006, the Director General approved an additional 200 dwellings for the *Breakfast Point Concept Plan 2005* site allowing a maximum of 1,189 dwellings to be constructed, pursuant to Condition 7 of the Concept Plan approval. As a result, the total GFA for the *Breakfast Point Concept Plan 2005* was also increased to 183,480m². Overall a total of 2,065 dwellings are allowed for Breakfast Point under the Concept Plan approval, when including the Masterplan 2002 approved dwellings.

On 18 October 2010, the then Minister for Planning granted approval for a Section 75W modification application to the *Breakfast Point Concept Plan 2005 MOD 1* including:

- Redistribution of dwellings originally approved (under the Concept Plan) in Buildings 7D1 – 7D4 and 7D6 of the Seashores Precinct to Building 7D5 of the Seashores Precinct, Buildings 6F2, 5B1 and 5B2 of The Point Precinct and all buildings within the Woodlands North Precinct, whilst maintaining the approved dwelling cap of 2065 dwellings;
- Amendment to Buildings 7D1, 7D2, 7D3, 7D4 of the Seashores Precinct for use as Seniors Housing comprising 509 additional bedrooms (227 dwellings) and the retention and adaptive reuse of the former Plumbers' Workshop building for communal facilities;
- Variation to the dwelling mix of Buildings 5B1, 5B2 and 6F2 of the Point Precinct resulting in an additional 52 dwellings within the approved building envelope;
- Variation of dwelling numbers and mix allocated within Building 7D5 of the Seashores Precinct and Buildings 7B1, 7B2, 7B3 of the Woodlands North Precinct;
- Incorporation of changes to dwelling numbers already approved by previous s.75W modification applications;
- Amendments to the Concept Plan Modification 1 and 7 (Conditions 1 and 7) to delete the references to the FSR/dwelling cap applying to the entire Breakfast Point site.
- Inclusion of Exempt and Complying development;
- Provision of a framework to ensure all future applications are dealt with under Part 3A of the Act only if they meet the provisions of State Environmental Planning Policy (Major Development) 2008, or if the application involves the modification of a Minister's approval; and
- Provision of a S94 Contributions regime for Seniors Housing.

On 1 April 2014, the Minister for Planning granted approval for a Section 75W modification application to the *Breakfast Point Concept Plan 2005 MOD 4* including:

- Replacement of the approved Seniors Housing (227 dwellings equating to 509 beds) (not yet developed within 4 approved building envelopes equating to 400 residential dwellings);
- Retention of existing approved envelopes with external design changes including introduction of flat roof form for Buildings 7D2, 7D3 and 7D4 resulting in an additional storey to these buildings;
- Adaptive re-use of the Plumber's Workshop for residential apartments;
- Increase the dwelling cap from 1189 dwellings to 1589 dwellings; and
- Increase the number for car spaces within the Seashore Precinct from 304 to 510 car spaces

To date, Project Approval has been granted for 1189 dwellings pursuant to the overarching *Breakfast Point Concept Plan 2005* (refer to **Appendix A**). This application includes 100 additional dwellings, which if approved will result in a total 1,289 approved dwellings within the Concept Plan area identified in Figure 3.

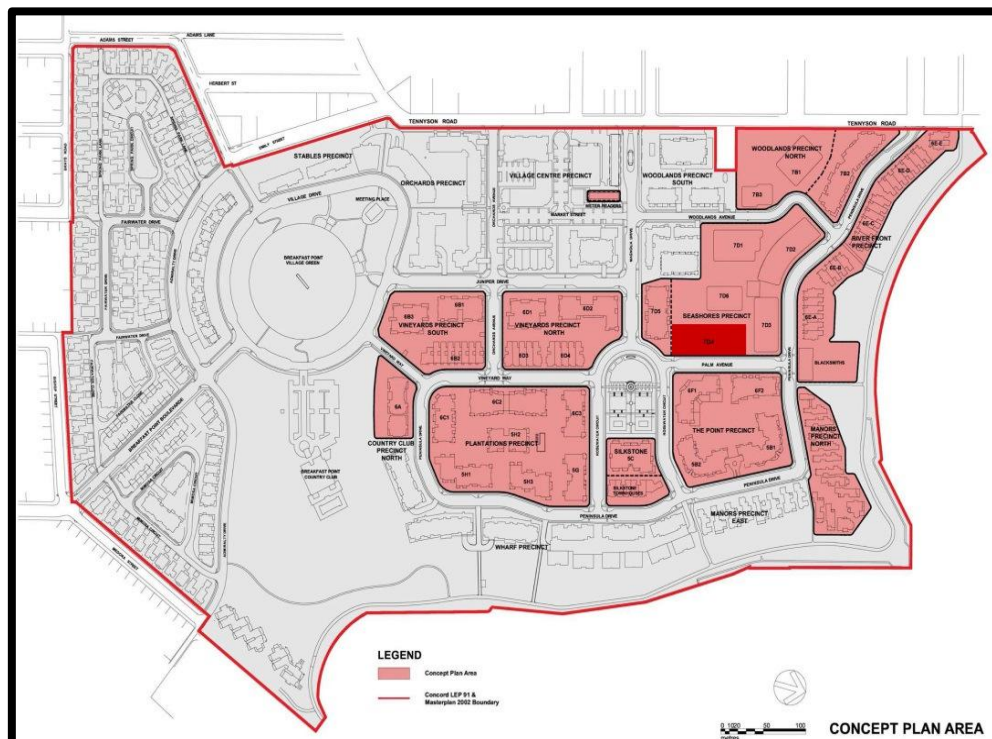


Figure 3 - Location of subject site (Building 7D4, shown in red) within the Breakfast Point Concept Plan 2005 area (shown in pink)

1.4. APPLICATION BACKGROUND

This application was lodged on the 23 April 2014 and, in accordance with Canada Bay Development Control Plan, was notified for a period of 14 days.

500 notification letters were issued to residents/stakeholders in the vicinity. Three submissions were received (further information below).

1.5. SUBMISSIONS RECIEVED

At the conclusion of the exhibition period on 4 March 2013, a total of three (3) submissions were received from the community. The issues raised during the exhibition period are summarised and discussed below. Copies of submissions are included at Appendix C.

- Proposed six storey height will impact on views

Comment: The Concept Plan (as modified 2014) permits a six storey building with a flat roof form in lieu of the five storey building height with a habitable attic within a pitched roof form as originally permitted for the subject site. The height to building envelope has not been modified and the proposed building height is consistent with the building envelope and foot print as envisaged in the Concept Plan. Therefore, any additional view loss associated with the proposed six storey building containing a flat roof form compared to that of a five storey building with an attic level within a pitched roof form is anticipated to be minimal.

- Site worker parking, heavy vehicle traffic in Palm Avenue, closure of Palm Avenue, hours of work, construction dust and dirt

Comment: RoseCorp has advised that the western side of the Seashore Precinct has been opened up for construction vehicle parking and that they have not received any complaints from their on-site facility manager regarding construction worker parking for some time. In addition, there is ample on-street visitor parking in Palm Avenue and surrounding streets. The heavy vehicle traffic in Palm Avenue associated with the construction is not anticipated to be any greater than on other roads within Breakfast Point during respective developments and at this time, there is no plan in existence to close off Palm Avenue. Hours of construction work will be as imposed by standard conditions of consent i.e. 7.00am to 5.00pm Monday to Friday and 8.00am to 5.00 pm on Saturdays with no work occurring on Sundays and Public Holidays and dust control will be in place during construction also as per standard condition of consent.

- Construction routes for DA68/2013 and DA65/2013 in Woodlands Precinct

Comment: The construction routes for the above approved Development Applications are not related to the subject DA. RoseCorp has submitted the Woodlands Precinct Construction Management Plan which has been forwarded

to the objector. The Construction Management Plan adequately addresses the requirements of the Concept Plan and the issues raised by the objectors.

1.6. PROPOSED DEVELOPMENT

The proponent is seeking approval for the construction of a 6 storey residential flat building comprising 100 apartments, 128 basement car parking spaces, 20 on-street visitor parking spaces, landscaping and Torrens subdivision into 2 lots and Strata subdivision of 100 lots.

The key components of the proposal are detailed below.

<i>Aspect</i>	<i>Description</i>
<i>Project Summary</i>	Project Application for a Residential Flat Building
<i>Site Area</i>	3450sqm
<i>Building Height</i>	6 storeys and split 2/3 levels of basement
<i>Gross Floor Areas</i>	Max. 0.67:1 – (183,480sqm) under Concept Plan 2005 (amended 2010)
	Total Gross Floor Area including subject site (9250sqm) 177,268smq
<i>Residential Apartment Size and Mix</i>	Total of 100 apartments comprising: 50 x 1 bedroom 44 x 2 bedroom 6 x 3 bedroom A total of 156 bedrooms
<i>Landscaping</i>	Associated landscaping
<i>Car Parking</i>	Provision of 128 car parking spaces over 2/3 levels for future residents and 20 off-site visitor parking spaces
<i>Strata Subdivision</i>	Strata Subdivision of 100 Lots
<i>Cost of Development</i>	\$ 32,736,000.00

2. ASSESSMENT UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

2.1. Environmental Planning Instruments [Section 79C (1) (a) (i & ii)]

2.1.1. *State Environmental Planning Policies*

The proposed development is subject to the following State Environmental Planning Policies.

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

According to clause 7 of SEPP No. 55 Council may not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out.

The Breakfast Point land has been remediated in a staged operation from 1998 to 2002, under an audited Remediation Action Plan. The Concept Plan identifies the site as an 'Unrestricted Residential Zone' which anticipates all forms of residential buildings, child care and school facilities, commercial and industrial buildings, parks, recreational facilities and open space. The proposal is a residential development consistent with these uses.

A Site Management Plan, prepared by URS 11th December 2002, provides management protocols to be applied to the AGL site in its entirety.

The proposal was considered by Council's Sustainability and Health Projects Coordinator who raised no issue in relation to contamination for the proposed development.

State Environmental Planning Policy No 65 - Design Quality of Residential Flat Buildings

SEPP 65 aims to improve the design quality of residential flat development in NSW through the application of a series of 10 design principles, which guide the consideration of a proposed residential flat building to ensure that it achieves an appropriate level of design quality.

Clause 30(2) of SEPP 65 requires residential flat development to be designed in accordance with the design quality principles in Part 2 of SEPP 65. In this regard a Design Verification Statement has been provided by Anthony Occhiuto stating that the proposed development was designed by Rose Architectural Design under his direction. Rose Architectural Design verifies that the design quality principles set out in Part 2 of SEPP 65 are achieved for this residential flat building. A detailed assessment is provided in the table below.

<i>Key Principles of SEPP 65</i>	<i>Response</i>
<i>Principle 1: Context</i>	SEPP 65 requires that development respond to the desired future character of its context as stated in planning and design policies. The proposal is consistent with the footprint and height requirements as approved and contained within the <i>Breakfast Point Concept Plan 2005</i> (as modified). The proposal is not expected to have any detrimental impacts on the amenity of existing, adjoining developments. The amenity of the future occupants is considered in Principle 7.
<i>Principle 2: Scale</i>	In terms of scale, the proposal is consistent with the 6 storey height limit as set down within the <i>Breakfast Point Concept Plan 2005</i> (as modified). The building is considered to be an appropriate height and scale for the locality and is compatible with development with and adjoining Breakfast Point. The proposed scale will complement existing development within Breakfast Point and future development of adjoining sites.
<i>Principle 3: Built Form</i>	<p>The proposed building is a stand-alone, slab type apartment building with an elongated footprint fronting Palm Avenue. The building is stepped down responding to the topography of the site which slopes from south to north. To further break up bulk, the building has been designed to comprise three sections with the central core being a five storey component flanked by six storey components on either side. Units will be accessed off two central corridors. Elevations have been suitably articulated with balconies, modulated elements and varying cladding, materials and finishes. The roof form is broken into proportions in keeping with the scale of neighbouring buildings.</p> <p>The building is designed to be consistent and compatible with the overall appearance and character of the Breakfast Point redevelopment.</p>
<i>Principle 4: Density</i>	<p>The proposal contributes towards the cumulative total of dwellings on the site. The dwellings are of an appropriate size and scale to facilitate a range of living arrangements. The proposed density complies with the approved <i>Breakfast Point Concept Plan 2005</i> (as modified).</p> <p>The proposed unit mix including 1, 2 and 3 bedrooms is appropriate to this area with most units containing study areas. The proposed design will provide for a variety of units sizes and a unit mix which will promote diversity, affordability and housing choice.</p> <p>The close proximity and connectivity of the site to public transport, services and community facilities is also noted.</p>
<i>Principle 5: Resource, Energy and</i>	A valid BASIX certificate has been submitted with the

<i>Water Efficiency</i>	application. It indicates that the proposal complies with the established water and energy efficiency targets and suitable waste storage areas have been provided within the basement level.
<i>Principle 6: Landscape</i>	The submitted landscape plan identifies generalised planting types (i.e. trees and shrubs) with a selection of specific species nominated for each planting type. The landscape plan provides a variety of planting around the perimeter of the site which includes screen planting around the ground floor courtyards. Canopy planting is provided within each of the street setbacks of the proposal which also softens the proposal and provides a green outlook from the apartments.
<i>Principle 7: Amenity</i>	<p>The design allows the minimum of 2 hours of solar access during mid-winter to the living area of 73% of units. 13% will receive 6 hours, 33% will receive 3.5 hours, 5% will receive 3 hours and 22% will receive 2 hours.</p> <p>The proposal provides cross ventilation to 64% of the dwellings.</p> <p>The building has been designed in such a way that no units have a single southerly aspect</p> <p>All units are of sizes consistent with the design code and have all been provided with private open space areas in the form of courtyards or balconies.</p> <p>All units are provided with storage areas within the units and/or within the car park.</p>
<i>Principle 8: Safety and Security</i>	The apartments and associated balconies within the complex will provide for good passive surveillance both within the development and along the street frontages.
<i>Principle 9: Social Dimensions and Housing Affordability</i>	The proposed unit mix including 1, 2 and 3 bedrooms is appropriate to this area. The proposed design will provide for a variety of units sizes and a unit mix which will promote diversity, affordability and housing choice all within proximity to public transport, employment opportunities and retail uses.
<i>Principle 10: Aesthetics</i>	The design of the building is articulated and includes a variety of materials and colours which blend with the overall character of Breakfast Point. The building will contribute towards a desirable streetscape character, complementing the character of surrounding development.

Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential flat development to be designed in accordance with the Department of Planning's publication entitled 'Residential Flat Design Code', which contains a number of 'Rules of Thumb' (standards).

Part 1 – Local Context	
Primary Development Controls	
<i>Building Height</i>	The building is compliant with the 6 storey height provision of the Concept Plan.
<i>Building Depth</i>	<p>The Code states the maximum building depth for apartment buildings should be 18m. If greater than this, it should be demonstrated that units still achieve adequate daylight and natural ventilation.</p> <p>The proposal provides a building depth from glazing to glazing of between 9.5m and 15.5m. In addition, as noted below, adequate solar access and cross ventilation has also been provided to units.</p>
<i>Building Separation</i>	<p>The building footprint and separations are broadly consistent with the built forms provided for by the Concept Plan. The building will be separated from the two 5 storey buildings (6F1 and 6F2) located east by approximately 25m and approximately 35m from the Plumbers Workshop building (7D6) located west. The setback to the 5 storey building to the south (7D5) ranges between 12m and 17m over a length of 14m.</p> <p>The RL to the uppermost floor to the proposed building and 7D5 is 26.70 and therefore, it is considered reasonable to assess the building separation as being between two five storey buildings. The interpolated building setback between two five storey buildings is 13.5m between habitable rooms. Balconies encroach into the required building setback though distance from window to window is 14m minimum. The building setback is consistent with other developments within Breakfast Point.</p> <p>The shadow diagrams indicate that shadowing will predominantly impact on the north-eastern corner to the adjacent building (7D5). It is considered that the minimum of 2 hours of sunlight to the north facing windows and the north facing private open space to the majority of affected apartments to building 7D5 is generally maintained.</p>
Part 2 – Site Design - Primary Development Controls	
<i>Deep Soil Zones</i>	A substantial deep soil landscaping zone is provided around the perimeter of the building.

<i>Fences & Walls</i>	Definition between public/private domain has been established through the use of planting and fencing. Fencing will be compatible with existing fencing throughout Breakfast Point.
<i>Landscape Design</i>	The scale of planting is varied and landscaping to the street setback softens the built form. Landscaping surrounding the ground floor courtyard areas provides a quality environment for the future occupants.
<i>Open Space</i>	<p>The Breakfast Point development provides communal open space which exceeds 25%.</p> <p>All ground floor apartments are serviced by courtyards and upper levels are provided with balconies.</p>
<i>Orientation</i>	The building is orientated to maximise solar access. No apartments have a single southerly aspect.
<i>Planting on structures</i>	Minimum of 200mm soil depth for turf/small shrub planting with 600mm-1000mm for larger shrubs and trees.
<i>Site Amenity</i>	
<i>Stormwater Management</i>	The system will connect into the existing Breakfast Point stormwater infrastructure network.
<i>Safety</i>	Passive surveillance provided by proposed courtyard and balconies. All entries are clearly defined and secured. Intercom will be provided to the building entry door. Paths and entry pints will be illuminated. Street boundary is reinforced through landscaping which delineates the public and private domain.
<i>Visual Privacy</i>	Adequate separation has been provided between the subject building and those upon adjacent sites. Recessed balconies and screens where required will provide occupants with visual privacy and panel fences and planting assist ground level screening to courtyards.
<i>Building Entry</i>	Readily identifiable and accessible entry is provided to the building from the street frontage and does allow clear orientation by visitors.
<i>Site Access</i>	
<i>Parking</i>	Resident and visitor parking provided is compliant with the provisions of the Concept Plan. Resident parking is accessed from Palm Avenue, with separate, on-street visitor

	<p>parking also provided.</p> <p>Proximity of the site to public transport services is also considered beneficial.</p>
<i>Pedestrian Access</i>	<p>Building access is available from the street frontage. A site through link, from the western boundary to the eastern boundary of the Seashore Precinct, has been provided in accordance to the Concept Plan.</p>
<i>Vehicle Access</i>	<p>The vehicular entry point provides adequate separation from pedestrian entries.</p> <p>Width of the driveway crossing measures less than 6m.</p>
<i>PART 03 - BUILDING DESIGN</i>	
<i>Building Configuration</i>	
<i>Apartment Layout</i>	<p>The majority of units have kitchens 8m from a window. All units have large areas of glazing receiving good solar access.</p> <p>A variety of unit sizes, compliant with the minimum stipulated within the code are provided.</p> <p>The design allows the minimum of 2 hours of solar access during mid-winter to the living area of 73% of units.</p> <p>13% will receive 6 hours, 33% will receive 3.5 hours, 5% will receive 3 hours and 22% will receive 2 hours.</p> <p>The proposal provides cross ventilation to the living areas of approximately 64% of the dwellings.</p> <p>A BASIX certificate has been issued for the proposed buildings confirming that the levels of thermal energy use and cross ventilation meet the relevant criteria.</p>
<i>Apartment Mix</i>	<p>The proposal incorporates 50% 1 bed, 44% 2 bed, 6% 3 bed apartments. Therefore, a satisfactory mix of one, two and three bedroom apartments has been provided within the proposal.</p>
<i>Balconies</i>	<p>Balconies have been provided to all units. The minimum depth to primary balconies is 2m and retains dimensions which are appropriate</p>

	and ensure their useability.
<i>Ceiling Height</i>	Minimum ceiling heights comply with the rules of thumb with minimum 2.7m provided to all habitable rooms and 2.4m ceiling heights in kitchens, bathrooms and hallways.
<i>Flexibility</i>	Considered to achieve the objectives in providing internal flexibility for use by occupants
<i>Ground Floor Apartments</i>	Ground floor apartments with courtyards are provided.
<i>Internal Circulation</i>	The apartments are located off two central cores. Level 1A contains 9 apartments per core and level 3A/2B contains 11 apartments, the other levels contain 8 or less apartments per core.
	The proposal meets the targets for access to sunlight and natural cross ventilation.
<i>Storage</i>	Sufficient storage areas have been allocated for each residential apartment, both within the apartment itself and parking level of the building.
<i>Building Amenity</i>	
<i>Acoustic Privacy</i>	The siting of the building is generally in accordance with the Concept Plan. The proposal will be conditioned to comply with the BCA. The proposal is not located in close proximity to any noise generating activities.
<i>Daylight Access</i>	<p>The design allows the minimum of 2 hours of solar access during mid-winter to the living area of 73% of units.</p> <p>13% will receive 6 hours, 33% will receive 3.5 hours, 5% will receive 3 hours and 22% will receive 2 hours.</p>
<i>Natural Ventilation</i>	<p>The proposal provides cross ventilation to the living areas of approximately 64% of the dwellings.</p> <p>No kitchens are required to have mechanical ventilation under the Building Code of Australia.</p>
<i>Building Form</i>	
<i>Facades</i>	Building facade generally considered acceptable with effective articulation provided.

<i>Roof design</i>	The roof form is broken in proportions to respond to the scale of the neighbouring buildings. A low 5 degree pitched roof form has been used to accommodate the sixth storey as permissible under the Breakfast Point Concept Plan (as amended).
<i>Building Performance</i>	
<i>Energy Efficiency</i>	A BASIX certificate was submitted in respect of the application demonstrating target passes.
<i>Waste Management</i>	A waste management plan was submitted with appropriate storage and recycling areas provided within the basement level of the development.
<i>Water conservation</i>	Stormwater plans have been submitted.

State Environmental Planning Policy - Building Sustainability Index (2004)

To encourage sustainable residential development, all new dwellings must comply with the provisions of State Environmental Planning Policy – Building Sustainability Index (BASIX).

The proposed development has achieved full compliance with the BASIX commitments as they have reached targets of 40 for water and 20 for energy. The schedule of BASIX Commitments is specified within the BASIX Certificate No.538290M and is included in the recommended conditions of consent.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site falls within the map area shown edged heavy black on the Sydney Harbour Catchment Map and hence is affected by the provisions of SREP (Sydney Harbour Catchment) 2005. The SREP aims to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained. The SREP also provides a set of guiding principles to be taken into consideration in the preparation of environmental planning instruments and / or master plans.

Provisions of the SREP were generally considered in the development of the Concept Plan. The proposal is separated from the Parramatta River by the River Front Precinct which contains attached and detached dwellings and Peninsula Drive with a separation between the built form and foreshore of approximately 130m. In so far as the proposal is not inconsistent with stipulated building envelope provisions and overall design of Breakfast Point it is generally considered acceptable.

2.1.2 Local Environmental Planning Instruments

The proposed development, defined as residential flat building is permissible with the consent of Council, within a General Residential R1 zone under Canada Bay Local Environmental Plan 2013. Following is a summary table indicating the performance of the proposal against relevant statutory standards.

<i>Provision</i>	<i>Provided</i>	<i>Compliance</i>
Zoning – R1 (General Residential)	Permissible	Yes
Floor Space Ratio – 0.7:1 (Breakfast Point)	Cumulative compliance table in Appendix B	Yes
Acid Sulfate Soils - Class 5	Geotech Report prepared by Jeffery & Katauskas	N/A

As demonstrated in the table above, the proposed development achieves full compliance with the relevant statutory standards.

2.2. Draft Environmental Planning Instruments [Section 79C (1) (a) (i & ii)]

There are no Draft Planning Instruments that apply to the site.

2.3. Development Control Plans, Council Policies or Codes [Section 79C(1)(a)(iii)]

The proposed development is affected by the provisions of the Breakfast Point Concept Plan (As Amended) and Breakfast Point Landscape Master Plan. Following is a summary table indicating the performance of the proposal against relevant statutory standards.

<i>Provision</i>	<i>Control</i>	<i>Provided</i>	<i>Compliance</i>
2.00 Floor space ratio	Max. 0.67:1 (for entire Breakfast Point Area)	9250sqm proposed	A cumulative compliance schedule demonstrating consistency with the Concept Plan is attached at Appendix B
2.00 Dwellings	Max. 1589 (Breakfast Point Concept Area)	100 Units Proposed	
2.00 Bedrooms	Max. 2909 (Breakfast Point Concept Area)	156 Bedrooms Proposed	
5.11 Resident parking	Min. 1 Bed – 1 2 Bed – 1.5 3 or more Bed – 2 <i>Required – 128</i>	128 Proposed	Yes
5.11 Visitor parking	Min. 1/5 dwellings, on street within 100m <i>Required – 20</i>	20 Proposed	Yes
5.14 Through site link	Located through the central core to the building	Link provided on plans.	Yes

5.15 Bicycle parking	In accordance with Guide to Traffic Engineering Practice” (Ausroads) Part 14	33 resident and 8 visitor bicycle spaces provided in basement	Yes
7.00 Landscaping	In accordance with Landscape Master Plan	Letter of Consistency from Landscape Architect provided	Yes
10.00 Building footprint	Set by Concept Plan	Generally in accordance	Yes
10.05 Building Height	Max. 6 storeys	6 storeys	Yes
10.15 Adaptable housing	Min. 5% of total dwellings	Not proposed as part of this development. SEE states that requirements will be provided elsewhere within Breakfast Point	
12.00 Remediation	Unrestricted Residential Zone	Residential	Yes
16A Seashore Precinct	Provide a Travel Access Guide (TAG)/Green Travel Plan	Provided	Yes

As indicated in the compliance table above, the proposed development has achieved full compliance with the non-statutory controls applicable to the site and is considered acceptable in this regard.

2.4. Likely Impacts of the Development [Section 79C (b)]

The likely impacts of the proposed development are discussed as follows:

Solar Access

The Design Code requires 70% of apartments to a new development to receive 3 hours solar access between 9am and 3pm or 2 hours in dense urban areas to living areas and private open space. The area of Breakfast Point is considered a dense urban area.

The design of the building allows the minimum of 2 hours of solar access during mid-winter to the living area of 73% of units.

In terms of overshadowing to adjoining buildings, the following is noted:

9am

Shadows cast at 9am on June 21 will fall on the 5 storey building to the south (7D5) impacting on the north facing elevation only leaving the most north-eastern corner unaffected. The shadow will also fall on a small area of the existing Plumber’s Workshop located to the west.

12noon

The midday shadow will fall on approximately 40% of the north facing elevation to building 7D5. No other buildings will be impacted on.

3pm

The afternoon shadow will affect the north-eastern corner to building 7D5 and the road reserve of Palm Avenue.

As per the above, the proposal will generate overshadowing to the southern adjacent building though it is considered that the minimum of 2 hours of sunlight to north facing windows and north facing private open space to the majority of affected apartments is generally maintained.

Streetscape, Bulk and Scale

The proposal is satisfactory with regard to the built form, including street presentation and building envelope. It is considered that the overall design, including colours and materials are consistent with those within Breakfast Point.

View Corridors/View Sharing

Council received one submission raising concerns with potential view loss as a result of the sixth storey.

Part 4.00 of the *Breakfast Point Concept Plan 2005* contains the following objectives:-

- *To ensure the creation, retention and enhancement of significant vistas to and from the site, and to and from the Parramatta River.*
- *To maximise views, access and connection to the waterfront.*
- *To ensure that the views of the site from the street and the harbour should form a harmonious vista this includes vegetation in harmony with the buildings and view corridors to and from the water.*

The Breakfast Point Concept Plan originally approved a five storey building envelope with a habitable attic within a pitched roof form for the subject site.

The Concept Plan (as modified 2014) now permits a sixth storey building with a flat roof form in lieu of the attic space set within the pitched roof form. There is no increase in the overall building envelope with the maximum height to the amended building envelope matching that of the original.

The proposed built form is contained within the building envelope set by the Concept Plan (as modified 2014) (6 storeys with an essentially flat roof form (5 degree pitch)) and is largely comparable with the building footprint described in the Concept Plan. As a consequence it can be concluded that the proposal meets the aforementioned aims and objectives of the Concept Plan 2005. Hence, any additional view loss to that originally considered is anticipated to be minimal.

Traffic generation and parking

The overall dwelling numbers and intensity are consistent with those of the Concept Plan (as modified 2014) and the traffic report which supported it. The local road network within Breakfast Point is fully established. The proposal provides compliant resident and visitor parking.

Noise Impact

Generally, the proposed development is not likely to result in any unreasonable on-going noise impacts on surrounding properties following construction.

Intensity of Use

The proposal is considered acceptable with regard to the proposed intensity of use.

Social/Economic

The proposal is not expected to have any significant social or environmental implications.

Landscaping

A landscape verification statement provided by Context Landscape Architects has been submitted. The proposal will provide adequate landscaping including deep soil zones on the site. Residents will also have access to the communal facilities located within the suburb of Breakfast Point.

3. INTERNAL REFERRALS

3.1. Contamination

The proposal was considered by Council's Contamination Officer who raised no issues with the proposal subject to all conditions within the EPA approved Site Management Plan are observed and implemented onsite.

3.2. Waste Management

The proposal was considered by Council's Waste Coordinator and no issues were raised subject to conditions. These are included in the list of recommended conditions below.

4. CONCLUSION

Council has assessed the submitted plans and documentation and considered agency submissions in response to the proposal. Council is satisfied that the impacts of the proposed development have been adequately addressed within the submitted application and recommended conditions of approval.

The proposed development will allow for 100 dwellings, 128 basement car parking spaces, 20 off-street parking spaces and landscaping on land identified as Lot 91 of DP 270347, 19-21 Tennyson Road, Breakfast Point (Building 7D4 – Seashore Precinct). Furthermore, the Development Application has provided an appropriate level of compliance with applicable Environmental Planning Instruments. The proposal is recommended for approval subject to conditions of approval.

RECOMMENDATION

Pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 (as amended)

THAT the Joint Regional Planning Panel Sydney East Region, as the determining authority, grant consent to Development Application No. 150/2014 for the construction of a 6 storey residential flat building providing 100 residential units, 128 car parking spaces, strata subdivision and landscaping on land at 19-21 Tennyson Road, Breakfast Point (Lot 91 of DP 270347), known as Building 7D4 – Seashore Precinct, subject to the following site specific conditions. In granting consent the Joint Regional Planning Panel - East has regard to the merit considerations carried out in the assessment report and pursuant to s.79C of the Environmental Planning and Assessment Act. On consideration of merits of the case the Joint Regional Planning Panel - East acknowledges areas of non-compliance arising from the application but notes that it supports the application based on the particular circumstances of the case and does not consider that the consent gives rise to a precedent.

General Conditions

1. GCP1 Approved Plans and Supporting Documents

The development shall be carried out substantially in accordance with the approved stamped and signed plans and/or documentation listed below **except where modified by any following condition**. Where the plans relate to alteration or additions only those works shown in colour or highlighted are approved.

<i>Reference/Dwg No</i>	<i>Title/Description</i>	<i>Prepared By</i>	<i>Date/s</i>
DA.00, Rev. A	Cover sheet & Drawing Register	Rose Architectural Design	
DA.01, Rev A	Site Analysis & Location Plan	Rose Architectural Design	Jan 2014
DA.02, Rev. A	Basement Level 2A Plan	Rose Architectural Design	Jan 2014
DA.03, Rev A	Basement Level 2B & 1A Plan	Rose Architectural Design	Jan 2014
DA.04, Rev A	Site/Basement Level 1B/Level 1A Plan	Rose Architectural Design	Jan 2014
DA.05, Rev A	Levels 1B / 2A Plan	Rose Architectural Design	Jan 2014
DA.06, Rev A	Levels 2B/3A & 3B/4A Plan	Rose Architectural Design	Jan 2014
DA.07, Rev A	Levels 4B/5A & 5B/6A Plan	Rose Architectural Design	Jan 2014
DA.08, Rev A	Levels 6B & Roof Plan	Rose Architectural Design	Jan 2014
DA.09, Rev A	Elevations	Rose Architectural Design	Jan 2014

DA.10, Rev A	Sections	Rose Architectural Design	Jan 2014
DA.11, Rev A	Streetscape Elevations & Sections	Rose Architectural Design	Jan 2014
DA.12, Rev A	Shadow Diagrams 21 June at 9am, 12pm & 3pm	Rose Architectural Design	March 2014
DA.13, Rev A	Shadow Diagrams 21 March/September at 9am, 12pm & 3pm	Rose Architectural Design	March 2014
DA.14, Rev A	Visitor Parking Plan	Rose Architectural Design	Jan 2014
	Landscape Concept Plan	Context	22 April 2014
	Street Numbering Schedule	Rose Architectural Design	As Stamped
	Draft Plan of proposed subdivision of Lot 91 in DP 270347	Tasy Moraitis	17 April 2014
538290M	BASIX Certificate	Rose Management Services	17 April 2014
	External Materials, Finishes & Colours	Rose Architectural Design	As Stamped

Note 1: *Modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act.*

Note 2: *A warning to all Accredited Certifiers. You should always insist on sighting the original Council stamped approved plans/documentation and not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with original copies, Council will provide you with access to its files so you that may review our original copies of approved documentation.*

Note 3: *The approved plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the Act modifying or amending the development (refer to conditions of consent which must be satisfied prior to the issue of any Construction Certificate).*

(Reason: To confirm and clarify the terms of consent)

2. **GCG1 Australia Post Guidelines**

Mail deliveries are to be in accordance with Australia Post Guidelines, as set out in the Australia Post publication "General Post Guide - September 2007". A copy of this Guide can be obtained from Australia Post's web page at www.auspost.com.au. A copy of the brochure may be obtained from Australia

Post. In general, a clearly marked mailbox (or group of mailboxes) shall be provided within 500mm of the footpath alignment.

(Reason: To ensure compliance with mail delivery regulations)

3. **GCG2 Compliance with Disability Discrimination Act**

This approval does not necessarily protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the *Disability Discrimination Act 1992*, and the applicant/owner is therefore advised to investigate their liability under this Act. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

(Reason: To inform of relevant access requirements for persons with a disability)

4. **GCG6 Height**

The maximum height of the proposed development shall be A.H.D. 31.600, and measured at the topmost ridge.

(Reason: Compliance)

5. **GCG10 Site Management**

The following procedures apply:

- (a) Implement the site management plan and measures, and provide for erosion and sediment control according to the SSROC "Do It Right On Site" publication;
- (b) Prevent sediment and/or building materials being carried or washed onto the footway, gutter, road, or into Council's stormwater drainage system;
- (c) Ensure soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways;
- (d) Ensure safe access to and from the site including the road reserve and footpath area, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like;
- (e) Ensure safe loading and unloading of excavation machines, building materials, formwork and the erection of the structures within the site;
- (f) Ensure storage on site of all excavated material, construction materials and waste containers during the construction period (except where otherwise approved); and
- (g) Ensure support of any excavation beside any adjoining property or the road reserve is designed by a Chartered Civil Engineer.

(Reason: Environmental protection)

6. **GCG11 Street Numbering of Lots and Units**

All units and/or new allotments shall be numbered in accordance with the approved Street Numbering Plan identified in condition 1. Numbering of units/properties shall be conspicuously displayed at the front of the property and shall be maintained in accordance with Council's Street Numbering Policy.

Should the property be strata subdivided, the approved numbering system shall be included in the final plans of strata subdivision.

(Reason: Identification of Property for Emergency Services and Mail Deliveries)

7. **GCH 5 Waste Management**

Requirements of the approved Waste Management Plan shall be complied with during site preparation and throughout demolition and construction. Waste management and its storage must not pose a threat to public health or the environment.

(Reason: Compliance with approval)

Conditions which must be satisfied prior to the issue of a Construction Certificate

8. **CCD1 Access for People with Disabilities**

Access for people with disabilities must be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*. **Prior to the issue of a Construction Certificate**, the plans shall demonstrate compliance. **Note: Disability (Access to Premises - Buildings) Standards 2010** - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.

(Reason: To inform of relevant access requirements for persons with a disability)

9. **CCC3 Long Service Levy Payments**

The payment of a long service levy as required under part 5 of the *Building and Construction Industry Long Service Payments Act 1986*, in respect to this building work, and in this regard, proof that the levy has been paid, is to be submitted to Council **prior to the issue of a Construction Certificate**. Council acts as an agent for the Long Services Payment Corporation and the levy may be paid at Council's Office.

(Reason: Statutory requirement)

10. **CCC4 Section 94 Contributions**

The following Section 94 Development Contributions are required towards the provision of public amenities and services in accordance with the City of Canada Bay s94 Development Contributions Plan.

Based on the following rates, as at September 2013 (CPI 104.3)

Infrastructure Type	Studio/One bedroom dwelling	Two bedroom dwelling	Three + bedroom dwelling	Additional Lot
Community Facilities	\$1056.65	\$1504.26	\$2,179.60	\$2,179.60
Civil Infrastructure	\$1025.89	\$1460.47	\$2,116.92	\$2,116.92
Plan Preparation and Administration	\$116.05	\$165.20	\$239.20	\$239.20
Open Space and Recreation	\$7498.22	\$10674.55	\$15,464.28	\$15,464.28
TOTAL	\$9696.81	\$13804.48	\$20,000	\$20,000

Based on the following number of Dwellings and Bedrooms:

No. of Dwellings	50 of Studio & One beds	44 of Two beds	6 of Three or more beds	0 of Additional lots
	\$484,840.50	\$607,397.12	\$120,000.00	-
TOTAL				\$1,212,236.62

Any change in the Consumer Price Index between September 2013 (CPI 104.3) and the date that the Section 94 Development Contribution is paid, will be added/subtracted from the amount cited above.

Contributions must be receipted by Council and submitted to the Accredited Certifier **prior to the issue of any Construction Certificate.**

Please present a copy of this condition when paying the contribution at the Customer Service Centre so that it can be recalculated.

A copy of the City of Canada Bay Section 94 Development Contributions Plan may be obtained from Council's website.

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new developments)

11. **Density GFA Certification**

A Registered Surveyor is to certify that the Gross Floor Area (GFA) of the building does not exceed 9250sqm in accordance with the definition of GFA in the Canada Bay LEP 2013. Details shall be provided to the Certifying Authority demonstrating compliance with this condition prior to the issue of a Construction Certificate for above ground works.

(Reason: Compliance)

12. **CCG2 Construction Management Plan**

Prior to the issue of a Construction Certificate, submit to the Accredited Certifier a Construction Management Plan that clearly sets out the following:

- (a) What actions and works that are proposed to ensure safe access to and from the site, and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like.
- (b) The proposed method of loading and unloading excavation machines, building materials, formwork, and the erection of any part of the structure within the site.
- (c) The proposed areas within the site to be used for a builder's site office and amenities, the storage of excavated material, construction materials and waste containers during the construction period.
- (d) How it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
- (e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve - the proposed method of support is to be designed by a Chartered Civil Engineer.
- (f) A Soil and Water Management Plan detailing all sedimentation controls.

(Reason: Safety, amenity and protection of public infrastructure and the environment)

13. **CCG4 Obtaining a Construction Certificate for Building Work**

This Development Consent does not constitute approval to carry out construction work. Construction work may only commence **upon the issue of a Construction Certificate, appointment of a Principal Certifying Authority (PCA), and lodgement of Notice of Commencement**.

Please note that if demolition works forms part of the extent of works approved in the same application, then demolition must not commence **prior to the issue of a Construction Certificate**.

(Reason: Information)

14. **CCL2 Landscape Maintenance Strategy**

To ensure the survival of landscaping following works, a landscape maintenance strategy for the owner/occupier to administer over a 12 month establishment period following the issue of the Occupation Certificate shall be prepared and provided to the satisfaction of the Accredited Certifier **with the Construction Certificate application**. The strategy is to address maintenance issues such as, but not limited to plant survival, irrigation, soil testing, weeding, staking, fertilizing, remedial pruning and plant replacement.

(Reason: Ensure landscape survival)

15. **CCL4 On Slab Landscaping**

To ensure the site landscaping thrives the on slab landscaping shown on the approved landscaping plan is to be designed to include a minimum soil depth of 650mm for shrubs and trees and 300mm for grass and ground covers, adequate drainage and a permanent, automatic irrigation system conforming to Sydney Water's current *Waterwise* Policy. Details shall be submitted **with the Construction Certificate application**.

(Reason: Ensure landscape survival)

16. **CCV6 Maintaining Sight Lines (multi- unit development)**

All new walls adjacent to vehicular crossings must be lowered to a height of 600mm above the internal driveway level for a distance of 1.50m within the site or splayed 1.5 metre by 1.5 metre to provide satisfactory sight lines. Details are to be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** showing compliance with this condition.

(Reason: Safety)

17. **CCV8 Off Street Car Parking Space Provision**

Car parking spaces shall be provided in accordance with the approved plans for the parking of resident and visitor vehicles on the site. In this regard, no less than 148 spaces are required and designated as follows:

<i>Car Parking Allocation</i>	<i>Number</i>
Standard Residential Car Parking Spaces	128
Visitor Parking (on-street)	20
Total Spaces Agreed by this Consent	148

- Each space shall have minimum dimensions in accordance with the relevant Australian Standard.

Details are to be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** showing compliance with this condition.

(Reason: Parking and access)

18. CCV10 Speed Hump and Stop Sign on Exit

The applicant shall install a stop sign and a speed hump at the exit from the site. The stop sign must be accompanied by the associated line marking and the speed hump shall be set back by 1.5 metres from the boundary alignment. The devices shall be designed and constructed in accordance with the provision of all relevant Australian Standards. The building plans shall indicate compliance with this requirement **prior to the issue of a construction certificate.**

(Reason: Traffic safety and management)

19. CCV12 Stop Signs

Appropriate sign(s) shall be provided and maintained within the site at the point(s) of vehicular egress to compel all vehicles to stop before proceeding onto any public way.

(Reason: Adequate access and egress)

20. CCV13 Vehicular Access Ramps

Vehicular access ramps shall comply with the provisions of AS/NZS 2890.1:2004. Plans to be submitted shall contain the following details:

- (i) Longitudinal section along the extreme wheel paths of each driveway/access ramp at a scale of 1:25 demonstrating compliance with the scraping provisions of AS/NZS 2890.1:2004. It shall include all levels and grades, including those levels stipulated as boundary levels, both existing and proposed. It shall extend from the centre-line of the roadway through to the parking area.
- (ii) Sections showing the clearance to the underside of any overhead structure (minimum headroom requirements 2200mm minimum for standard headroom clearance or 2400mm where disabled access provisions are to be provided) demonstrating compliance with the provisions of AS/NZS 2890.1:2004.
- (iii) Longitudinal section along the gutter line showing how it is intended to transition the vehicular crossing into the existing kerb and gutter. Boundary levels shall generally run parallel with the kerb levels.
- (iv) Location of verge trees, street furniture and service installations.
- (v) Superimposition of vehicle turning circles for access into parking spaces.
- (vi) Certification that the design complies with AS/NZS 2890.1:2004 by a Qualified Engineer.

The certification referred to in (vi) above shall be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate (for the design) and to the Principal Certifying Authority prior to the issue of any Occupation Certificate for the 'as-built works'**.

(Reason: To ensure adequate vehicular access can be achieved)

21. CCV14 Vehicular Circulation, Aisles & Ramps

The aisle widths, internal circulation, ramp widths and grades of the car park shall comply with the Roads and Traffic Authority Guidelines and ASNZS 2890.1:2004 – Off-Street Car Parking Code.

(Reason: Parking and access)

22. CCA3 Protection of Public Places

The adjoining or adjacent public area is not to be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances unless approved in writing by Council.

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected **prior to the commencement of any work** subject to approval of a Traffic Management Plan.

An application to occupy public space is to be submitted to Council for approval prior to commencement of works.

Where a hoarding is required, an application for hoarding is also to be submitted to and approved by Council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of WorkCover, the Principal Certifying Authority and with relevant Australian Standards.

(Reason: Safety)

23. CCR1 Application for a Construction Certificate

The applicant must apply to Council or an Accredited Certifier for a Construction Certificate to carry out the relevant building works that are approved by this consent. The details to be included in the application for a Construction Certificate are:

- (a) Architectural plans and specifications complying with the Building Code of Australia (BCA), relevant Australian Standards, and the development consent and conditions.
- (b) If Council issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be prepared by a practising consulting structural engineer. Also a

certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements.

Note: The engineer/s undertaking certification must be listed on the National Professional Engineers Register under the appropriate category.

- (c) Geotechnical report for the site, prepared by a qualified geotechnical engineer detailing the foundation conditions of the site and solutions for consideration by a structural Engineer.
- (d) Essential services plan outlining the existing and proposed fire safety measures.
- (e) Disabled access provisions to common and public areas in accordance with AS1428.
- (f) If an alternative solution to the “deemed to satisfy” provisions of BCA is proposed, the following details must be lodged:
 - Performance requirements that the alternative solution intends to meet.
 - Assessment methods used to determine compliance with the performance requirements, including if and how each performance objective impacts on other requirements of the BCA; and
 - A statement about the person who prepared the alternate solution, indicating qualifications, experience, insurance details, and membership of an approved accreditation body

Note: The performance-based application may be required to be reviewed by a suitably qualified independent body at the applicant's expense. Any fees relating to any review are required to be paid **prior to the issue of the Construction Certificate**.

(Reason: Statutory requirement)

24. **CCR2 BASIX Commitments**

BASIX Certificate No538290M shall be submitted to the Accredited Certifier with the application for a Construction Certificate.

Where a change or changes are proposed in the BASIX commitments, the applicant must submit a new BASIX Certificate to the Accredited Certifier and Council. If any proposed change in the BASIX commitments is inconsistent with the development consent the applicant will be required to submit a modification to the development consent to Council under Section 96 of the Environmental Planning and Assessment Act 1979.

All commitments in the BASIX Certificate must be shown on the plans accompanying the Construction Certificate **prior to the issue of any Construction Certificate.**

(Reason: Statutory Compliance)

25. **CCR4 Energy Australia Requirements**

The approved development must comply with the requirements of Energy Australia. **Prior to the issue of a Construction Certificate**, the applicant shall demonstrate to the Accredited Certifier that any such requirements have been complied with.

(Reason: Statutory requirement)

26. **CCM1 Detailed Stormwater Drainage System Design**

Prior to the issue of the Construction Certificate a detailed stormwater drainage plan for the disposal of stormwater from the site, prepared in accordance with Council's "Specification for the Management of Stormwater" shall be submitted and approved by the Accredited Certifier.

Should any changes be required to the approved stormwater drainage plan, the amended design shall achieve equivalent performance standards in accordance with Council's "Specification for the Management of Stormwater".

Important Note: Construction Certificate Approval does not include approval for works external to the property. Where the proposed design extends beyond the property boundary, separate approval under Section 138 of the Roads Act 1993, must be obtained from Council prior to the commencement of works.

The applicant is advised to contact Council for clarification of proposed works for which approval under Section 138 applies.

(Reason: Stormwater management)

27. **CCM2 Certification of the Stormwater Drainage System Design**

The proposed stormwater design shall be certified by a suitably qualified person, in accordance with Council's "Specification for the Management of Stormwater", **prior to the issue of the Construction Certificate.**

(Reason: Adequate stormwater management)

28. **CCM3 Construction or Re-direction of a Stormwater Pipeline**

No line of natural drainage nor any drainage channel, pipeline or other work shall be filled in, diverted or otherwise interfered with, except by the construction of a pipeline of a specific size, material and location approved by Council. Engineering Plans in accordance with Council's "Specification for the Management of Stormwater" **shall be submitted prior to the issue of a Construction Certificate.**

(Reason: Protection of existing drainage infrastructure)

29. **CCM4 Erosion and sedimentation controls**

Erosion and sedimentation controls must be provided to ensure:

- (a) compliance with the approved Soil and Water Management Plan
- (b) removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) all uncontaminated run-off is diverted around cleared or disturbed areas
- (d) silt fences or other devices are installed to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways
- (e) all erosion and sediment controls are fully maintained for the duration of demolition/ development works
- (f) controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadways
- (g) all disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) all water pumped or otherwise removed from excavations or basement areas is filtered to achieve suspended solids/non filterable residue levels complying with the *Australian Water Quality guidelines for Fresh and Marine Waters*
- (i) pumped or overland flows of water are discharged so as not to cause, permit or allow erosion before the commencement of work (and until issue of the occupation certificate).

Details of the proposed soil erosion and sedimentation controls to be implemented on site must be submitted **with the Construction Certificate Application**. Under no circumstances may any works commence prior to these details being approved by the Accredited Certifier and the controls being in place on the site

(Reason: Environmental protection)

30. **CCM6 Rainwater Re-use**

A rainwater re-use system shall be provided in accordance with either the BASIX minimum requirements, any relevant Council Rainwater Policy and/or “Specification of the Management of Stormwater”, whichever is applicable. A detailed stormwater plan showing the proposed re-use system shall be submitted and approved by Council or an Accredited Certifier **prior to the issue of the Construction Certificate**.

(Reason: Compliance and Amenity)

31. **CCM7 Silt Arrestors and Gross Pollutant Traps**

Silt and gross pollutant traps shall be fitted in all new stormwater pits, designed in accordance with Council’s “Specification for the Management of Stormwater” and to the satisfaction of Council or an Accredited Certifier. Details are to be submitted with the design **prior to the issue of the Construction Certificate**.

(Reason: Environmental)

32. **CCS2 Geo-technical Report**

A comprehensive geo-technical engineering report assessing the impact and safety of the proposed works shall be prepared by a suitably experienced and qualified geo-practitioner and **submitted with any Construction Certificate**. The report must include the results of subsurface investigations involving either test pits to rock, or preferably the drilling of cored boreholes (to 1m below the proposed final excavation level). The report shall describe inter alia:-

- (a) an indication of the nature and depth of any uncontrolled fill at the site;
- (b) an indication of the nature and condition of the material to be excavated;
- (c) indications of groundwater or seepages;
- (d) required temporary measures for support of any excavations deeper than 1m adjacent to property boundaries;
- (e) statement of required excavation methods in rock and measures required to restrict ground vibrations;
- (f) other geo-technical information or issues considered relevant to design and construction monitoring.

(Reason: Structural safety)

33. **CCS4 Support and Protection for Neighbouring Buildings**

- a. If an excavation associated with the approved development extends below the level of the base of the footings of a building on an adjoining allotment of land, the person having the benefit of the development consent must, at the person's own expense, comply with the requirements of clause 98E of the Environmental Planning and Assessment Regulation 2000, including:
 - (1) (a) protect and support the adjoining premises from possible damage from the excavation, and
(b) where necessary, underpin the adjoining premises to prevent any such damage.
 - (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Details shall be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate**.

(Reason: Structural safety)

34. **Reflectivity**

The visible light reflectivity from building materials used on the facades of the buildings shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground works.

(Reason: Amenity)

35. **CCU2 Electricity Substation**

Any required electricity substation must be located within the boundaries of the site.

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Accredited Certifier **prior to the issue of a Construction Certificate** detailing the energy authority's requirements.

Note: Where an electricity substation is required but no provision has been made to place it within the approved building or its site and no details are provided on the approved development consent plans, a section 96 application is required to be submitted to Council for approval of an appropriate location for the required electricity substation.

(Reason: Access to utility)

Conditions which must be satisfied prior to the commencement of any development work

36. **PDR1 Appointment of Principal Certifying Authority**

No work shall commence in connection with this Development Consent until:

- (a) a construction certificate for the building work has been issued by:
 - (i) the consent authority; or
 - (ii) an accredited certifier; and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (b1) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the Council of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

(b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:

- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
- (ii) notified the principal certifying authority of such appointment, and
- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

(c) the person having the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

Note: If the principal certifying authority is the Council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of the appropriate certificates.

Under the Environment Planning and Assessment (Quality of Construction) Act, 2003, a sign must be erected in a prominent position on the work site showing the name, address and telephone number of the principal certifying authority; the name of the principal contractor (if any) for the building work and a telephone number at which that person may be contacted outside working hours. That sign must also state that unauthorised entry is prohibited. The sign must not be removed until all work has been completed.

(Reason: Statutory requirements)

37. PDR2 Construction Certificate

No work shall commence until you:

- (a) Obtain a Construction Certificate from either the City of Canada Bay Council or an Accredited Certifier - a fee applies for this service; and
- (b) Lodge with the City of Canada Bay Council any Construction Certificate obtained from an Accredited Certifier (together with associated plans and documents) - a fee applies for this service

(Reason: Statutory Requirement)

38. PDR5 Notice of commencement

No work shall commence until you submit a notice of commencement (form will be attached with issue of a Construction Certificate or available from our website) giving Council:

- (a) Not less than two (2) days notice of the date on which it is proposed to commence work associated with this Development Consent;

- (b) Details of the appointment of a Principal Certifying Authority (either Canada Bay Council or another Accredited Certifier)
- (c) Details of the name, address and licence details of the Builder.

(Reason: Statutory Requirement)

39. **PDR6 Site Safety Fencing**

Erect site fencing to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site throughout the construction works. The fencing **must be erected before the commencement of any work and maintained.**

The site shall be secured in accordance with Clause 146 of the Environmental Planning and Assessment Regulation 2000. The site shall be maintained in a clean and orderly condition during demolition and construction works.

Hoardings

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained including:

- payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- provision of a Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

(Reasons: Statutory Requirement and health and safety)

40. **PDR7 Principal Certifying Authority (PCA) Sign**

Prior to commencement of any work, signage must be erected in a prominent position on the work site identifying:

- The Principal Certifying Authority (PCA) by showing the name, address and telephone number of the PCA;
- The Principal Contractor by showing the Principal Contractor's name, address and telephone number (outside of work hours) for that person.
- The sign must state that unauthorised entry to the work site is prohibited.

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

This clause does not apply to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

(Reason: Statutory Requirement)

41. **PDR9 Toilet Amenities on Construction Site**

Prior to commencement of any building works, toilet facilities for employees must be provided in accordance with WorkCover NSW requirements.

Where female workers are present on site, appropriate measures for sanitary item disposal should be made, such as a disposal unit provided in the portable toilet or sewer connected toilet closet.

(Reason: Statutory Requirement - Health and amenity)

42. **PDM1 Erosion & Sediment Control: Minor works – Prior to construction**

Erosion and sedimentation controls shall be in place **prior to the commencement of site works**; and maintained throughout construction activities until the site is landscaped and/or suitably revegetated. The controls shall be in accordance with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater – Soils and Construction produced by Landcom (Blue Book).

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and made available to Council officers on request.

Erosion and sediment control measures as detailed in the submitted Erosion and Sediment Control Plan must be installed and operating **prior to and during all construction works**.

(Reason: Environmental protection)

43. **PDM2 Soil & Water Management during Construction**

Landcom's "Managing Urban Stormwater – Soil and Conservation" August 1998 outlines the general requirements for the preparation of a soil and water management plan. All works shall be conducted in accordance with a soil and water management plan that has been submitted and approved by the Accredited Certifier **prior to the commencement of works**. A copy of the plan shall be kept on-site and made available to Council's Officers on request. All erosion and sediment control measures must be maintained in a functional condition throughout the duration of the works.

(Reason: Environmental protection)

Conditions which must be satisfied during any development work

44. **Breakfast Point Management Plan**

All works must comply with any requirement applicable under the 'Breakfast Point Management Plan', prepared by URS, dated 11 December 2002.

Should potential contaminants be identified during development (identification may be by sight or odour), works must cease, Council must be notified and a suitably qualified person must be engaged to undertake an assessment. Works may not recommence until authorised to do so by Council.

(Reason: Environmental amenity)

45. **DWT2 Construction Hours**

No construction or any other work related activities shall be carried out on the site outside the hours of 7.00 am to 5.00 pm Mondays to Saturdays. No work to occur on Sundays and public holidays.

Where the development involves the use of jackhammers/ rock breakers and the like or other heavy machinery. Such equipment may only be used between the hours of 7.00 am – 5.00 pm Monday to Friday only.

(Reason: Safety and amenity)

46. **DWT3 Disruption of Traffic**

During any construction works on the public road that is associated with this approval, the Applicant must provide appropriate signage and traffic control facilities as per the requirements of AS 1742.3 and the RTA "Traffic Control at Works Sites" manual.

(Reason: Safety and information)

47. **DWT4 Dust Control**

Small Works

Where a dust nuisance is likely to occur, suitable screens and/or barricades shall be erected during the demolition, excavation and building works. If necessary, water sprays shall be used on the site to reduce the emission of dust. Screening shall consist of minimum 2 metres height of shade cloth or similar material secured to a chain wire fence of the like.

Major Works

The following measures must be taken to control the emission of dust:

- a. Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- b. All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the stormwater system.
- c. All stockpiles of materials that are likely to generate dust must be kept damp or covered.

(Reason: Environmental amenity)

48. **DWT5 Excavation – Water**

All excavations must be kept free from the accumulation of water.

(Reason: Health and safety)

49. **DWT6 Prevention of Nuisance**

All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind blown dust, debris, noise and the like during the demolition, excavation and building works.

(Reason: Health and amenity)

50. **DWG3 Construction Management Plan**

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan.

All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Accredited Certifier and Council on request.

(Reason: Compliance with condition of consent)

51. **Site Management Plan**

All development activities and traffic movements must be carried out in accordance with the approved Breakfast Point Site Management Plan (Revision E) , prepared by URS – 11 December 2002.

(Reason: Compliance with condition of consent)

52. **DWG4 Damage to Adjoining Properties**

All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

(Reason: Structural safety)

53. **DWG5 Stamped Plans**

Stamped plans, specifications, documentation and the consent shall be available on site at all times during construction.

(Reason: To ensure compliance with approved plans)

54. **DWG6 Site requirements during demolition and construction**

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- (a) All demolition is to be carried out in accordance with Australian Standards AS 2601-2001.
- (b) Demolition must be carried out by a registered demolition contractor.
- (c) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.
- (d) No blasting is to be carried out at any time during construction of the building.
- (e) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- (f) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- (g) Any demolition and excess construction materials are to be recycled wherever practicable.
- (h) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- (i) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in the approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- (j) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- (k) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- (l) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc) should be kept on site as evidence of approved methods of disposal and recycling.
- (m) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- (n) Public footways and roadways adjacent to the site must be fully maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council including payment of relevant fees.
- (o) Building operations such as brick cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.

- (p) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.

(Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.)

55. DWN1 Noise - Construction

All works carried out on site during construction/ demolition/ excavation/ earthworks shall comply with the NSW DECC Protection of the Environment Operations Act 1997 and the DECC Noise Control Guideline – Construction Site Noise and AS 2436-1981 – “Guide to Noise Control on Construction, Maintenance and Demolition Sites” for the control of construction noise which specifies that:

Construction period of 4 weeks and under – The L_{10} level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 20 dB(A).

Construction period greater than 4 weeks and not exceeding 26 weeks – The L_{10} level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 10 dB(A).

Silencing – All possible steps should be taken to silence construction site equipment.

Should complaints of a noise nuisance be justified, Council will require the acoustic treatment of the identified noise source/s to ensure compliance with Councils requirements on noise. An acoustic assessment & report will be required to ensure that the intrusive noise from the plant does not exceed 5 dB (A) above the background noise.

Should complaints of a noise nuisance be justified, Council will require the acoustic treatment of the premises to ensure compliance with the NSW DEC Industrial Noise Policy. A further acoustic assessment & report will be required to be provided to Council assessing the premises in working order.

(Reason: Noise Attenuation)

56. DWN2 Noise - Plant

All works carried out on site during construction/demolition/excavation or earthworks shall comply with the NSW DECC Protection of the Environment Operations Act 1997. Approved and effective silencing measures shall be provided and maintained on all power-operated plant used on site.

(Reason: Safety and Amenity)

57. DWN3 Noise & Vibration

The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.

In the event of a noise or vibration problem arising, the person in charge of the premises must, when instructed by City of Canada Bay Council or the Accredited Certifier, cease work and carry out an acoustical survey and/or investigation by an appropriate acoustical engineer or consultant and submit the results to Council. The person in charge of the site must implement any or all of the recommendations of the consultant and any additional requirements of Council. Any requirements of Council in this regard must be complied with immediately.

(Reason: Noise attenuation)

58. DWA1 Obstruction of Road or Footpath

The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste bins or any other matter is not permitted unless approved in accordance with Council's Waste Skip Bin Policy. A Penalty Infringement Notice may be issued for any offence.

(Reason: Protection of infrastructure, safety & information)

59. DWA2 Protection of Public Places

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a hoarding or fence shall be erected. Hoardings shall be erected to comply with the requirements of WorkCover and the Principal Certifying Authority.

(Reason: Safety)

60. DWA3 Protection of Footpath

The footpath must be protected against damage by means of close boarding with chamfered ends.

(Reason: Protection of infrastructure and the environment)

61. DWR1 Compliance with Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia. Note: Applicants who have lodged an objection and who have been granted exemption under clause 187(6) & 188(4) of the *Environmental Planning and Assessment Regulation 2000*, must comply with the Building Code of Australia in all other respects.

(Reason: Prescribed statutory control)

62. DWR2 Critical Stage Inspections - General

Critical stage inspections must be called for by the Principal Contractor or Owner Builder as required by the Principal Certifying Authority (PCA), any PCA Service Agreement, the Act and the Regulation.

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the Act. 'Critical Stage Inspections' means the inspections prescribed by the Regulations for the purposes of section 109E(3)(d) of the Act or as required by the PCA and any PCA Service Agreement.

Note 1: The PCA may require additional inspections beyond mandatory critical stage inspections in order that the PCA be satisfied that work is proceeding in accordance with this consent.

Note 2: The PCA may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

(Reason: Statutory requirement)

63. DWR4 Inspections for Building Work - Critical Stages (Classes 2,3 or 4)

Where applicable inspections of the development site may be required to be undertaken at the following stages:

- (a) Prior to covering of waterproofing in any wet areas, for a minimum of 10 % of rooms with wet areas within a building;
- (b) Prior to covering any stormwater drainage connections;
- (c) After the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
- (d) Other.

If the person having the benefit of the development consent appoints Council as the PCA, Council will give written advice as to what critical stage inspections apply.

Prior to issuing an occupation certificate or subdivision certificate the PCA must be satisfied that the work has been inspected on the above occasions.

Except as provided by subclause (d), the inspections may be carried out by the PCA or, if the PCA agrees, by another certifying authority.

The final inspection detailed at subclause (d) may only be carried out by the PCA.

For each inspection the principal contractor (*or owner-builder*) must notify the PCA at least forty eight (48) hours in advance that the site is ready to be inspected prior to the commencement of work on the next stage.

(Reason: Statutory Requirements)

64. **DWR6 Inspection Records & Compliance Certificates**

The PCA or accredited certifier undertaking each of the inspections must make a **record of each inspection** in accordance with Clause 162B of the Environmental Planning and Assessment Regulations 2000 and, if the person is not the PCA, forward a copy to the PCA.

A copy of any **compliance certificates** issued in respect of the building work and any documents referred to in the certificate must be provided to Council within two (2) days of the certificate being issued.

A compliance certificate must be issued where:

- (a) Either:
 - (i) Council is appointed the PCA; or
 - (ii) Council is the PCA but agrees to an accredited certifier undertaking certain inspection/s, and
- (b) The PCA or accredited certifier is of the opinion that the stage of work he or she has inspected is satisfactory.

(Reason: Statutory Requirement)

65. **DWS1 Progress Survey – Major Development (greater than two stories)**

In order to ensure compliance with approved plans, a Survey Certificate, prepared to Australian Height Datum, shall be prepared by a Registered Surveyor showing the following:

- (a) At the completion of excavation, prior to the placement of any footings, showing the completed level of the excavation and its relationship to the boundaries;
- (b) Prior to placement of concrete, the ground floor level, showing the level of the form work and its relationship to boundaries including relevant footpath and roadway levels;
- (c) Prior to placement of concrete at each second floor level showing the principal level of the formwork and the intended relationship of the completed works to the boundary;
- (d) Prior to roofing, or completion of the highest point of the building, showing the anticipated level of the completed work and the relationship to the boundary; and
- (e) At completion, works showing the relationship of the building to the boundary.

Progress certificates in response to points (a) through to (e) shall be produced to the Council or the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveals discrepancies between the approved plans and the proposed works.

(Reason: To ensure compliance with approved plans)

Conditions which must be satisfied prior to the issue of any Occupation Certificate relating to the use of the building or part

66. OCG1 Certification of Engineering Works

Prior to occupation, the following documents must be submitted to the Principal Certifying Authority. These documents are:

- a) A Certificate from a suitably Qualified Engineer, with Corporate Membership standing in the Institution of Engineers, Australia, and registered on the National Professional Engineers Register (NPER) under the appropriate professional category, and
- b) A “Work - As - Executed” plan of the engineering and/or drainage works.

The abovementioned Certificate is to certify that:

- (i) the stormwater drainage system, and/or
- (ii) the car parking arrangement and area, and/or
- (iii) any related footpath crossing works, and/or
- (iv) the proposed basement pump and well system, and/or
- (v) the proposed driveway and layback, and/or
- (vi) other civil works have been constructed in accordance with the approved plans and details, satisfies the design intent and complies with appropriate SAA Codes relevant Standards and Council’s Policies and Specifications.

For major works, such as subdivisions, works within the road reserve (requiring separate S138 approval) and as where specified by Council, a Part 4A Certificate will be required. It is strongly recommended that the Engineer supervise the works.

Where Council is not the Principal Certifying Authority, two (2) copies of the above documents are to be provided to Council **prior to the issue of any Occupation Certificate**. These documents are to be retained on Council’s Construction Certificate file.

(Reason: Asset management)

67. OCR1 Occupation Certificate (section 109M of the Act)

A person must not commence occupation or use *(or change of use where an existing building)* of the whole or any part of a new building (within the meaning of section 109H (4) of the Act) unless an Interim Occupation

Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that:

- All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- Any preconditions to the issue of the certificate required by a development consent have been met.

Note: New building includes an altered portion of, or an extension to, an existing building.

(Reason: Statutory requirement)

Conditions which must be satisfied prior to the issue of any Subdivision Certificate

68. **SCG5 Section 73 Certificate from Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained before the issue of the Subdivision Certificate. **Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.**

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Sydney Water written advice that you have obtained the Notice of Requirements must be submitted to the Accredited Certifier **before the issue of the Construction Certificate**.

(Reason: To comply with statutory requirements)

Conditions which must be satisfied prior to the issue of a Final Occupation Certificate

69. **FOC1 Fire Safety Certificate**

A final Fire Safety Certificate shall be obtained in accordance with Part 9, Division 4 of the Environmental Planning and Assessment (Amendment) Regulation 2000, **prior to the issue of the Final Occupation Certificate** for the building.

A copy of the Fire Safety Certificate and fire safety schedule shall be:-

1. Forwarded to City of Canada Bay Council;

2. Forwarded to the Commissioner of the New South Wales Fire Brigade;
and
3. Prominently displayed in the building.

(Reason: Fire safety)

70. **FOC2 Certificate of Test of Mechanical Ventilation**

On the satisfactory completion of work and **prior to the issue of an Occupation Certificate**, a Certificate of Test of Mechanical Ventilation shall be supplied to the Principal Certifying Authority from an approved mechanical ventilation engineer.

(Reason: To ensure compliance with approved plans)

71. **FOG5 Wash down of Brickwork**

Prior to occupation or use, the brickwork shall be thoroughly cleaned down on all sides. All necessary precautions shall be taken to ensure that this work does not affect neighbouring properties.

(Reason: Visual amenity and environmental health)

72. **FOM1 Certification of the Constructed Stormwater Drainage System**

The constructed stormwater system shall be certified by a suitably qualified person, in accordance with Council's "Specification for the Management of Stormwater", **prior to issue of the Final Occupation Certificate**.

(Reason: Adequate stormwater management)

Conditions which must be satisfied during the ongoing use of the development

73. **Waste Management**

- 1) Prior to the issue of a Construction Certificate a Waste Management Plan dealing with the construction stage of the development is required to be submitted for approval.
- 2) All waste is to be stored in a way that does not pose an odour nuisance, threat to public health or the environment at all times.
- 3) All waste management on site is to be carried out in accordance with the approved waste management plans.

(Reason: Waste Management)

74. **OUE1 Annual Fire Safety Statement**

Pursuant to Part 9, Division 5 of the Environmental Planning and Assessment Regulation (as amended) the owner of the building shall furnish Council with an Annual Fire Safety Statement from a competent person so as to certify the essential fire safety measures in the building. The Annual Fire Safety Statement shall be within 12 months of the issue of the fire safety certificate, and then on an annual basis.

A copy of the Fire Safety Statement obtained and Fire Safety Schedule shall also be:-

1. Forwarded to the Commissioner of the New South Wales Fire Brigade; and
2. Prominently displayed in the building.

(Reason: Fire safety)

75. OUH5 Microbial Control

The installation and ongoing operation of the water cooling systems, evaporative coolers and hot/warm water systems within the premises shall be undertaken in accordance with the relevant provisions of:

- Public Health Act 2010 and Regulations
- Australian Standard AS/NZS 3666 - Air Handling and Water Systems of Buildings - Microbial Control, Parts 1, 2 & 3 of 2011; and
- 2004 NSW Health Code of Best Practice for the Control of Legionnaires Disease.

(Reason: Health and safety)

76. OUH6 Noise, Air or Water Pollution - Protection of the Environment Operations Act 1997

The activities carried out on site shall not constitute a nuisance in relation to noise, air or water pollution as specified under the Protection of the Environment Operations Act 1997.

77. OUH8 Registration of Water Cooling and Warm Water Systems

The owner or occupier of the premise where a water cooling or warm water system is installed must within 30 days of becoming the owner or occupier notify Council of the particulars relating to the systems onsite by completing Council's Water Cooling and Warm Water System (Regulates Systems) registration form.

(Reason: Health and safety)

78. OUG4 Australia Post Guidelines

Mail deliveries are to be in accordance with Australia Post Guidelines, as set out in the Australia Post publication "General Post Guide - September 2007". A copy of this Guide can be obtained from Australia Post's web page at www.auspost.com.au. A copy of the brochure may be obtained from Australia Post. In general, a clearly marked mailbox (or group of mailboxes) shall be provided within 500mm of the footpath alignment.

(Reason: To ensure compliance with mail delivery regulations)

Advisory Notes (ANN) -

Please note: the following may not apply to all consents

ANN1 Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.



Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's mobile network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

ANN2 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of or payment for the erection of dividing fences.

If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre or if legal advice or action is required, you may contact the Chamber Magistrate.

ANN5 Lapsing of Consent

In accordance with Section 95 of the Environmental Planning and Assessment Act 1979 (as amended), this Development Consent lapses five (5) years after the date from which it operates unless building, engineering or construction work has physically commenced. **A Construction Certificate must be**

obtained and the works commenced in accordance with the approved plans and specifications within five (5) years from the date of this Development Consent.

ANN7 Process for Modification

The plans and/or conditions of this Consent are binding and may only be modified upon written request to Council under Section 96 of the Environmental Planning and Assessment Act, 1979 (as amended). The request shall be accompanied by the appropriate fee and application form. You are not to commence any action, works, contractual negotiations, or the like, on the requested modification unless and until the written authorisation of Council is received by way of an amended consent.

ANN8 Review of Determination

In accordance with the provisions of Section 82A of the Environmental Planning and Assessment Act 1979(as amended) the applicant can request Council to review this determination. The request must be made within a period of 6 months from the date shown on this determination. A fee, as prescribed under Council's current Management Plan - Fees and Charges, is payable for such a review.

ANN9 Right of Appeal

Section 97 of the Environmental Planning and Assessment Act 1979 (as amended), gives the applicant the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice. Section 97 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.

ANN11 Skips on Council Footpath

The applicant must apply to Council's Customer Services Centre and pay the respective minimum ten (10) day application fees and deposit, should a mini-skip type or larger builder's waste container be required to be left on Council's footpath, nature strip or roadway for the removal of any builder's waste etc. These fees must be paid prior to the container's placement. In the event of the container being removed within the ten day period, and the Council being notified, a pro-rata refund will be made. If the container is to remain at the site for longer than ten days, a further fee must be paid before the ten day period expires. No consultation is necessary if placing the container within the property to which this application is related. However, caution should be exercised in placing the bin to ensure no damage occurs to Council property.

ANN12 WorkCover Requirements

The Work Health and Safety Act 2011 and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Further information can be obtained from WorkCover NSW's website at <http://www.workcover.nsw.gov.au/newlegislation2012/your-industry/construction/Pages/default.aspx> or through their head office: WorkCover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address:

WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

Attachments:

1. Appendix A – Schedule of Approved Dwellings
2. Appendix B – Cumulative Compliance Schedule
3. Appendix C – Travel Access Guide / Green Travel Plan
4. Appendix D – Submissions

Appendix A – Schedule of Approved Dwellings

Total Dwellings under Masterplan 2002 and Breakfast Point Concept Plan 2005 Approvals	
	Dwellings
Pre Concept Plan Approvals (approved under Council's Masterplan 1999 & 2002)	880
Breakfast Point Concept Plan 2005 Approval (including dwellings granted pursuant to Condition 7 of Concept Plan)	1189
Total	2069

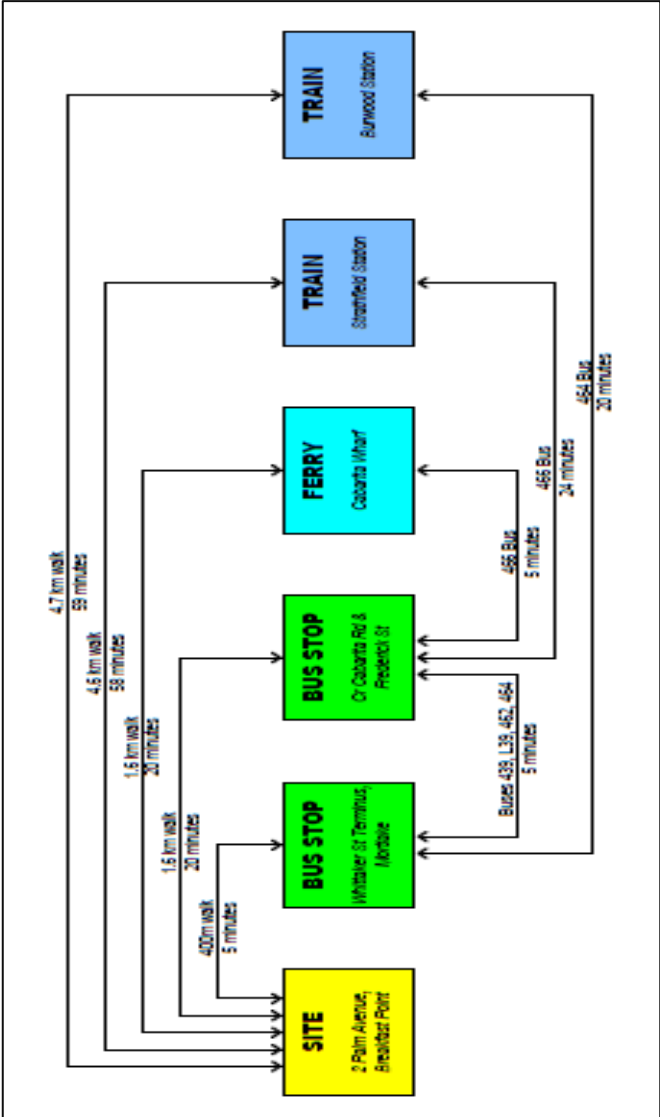
Dwellings Approved to Date	
Precinct	Dwellings Approved
Vineyards North – approved 2006	110
Vineyards South – approved 2006	118
River Front – approved 2006	25
MOD 1	-1
Country Club – approved 2006	83
The Point - approved 2006	128
MOD 1	30
MOD 2	20
MOD 4	21
MOD 5	23
Plantations – approved 2008	267
MOD 3	18
MOD 5	35
Silkstone – approved 2008	45
Seashores Precinct – Building 7D5	60
Woodlands North – Building 7B2	91
Concept Plan – Powerhouse Building MOD 2	6
Woodland North – Building 7B1(DA65/2013)	100
Woodland North – Building 7B3 (DA 68/2013)	4
Total	1,183
Silkstone Precinct (included by department of planning in approved dwelling number)	6
Total	1,189

Currently Under Consideration by Council	
Seashore Precinct 7D4 (DA150/2014)	100
Total	1,289

Appendix B – Cumulative Compliance Schedule

STAGE/ SUPERLOT	PRECINCT/ DEVELOPMENT SITE	MARKETING NAME	FSR (Whole Site)	ALL USES FSR Area 2m	Total Residential FSR	RESIDENTIAL										RESIDENTIAL									
						Residential FSR Completed	Residential FSR Under Construction	Residential FSR DA Approved	Residential FSR To Be Designed	Dwellings Completed	Dwellings Under Construction	Dwellings DA Approved	Dwellings DA Submitted	TOTAL DWELLINGS	40 DWELLINGS	50 DWELLINGS	60 DWELLINGS	70 DWELLINGS	80 DWELLINGS	BEDROOMS	PARKING (off street)	VISITORS (on street)			
CONCEPT PLAN AREA																									
	Lot 5CT	Silkstone Townhouses		2420	2420	0	0	0	2420	0	0	0	0	0	0	0	0	0	24	12	2				
		Total Silkstone Townhouses		2420	2420	0	0	0	2420	0	0	0	0	0	0	0	0	0	24	12	2				
	Lot 6E Block A	Foreshore Townhouses		1595	1595	1595	0	0	0	0	0	0	0	0	0	0	0	0	18	12	1				
	Lot 6E Block B	Foreshore Townhouses		1071	1071	1071	0	0	0	4	0	0	0	4	0	0	0	0	12	8	1				
	Lot 6E Block C	Foreshore Townhouses		1636	1636	1636	0	0	0	7	0	0	0	7	0	0	0	0	21	14	1				
	Lot 6E Block D	Foreshore Townhouses		1636	1636	1636	0	0	0	7	0	0	0	7	0	0	0	0	21	14	2				
	Lot 6E Block E	Foreshore Townhouses		370	370	370	0	0	0	1	0	0	0	1	0	0	0	0	4	2	1				
		Total Foreshore Townhouses		6708	6708	6708	0	0	0	25	0	25	0	26	1	24	0	0	76	50	6				
	Lot 5B1	Harbour Precinct		7240	7240	7240	0	0	0	62	0	0	0	62	0	6	26	25	168	85	13				
	Lot 5B1	Harbour Precinct		5953	5953	5953	0	0	0	55	0	0	0	55	0	6	25	24	92	74	11				
	Lot 6F1	Harbour Precinct		5860	5860	5860	0	0	0	60	0	0	0	60	0	0	30	30	90	75	12				
	Lot 6F1	Harbour Precinct		5015	5015	5015	0	0	0	45	0	0	0	45	1	5	18	20	77	61	9				
		Total Harbour Precinct		23764	23768	23768	0	0	0	222	0	222	0	222	1	20	102	99	367	296	45				
	Lot 5C	The Silkstone		5804	5804	5804	0	0	0	45	0	0	0	45	0	20	15	100	73	9					
		Total Silkstone Precinct		5804	5804	5804	0	0	0	45	0	45	0	45	0	20	15	100	73	9					
	Lot 6A	Observatory Hill		11100	11100	11100	0	0	0	83	0	0	0	83	0	24	59	0	190	137	17				
		Country Club Precinct North		11100	11100	11100	0	0	0	83	0	83	0	83	0	24	59	0	190	137	17				
	Lot 6B1	Chaleux		5115	5115	5115	0	0	0	40	0	0	0	40	0	20	20	0	100	70	6				
	Lot 6B1	Sperry Row		1728	1728	1728	0	0	0	8	0	0	0	8	1	7	0	0	25	16	2				
	Lot 6B1	Heritage Hill		8736	8736	8736	0	0	0	60	0	0	0	60	2	19	39	9	152	114	24				
		Vineyards Precinct South		16579	16579	16579	0	0	0	117	0	117	0	117	3	46	89	9	277	200	24				
	Lot 5G	Indigo/Magnolia		9114	9114	9114	0	0	0	98	0	0	0	98	0	42	56	140	119	20					
	Lot 5H1	Cypress		3674	3674	3674	0	0	0	33	0	0	0	33	0	9	15	0	66	50	7				
	Lot 5H2	Itape		2471	2471	2471	0	0	0	21	0	0	0	21	0	3	15	3	42	32	5				
	Lot 5H3	Jacaranda		3492	3492	3492	0	0	0	30	0	0	0	30	0	8	16	6	62	46	6				
	Lot 6C1	Acacia		4763	4763	4763	0	0	0	50	0	0	0	50	0	25	25	75	63	10					
	Lot 6C2	Norfolk		6772	6772	6772	0	0	0	88	0	0	0	88	0	0	56	30	146	117	18				
		Plantations Precinct		32266	32266	32266	0	0	0	320	0	320	0	320	9	20	171	129	631	425	66				
	Lot 6D1	1 Building 9s		8630	8630	8630	0	0	0	70	0	0	0	70	0	20	41	9	151	116	14				
	Lot 6D1	1 Building 3s		4191	4191	4191	0	0	0	30	0	0	0	30	0	13	15	0	75	53	6				
	Lot 6D1i	Townhouses		1240	1240	1240	0	0	0	5	0	0	0	5	0	5	0	0	15	10	1				
	Lot 6D1v	Townhouses		1240	1240	1240	0	0	0	5	0	0	0	5	0	5	0	0	15	10	1				
		Vineyards Precinct North		15501	15501	15501	0	0	0	110	0	110	0	110	0	45	56	9	256	169	22				
	Lot 7B1	Lighthouse Hill		10304	10304	0	10304	0	0	0	100	0	0	100	0	16	47	37	179	140	20				
	Lot 7B1	The Hamptons		9710	9710	0	9710	0	0	0	91	0	0	91	0	10	37	44	148	120	19				
	Lot 7B1i	Lighthouse Mews		800	800	0	800	0	0	0	4	0	0	4	0	4	0	0	12	8	1				
		Woodlands Precinct North		20814	20814	0	20814	0	0	0	195	0	0	195	0	30	84	81	339	267	40				
	Lot 7D1	Huntington Hill		10500	10500	0	0	10500	0	0	0	0	118	0	8	54	56	186	153	24					
	Lot 7D1i	Seacrift		7600	7600	0	0	0	700	0	0	0	100	0	6	33	59	140	124	20					
	Lot 7D1i	Catalina		6600	6600	0	0	0	0	0	0	0	66	0	6	24	39	104	86	14					
	Lot 7D1v	Vermont		9230	9230	0	0	0	9250	0	0	0	100	0	6	44	50	156	128	20					
	Lot 7D1v	Augusta		5854	5854	0	5854	0	0	0	60	0	0	66	0	0	30	30	99	75	12				
	Lot 7D1v	The Plumbers Workshop		2404	2404	0	0	0	2404	0	0	0	0	14	2	8	6	24	16	3	0				
		Seashore Precinct		42668	42668	0	5854	0	36754	0	60	0	0	460	0	30	191	238	711	588	93				
	Commercial	Powerhouse		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0				
		Blacksmiths		450	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0				
		Meier Readers		230	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0				
		Commercial Precinct		660	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0				
Concept Plan Total				177258	176684	110746	26668	0	39174	922	265	922	0	1580	5	265	757	676	2871	2232	324				
Concept Plan 2005/Amended 2010 Allowance				183436	183466																				
Balance				6212	6852																				

Appendix C – Green Travel Plan



Appendix D – Submissions

Submission 1

Antony H Popper

75/5 Woodlands Avenue,

Breakfast Point

N.S.W. 2137

Wednesday, 21 May 2014

City of Canada Bay

Canada Bay Civic Centre Drummoyne

Locked Bag 1470

Drummoyne NSW 1470

Attention: Ms. E. Sorensen

Dear Ms. Sorensen,

Re Development Application No. 150/2014

I am writing with regards to the above development application at 19-21 Tennyson Road Breakfast Point by Rosecorp Management Services Pty Ltd.

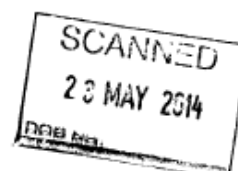
Originally, this development was to be a 5 storey Building, which, when carrying out due diligence prior to the purchase of my apartment, I considered would not interfere with my views of the Parramatta River. I have concerns now that this application (for a 6 storey building), will now block some of this river view. I am therefore seeking assurances from the developer (Rosecorp) that the building height of the proposed structure will not exceed the original plan and indeed will not be any higher than building 7F1 or 7F2, which are the buildings on the other side of Palm Avenue, in the Point Precinct.

I would appreciate receiving, through you, those assurances from Rosecorp, so that the continued enjoyment of my asset and its future value can be maintained.

Yours sincerely,

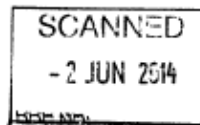


Antony H Popper



Submission 2

From: Ian Hewitt
Sent: Sunday, 1 June 2014 10:44 AM
To: council
Subject: Development Application 150/2014 Attention: Ms E Sorensen URGENT
Importance: High



**URGENT SUBMISSION
RE: DEVELOPMENT APPLICATION NO 150/2014**

Dear Ms Sorensen,

I am writing to make comment on the abovementioned Development Application. I phoned you 16 and 20 May 2014 but you were off work and spoke to another planner, he advise he would make a file notation. I advised that I would be on holidays until 30 May 2014 but wanted to put a submission in regarding this DA but would not be able to do it until I returned. Hence its lateness in meeting the deadline.

I write on behalf of the Endeavour Building and Strata, our address is 1 Palm Avenue and is immediately opposite the proposed development.

We raise no objection to the proposed building program, but make specific comment and express concerns regarding the following:-

1. SITE WORKER PARKING

This has been an issue for recently completed building works adjacent to our Building. Palm avenue is a small road and can barely accommodate current vehicle parking. Experience has been that site workers do not park in the allocated parking area and use Palm Avenue for daily parking. This prevents residents in the Buildings in Palm Avenue to park their vehicles during the day time. When this building program goes ahead, the area allocated to site workers will be diminished considerably thus forcing workers to park on the roads. This requires a management strategy during the life of the building program. How will this be managed?;

2. HEAVY VEHICLE ACCESS ON PALM AVENUE

As this building program ramps up, it is obvious that heavy vehicle traffic will affect Palm Avenue. What strategies will be put into place to manage this and to keep noise levels to a minimum?

3. CLOSURE OF PALM AVENUE

Will Palm Avenue be closed off. If this happens, resident car park allocation will diminished. How will this be managed?

4. HOURS OF WORK

Residents of the Endeavour Building are concerned that the hours of work will be exceeded and that construction will extend into Saturday afternoons and Sundays, and before 7.00am in the mornings. How will this be managed?

5. DUST AND DIRT FROM CONSTRUCTION SITE

Residents are concerned that the construction site will emit excess dust and dirt. The Endeavour building has recently had all external windows cleaned and a building wash down done. Will the building be left in this same state after construction?

These issues are submitted not to hinder the process but to gain some acceptance of problems that will be faced by the owners/residents who live directly opposite the proposed building site.

Yours sincerely,

Submission 3

After our conversation this morning, here are my questions

What construction route is approved for the Lighthouse Mews (four Townhouses) construction in Woodlands Ave Breakfast Point. Cannot find DA Number?

I am concerned that Woodlands Ave will be the approved construction route for the next 9 story building in Woodlands Ave as construction sheds have been used to block the northern exit from Woodlands Ave.

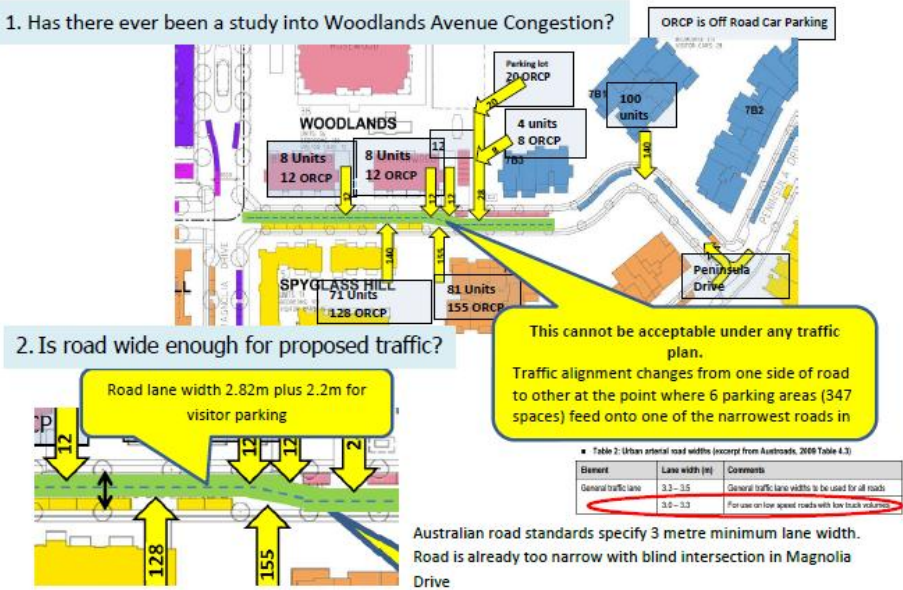
I have attached a document (modified from our PAC submission) showing what we are worried about, Woodlands Ave is a narrow street and not suitable for Construction Traffic. The corner with Magnolia Drive is dangerous now without Construction Traffic.

Congestion in Woodlands Avenue, during Construction

Woodlands Avenue at Breakfast Point is one of the narrowest roads with the tightest corners. It will be the access road for 3 x 9 storey, 1 x 3 storey and 3 x 2 storey buildings. Also this would be the most direct route for many Peninsula Drive residents to the shopping centre. It must remain split into Woodlands North and Woodlands South to prevent car accidents and congestion.

On completion there will be 276 units and 516 on and off road car parking spaces feeding into Woodlands Avenue.

Spyglass Hill Executive asks that construction traffic use Peninsula drive and the bottom of Woodlands Avenue for access.



Peninsular drive blocked by sheds,



Narrow exit to Woodlands Avenue at Magnolia Drive



Kevin Guest Chairman Spyglass Hill Executive
spyglassex@gmail.com

