

**JOINT REGIONAL PLANNING PANEL**  
**(Sydney East Region)**  
**SUPPLEMENTARY REPORT**

JRPP No	2015SYE170
DA Number	15/216
Local Government Area	City of Botany Bay
Proposed Development	Joint Regional Planning Panel and Integrated Development Application for the construction of a mixed use development incorporating 239 units across a 4 storey residential podium (including 3 levels of sleeved parking) and 3 x 10 storey residential towers above, 2 levels of basement; at grade parking for 391 cars, a 58sqm retail tenancy; strata subdivision; the construction of the northern half of a new east-west street and dedication to Council; a north-south oriented park and stratum subdivision; and excavation, earthworks and landscaping.
Street Address	1-5 Kent Road, Mascot NSW 2020
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
No. of Submissions	Round 1 – 1 Round 2 – Nil
Regional Development Criteria	Development with a CIV of \$70,788,287
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• Environmental Planning &amp; Assessment Act 1979, Part 4 – Development Assessment &amp; Schedule 4A – Development for which regional panels may be authorised to exercise consent authority functions of councils</li> <li>• Environmental Planning &amp; Assessment Regulation 2000, Part 6 – Procedures relating to development applications</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No. 55 – Contaminated Land</li> <li>• State Environmental Planning Policy 2004 (BASIX);</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</li> <li>• Botany Bay Local Environmental Plan 2013</li> <li>• Botany Development Control Plan 2013</li> </ul>
Documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> <li>• Site Survey – B &amp; P Surveys;</li> <li>• Architectural Plans &amp; Photomontage – Turner Architects;</li> <li>• Proposed Envelope Plans for northern site – Turner Architects;</li> <li>• Landscape Plans – Context Landscape Design Pty Ltd;</li> </ul>

	<ul style="list-style-type: none"> <li>• SEPP 65 Report and Design Verification Statement – Turner Architects;</li> <li>• Apartment Design Guide Workbook for Applicants – Turner Architects;</li> <li>• Statement of Environmental Effects, Clause 4.6 Variation and DCP Assessment Table – Meriton;</li> <li>• Retail and Commercial Needs Analysis – Urbis;</li> <li>• Thermal Comfort &amp; BASIX Assessment – Efficient Living;</li> <li>• Acoustic Report – Acoustic Logic;</li> <li>• Waste Management Plan – Elephants Foot;</li> <li>• Transport Impact Assessment, Addendum and Letter – Arup;</li> <li>• Access Report – Wall to Wall Design &amp; Consulting;</li> <li>• BCA Compliance Assessment Report – AED Group;</li> <li>• Aeronautical Impact Assessment – The Ambidji Group Pty Ltd;</li> <li>• Arboricultural Assessment Report – Tree and Landscape Consultants (TALC);</li> <li>• Construction Management Plan – Meriton Property Services Pty Ltd;</li> <li>• Construction Traffic Management Plan – SBMG;</li> <li>• Civil Works Drawings – at&amp;l;</li> <li>• Environmental Site Assessment – Coffey;</li> <li>• Geotechnical Site Investigation – Coffey;</li> <li>• Groundwater Management Plan – Coffey;</li> <li>• Flood Report – Calibre Consulting;</li> <li>• Stratum Subdivision Plans – Meriton Property Services Pty Ltd;</li> <li>• Qualitative Wind Impact Assessment – SLR;</li> <li>• Crime Risk and Security Report – Meriton Property Services Pty Ltd;</li> <li>• QS Report – Steven Wehbe.</li> </ul>
Recommendation	<p>The Sydney East Joint Regional Planning Panel (JRPP), as the Determining Authority resolve to:</p> <ol style="list-style-type: none"> <li><i>a) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum height of 47.2m (51m AHD); and</i></li> <li><i>b) Approve Development Application No. 15/216 for the demolition of existing structures on the site, construction of a mixed use development incorporating 239 units across a 4 storey residential podium (including 3 levels of sleeved parking) and 3 x 10 storey residential towers above, 2 levels of basement; at grade parking for 391 cars, a 58sqm retail tenancy; strata subdivision; the construction of the northern half of a new east-west street and dedication to Council; a north-south oriented park and stratum subdivision; and</i></li> </ol>

	<i>landscaping.</i>
Report by	Amy Groher – Senior Development Assessment Planner

## RESPONSE TO APPLICANT SUBMISSION

On 22 April 2016, Council received a submission from the applicant in response to the draft Schedule of Consent Conditions within the Planning Assessment Report submitted to the Panel. The applicant's submission details their objection and proposed changes to approximately 38 conditions (including sub-conditions).

This Supplementary Report provides a response to the objections raised by the applicant and details the proposed changes to the draft Schedule of Consent Conditions.

Council have reviewed the applicant's submission and are in agreement with the applicant that 33 of these conditions be amended or deleted. These changes are to tidy-up the wording of the conditions and clarify timing of construction.

Of the remaining five conditions which Council does not agree to amending, two relate to the payment of fees, one relates to landscaping detail and two are design related. These have been discussed with the applicant who has accepted Council's position. These are briefly discussed below. For further detail, Table 1 sets out the original condition, the applicant's objection, and Council's response.

### Payment of fees

The applicant has objected to the requirement for the payment of the Damage Deposit of \$157,000.00 and Development Control Fee of \$2,890 on this consent as both fees are already a requirement within DA-15(215) relating to excavation.

The Damage Deposit is required to protect against damage during the excavation of the site under DA-15(215). This will then be refunded subject to inspection by Council at completion of excavation. The Damage Deposit is again required to protect against damage during the construction of the remainder of the development under DA-15(216 – subject of this application). This will then be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and after a Final Occupation Certificate has been issued. If the Damage Deposit was removed from this DA, Council would have no protection against damage caused during the construction of the development. As such, the Damage Deposit, charged in accordance with the City of Botany Bay Fees and Charges 2015-2016, will remain, but has been moved to be paid prior to issue of the Construction Certificate for above ground works.

The Development Control Fee is applicable to each Development Application and is calculated in accordance with the City of Botany Bay Fees and Charges 2015-2016. The fee of \$2,890 is based on developments with an estimated cost of works over \$1,000,001 which is applicable to the excavation DA. The fee for this DA is incorrect and has been changed

from \$2,890 to \$12,900. This fee is based on multi-unit residential developments with more than 40 units.

### Landscaping

The applicant has objected to the requirement for Council's Landscape Architect to review and approve the treatment of fire boosters and electrical kiosks. The location and treatment of fire boosters and electrical kiosks is required to be mutually accepted by Ausgrid, NSW Fire Brigade and Council's Landscape Architect and this is a standard requirement imposed on all developments of this scale. These items are usually located in prominent positions to the public domain and (too often) result in a severe detracting to the amenity of the public domain and/or loss of valuable landscape area, if design and treatment is left to the Applicant alone. Review by Council's Landscape Architect ensures these receive appropriate consideration and will not detract from the public domain.

### Design

Two of the conditions that Council does not agree to amend are design related.

Condition 62(d) (now Condition 60(c)) originally required internal reconfiguration to demonstrate that a study can be accommodated within the 2 and 3 bedroom apartments. This condition has been reworded to request that amended plans be submitted indicating that a study desk can be comfortably accommodated within the open-plan living area (for those units without dedicated study rooms). The intent behind this stems from the fact that 92% of 2 and 3 bedroom apartments indicate a separately defined study area. While it is noted that the apartments are large enough to accommodate a study desk within the open-plan living area, this is to be demonstrated in order to improve compliance with Part 4C.4.2, Control C2 of the BDDCP 2013 which relates to family friendly apartment buildings.

Condition 63 (now Condition 61) requires that the roof of all basement storage cages be constructed of perforated material in order to ensure that sprinkler heads are not obstructed and to prevent tenants storing items right up to the sprinkler system. This is a standard condition and has come about as a result of a Guidance and Practice Note published by the Fire Department. The applicant argues that this is a condition requiring a false ceiling, which is not the case. In order to clarify the intent, the condition has been reworded as follows: *All storage cages, whether floor or ceiling mounted, are to be made of perforated metal and constructed so that no goods can be stored within 500mm of the sprinkler head.*

### Other Changes

On 27 April 2016, the Department of Primary Industries – Water determined that the original General Terms of Approval (GTA's) included in the letter dated 18 January 2016 remain valid. As such, there are no changes proposed to the GTAs within the draft Schedule of Consent Conditions.

Taking into consideration the above, a revised draft Schedule of Consent Conditions has been provided below. These have been reviewed by the applicant who is satisfied with the final changes.

**Table 1: Summary of changes**

Original Condition	Applicant's Objection	Council Response
<p>28: Prior to the issue of the construction certificate a contractual arrangement shall be entered into with the owner/s of 689-669 Gardeners Road, Mascot, to relinquish the right-of-way from Gardeners Road to the site at 1-5 Kent Road in accordance with Condition No. 86 of DA-13/135. This condition does not remove any of the requirements at Condition No. 86(a) and (b) of DA-13/135.</p>	<p>This is an invalid condition. Council cannot force a third Party action, nor relate to a separate DA in a Notice of Determination. We have not agreed with the adjoining land owner of 689-669 Gardeners Road to extinguish the easement, and cannot be forced into such an arrangement before a construction certificate is issued. The condition as currently worded will not allow construction to commence on a matter that has no effect on construction.</p> <p>The adjoining owner could very well decide not to be involved and then we cannot start any construction, which will result in the loss of jobs and loss of financing, which is unacceptable and unreasonable.</p>	<p><b>Agree. This condition has been deleted</b></p>
<p>29:</p> <p>(a) Development Control \$2,890.00;</p> <p>(c) Damage Deposit \$157,500.00</p>	<p>Fees have already been paid for the site relating to the Excavation DA (DA2015/ 5). A sentence at the end of the condition must be inserted that states "The above fees are to be subtracted from those paid as required by Condition 35 of Development Consent 20/5/15" Both consents list the same amount of money yet are for the same development. We assume this is an error of "double-dipping".</p>	<p><b>No change to fee. Applicant has accepted this position.</b> Both fees have been moved to 'prior to issue of Construction Certificate' for above ground works'. See justification above.</p>
<p>62(c): Prior to the issue of the Construction Certificate for above ground works, the applicant shall submit amended plans to Council for approval, showing the following:</p> <p>(c) Studies not enclosed with walls or a door. Note: Should a freestanding study alcove be provided the height of the walls enclosing the study are to be a maximum of 1500mm.</p>	<p>Condition 62(c) requires studies not be enclosed by a wall or door. The studies have been designed to comply with the Apartment Design Guidelines (ADG). Studies are below the minimum bedroom sizes listed in the ADG and have windows that also required by the ADG.</p> <p>Enclosing the study allows for an office, TV room, rumpus or entertainment area that is separate from the other habitable rooms for privacy and noise separation. This condition must be deleted. The market is seeking the closed study area.</p>	<p><b>Agreed. The condition will be deleted.</b> There is no requirement for studies to be open-plan.</p>
<p>62(d): Internal reconfiguration of the 2 and 3 bedroom apartments to indicate a study nook/ area or indicate that a desk can be comfortably accommodated within the open-plan living area (Part 4C.4.2, Control 2 of the BBDCP 2013);</p>	<p>Condition 62(d) requires a study/nook or re-configure the units to provide a desk in the open plan living area. We have provided a separate study room for a desk in accordance with the ADGs to provide a separate area rather than in the living room. This is a market decision and importantly we lodged this Development Application well before Council decided to amend the DCP. We request that this condition be</p>	<p><b>Reworded. Applicant agrees with amended wording.</b> See justification above.</p>

Original Condition	Applicant's Objection	Council Response
	<p>deleted as a study in addition to a study nook is</p> <p>doubling up the same requirement, which is unrealistic</p>	
<p>62(e): Internal reconfiguration of the 2 and 3 bedroom apartments to provide an open storage area within/close to, the entry way of the apartment (Part 4C.4.2, Control 7 of the BBDCP 2013) and be in addition to storage in kitchens, bathrooms and bedrooms.</p>	<p>Condition 62(e) - A storage schedule was provided with the plans demonstrating compliance with the requirements of the ADG. In addition to this, we will add a cloak closet near the entry if requested by purchasers. The condition is merely seeking to increase the size of the unit, which is not permitted under SEPP65. This condition is to be deleted.</p>	<p><b>Agree. This condition has been deleted.</b></p> <p>86.24% of 2 and 3 bedroom apartments have a separate storage area near the entry or further within the apartment.</p>
<p>62(i): Hose taps and gas outlets on all balconies.</p>	<p>Condition 62(i) requires a hose tap and gas outlet on all balconies. We do not provide these facilities unless requested by a purchaser and is not a specific requirement of the ADG for balconies. Notwithstanding this, we are providing barbeques at podium level within the common open space area. Furthermore this has been a last minute request not raised in any correspondence of the Council's letter of design matters, and such all services contracts for construction have been ordered that do not include these fittings. More importantly, we are getting lots of feedback from existing unit occupants about complaints of barbeques on balconies with smells flowing into adjoining units. This condition must be deleted</p>	<p><b>Agree. This condition has been deleted.</b></p> <p>There is no requirement within the BBDCP 2013. The requirement is a Design Guidance within Part 4E-3 of the ADG (Private Open Space and Balconies).</p>
<p>62(j): All balconies to be provided with a minimum of 2 operable louvre sliding screens with a minimum width of 800mm.</p>	<p>Condition 62th of the consent requires louvres to all balconies despite complying with the required setback and privacy requirements of the ADG. This matter was not raised in correspondence and has no justification. The condition has appeared without any consultation and will change the BASIX requirements and will completely change the aesthetic of the building and have negative impacts sunlight to living rooms. This condition must be deleted.</p>	<p><b>Agree. This condition has been deleted.</b></p> <p>The condition was originally reworded to make reference to the eastern elevation of Building A and western elevation of Building B from Levels 9 – 13. Upon further consideration, the balconies on these elevations are suitably offset and have a separation distance of 20m which is considered satisfactory.</p>
<p>62(k): The location of mailboxes within the lobby of each building are to be identified on the amended plans.</p>	<p>Condition 62(k) requires mailboxes to be located in lobbies. We have an ongoing agreement with Australia Post to have mailboxes located in the basement for any developments, because Australia Post will not deliver in the lobbies due to poor access. That is, the doors are locked for security and postmen/women do not want to carry security cards for every building in the local government area. Where post deliveries cannot access the lobbies, mail is left outside in the open which is not</p>	<p><b>Agree. This condition has been deleted</b> to provide consistency with the existing agreement with Australia Post.</p>

Original Condition	Applicant's Objection	Council Response
	acceptable. The condition is to be deleted.	
<p>63: Storage cages located in car parking areas are to be provided with a perforated roof/ceiling that is located a minimum of 500mm away from any sprinkler heads. This will ensure compliance with Part E1.5 of the BCA &amp; Australian Standard 2118 is maintained. Details are to be submitted to the certifying authority for approval prior to the issue of a Construction Certificate.</p>	<p>Condition 63 seeks perforated roof/ceiling for storage cages in car parking areas. This is an unnecessary requirement and has no reasoning? The requirement of a false ceiling of a particular material is not suitable for storage areas in the basement. There are a lot of complications to the type of materials to be used in the basement where combined in storage areas, particularly with fire, mould and rust. The Private Certifier will sign-off any BCA compliance with regard to sprinklers and storage in the basements. The condition must be deleted</p>	<p><b>Reworded</b> to clarify that there is no intent for a false ceiling. <b>Applicant agrees with amended wording.</b></p> <p>This is a standard condition Council has been recommending due to a Guidance and Practice Note published by the Fire Department to prevent tenants storing items right up to the sprinkler system. In order to clarify the intent, the condition has been reworded as follows: All storage cages, whether floor or ceiling mounted, are to be made of perforated metal and constructed so that no goods can be stored within 500mm of the sprinkler head.</p>
<p>65: Prior to the issue of the Construction Certificate for above ground works, the plans and specification including sections information showing compliance with the following requirements are to be submitted to and approved by Council in relation to passenger vehicles:</p> <p>(a) All driveways/access ramps/vehicular crossings conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and</p> <p>(b) Longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.</p>	<p>Condition 65 requires Council to approve driveways, ramps, car parking spaces and the like within the site. Council can only approve this if they are the Certifier. The condition is to be reworded to replace the word Council with "Principal Certifying Authority"</p>	<p><b>Agree. Wording has been amended</b> from Council to PCA.</p>
<p>66: Prior to the release of the Construction Certificate, the plans and specification including sections showing the following are to be submitted to and approved by</p>	<p>Condition 66 same as above. Replace wording of Council with "Principal Certifying Authority"</p>	<p><b>Agree. Wording has been amended</b> from Council to PCA.</p>

Original Condition	Applicant's Objection	Council Response
<p>Council in relation to garbage truck access:</p> <ul style="list-style-type: none"> <li>(a) All driveways/access ramps/vehicular crossings conform with Australian Standards AS 2890.2 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines;</li> <li>(b) All service vehicles shall enter the property front in front out;</li> <li>(c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck;</li> <li>(d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and</li> <li>(e) A longitudinal section plotting headroom clearance above driveway access.</li> </ul>		
<p>67: Prior to the release of the Construction Certificate for above ground works, plans and specifications including section are required to be submitted to and approved by Council:</p> <ul style="list-style-type: none"> <li>(a) Disabled car parking spaces shall be provided and clearly marked as per the Transport Impact Assessment, by ARUP, dated 19 February 2016, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and</li> <li>(b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.</li> </ul>	<p>Condition 67 same as above. Replace wording of Council with "Principal Certifying Authority".</p>	<p><b>Agree. Wording has been amended</b> from Council to PCA.</p>
<p>68: The drawings for the construction certificate for the basement car park shall show the following parking requirements:</p>	<p>The condition is ambiguous. The wording of the condition must be made clearer as the table stipulates an exact rate of parking per unit, and the wording under the table</p>	<p><b>Agree.</b> The word 'minimum' has been inserted.</p>

Original Condition	Applicant's Objection	Council Response
Table of car parking rates not reproduced. Please refer to Planning Assessment Report	states that excess parking is to be allocated to an apartment or the retail tenancy. Can you please amend the condition by adding the work "minimum" car parking requirements in the first sentence of the condition to clear up any confusion.	
74: A detailed public domain landscape plan shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to the issue of the Construction Certificate for above ground works. The applicant shall meet with Council prior to any submission to discuss Council's requirements. Following this, detailed landscape construction documentation (plans and specifications) must be submitted to and approved by the City of Botany Bay Council Landscape Architect. The landscape documentation is to be prepared by Context Landscape Architects and shall include, but not be limited to: (a) – (v) not reproduced. Please refer to Planning Assessment Report.	The required information requested does not relate to the building structure and therefore we request the condition be amended in the first paragraph by changing the timing to "prior to occupation" and not prior to above ground works. Alternatively this can be prior to the public domain construction certificate. Condition 74 also requires landscape documentation to be prepared by Context Landscape Architects. This needs to change to "suitably qualified Landscape Architect" to allow sufficient flexibility to change consultants if required for any reason. Otherwise we have to prepare and lodge unnecessary Section 96 applications	<b>Agree. Timing has been changed</b> to 'prior to the public domain construction certificate', and reference to Context Landscape Architect has been changed to 'suitably qualified Landscape Architect'.
74(n): A detailed public art proposal.	Condition 74(n) requires a detailed public art proposal. This is considered to be very excessive for such a small development with very little public domain area. We understand that where we are developing large open space areas such as 19-33 Kent St where a major open space area is being dedicated to Council or like at Pagewood where a 8000sqm park is be design that some form of public art is suitable. But for an infill site, there is no reasonable justification. We therefore request this condition to be deleted	<b>Agreed. This condition has been deleted.</b>
76: To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas, inclusive of the street tree pits in Kent Road, New East West Street. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall	Condition 76 requires automated irrigation system for public areas connected to a recycled water source. This condition is not acceptable. A BASIX Certificate for the private domain is all that is required and this condition goes above and beyond the relevant SEPP for BASIX. The private sector does not get involved with a water system for the public domain. The future body corporate is never responsible for irrigation works and associated maintenance costs in the public domain. Never have we come across a condition for this purpose. This condition must not be imposed and is to be deleted	<b>Amended wording. Applicant agrees with amended wording.</b> Requirement for irrigation within public domain areas has been removed but is still required for all private domain areas, especially the new community park that is privately owned and maintained. New wording is as follows: <i>"To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas in the private</i>

Original Condition	Applicant's Objection	Council Response
comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.		<i>domain, inclusive of the new community park north of New East West Street. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times."</i>
80: Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.	As with Conditions 65-67, location and treatment off fire boosters and electrical kiosks are governed by the NSW Fire Brigade and Ausgrid. The condition requires rewording by replacing "Council's Landscape Architect" with "Relevant approval authority".	<b>No change. Applicant accepts Council's position.</b> Refer to justification above.
94: Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.	Condition 94 requires the incorrect peak particle velocity (PPV) figure and makes no reference of a compliant standard. For structural damage vibration, German Standard DIN 4150-3 Structural Vibration: Effects of Vibration on Structures; and German Standard DIN 4150-3 (1999-02) applies in Australia. The condition must be reworded to require compliance with this standard	<b>Agree.</b> Correct legislation has now been referenced.
102: Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works: (a) On Kent Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council and RMS Infrastructure Specifications. Location of kerb & gutter to be confirmed with RMS and Council prior to construction, (b) On Kent Road, adjacent to development, demolish	Condition 102 requires works and approvals for public road works before the occupation certificate. We will be constructing the public roads at the later stages of the development as the land will be required for construction activity for loading and unloading of material etc. Also, Council would not want the new roads and public areas earlier as they will be damaged by construction vehicles. The conditions must be reworded by inserting the timing to final occupation certificate"	<b>Agree.</b> Wording has been changed to 'prior to any Occupation Certificate for the final building'.

Original Condition	Applicant's Objection	Council Response
<p>existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications,</p> <p>(c) Construct new east-west road as per civil engineering design provided by Council, in accordance with Council Infrastructure specifications and with the written approval by Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer.</p>		
<p>103: Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.</p>	<p>Condition 103 requires works and approvals for public road works before the occupation certificate. We will be constructing the public roads at the later stages of the development as the land will be required for construction activity for loading and unloading of material etc. Also, Council would not want the new roads and public areas earlier as they will be damaged by construction vehicles. The conditions must be reworded by inserting the timing to final occupation certificate"</p>	<p><b>Agree.</b> Wording has been changed to 'prior to any Occupation Certificate for the final building'.</p>
<p>105(a) &amp; (b):</p> <p>Prior to the issue of any Occupation Certificate, the following is to be complied with:</p> <p>(a) Dedicate to Council and at no expense to the Council and generally in accordance with the draft Subdivision Plan ref. no. 20974 by B &amp; P Surveys, dated 11 November 2015 and the following:</p> <ul style="list-style-type: none"> <li>i. Along the southern boundary, dedicate a 9.0metre wide portion of land to Council for the purpose of constructing a new East-West Road...</li> <li>ii. Over the proposed North-South oriented community park, register a new 16.6 wide "Easement for Public Access"...</li> </ul>	<p>No objection to the requirements other than timing. The development does not get completed in one go and we stage occupation. We therefore require that the condition be amended to the final Occupation Certificate. We don't want public access through a construction site whilst we complete buildings in a stage manner</p>	<p><b>Agree.</b> Wording has been changed to 'prior to any Occupation Certificate for the final building'.</p>
<p>106(a): The Stratum and Strata subdivision of the development shall be the subject of a further</p>	<p>Condition I 06(a) - Delete reference to Strata Subdivision - this is done under the SEPP for Exempt and Complying</p>	<p><b>Agree.</b> Reference to 'Strata Subdivision' has been deleted.</p>

Original Condition	Applicant's Objection	Council Response
Development Application to Council	Development by a Private Certifier.	
106(b): The subdivision application must be accompanied by a formal copy of the by-laws which shall be in accordance with the plans and documentation approved under this Consent and must also include the following:	Condition 106(b) - In accordance with the SEPP for Exempt and Complying Development, the Certifier is governed with approving the By Laws in accordance with the consent conditions. Once the certifier has approved the By Laws being in accordance with the consent, this is then registered with the Land and Property Information Department (LPI). The condition is to be reworded that the By Laws be submitted to Council following registration with the LPI. No objection is raised to the items being included in the By Laws under this condition	<b>Agree.</b> Wording has been amended.
<p>112: Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:</p> <p>(a) All reduced levels shown upon the approved plans, with relation to the required solar panels, drainage, boundary and road reserve levels, have been strictly adhered to; and</p> <p>(b) A Floor Space Ratio (FSR) of 3.2:1 and height of 51m AHD (47.2m) as approved under this Development Consent No. 15/216, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.</p> <p>(c) The development as built, stands within Lot 30 in DP 789177.</p>	<p>Because construction is staged, the total gross floor area will not be known until the development is complete. Otherwise the correct figure is not known. The timing of the approval should therefore be changed to "prior to the final occupation certificate".</p> <p>Further clarification from the applicant requested the wording 'for the relevant stage' be added.</p>	<b>Agree.</b> Wording has been amended to 'prior to the Occupation Certificate for the relevant stage'.
117: Landscaping on the property and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. This amended plan supersedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of	Condition I 17 requires all landscaping to be completed prior to the issues of an occupation certificate. This is not possible for large multi-unit developments. The wording needs to change to final occupation certificate. The condition also requires maintenance in accordance with the development consent with no time frame. Timing of 12 months should be included to be consistent with other amended conditions in the consent.	<b>Amended wording. Applicant agrees with amended wording.</b> Wording has changed from 'an OC' to 'the interim OC for the relevant stage'. The maintenance timing of 12 months has also been added as per the new wording of Condition 118 below.

Original Condition	Applicant's Objection	Council Response
development consent and Council's DCP all times.		
<p>118: The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$50,000.00 after practical completion of landscape works within all public domain areas, to ensure establishment and maintenance of the landscaping in accordance with the approved plans until handover to Council. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years. The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan. The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.</p>	<p>Condition 1.8 requires a bond to maintain public domain works for a period of 5 years. The development will be built and sold within 2 years at a maximum. The public domain works will be completed quickly after that. It is our experience with all other Councils that only a 12 month period applies for bonds. The 12 month period after the public domain works is completed is to ensure landscaped areas will survive which is considered reasonable.</p> <p>However over 5 years, the landscaping in the public domain can be effected by weather or other third party damage, which we should not be liable for. As such the condition should be amended by replacing 5 years to 12 months.</p>	<p><b>Agree.</b> New wording proposed. <b>Applicant agrees with amended wording:</b> <i>"Landscaped areas are required to be maintained up until the issue of the final Occupation Certificate, and then 12 months after issue of the final Occupation Certificate".</i></p>
<p>119:</p> <p>At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the Issue of an Occupation Certificate.</p>	<p>Condition 119 - Similar to the timing of other conditions. The condition needs to be amended to have the works done and signed off by Council prior to the Final Occupation Certificate.</p> <p>The areas of landscaped works will be used for construction works before landscaping is started, which is always at the end of the entire project and not before the first occupation certificate.</p>	<p><b>No change.</b> Wording has changed from 'an OC' to 'the interim OC for the relevant stage'. <b>The applicant accepts the amended wording.</b></p>

Original Condition	Applicant's Objection	Council Response
120: The use of the retail tenancy is subject to a separate approval (DA or complying development certificate).	Condition I 20 states that the use of the retail tenancy is subject to a separate approval SEPP for Exempt and Complying Development covers this condition. The condition should be deleted.	<b>Agree. New wording proposed. Applicant agrees with the amended wording:</b> <i>The commercial tenancy on ground floor is approved for the use as commercial premises and/or food and drink premises in accordance with the definition in the Standard Instrument.</i>
121: The proposal for any new application over the site at No. 671-683 Gardeners Road is to comply with the relevant plans and policies including, but not limited to the controls outlined in the SEPP 65 – ADG, BBLEP 2013 and BBDCP 2013. If a combined podium and basement access is proposed with the development at No. 1-5 Kent Road, then discussions are to be held with Council prior to lodgement and an appropriate s96 application to modify 1-5 Kent Road is to be lodged in conjunction with any new application over No. 671-683 Gardeners Road.	Condition 121 - We understand the intent of the condition as discussed in meetings.  However, the condition cannot be legally imposed as it relates to land owned by another party. We do not settle until February next year. Under our contract agreement of sale with the adjoining owner, we can lodge applications, which we will be doing shortly as discussed with Council. Council cannot impose a condition about how adjoining land will comply with planning controls if we are not the owner. The condition has to be deleted. We will continue pre DA meetings with the Council on the adjoining site and have a Design review Panel meeting set for the 12 May 2016.	<b>Agree.</b> Condition has been deleted.
123: New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.	Condition 123 requires new street trees to be maintained for a period of 24 months, which is inconsistent with Condition 1/8. The condition is to be amended to 12 months for reasons outlined above.	<b>Agree.</b> Timing changed from 24 months to 12 months.
124: Ongoing maintenance of the road verges and footpaths and nature strips in Kent Road and the new East-West Street shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all	Condition I 34 states that the Body corporate be responsible for future maintenance of Kent road nature strips, road verges and footpaths at all times. Body corporates are never responsible for maintaining Council footpaths, and road verges. The condition must be deleted. Similarly it is up to the body corporate or any other landowner to maintain the	Typo and actually relates to Condition 124: <b>Agree.</b> This condition has been deleted.

Original Condition	Applicant's Objection	Council Response
times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.	frontages. This goes against basic property rights	
126: Any air conditioning units shall comply with the following requirements:  (a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.	Condition 126(a) is not possible in every occasion. At some angle from the street, "someone" will find a way to suggest the plant can be seen. We seek the condition to be reworded as follows. Air conditioning units "where possible" are not to be visible from the street	<b>Agree.</b> Words 'where possible' have been added.
127: All loading and unloading associated with the retail tenancy is to be undertaken within the basement of Building C.	Condition 127 states loading to be within the Basement of Building C. There is no basement loading area. Loading occurs within the ground level of Building C. The condition needs amending to state loading and unloading be within the ground floor of Building C.	<b>Agree.</b> Condition references ground floor of Building C instead of Basement of Building C.
130(a): Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council	Condition 130(a) is not agreed with. The condition is seeking that only occupation by a single family is permissible. Council cannot control who will occupy a unit. A unit may be accommodation for friends or different family structures. I think what Council is alluding to is that there cannot be a boarding use situation, where more than 4 people occupy a bedroom. If this is the case, then the condition should be worded as such. Council has the power to intervene if a situation arises. The second part of the condition states that Council approval is required for changes to internal works. This part of the condition must be deleted, as the  SEPP for Exempt and Complying Development allows for certain internal works to be undertaken. The third sentence of the condition starting with No plumbing...be deleted.	<b>Agree.</b> This condition has been deleted.
130(b): The adaptable apartments approved under this development consent are to remain unaltered at all times.	Condition 130(b) is poorly worded and will not allow any alterations to a completed adaptable unit. The condition should be reworded to state "The adaptable apartments approved under this development consent are to remain as adaptable units at all times".	<b>Agree.</b> The wording 'remain as adaptable units at all times' has been added.
132: The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as	Condition 132 currently removes the rights to lodge a Section 96 or Complying Development Certificate in the future. The condition must be varied as such. ...."that any alteration, variation or extension to the development for which approval has been given, would require further approval	<b>Agree.</b> This is a standard condition and is not intended to prevent the submission of s96 applications or applications under complying development. The wording has been changed as such and conveys the same

Original Condition	Applicant's Objection	Council Response
Development Application No. 15/216 dated as 13 November 2015 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.	under Section 96 of the Environmental Planning and Assessment Act or Complying Development Certificate from relevant planning authority and in accordance with the prevailing legislation applicable at the time".	intent: "...Development Application registered in Council's records as Development Application No. 15/216 dated as 13 November 2015 and that any alteration, variation, or extension to the use, <del>for which approval has been given,</del> would require further Approval <del>from Council</del> ".

## SCHEDULE OF CONSENT CONDITIONS

### GENERAL CONDITIONS

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

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
Bulk Excavation & Sections and Sediment Control (Drawing No. E-1000-EX, Revision B)	Karimbla Construction Services (NSW) Pty Ltd	Dated 05/04/2016 Received by Council 05/04/2016
Cover Page (Revision S4)	Turner	Received by Council 31/03/2016
Site Plan – Proposed (Drawing No. DA-100-001, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Ground Level (Drawing No. DA-110-000, Revision S3)	Turner	Dated 30/03/2016 Received by Council 31/03/2016
Level 1 (Drawing No. DA-110-001, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Level 1 (Drawing No. DA-110-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Level 3 (Drawing No. DA-110-003, Revision S2)	Turner	Dated 19/02/2013 Received by Council 31/03/2016
Level 4 Podium (Drawing No. DA-110-004, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Level 5-8 Lower Tower (Drawing No. DA-110-005, Revision S2)	Turner	Dated 19/02/2016 Received by Council

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
		31/03/2016
Level 9-13 Tower (Drawing No. DA-110-006, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Plant Rooms (Drawing No. DA-110-007, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Roof Plant (Drawing No. DA-110-008, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Basement 1 (Drawing No. DA-110-B01, Revision S3)	Turner	Dated 30/03/2016 Received by Council 31/03/2016
Basement 2 (Drawing No. DA-110-B02, Revision S3)	Turner	Dated 30/03/2016 Received by Council 31/03/2016
North Elevation (Drawing No. DA-250-001, Revision S3)	Turner	Dated 25/02/2016 Received by Council 31/03/2016
East Elevation – Adjoining Boundary (Drawing DA-250-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
South Elevation (Drawing No. DA-250-003, Revision S4)	Turner	Dated 30/03/2016 Received by Council 31/03/2016
West Elevation – Kent Road (drawing No. DA-250-004, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
East Elevation – North-South Street (Drawing No. DA-250-005, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
West Elevation – North-South Street (Drawing No. DA-250-006, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Cross Section looking East (Drawing No. 350-001, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Longitudinal Section looking North (drawing DA-350-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Ramp Sections (Drawing Da-350-003, Revision S1)	Turner	Dated 19/02/2016 Received by Council 31/03/2016

#### Referenced documents

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
Stratum Subdivision Plans (Sheets 1-7, Revision A)	Meriton Property Services Pty Ltd	Dated 11/11/2015 Received by Council 13/11/2015
Level & Feature Survey (Drawing No. 20308 B, Sheet 1 of 3, Revision A)	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
Level & Feature Survey (Drawing No. 20308 B, Sheet 2 of 3, Revision A)	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
Level & Feature Survey (Drawing No. 20308 B, Sheet 3 of 3, Revision A)	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
Site Survey	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
SEPP 65 Report	Turner	Dated November 2015 Received by Council 13/11/2015
Design Verification Statement	Turner	Dated 13/11/2015 Received by Council 13/11/2015
Apartment Design Guide Workbook for Applicants	Turner	Received by Council 13/11/2015
Statement of Environmental Effects and DCP Assessment Table	Meriton Property Services Pty Ltd	Dated 11/11/2015 Received by Council 13/11/2015
Clause 4.6 Variation	Meriton Property Services Pty Ltd	Received by Council 22/02/2016
Retail and Commercial Needs Analysis	Urbis	Dated February 2016 Received by Council 22/02/2016
Thermal Comfort & BASIX Assessment (Issue A)	Efficient Living	Dated 06/11/2015 Received by Council 13/11/2015
Acoustic Report (Revision 1)	Acoustic Logic	Dated 12/10/2015 Received by Council 13/11/2015
Waste Management Plan	Elephants Foot	Dated 09/11/2015 Received by Council 13/11/2015
Transport Impact Assessment	Arup	Dated 11/11/2015 Received by Council 13/11/2015
Transport Impact Assessment	Arup	Dated 29/01/2016

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
Letter (237457)		Received by Council 22/02/2016
Transport Impact Assessment Addendum (Revision A)	Arup	Dated 19/02/2016 Received by Council 22/02/2016
Access Report	Wall to Wall Design & Consulting	Dated 07/11/2015 Received by Council 13/11/2015
BCA Compliance Assessment Report (1423-91, Rev 1)	AED Group	Dated 10/11/2015 Received by Council 13/11/2015
Aeronautical Impact Assessment (J0422)	The Ambidji Group Pty Ltd	Dated 16/10/2015 Received by Council 13/11/2015
Arboricultural Assessment Report	Tree and Landscape Consultants (TALC)	Dated 10/11/2015 Received by Council 13/11/2015
Construction Management Plan	Meriton Property Services Pty Ltd	Dated October 2015 Received by Council 13/11/2015
Construction Traffic Management Plan (Ref: SBMG1151-11)	SBMG	Dated 15/10/2015 Received by Council 13/11/2015
Civil Works Drawings (Drawing No. DAC01, 02, 05, 10, 15, 20, 30, 35, 40, 41, 60, 61, Issue A)	at&l	Dated 11/11/2015 Received by Council 22/02/2016
Sediment and Erosion Control Details (Drawing No. DAC41, Issue A)	At&l	Dated 11/11/2015 Received by Council 13/11/2015
Environmental Site	Coffey	Dated 23/09/2014

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
Assessment		Received by Council 13/11/2015
Geotechnical Site Investigation	Coffey	Dated 19/09/2014 Received by Council 13/11/2015
Groundwater Management Plan	Coffey	Dated 25/02/2016 Received by Council 22/02/2016
Flood Report	Calibre Consulting	Dated 12/10/2015 Received by Council 13/11/2015
Qualitative Wind Impact Assessment (Revision 0)	SLR	Dated 04/11/2015 Received by Council 13/11/2015
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 12/10/2015 Received by Council 13/11/2015
QS Report	Steven Wehbe	Dated 15/10/2015 Received by Council 13/11/2015
Landscape Plan – Cover Sheet (Drawing No. L-001, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Ground Level Streetscape (Drawing No. L-101, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Ground Level Courtyard (Drawing No. L-102, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Level 4 Podium (Drawing No. L104,	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
Issue C)		Council 22/02/2016
Landscape Plan – Level 1 Courtyard (Drawing No. L103, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Level 4 Podium Courtyard 2 (Drawing No. L105, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Site Plan – Existing (Drawing No. DA-100-000, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Site Analysis Plan (Drawing No. DA-100-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Demolition Plan (Drawing No. DA-101-001, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
GFA Diagrams (Drawing No. DA-710-000, Revision S3)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 9am (Drawing No. DA-720-001, Revision S2)	Turner	Dated 20/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 12pm (Drawing No. DA-720-002, Revision S2)	Turner	Dated 20/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 3pm (Drawing No. DA-720-003, Revision S2)	Turner	Dated 20/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Site Plans Winter Solstice (Drawing No. DA-720-004, Revision S1)	Turner	Dated 06/11/2015 Received by Council

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
		31/03/2016
Shadow Diagrams, Site Plans Spring Equinox (Drawing No. DA-720-005, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 10am (Drawing No. DA-720-006, Revision S1)	Turner	Dated 20/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 11am (Drawing No. DA-720-007, Revision S1)	Turner	Dated 20/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 1pm (Drawing No. DA-720-008, Revision S1)	Turner	Dated 20/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 2pm (Drawing No. DA-720-009, Revision S1)	Turner	Dated 20/11/2015 Received by Council 31/03/2016
Shadow Diagrams Gardeners Road Winter Solstice 9am & 10am (Drawing No. DA-720- 010, Revision S1)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Shadow Diagrams Gardeners Road Winter Solstice 11am & 12pm (Drawing No. DA-720- 011, Revision S1)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Shadow Diagrams Gardeners Road Winter Solstice 1pm & 2pm (Drawing No. DA-720- 012, Revision S1)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Shadow Diagrams Gardeners Road Winter Solstice 3pm (Drawing No. DA-720-013, Revision S1)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Solar Amenity Ground Level – L5 (Drawing No. DA-721-000, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
Solar Amenity 6 – L11 (Drawing No. DA-721-001, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Solar Amenity L12 – L13 (Drawing No. DA-721-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Cross Ventilation Ground Level – L5 (Drawing No. DA- 722-000, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Cross Ventilation 12 – L13 (Drawing No. DA-722-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Calculations (Drawing No. DA-723-000, Revision A)	Turner	Dated 30/03/2016 Received by Council 31/03/2016
Supplementary Drawings Adaptable Apartments (Drawing No. DA-813-000, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
Proposed Envelopes for Northern site (Drawings SK001 - 5, Revision A)	Turner	Dated 19/02/2016 Received by Council 22/02/2016
Materials and Finishes (Drawing No. DA-910-001, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
Photomontage – View from South West – Kent Road (Drawing No. DA-920-001, Revision S1)	Turner	Dated 09/11/2015 Received by Council 31/03/2016
Photomontage – View from North West – Kent Road (Drawing No. DA-920-002, Revision S1)	Turner	Dated 09/11/2015 Received by Council 31/03/2016
Photomontage – View West at	Turner	Dated 09/11/2015

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
New Street Junction (Drawing No. DA-920-003, Revision S1)		Received by Council 31/03/2016
8.00 Apartment Schedule (Revision 5)	Turner	Dated 31/03/2016 Received by Council 31/03/2016

- 2 No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.
- 3 This Consent relates to land in Lot 30 on DP 789177 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 4 The consent given does not imply that works can commence until such time that:
  - (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
    - (i) The consent authority; or,
    - (ii) An accredited certifier; and,
  - (b) The person having the benefit of the development consent:
    - (i) Has appointed a principal certifying authority; and
    - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 5 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 6 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the each building in the development are fulfilled.
  - (a) Note:
 

Relevant BASIX Certificate means:

    - (i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent

is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or

- (ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
- (iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

### **CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY**

7 The following condition is imposed by **Ausgrid** and is to be complied with:

Ausgrid has identified the following assets to be affected by the development works:

Close proximity of overhead and/or underground cable/s on public land.

The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (e.g. whether a substation is required on site). In general, works to be considered by Ausgrid include, but are not limited to, the following

- a) Changes in electrical load requirements
- b) Changes to Ausgrid's infrastructure (i.e. asset relocations, decommissioning substations etc.)
- c) Works affecting Ausgrid's easements, leases and/ or right of ways
- d) Changing the gradients of any roads or paths
- e) Changing the level of roads or foot paths
- f) Widening or narrowing of roads
- g) Closing roads or laneways to vehicles
- h) Land subsidence and vibration impact on Ausgrid assets as a result of excavation / reinforcement activities
- i) In all cases Ausgrid is to have 24 hour access to all its assets.

Any work undertaken near Overhead Power lines needs to be done in accordance with:

- a) Workcover Document ISSC 23 "Working Near Overhead Power Lines"
- b) Ausgrid's Network Standards;

c) Ausgrids Electrical Safety Rules.

The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.

- 8 The following conditions are imposed by **Sydney Water** and is to be complied with:

Water

- (a) A drinking water extension will be required off the proposed 200mm main (to replace part of the existing 150mm main) located at the intersection of Kent Road and Church Street.
- (b) An accredited WSC/Designer will need to ensure that the submitted design is sized and configured according to the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012). Evidence of Code compliance should be attached with the design.
- (c) Detailed drinking water requirements will be provided at the Section 73 application phase.

9 Wastewater

- (a) An extension of the wastewater system will be required from the existing 225mm main located in Kent Road which will provide a point of connection at least 1 m inside all the proposed lot boundaries.
- (b) An accredited Hydraulic Designer will be engaged by the developer to ensure that the proposed wastewater infrastructure for this development will be sized & configured according to the Sewerage Code of Australia WSA 02-2002-2.2 (Sydney Water Edition 1 - Version 3). Evidence of Code compliance should be attached with the design.
- (c) Detailed wastewater requirements will be provided at the Section 73 application phase.

Sydney Water E-Planning

- 10 Sydney Water has an email address for planning authorities to submit statutory or strategic planning documents for review. This email address is [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au). Further advice and requirements for this proposal are at attachments 1 and 2 (overleaf). If you require any further information, please contact Beau Reid of Urban Growth Strategy on 02 8849 4357 or e-mail [beau.reid@sydneywater.com.au](mailto:beau.reid@sydneywater.com.au)

Further advice and requirements for this proposal are at attachments 1 and 2 (overleaf). If you require any further information, please contact Beau Reid of Urban Growth Strategy on 02 8849 4357 or e-mail [beau.reid@sydneywater.com.au](mailto:beau.reid@sydneywater.com.au)

11 Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. Make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing> Developing Land development or telephone 13 20 92.

## 12 Building Plan Approval

You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see Plumbing, building and developing then Building over or next to assets).

## 13 Requirements for Business Customers for Commercial and Industrial Property Developments

If this property is to be developed for Industrial or Commercial operations, it may need to meet the following requirements:

### *Trade Wastewater Requirements*

If this development is going to generate trade wastewater, the property owner must submit an application requesting permission to discharge trade wastewater to Sydney Water's sewerage system. You must wait for approval of this permit before any business activities can commence.

The permit application should be emailed to Sydney Water's Business Customer Services at

[businesscustomers@sydneywater.com.au](mailto:businesscustomers@sydneywater.com.au). It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

A Boundary Trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment.

If the property development is for Industrial operations, the wastewater may discharge into a sewerage area that is subject to wastewater reuse. Find out from Business Customer Services if this is applicable to your development.

## 14 Backflow Prevention Requirements

Backflow is when there is unintentional flow of water in the wrong direction from a potentially polluted source into the drinking water supply.

All properties connected to Sydney Water's supply must install a testable Backflow Prevention Containment Device appropriate to the property's hazard rating. Property

with a high or medium hazard rating must have the backflow prevention containment device tested annually. Properties identified as having a low hazard rating must install a non-testable device, as a minimum.

Separate hydrant and sprinkler fire services on non-residential properties, require the installation of a testable double check detector assembly. The device is to be located at the boundary of the property.

*Before you install a backflow prevention device:*

- Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.
- Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300889099.

For installation you will need to engage a licensed plumber with backflow accreditation who can be found on the Sydney Water website: <http://www.sydneywater.com.au/Plumbing/BackflowPrevention/>

## 15 Water Efficiency Recommendations

Water is our most precious resource and every customer can play a role in its conservation. By working together with Sydney Water, business customers are able to reduce their water consumption. This will help your business save money, improve productivity and protect the environment.

Some water efficiency measures that can be easily implemented in your business are:

- Install water efficiency fixtures to help increase your water efficiency, refer to WELS  
(Water Efficiency Labelling and Standards (WELS) Scheme, <http://www.waterrating.gov.au/>)
- Consider installing rainwater tanks to capture rainwater runoff, and reusing it, where cost effective. Refer to <http://www.sydneywater.com.au/Water4Life/InYourBusiness/RWTCaIculator.cfm>
- Install water-monitoring devices on your meter to identify water usage patterns and leaks.
- Develop a water efficiency plan for your business.

It is cheaper to install water efficiency appliances while you are developing than retrofitting them later.

## 16 Contingency Plan Recommendations

Under Sydney Water's customer contract Sydney Water aims to provide Business Customers with a continuous supply of clean water at a minimum pressure of 15 meters head at the main tap. This is equivalent to 146.8kpa or 21.29psi to meet reasonable business usage needs.

Sometimes Sydney Water may need to interrupt, postpone or limit the supply of water services to your property for maintenance or other reasons. These interruptions can be planned or unplanned.

Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority.

The following conditions are imposed by the **NSW Roads and Maritime Service**

- 17 Roads and Maritime has previously resumed and dedicated a strip of land as road along the Kent Road frontage of the subject property, as shown by grey colour on the attached Aerial- "X" (see Annexure B to the conditions).

Therefore, all buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Kent Road boundary.

- 18 The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.  
Telephone 8849 2114  
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- 19 The redundant driveways on Kent Road shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Kent Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 88492138).

Detailed design plans of the proposed kerb and gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

- 20 Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:  
The Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 88492766

- 21 The proposed development should be designed such that road traffic noise from Kent Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.
- 22 The developer shall be responsible for all public utility adjustment/relocation works necessitated by the above work and as required by the various public utility authorities and/or their agents.
- 23 Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclist travelling along the footpath of Kent Road.
- 24 A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Kent Road during construction activities.
- 25 All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Kent Road.
- 26 All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.
- 27 The following conditions are imposed by the **Sydney Airport Corporation Limited (SACL)** and must be complied with:
- (a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24

metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

- (b) The application sought approval for the property development to a height of 51.0 metres Australian Height Datum (AHD).
- (c) In the capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, the Airfield Design Manager has no objection to the erection of this development to a maximum height of 51.0 metres AHD. Should you wish to exceed this height a new application must be submitted.
- (d) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- (e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- (f) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)). The height of the prescribed airspace at this location is 51 metres above AHD.
- (g) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)). The height of the prescribed airspace at this location is 51 metres above AHD.
- (h) Planning for Aircraft Noise and Public Safety Zones: Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF). Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.
- (a) Application for Approval of Crane Operation
  - (i) Pursuant to s. 183 of the Airports Act 1996 and Reg 7 of the Airports (Protection of Airspace) Regulations 1996, the Proponent must apply through the Airport to the Secretary of the Department of

Infrastructure and Regional Development for approval of the operation ("controlled activity") set out in the Schedule.

- (ii) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
- (iii) The operation must not commence without approval, and must only proceed in compliance with any conditions imposed on such approval.
- (iv) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
- (v) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
- (vi) The Secretary and the Airport, as applicable, may request further information before determining an application.
- (vii) The "Important Notes" must be read and accepted.
- (viii) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY EXCAVATION OR BUILDING WORKS**

- 28 Prior to the issue of a construction certificate for excavation, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- (a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
  - (b) Negotiate with the utility authorities (e.g. AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
    - (i) The additional load on the system, and
    - (ii) The relocation and/or adjustment of the services affected by the construction.
- 29 Prior to commencement of any works, the Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the

Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.

- 30 Prior to the commencement of excavation or any building works, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

- 31 Prior to the commencement of any excavation or building works, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

- 32 A Construction Management Program shall be submitted to, and approved in writing by the Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:

- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
- (b) The proposed phases of construction works on the site and the expected duration of each construction phase,
- (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
- (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
- (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- (f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,

- (g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
  - (h) 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 and certified by an Accredited Certifier (Structural Engineering), or equivalent,
  - (i) Proposed protection for Council and adjoining properties, and
  - (j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
  - (k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- 33 A detailed Traffic Management Plan for the pedestrian and traffic management of the site during the proposed works shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:
- (a) be prepared by a RMS accredited consultant,
  - (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police,
  - (c) during construction, if access from Kent Road is required, the applicant is to submit documentary evidence to the Principal Certifying Authority that the required Section 138 Consent under the Roads Act, 1993 has been issued by the New South Wales Roads and Maritime Services, and
  - (d) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

*Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.*

- 34 Prior to the commencement of any excavation or building works, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.

Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

- 35 A Stage 3 – Remedial Action Plan (RAP) shall be prepared by a suitably qualified and experienced contaminated land consultant and shall be in accordance with:

- (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- (b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997; and
- (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The RAP shall incorporate all findings and recommendations in the Environmental Site Assessment by Coffey dated 23 September 2014 for the site, it shall clearly state proposed cleanup objectives, and demonstrate how the site can be made suitable for the proposed use.

The RAP shall be submitted to Council prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP.

- 36 In accordance with SEPP 55, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.

- 37 A Site Audit Statement will be required for this site. To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse the any additional investigation and remediation proposed prior to the commencement of any works.

Evidence of this appointment shall be provided to council prior to the issue of any construction certificate.

- 38 The applicant shall provide Council with a 24 hour contact number for the manager of the remediation works prior to the commencement of any works at the site.

- 39 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.

These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

- 40 The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
- 41 Shaker pads and a wheel washer are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
- 42 The proposed development shall comply with the following:
  - (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - (i) Stating that unauthorised entry to the work site is prohibited;
    - (ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
    - (iii) The Development Approval number; and
    - (iv) The name of the Principal Certifying Authority including an afterhours contact telephone number.
  - (b) Any such sign is to be removed when the work has been completed.
- 43 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
  - (a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
  - (b) Each toilet provided:
    - (i) must be standard flushing toilet; and,
    - (ii) must be connected:
    - (iii) to a public sewer; or
    - (iv) if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
    - (v) if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.

- (c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 44 If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
- 45 Prior to the commencement of any demolition, excavation or remediation works, the applicant must inform Council, in writing, of:
- (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
  - (b) The name and permit number of the owner-builder who intends to do the work;
  - (c) The Council also must be informed if: -
    - (i) A contract is entered into for the work to be done by a different licensee; or
    - (ii) Arrangements for the doing of the work are otherwise changed.
- 46 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993, where relevant: -
- It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.
- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
  - (b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
  - (c) Permit to install temporary ground anchors in public land,
  - (d) Permit to discharge ground water to Council's stormwater drainage system,
  - (e) Permit for roads and footways occupancy (long term/ short term),
  - (f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
  - (g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,

- (h) Permit to place skip/waste bin on footpath and/or nature strip, and
  - (i) Permit to use any part of Council's road reserve or other Council lands.
- 47 Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practicing engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority. As no owner's consent has been received for any works on private property, evidence that all legal rights to use private property has been obtained is to be provided to Council and the certifying authority, and approval for rock anchors the like on Council's land is to be submitted, prior to issue of the construction certificate.
- 48 In order to ensure that tree #9, tree #10 and tree#11 at the north west of the site along Kent Road, together with two (2) *Harpulia pendula* trees and four (4) *Casuarina* trees within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street are retained and protected during construction, and their health and structural stability ensured, the following is required:
- (a) The six (6) existing retained trees (2 x *Harpulia pendula* and 4 x *Casuarina*) within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street shall be shown on all plans.
  - (b) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
  - (c) All tree works and tree management shall be undertaken in accordance with the Arborist report by Tree and Landscape Consultants (TALC) (dated 10th November 2015). For all tree root and canopy work to trees, comply with the recommendations and requirements and management plan contained within this report.
  - (d) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.
  - (e) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.
  - (f) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's

first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).

- (g) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
- (h) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- (i) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
- (j) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- (k) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
- (l) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
- (m) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- (n) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
- (o) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained, including the Council Street tree on the southern corner of Church Avenue and Kent Road. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.

- (p) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.
  - (q) If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.
- 49 The Applicant has permission to remove trees Tree #1, Tree #2, Tree #3, Tree #4, Tree #5, Tree #6, Tree #7 and Tree #8 as identified by the Consultant Arborist in the report by Tree and Landscape Consultants (TALC) (dated 10th November 2015).
- 50 Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:
- (a) A qualified Arborist with their own public liability insurance must be engaged.
  - (b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access otherwise road and footpath closures require a Council Road Occupancy Permit.
  - (c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.

Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.

- 51 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- (a) The Erosion and Sediment Control Plan;
  - (b) “Managing Urban Stormwater - Soils and Construction” (2004) Landcom (‘The Blue Book’); and
  - (c) Protection of the Environment Operations Act 1997.

#### **CONDITIONS WHICH MUST BE SATISFIED AT THE COMPLETION OF EXCAVATION WORKS**

- 52 An assessment of the status of asbestos in soil at the site shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- (a) NSW Office of Environment and Heritage (OEH) ‘Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites’;

- (b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The validation report shall provide a notice of completion of any required remediation works identified during the additional assessment of asbestos in soils at the site required prior to the issue of the construction certificate and commencement of works on the site, and include a clear statement on the suitability of the site for residential use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works.

- 53 A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- (a) NSW Office of Environment and Heritage (OEHS) ‘Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites’;
- (b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works.

- 54 To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 shall be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This shall be provided prior to the release of any Occupation Certificate.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to ensure that they form part of the consent conditions.

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

**The following conditions shall be satisfied prior to the issue of the relevant construction certificate unless otherwise stated**

- 55 The applicant must prior to the issue of the Construction Certificate, pay the following fees:
- |     |                              |                                 |
|-----|------------------------------|---------------------------------|
| (a) | Development Control          | \$12,900.00                     |
| (b) | Damage Deposit               | \$157,500.00 (Condition No. 57) |
| (c) | Street Tree Maintenance Bond | \$10,000.00 (Condition No. 56)  |
- 56 The applicant is to submit payment of a Street Tree Maintenance Bond of \$10,000.00. The duration of the Bond shall be limited to a period of 24 months after final inspection of new street trees by Council. At the completion of the 24 month period the Bond shall be refunded pending a satisfactory inspection of the trees by Council. If any tree is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work.
- 57 Prior to the issue of the Construction Certificate for above ground works, the applicant shall lodge a Damage Deposit of **\$157,500.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupation Certificate has been issued.
- 58 The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans, a contribution of **\$4,097,375.00** is payable as calculated below:

***City of Botany Bay Section 94 Contributions Plan 2005-2010***

The s94 contributions (as indexed as at 2015/16) for residential and commercial/retail are as follows (including application of credit):

a) Community Facilities:	\$ 1,038,436.00
b) Administration:	\$ 31,277.00
c) Open Space & Recreation:	\$ 927,010.00
d) Transport:	\$ 400,781
e) Shopping Centre Improvements:	\$687.00
<b>f) TOTAL:</b>	<b>\$ 2,398,191.00</b>

***Mascot Station Precinct 94 Contributions Plan***

The s94 contributions (as indexed as at 2015/16) for residential and commercial/retail (including application of credit) is: **\$1,699,184.00.**

The total Section 94 Contribution of **\$4,097,375.00** is to be paid to Council prior to the issue of the Construction Certificate for above ground works.

**Note:** The Section 94 Contributions are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

- 59 Prior to the issue of the Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Certifying Authority and Council for approval.

The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.

The plans shall incorporate but not be limited to the following:

- (a) Provision of an On-site Detention system (OSD) in accordance with but not limited to Part 6 of the SMTG,
- (b) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
- (c) Stormwater discharge to Council/RMS Kerb & Gutter shall be limited to a single outlet with maximum capacity of 10L/s. If greater discharge rate is proposed (up to the maximum discharge rate stated in the point above), the a direct connection to Council/RMS pit and pipe system is required,
- (d) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of Botany Bay's SMTG,
- (e) The rainwater tank size shall be designed based on a supply/demand management approach. In addition, please note that in order to contribute to environmental sustainability and apply Water Sensitive Urban Design (WSUD) principles, consideration can be given to offset the storage requirements of the onsite detention system provided that the rainwater tank for reuse and all downpipes are connected to the rainwater tank. The volume to be offset from the onsite detention system is equivalent to 50% of the size of the rainwater tank(s),
- (f) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
- (g) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,

- (h) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
  - (i) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
  - (j) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
  - (k) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
  - (l) The submission of detailed calculations including computer modelling where required to support the proposal.
- 60 Prior to the issue of the Construction Certificate for above ground works, the applicant shall submit amended plans to Council for approval, showing the following:
- (a) At least one car parking space allocated to the retail component;
  - (b) An awning over the ramp (along Kent Road) and outdoor seating area of the retail tenancy;
  - (c) The 2 and 3 bedroom apartments without a dedicated study are to indicate that a desk can be comfortably accommodated within the open-plan living area (Part 4C.4.2, Control 2 of the BBDCP 2013);
  - (d) The balcony size of U202 is at least 10sqm;
  - (e) Internal reconfiguration of Apartment UG01 to provide at least an additional 1m<sup>3</sup> of storage within the apartment in order to comply with the total minimum requirement of storage of 5m<sup>3</sup> (to be provided within the apartment);
  - (f) The bottom half of the gymnasium glass fronting Kent Road as frosted glass up to a maximum height of 1.2m;
- 61 All storage cages, whether floor or ceiling mounted, are to be made of perforated metal and constructed so that no goods can be stored within 500mm of the sprinkler head. This will ensure compliance with Part E1.5 of the BCA & Australian Standard 2118 is maintained. Details are to be submitted to the certifying authority for approval prior to the issue of a Construction Certificate.
- 62 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the above ground Construction Certificate. The garbage and recycling storage area shall be adequately

ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.

63 Prior to the issue of the Construction Certificate for above ground works, the plans and specification including sections information showing compliance with the following requirements are to be submitted to and approved by the Principal Certifying Authority in relation to passenger vehicles

- (a) All driveways/access ramps/vehicular crossings conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
- (b) Longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.

64 Prior to the release of the Construction Certificate, the plans and specification including sections showing the following are to be submitted to and approved by the Principal Certifying Authority in relation to garbage truck access:

- (a) All driveways/access ramps/vehicular crossings conform with Australian Standards AS 2890.2 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines;
- (b) All service vehicles shall enter the property front in front out;
- (c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck;
- (d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
- (e) A longitudinal section plotting headroom clearance above driveway access. .

65 Prior to the release of the Construction Certificate for above ground works, plans and specifications including section are required to be submitted to and approved by the Principal Certifying Authority:

- (a) Disabled car parking spaces shall be provided and clearly marked as per the Transport Impact Assessment, by ARUP, dated 19 February 2016, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
- (b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.

- 66 The drawings for the construction certificate for the basement car park shall show the minimum following parking requirements:

<b>Car Parking Rates</b>	<b>Required</b>
0.6 space / 1 bed unit	30 spaces
0.9 space / bed unit	83 spaces
1.4 space / bed unit	136
1 visitor space / 7 dwellings	35 spaces
Retail Spaces	4
<b>TOTAL REQUIRED</b>	<b>288</b>
<b>TOTAL PROVIDED</b>	<b>371</b>

Any excess parking is to be allocated to an apartment or the retail tenancy.

- 67 Prior to the issue of the Construction Certificate for above ground works, an amended Qualitative Wind Assessment Report is to be submitted to Council modelling the proposed development within the current DA approved context of the immediately surrounding area. Any recommendations from the amended Qualitative Wind Assessment Report are to be incorporated into the design in order to ensure compliance with Council's maximum wind criteria (as set out at Part 9A.4.5.4 Wind Mitigation, Control C1): as follows:

- (a) 10 metres/second along commercial/retail streets;
- (b) 13 metres/second along main pedestrian streets, parks and public places; and
- (c) 16 metres/second in all other streets.

- 68 The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.

The measures required in the acoustical assessment report prepared by **Acoustic Logic, dated 12/10/2015, Report reference number 20141049.1 R1** shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.

The work detailed in the report includes:

- (a) Appropriate acoustic glazing to stated windows and doors,

- (b) Detailed roof and ceiling construction,
- (c) Wall and ceiling corner details and,
- (d) External door specification,
- (e) Acoustically treated mechanical ventilation.

**Note:** In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner.

- 69 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Certifying Authority prior to the issue of the Construction Certificate and its location and specifications endorsed on the construction drawings.
- 70 In order to maximise visibility in the basement car parks, the ceilings shall be painted white. This requirement shall be reflected on the Construction Certificate plans.
- 71 The private domain landscape areas shown on the plan by Context, Plans L01 to L105 (Issue D, dated 19th February 2016) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to issue of the onstruction certificate for above ground works. The landscape documentation is to be prepared by Context Landscape Architects and shall include, but not be limited to:
  - (a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
  - (b) Canopy trees are required to be incorporated within the landscape setback along Kent Road frontage and New East West Street frontage.
  - (c) Canopy trees are to be used extensively within the community park at the north of the new North South Street. Planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with DCP Part 10 Part 4.6.
  - (d) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees.
  - (e) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the development that is appropriate to the scale of the building heights.
  - (f) Indicate the location of all basement structures relative to the landscape areas.

- (g) The six (6) existing retained trees (2 x *Harpulia pendula* and 4 x *Casuarina*) within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street shall be shown on all plans.
- (h) Barbeque facilities to be incorporated within the Level 4 Podium Courtyard 1.
- (i) Within the new community park at the northern end of New North South Street, areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- (j) The car park vent, which protrudes at the podium level, to be adequately screened from the view of surrounding apartments.

72 A detailed public domain landscape plan shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to the issue of the public domain Construction Certificate. The applicant shall meet with Council prior to any submission to discuss Council's requirements. Following this, detailed landscape construction documentation (plans and specifications) must be submitted to and approved by the City of Botany Bay Council Landscape Architect. The landscape documentation is to be prepared by a suitably qualified Landscape Architect and shall include, but not be limited to:

- (a) The clear delineation of all public domain areas as follows:
  - (i) Kent Road, New East West Street footpath areas
  - (ii) The public park located at the western end of New East-West Street
- (b) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
- (c) Street trees are required along Kent Road, the new East West Street, and within the community park north of new North South Street.
- (d) All street trees are to be in tree pits that are at grade with the footpath.
- (e) All deep soil areas are to include evergreen canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration comparable to the scale of the buildings.
- (f) Canopy trees are to be used extensively within the community park at the north of the new North South Street. Planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with Councils DCP (Part 10 Part 4.6).

- (g) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking. Canopy trees are to be a minimum litreage of 200 litres and street trees 400 litre.
- (h) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictors, tree pits, tree grates, tree guards, tree pit treatments and so on in accordance with Council's Draft Public Domain specifications.
- (i) New in road blister islands between parking bays are to be incorporated along New East-West Street. The blister islands shall be of adequate dimensions for the required street tree and are to function as WSUD pits to capture and filter storm water. Full detailing is required.
- (j) Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. This includes areas within the new community park at the northern end of New North South Street. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- (k) Details of all fencing, privacy screening, arbors and the like – elevations and materials, impacting or visible to public domain areas.
- (l) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, playground and recreational equipment, water features and water stations, bins, bollards, public toilets, signage suite. Locations to be clearly identified on plan. Provide sectional construction details and elevations.
- (m) Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
- (n) A way finding signage proposal.
- (o) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP (Part 10 Part 4.6) and capable of supporting medium and large canopy trees.
- (p) Trees are to be used extensively throughout the site and shall be of an appropriate scale to complement and ameliorate buildings and for appropriate scaling within pedestrian areas – footpaths and open spaces. Deep soil zones must include larger trees. Trees are to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration.
- (q) Indicate the location of all basement structures relative to the landscape areas.
- (r) The six (6) existing retained trees (2 x *Harpulia pendula* and 4 x *Casuarina*) within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street shall be shown on all plans.

- (s) The Ausgrid lighting poles along Kent Road, will need to be decommissioned and new lighting poles shall be constructed satisfying V3 lighting requirements for Kent Road and any other requirements as specified by Council, RMS and any other service provider,
- (t) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
- (u) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council. Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

### **DURING WORKS**

- 73 An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 74 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas in the private domain, inclusive of the new community park north of New East West Street. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
- 75 The public footpaths in Kent Road, New East West Street and in the new community park shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
- 76 New street trees at the pot size specified shall be installed in the accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.

- 77 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- (a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
  - (b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
  - (c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
  - (d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
  - (e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
- 78 Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect and relevant approval authority, prior to their installation.
- 79 During Construction, the applicant must ensure compliance with the SWMP, CMP and CTMP.
- 80 During Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 81 During Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any

vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas.

- 82 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Construction Traffic Management Plan and Construction Management Plan at all times.
- 83 Any new information that comes to light during works which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 84 The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Preliminary Acid Sulfate Soils Management Plan (Consulting Earth Scientists, 2015, or as updated and submitted to council).
- 85 For any water from site dewatering is to be managed in accordance with the Groundwater Management Plan (Coffey, 25 February 2016, or as updated and submitted to council).
- 86 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 87 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill (should this be required) shall be appropriately certified material and shall be validated in accordance with the:
- (a) Office of Environment and Heritage (OEHS) approved guidelines; and
  - (b) Protection of the Environment Operations Act 1997; and
  - (c) Protection of the Environment Operations (Waste) Regulation 2014.
  - (d) All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- 88 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- (a) The Erosion and Sediment Control Plan;
  - (b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
  - (c) Protection of the Environment Operations Act 1997.

- 89 Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the construction works.
- 90 Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
- 91 All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
- 92 Vibration caused by excavation and construction at any residence or structure outside the site must be limited to: a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006). Vibratory compactors must not be used in the vicinity of residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.
- 93 The following shall be complied with during construction and demolition:
- (a) Construction Noise
    - (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
  - (b) Level Restrictions
    - (i) Construction period of 4 weeks and under:
      - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
    - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
      - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
  - (c) Time Restrictions
    - (i) Monday to Friday 07:00am to 05:00pm
    - (ii) Saturday 08:00am to 01:00pm

- (iii) No demolition or construction to take place on Sundays or Public Holidays.
  - (d) Silencing
    - (i) All possible steps should be taken to silence construction site equipment.
- 94 During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
- 95 During excavation and construction works, the applicant / builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.

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

- 96 The applicant must prior to the issue of any Occupation Certificate for the final building, pay the following fees:
- (a) Waste Levy \$12,391.20.
- 97 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to any use or occupation of the premises. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 98 Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of .
- 99 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Kent Road, and all the new stormwater drainage lines constructed on new East-West Street and Kent Road.
- (a) The camera and its operation shall comply with the following:
  - (b) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
  - (c) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,

- (d) Distance from the manholes shall be accurately measured, and
  - (e) The inspection survey shall be conducted from manhole to manhole.
  - (f) The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council for review. Any damage to the culvert/pipeline since the commencement of construction on the site shall be repaired in full to the satisfaction of Council. A written acknowledgement shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.
- 100 Prior to the issue of the Occupation Certificates, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 101 Prior to the issue of any Occupation Certificate for the final building, the applicant shall carry out the following works:
- (a) On Kent Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council and RMS Infrastructure Specifications. Location of kerb & gutter to be confirmed with RMS and Council prior to construction,
  - (b) On Kent Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications,
  - (c) Construct new east-west road as per civil engineering design provided by Council, in accordance with Council Infrastructure specifications and with the written approval by Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer.
- 102 Prior to the issue of any Occupation Certificate for the final building, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
- 103 Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- (a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
  - (b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

*The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.*

104 Prior to the issue of any Occupation Certificate for the final building, the following is to be complied with:

- (a) Dedicate to Council and at no expense to the Council and generally in accordance with the draft Subdivision Plan ref. no. 20974 by B & P Surveys, dated 11 November 2015 and the following:
  - (i) Along the southern boundary, dedicate a 9.0metre wide portion of land to Council for the purpose of constructing a new East-West Road. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The draft Plan of Dedication shall be lodged with Council for approval. The proposed new road shall be unlimited in stratum. Once approval from Council is granted, the plan shall be registered with Land & Property Information prior to the issue of any Occupation Certificate for the final building. A copy of the registered document shall be submitted to Council for record purposes, and
  - (ii) Over the proposed North-South oriented community park, register a new 16.6 wide "Easement for Public Access". The draft plan of easement shall be lodged with Council for approval. The proposed new easement shall be limited in stratum. Once approval from Council is granted, the plan shall be registered with Land & Property Information prior to the issue of any Occupation Certificate for the final building. A copy of the registered document shall be submitted to Council for record purposes.

105

- (a) The Stratum subdivision of the development shall be the subject of a further Development Application to Council; and
- (b) The Stratum subdivision application must be accompanied by a formal copy of the by-laws which shall be in accordance with the plans and documentation approved under this Consent, and submitted to Council following registration with the Land and Property Information Department, and must also include the following:
  - (i) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 15/216.
  - (ii) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 15/216.
  - (iii) Responsibilities regarding the maintenance of the car wash bay the Owners Corporation / building owner.

- (iv) Responsibilities for ensuring owners and/or tenants have adequate and hygienic disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times in accordance with a Plan of Management.
- (v) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997.
- (vi) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.
- (vii) The linen plan must include details of any easements, encroachments, rights of way, including right of footway restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
- (viii) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
- (ix) The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines;
- (x) Maintenance of required acoustic measures of Development Consent No. 15/216; and
- (xi) CCTV surveillance of all public areas within the development site.

106 That before entering a lease/occupancy agreement, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.

107 Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building

108 Prior to release of the Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in

the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

- 109 All services (Utility, Council, etc.) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
- 110 Prior to the issue of the Occupation Certificate, street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
- 111 Prior to the issue of the Occupation Certificate for the relevant stage, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
- (a) All reduced levels shown upon the approved plans, with relation to the required solar panels, drainage, boundary and road reserve levels, have been strictly adhered to; and
  - (b) A Floor Space Ratio (FSR) of 3.2:1 and height of 51m AHD (47.2m) as approved under this Development Consent No. 15/216, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
  - (c) The development as built, stands within Lot 30 in DP 789177.
- 112 The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
- 113 Any damage not shown in the photographic survey as required under Condition No. 35 of Development Consent DA-15/215 (submitted to Council before excavation works have commenced), will be assumed to have been caused as a result of the site works undertaken as part of DA-15/215 or DA-15/216 and must be rectified at the applicant's expense, prior to the issue of the Occupation Certificate.
- 114 Any air conditioning units are to be located so that they are not visible from the street or public place and are not obscure windows/window frames or architectural features of the development and installed in a manner not be inconsistent with the relevant provisions of the Building Code of Australia (BCA).
- 115 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.
- 116 Landscaping on the property and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of the interim Occupation Certificate for the relevant stage. This amended

plan supersedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained up until the issue of the final Occupation Certificate, and then 12 months after the issue of the final Occupation Certificate, and in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.

- 117 Landscaped areas are required to be maintained up until the issue of the final Occupation Certificate, and then 12 months after issue of the final Occupation Certificate.
- 118 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the Issue of the interim Occupation Certificate for the relevant stage.

**CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT**

- 119 The commercial tenancy on ground floor is approved for the use as commercial premises and/or food and drink premises in accordance with the definition in the Standard Instrument.
- 120 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
- 121 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 12 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
- 122 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
  - (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

- (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
  - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
  - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 123 Any air conditioning units (where possible) shall comply with the following requirements:
- (a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
  - (b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
    - (i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
    - (ii) Before 7 am or after 10 pm on any other day.
- 124 All loading and unloading associated with the retail tenancy is to be undertaken within the ground floor of Building C.
- 125 No garbage collection associated with the retail premises is permitted between 10pm and 6am.
- 126 The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.
- 127
- (a) The adaptable apartments approved under this development consent are to remain as adaptable units at all times; and
  - (b) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces as identified by the NSW Police, shall be monitored by CCTV cameras at all times.
- 128 All parking bays shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods.

Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.

- 129 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 15/216 dated as 13 November 2015 and that any alteration, variation, or extension to the use, would require further Approval.

## **ADVISORY CONDITIONS**

- 1 The following conditions are imposed by the **NSW Police Service**:

### Surveillance

- (a) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. All access areas to the building be covered by such equipment including mail delivery ports. This equipment needs to be checked and maintained on a regular basis.
- (b) It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.
- (c) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
- (d) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external lighting.
- (e) Main entrance of all parking, lift entries and lobbies to be covered with CCTV footage.
- (f) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.
- (g) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime.

### Lighting

- (a) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.

- (b) Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens).
- (c) The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis.
- (d) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.
- (e) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.

#### Territorial Reinforcement

- (a) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (currently \$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.
- (b) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
  - (i) Warning, trespassers will be prosecuted
  - (ii) Warning, these premises are under electronic surveillance
- (c) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
- (d) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.
- (e) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.

- (f) Signage needs to be provided to assist occupants to identify fire suppression equipment, e.g. extinguishers, fire hoses etc.
- (g) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development or at least ground levels situated on the outsides of the buildings.

#### Space/Activity Management

- (a) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.
- (b) It is NOT advised to install storage cages or similar for the residents in the underground car park. If it is required, consider that they should NOT be constructed in an isolated area. The cages are easy targets when they have little supervision. CCTV cameras must cover this area if they are constructed. Solid steel housing and quality key locks should be used to prevent access. All cages to be at least 8ft in height with adequate roofing, cages below this allow people access over the top.

#### Access Control

- (a) The door and door frames to these premises should be of solid construction.
- (b) Doors should be fitted with locks that comply with the Australian Standard – Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are required for residential units.
- (c) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space.

- (d) The doors in the required exits must be readily open-able without a key from the side that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor.
- (e) Any sliding doors MUST be fitted with lockable bolts in the bottom and top of the door frame.
- (f) The windows and window-frames to these premises should be of solid construction. These windows should be fitted with locks which comply with the Australian Standard – Mechanical Locksets for windows in buildings, AS:4145 <http://www.standards.org.au> to restrict unauthorised access. This standard specifies the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical windows, such as wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses and factories. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms).
- (g) The main access to the underground car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering.
- (h) The main entry/egress doors to the development should have an electronically operated lock which requires a security swipe pass for entry. The lifts operating in the building should have the same security swipe pass technology. When an occupant buzzes in a visitor the lift should recognise the floor the occupant resides and only allow the visitor access to that floor in the lift.

## ANNEXURE B: RMS MAP

