

JOINT REGIONAL PLANNING PANEL (Sydney East Region)

JRPP No	2016SYE055 DA
DA Number	13(208).03
Local Government Area	City of Botany Bay
Proposed Development	<p>Section 96(2) Application to modify Development Consent No. 13/208 which was granted by the Joint Regional Planning Panel – Sydney East Region for a residential development containing 433 apartments. The proposed modifications to the development consent comprise:</p> <ul style="list-style-type: none"> - Staging of the consent, with the previously proposed vehicular access from Mahroot Street to be provided once relevant land is dedicated to Council. The proposal includes an alternative interim vehicular access for Building E until Mahroot Street has been dedicated. An additional dwelling is also proposed once vehicular access is available. - Road widening at the eastern end of Mahroot Street, associated with an offer to enter into a Works In Kind Agreement. - Modification to the south eastern boundary of the site to incorporate an additional allotment, with an additional terrace to be provided on Wilson Street and an the residual land to be dedicated to Council as a public park. - Changes to stratum subdivision plans. - Minor modifications resulting from the design development process.
Street Address	52-54 Pemberton Street, Botany NSW 2019
Applicant/Owner	<p>Applicant - Australand Property Group Pty Ltd</p> <p>Owner – Botany No 1 Pty Ltd</p>
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of	The approved development application was referred to the JRPP pursuant to Clause 3 of Schedule 4A of the Act as the Capital Investment Value (CIV) of the proposal is over \$20 million. The CIV of the approved application is \$138,554,483.00.

the Act)	The current application is a Section 96(2) modification and is referred to the JRPP pursuant to Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment • Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to development applications • State Environmental Planning Policy No. 55 – Contaminated Land • State Environmental Planning Policy 2004 (BASIX); • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat buildings • State Environmental Planning Policy (State and Regional Development) 2011 • Botany Bay Local Environmental Plan 2013 • Botany Development Control Plan 2013
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Section 96(2) Statement of Environmental Effects – JBA Urban Planning • Traffic Impact Assessment – Ason Group • Site Audit Statement – Enviroview • Legal Advice regarding Land Owner's Consent - King & Wood Mallesons • Traffic Review of Residential Development – McLaren Traffic Engineering • Offer to enter into a Works in Kind Agreement – JBA Planning
Recommendation	Approval
Report by	Brendon Clendenning, Senior Development Planner

RECOMMENDATION

It is RECOMMENDED that the Joint Regional Planning Panel resolve pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979, to modify Development Consent No. 13/208, at 52-54 Pemberton Street, Botany, as indicated within the updated Schedule of Conditions..

EXECUTIVE SUMMARY

This is a report to the Joint Regional Planning Panel (JRPP) in relation to an application seeking to modify Development Application DA-13/208, pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979* at 52-54 Pemberton Street Botany.

The previous application was approved by the JRPP on 15 July 2015, and included a residential flat development, approved with 433 dwellings, and one commercial tenancy. The application has since been modified twice with the approval of Council, pursuant to S96(1A) of the Act.

The current application seeks various changes to the consent, primarily relating to the staging of the development to enable the provision of an additional vehicular access points from Mahroot Street, and works on public and private land within the vicinity of the vehicular access points, including the provision of three additional dwellings, with one of those provided in the latter stage of the development.

The application was advertised and notified to surrounding property owners for fourteen (14) days from 18 May 2016 to 1 June 2016. Given issues with Council's online tracking system, the submission period was formally extended until 10 June 2016. No submissions were received in response to the proposed development.

The proposed application is recommended for approval, and the conditions recommended to be modified are outlined within the recommendation, and an updated schedule of conditions is provided.

SITE DESCRIPTION

The original application was approved over 8 individual parcels of land; however, since that approval was issued, these lots have been consolidated to form one lot, being Lot 200 DP 1216329. The current Section 96 application also includes an additional allotment, being Lot 1 DP 701262.

The original approved application contained land within three zones as follows:

- B4 – Mixed Use (8,058.5sqm)
- R2 – Low Density Residential (456sqm)
- R3– Medium Density Residential (22,565 sqm)

The additional lot is within the R3 zone and has an area of 122.6sqm.

The site is relatively flat, with a gentle fall from the northeast to southwest. The updated combined area of the development site is 31,202.1sqm and is defined by Pemberton Street to the west, Wilson Street to the east, the New Street 1, now known as Mahroot Street, and a residential flat development at 42-44 Pemberton Street, to the south. To the north of the site is a short section of Warrana Street (40 metres) including a series of residential properties in Kurnell Street.



Figure 1 The original development site, prior to the commencement of works. Note the subject site now also includes the small allotment at the southeastern corner.

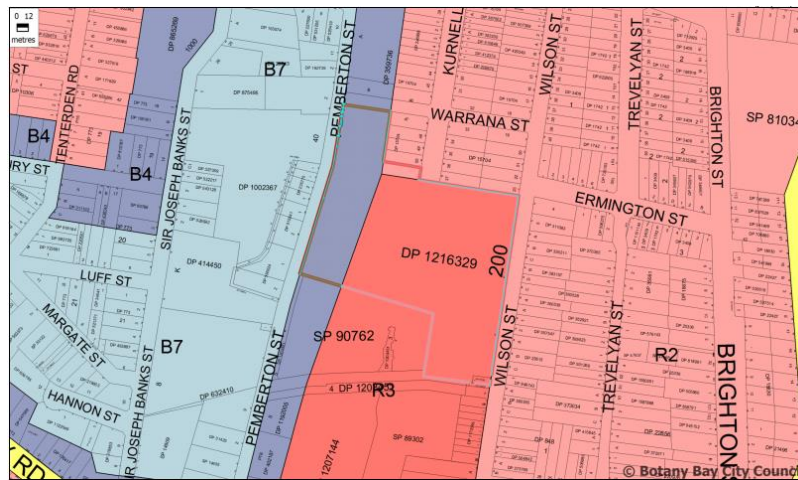


Figure 2 Zoning map of the development site

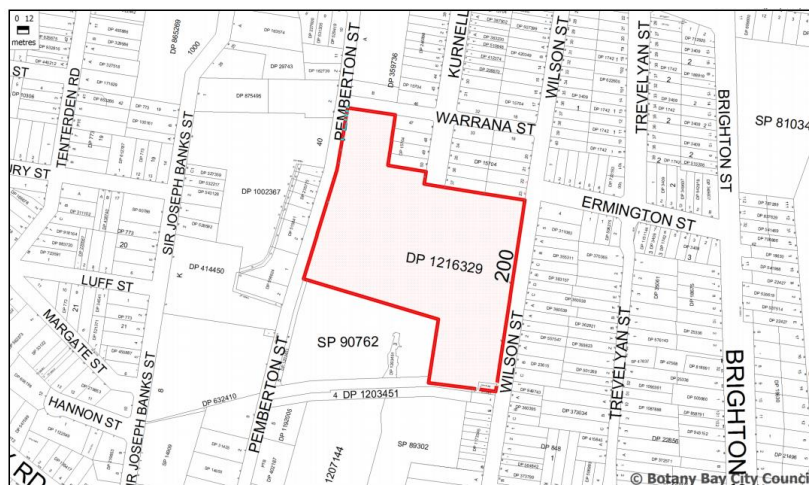


Figure 3 Cadastral map of subject site

SURROUNDING DEVELOPMENT

The subject landholding is the largest development site in the Pemberton-Wilson Street Precinct and is located at the northern end of Pemberton Street. Adjoining the development site to the north in Warrana and Kurnell Streets is low-density residential dwellings. To the west is industrial development, with high density residential development located to the south, comprising the northern portion of 42-44 Pemberton Street Botany, which is part of the Parkgrove development precinct.

The residential development to the north and east is predominantly one and two storey single dwellings dating from the 1950's, interspersed with larger, two storey, more contemporary dwellings. The first stage of development on the Parkgrove site, immediately to the south of the site on Wilson Street comprises a row of nine (9) contemporary terrace houses with parking at the rear (accessed via Mahroot Street).

To the west, on the opposite side of Pemberton Street is an established industrial area, which is characterised by a range of low-rise, large and small scale industrial warehouses.

The site is located some 400 metres to the north of the Banksmeadow shops on Botany Road. This neighbourhood centre forms a physical barrier between the Precinct and Botany

Road. Located further to the south of Botany Road is Sir Joseph Banks Park, a 28 hectare regional park which runs parallel to Foreshore Drive. Beyond the Park further to the south is Port Botany and the northern shores of Botany Bay.

BACKGROUND

Original Application

The original application was lodged with Council on 11 October 2013 as a Stage 1 Master Plan. On the 28 June 2014, the application was referred to the JRPP for determination with a recommendation of refusal. However, the JRPP resolved to defer the consideration of the application pending the submission of amended plans by the applicant to address the reasons for refusal in Council's report. The application was again referred to the JRPP on 20 January 2015 with a recommendation of Deferred Commencement. At this meeting, the Panel unanimously determined to defer the application to allow the applicant to submit amended plans that address the Panel's Recommendations.

The application was then amended to a Stage 2 Development Application. The amended development application sought approval for the following:

- Excavation and site preparation works and construction of the site for residential purposes;
- Four (4) buildings containing a maximum Gross Floor Area (GFA) of 42,804sqm and Floor Space Ratio (FSR) of 0.96:1 in the B4 zone and 1.55:1 in the R3 zone, comprising a total of 438 apartments, as follows:
 - o Building A: 17 terrace style apartments and 2 regular apartments;
 - o Building B: 167 apartments, 14 terrace style apartments and 333 sqm of commercial uses fronting Pemberton Street;
 - o Building D: 162 apartments with 18 terraces fronting Wilson Street;
 - o Building E: 49 apartments with 9 terraces fronting Wilson Street.
- Building heights between three (3) storeys to eight (8) storeys;
- Basement and ground level parking with a total of 777 car spaces;
- 3,000sqm of publicly accessible open space;
- Pedestrian and cycle through-site links; and vehicular access from Pemberton Street, Warrana Street and New Street 1 (now Mahroot Street).
- The proposal also includes dedication of land and stratum and Torrens Title subdivision.

The plan below outlines the approved distribution of buildings across the site.

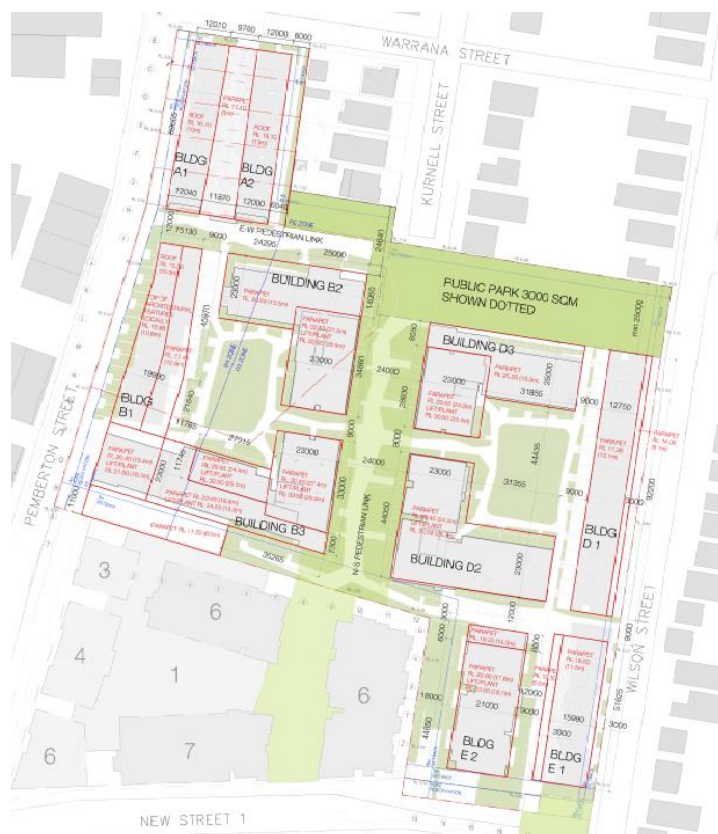


Figure 4 Building Envelope Plan from approved application

This application was recommended for refusal by Council. However, the application was approved by the JRPP on 15 July 2015. Five dwellings were deleted from the proposed development, with three apartments deleted in accordance with a condition recommended by Council, and two terraces fronting Wilson street deleted by a condition imposed by the JRPP. The latter condition was imposed to enable deletion off the vehicular access off Mahroot Street, and provision of an alternative vehicular off Wilson Street. This left only one vehicular access for the majority of the development, being from Pemberton Street to the west. Further detail is provided later in this report.

The built form of the approved development and its relationship to existing development is summarised as follows:

Building	Location	Zone	Height (storeys)	Adjoining Development
A	North west portion of Site with frontage to Pemberton and Warrana Streets.	B4	Part 2 and 3 storey terraces along Pemberton Street	Two storey industrial warehouses on Pemberton Street and low density residential dwellings along Kurnell Street
B	Western portion of the site with frontage to Pemberton Street and the proposed park.	Part B4/R3	2-8 storeys– includes terrace style apartments. Taller heights located to the centre of the site	Two storey industrial warehouses on Pemberton Street, and recently completed mixed use development to the south

D	Eastern portion of the site with frontage to Wilson Street	R3	2-7 - taller heights located to the centre of the site	1-2 storey residential dwellings on Wilson Street
E	South east portion of the site with frontage to Wilson Street and New Street 1.	R3	2- 3 – includes terraces and apartments	1-2 storey residential dwellings on Wilson Street

The application included an offer to enter into a Planning Agreement for the dedication of land and associated works. The Planning Agreement has not yet been finalised.

Early Works Development Application - DA 14/239

The applicant lodged an early works application on 3 October 2014, seeking consent for the demolition of all existing structures, minor excavation works and the removal of trees. This application was approved on 22 June 2015. A modification of this consent was approved by Council on 21 April 2016.

Recent photos of the subject site and surrounding development are shown below.



Figure 5 Subject site viewed from the corner of Pemberton Street and Warrana Street, with the existing Parkgrove development shown in the background.



Figure 6 View of the eastern end of Mahroot Street (recently completed as a pocket park), showing the parcel to be incorporated into the subject site on the right, with existing development within the Parkgrove Precinct on the left and in the background

PREVIOUS MODIFICATIONS

A previous modification, DA-13/208/2 was determined on 27 April 2015. The modification made a number of changes to the consent conditions, including the addition of Condition 1B, which provided a table outlining the ‘prior to CC’ conditions that may be addressed for each separate CC. This is referred to within the existing consent, as the ‘staging’ of the development.

The subject modification was lodged on 18 April 2016. A later modification, DA-13/208/4, was lodged on 13 May 2016 and approved on 18 May 2016. This application sought changes to enable Section 94 contributions to be held by Council, whilst the VPA is finalised, as well as other changes to conditions. Further detail is provided elsewhere within this report/

THE PROPOSAL

The proposed modifications can be generally described as follows:

- Staging of the consent, with the previously proposed vehicular access points from Mahroot Street to be provided once relevant land is dedicated to Council. The proposal includes an alternative interim vehicular access for Building E until Mahroot Street has been dedicated. An additional dwelling is also proposed once vehicular access is available.
- Road widening at the eastern end of Mahroot Street, associated with an offer to enter into a Works In Kind Agreement.
- Modification to the south eastern boundary of the site to incorporate an additional allotment, with an additional terrace to be provided on Wilson Street and an the residual land to be dedicated to Council as a public park.

- Changes to stratum subdivision plans.
- Minor modifications resulting from the design development process.;

In addition the Section 96 requires changes to the Section 94 contributions, partly to incorporate the additional dwellings, and partly to rectify an error made in a previous calculation.

Each of these matters are discussed in further detail below.

Staged Consent and Changes to Vehicular Access

The original application, approved by the JRPP on 15 July 2015 sought four vehicular access points as follows:

- Off Pemberton Street, with access to the entire underground carpark.
- Off Mahroot Street, with access to the entire underground carpark.
- Off Mahroot Street, with access only to the Building E terraces fronting Wilson Street.
- Off Warrana Street, with access only to the terraces at the northwestern end of the site.

However, at the time of determination, part of Mahroot Street was not owned by Council, but still owned by the developer undertaking development in the southern part of the Parkgrove Precinct, on the opposite side of Mahroot Street. The applicant was not able to obtain the consent of the owners of that property, and the JRPP imposed the following additional condition (showing amendments by DA-13/208/02):

13. *While Building E and the townhouses are ~~is~~ approved, two of the proposed townhouses shall not be constructed, to provide alternate vehicular access to those dwellings from Wilson Street. When alternate dedicated public access is available from the proposed 'New Street', this matter may be re-visited. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate.*

(Condition Amended DA-13/208/02)

The current application again seeks to provide vehicular access off Mahroot Street, and the southern half of Mahroot Street is still under the ownership of the developers undertaking development within the southern part of the Parkgrove Precinct.

To overcome this issue, the applicant has proposed that the condition enable for a staged development. The proposed modified conditions is as follows:

- 13. ~~While~~ Building E and the townhouses are *to be constructed in 2 stages. Stage 1 must provide for all vehicular access to Building E approved, two of the proposed townhouses shall not be constructed, to provide alternate vehicular access to those dwellings* from Wilson Street *in accordance with DA-1110_E – Stage 1. Stage 2 may be constructed in accordance with DA- 1110_E – Stage 2 involving erection of an additional townhouse and vehicular access to Building E from New***

Street after the date on which either ~~When~~ alternate dedicated public access is available from the proposed “New Street” or registration of a right of way over Lot 4 in DP 1192005 benefitting the Site so as to allow vehicular access via New Street occurs., this matter may be revisited. Amended plans in accordance with this condition are to be provided to the Director, City Planning and Environment, prior to the issue of the relevant Construction Certificate.

The proposed modified condition would enable the development to be undertaken in stages, as suggested by the applicant’s solicitors and confirmed by Council’s solicitors. The temporary vehicular access would be provided in place of a new terrace which would form Stage 2 (discussed elsewhere), with all other development, including the previously deleted terraces, included as Stage 1.

As Council had recommended refusal of the original application, and given the issues with the ownership of Mahroot Street, Council had not previously undertaken an assessment of the capacity of Mahroot Street to accommodate the additional vehicles generated by this development.

At the request of Council, the applicant submitted a traffic report, prepared by Ason Group, to support the use of Mahroot Street for vehicular access to the development. The report estimated that 20% of traffic generated from the development would utilise Mahroot Street.

Council engaged McLaren Traffic Engineering to undertake a review of the Ason Report. The following comments from the McLaren Review are noted:

“The main access from Pemberton Street appears to present itself as the shortest route to / from car parking within the basement levels of 52-54 Pemberton Street and provides more convenient access to a larger portion of the basement car park

The 20% usage of New Street 1 is considered an adequate assessment however, there is no mechanism in place to restrict the car park so as to not exceed the 20% assumption. Consideration should be given to restricting 20% of units so that their parking is physically restricted in order to result in no more than 20% of site generated traffic to New Street 1”.

The RMS Guide to Traffic Generating Developments Table 4.6 identifies a peak hour flow of 200 to 300 vehicles in the hour for residential amenity considerations within a local street. Volumes beyond thresholds identified in Table 4.6 of the RMS Guide generally require traffic calming or other measures to protect residential amenity. Any potential acoustic impacts needs to be assessed by others.

The current approved traffic flows along New Street 1 are in the order of 189 two-way trips. If the upper volume of 300 vehicles per hour were considered to be the appropriate limit on New Street 1, then the spare capacity within New Street 1 would be 111 two-way trips. With respect to the development, the 111 two-way trips is equivalent to Building E1 townhouses plus 265 residential units.

If in the event that the surrounding developments that have access to New Street 1 generate traffic in the order of 0.4 trips per unit, then the existing baseline would be increased from 189 to 209 two-way trips. Therefore, the difference of 91 trips (300 – 209 = 91) equates to Building E1 Townhouses and 215 residential units.

The range of 215 to 265 units equates to 56.9% to 70.1% of residential units in Buildings B, D & E2.

Whilst it appears that New Street 1 could have capacity above the 20% assumption adopted in the Ason Group assessment, the full capacity should not be approached as there is no mechanism in place for any traffic calming or improvements to New Street 1 in the event that the RMS thresholds are exceeded.

Mahroot Street is currently a narrow street within what will become a densely populated urban environment, with an existing vehicular access point to a basement carpark located directly across from the subject development. It is considered that enabling direct access to Mahroot Street for over 750 parking spaces would not be appropriate in this location. The proposed road widening (discussed later in this report) will assist with this matter. However, it is considered undesirable to enable direct access to be provided between Mahroot Street and a basement of this size. As such, it is recommended that a condition be imposed to require a physical barrier within the basement car park to restrict access between the carpark and Mahroot Street.

The McLaren Review has indicated that the maximum capacity for a local street would be reached if vehicles associated with between 215 to 265 of the units within Building B, D and E2, are provided with access to Mahroot Street. However, the creation of a physical barrier which restricts access for this many vehicles, may have the unintended consequence of ensuring vehicles that can access Mahroot Street, will overutilise this street, as it will not be impeded by barriers to prevent other vehicles from also accessing Mahroot Street. Therefore, it is recommended that a physical barrier restrict movements within the basement carpark, such that vehicles associated with no more than 30% of dwellings from Buildings B, D and E2, are provided with access to and from Mahroot Street. This figure is selected as it is above the nominal figure provided within the Ason Report, and below the maximum capacity identified by the McLaren Review.

There are otherwise no objections to the staging of the development consent. However, it is noted that a previous modification, DA-13/208/2, had enabled the construction to be staged. To avoid confusion, it is recommended that the conditions be modified to refer to the previously approved staging as 'construction staging' and the staging within this modification as 'development staging'. Furthermore, several other changes to the draft condition are necessary to provide clarity. For instance, the draft condition has incorrectly identified the existing Pocket Park allotment as the lot requiring a right of way. Details are provided within the Schedule of Conditions.

Road Widening

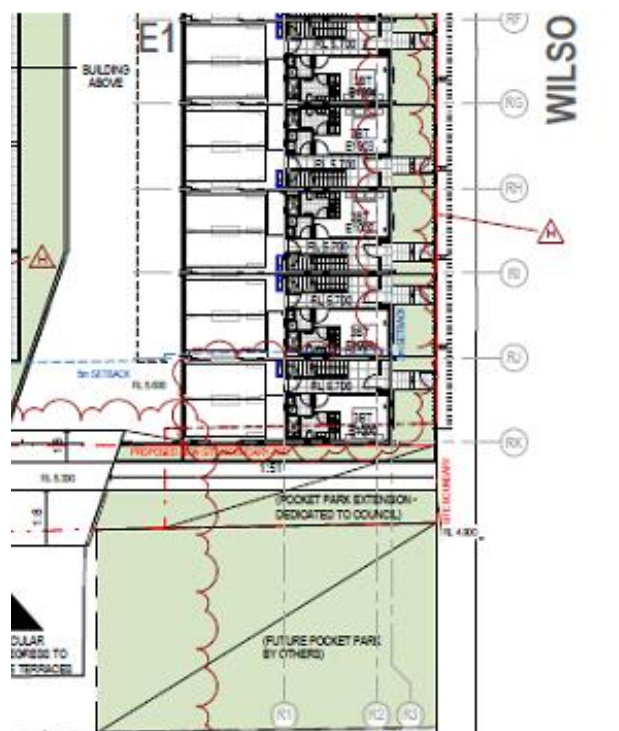
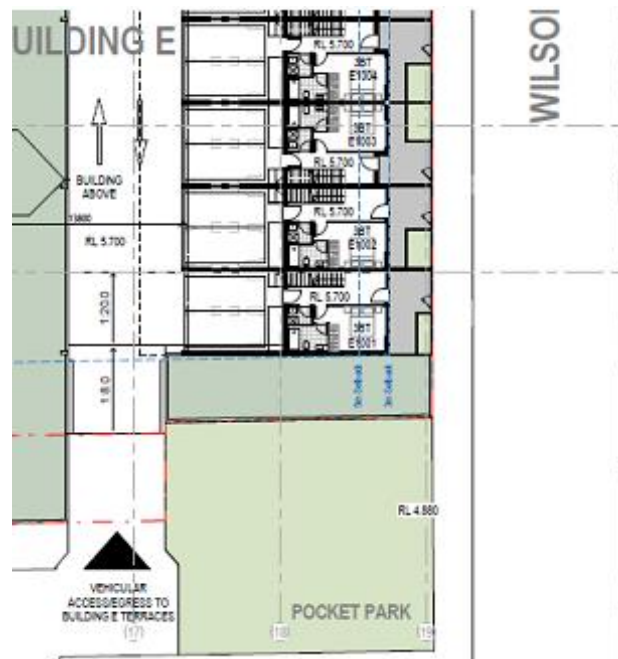
The application also seeks to undertake vehicle widening at the eastern end of Mahroot Street. The applicant has sought to undertake these works as part of a Works In Kind Agreement (WIKa). Part 2.13 of the City of Botany Bay Development Contributions Plan 2005-2010 (which despite the commencement of a new contributions plan, is the applicable plan to Section 96 modifications for applications to which the previous plan applied) enables Council to accept WIKAs for works not identified within the works schedule provided that the WIKa provides a material public benefit.

Council garbage vehicles currently have difficulty turning out of Mahroot Street and Council has identified that a widened turning area would carry a material public benefit. An offer to enter into a WIKa was provided by the applicant, and Council considers that

this is acceptable. As a consequence there shall be no Section 94 contributions applicable for the proposed additional dwelling.

Ausgrid Site and New Terrace

The proposed modifications include the construction of an additional terrace dwelling at the southern end of Wilson Street and the inclusion of a former Ausgrid site at 45 Wilson Street within the development site. The Ausgrid site will be remediated and dedicated to Council as a an extension of the new pocket park at the eastern end of Mahroot Street. The images below shows the proposed changes to this area of the site.



The terrace is consistent with the approved dwellings along Wilson Street and will not have any adverse impacts on the streetscape or to neighbouring properties on the opposite side of the street. The construction of the additional terrace will also facilitate the development and remediation of the Ausgrid lot that may otherwise be isolated and unable to be developed.

Two parking space area proposed to be provided at the rear of the terrace, which is sufficient to achieve compliance.

Changes to Stratum subdivision

The Stratum Subdivision Plans have been updated to reflect the modifications proposed by this application. The proposed changes are described within the SEE as follows:

- *“the extent of the public access easement (E) over the North-South and East-West pedestrian links is now documented;*
- *the kiosk substation in the future park is part of the development site. Note that the area of the park is still to be greater 3,000sqm;*
- *Easements for fire separation (K) and (L) have been documented over the future park lot 29;*
- *Internal boundaries of stratum lots at basement and ground floor have been refined to account for the developed design and accommodating parking requirements;*
- *The inclusion of the Ausgrid site on Wilson St into the development site;*
- *Minor amendments to the extent of road widening along New Street 1 to consolidate the addition of the Ausgrid lot; and*
- *Dedication of extension to New Street 1 pocket park (future lot 30) and an easement for fire separation (K) over that lot”.*

The amended stratum plans have previously been submitted to Council for consideration in relation to the VPA. Council had previously advised that the kiosk substation should not be provided within a park. The plans indicate that the kiosk will be situated on a lot that is not to be dedicated to Council; however, visually will still appear as though it is within the future public park. This outcome is not satisfactory to Council. Existing conditions of consent prescribe suitable locations for the substations. It is recommended that conditions of consent be amended to indicate that the stratum plans may need to be amended in accordance with the existing conditions of consent.

Other Proposed Modifications

The following table provided within the Statement of Environmental Effects outlines the proposed modifications (this includes some of those discussed earlier in this report):

Building	Description of Proposed Modifications
Building A	<ul style="list-style-type: none"> ▪ Bedroom added to units A1101, A1002 and A2101, unit typology amended from 2B to 3B. ▪ Main Unit entry moved from Warrana Street to Pemberton Street for units A1010 and A2007. ▪ Design development of front façade.
Building B	<ul style="list-style-type: none"> ▪ Design development of Eastern façade. ▪ Windows to north façade of Building B1 added. ▪ Design development of Western façade. ▪ Modification to unit B2606.
Building D	<ul style="list-style-type: none"> ▪ Design development of Western façade ▪ Amended unit layouts ▪ Amendments to slab edge
Building E	<ul style="list-style-type: none"> ▪ Staged construction of an additional terrace dwelling and vehicular access arrangements ▪ Reconfiguration of core ▪ Study added E2001, E2101, E2201, E2301, E2401 ▪ Proposed changes to boundary line - straightening up
Other	<ul style="list-style-type: none"> ▪ New location of fire booster assembly

The proposal also seeks the deletion of 3 x 2 bedroom units in Building B3, as required by Condition 14, the addition of 37 visitor spaces, as required by Condition 15, as well as the reduction in all floor-to-floor heights to 3.1m, as required by Condition 16. The location of the required on site detention tanks is also shown on the new plans.

The following table, provided within the SEE, outlines the key differences between the current approval, and that proposed by the modification.

Element	Original Approval Development Consent	Proposed Section 96 Modification	Difference
Site Area	31,079.5m ²	31,202.1m ²	+ 122.6m ²
GFA	42,804m ²	43,009m ²	+ 205m ²
FSR	<ul style="list-style-type: none"> ▪ B4 Zone: 0.958:1 ▪ R3 Zone: 1.554:1 ▪ Combined: 1.377:1 	<ul style="list-style-type: none"> ▪ B4 Zone: 0.96:1 ▪ R3 Zone: 1.55:1 ▪ Combined: 1.38:1 ▪ Ausgrid Site: 1.378 ▪ Total Site: 1.38 	<ul style="list-style-type: none"> ▪ B4 Zone: + 0.006:1 ▪ R3 Zone: -0.001 ▪ Combined: + 0.001 ▪ Total Site: + 0.003

Building height	<ul style="list-style-type: none"> ▪ Building A Terrace: 10m ▪ Building B: 28.6m (lift/plant RL 33.60) ▪ Building B Terrace: 12.4m ▪ Building D: 25.5m (lift/plant RL 30.60) ▪ Building D Terrace: 12.1m ▪ Building E: 18.7m (lift/plant RL 23.65) ▪ Building E Terrace: 11.5m 	<ul style="list-style-type: none"> ▪ Building A Terrace: 10m ▪ Building B: 28.6m (lift/plant RL 33.60) ▪ Building B Terrace: 12.4m ▪ Building D: 25.5m (lift/plant RL 30.60) ▪ Building D Terrace: 12.1m ▪ Building E: 18.7m (lift/plant RL 23.65) Building E Terrace: 11.5m 	
Number of Dwellings	438	436	+1
Dwelling Mix			
1 Bed Apartment	▪ 143	▪ 143	▪ 0
1 Bed Flexi Apartment	▪ 15	▪ 15	▪ 0
2 Bed Standard Apartment	▪ 79	▪ 77	▪ -2
2 Bed Medium Apartment	▪ 77	▪ 78	▪ 0
2 Bed Large Apartment	▪ 28	▪ 26	▪ -1
2 Bed Terrace Style Apartment	▪ 4	▪ 1	▪ -3
3 Bed Apartment	▪ 28	▪ 28	▪ 0
3 Bed Loft Apartment	▪ 10	▪ 10	▪ 0
3 Bed Terrace Style Apartment	▪ 19	▪ 23	▪ +4
4 Bed Terrace Style Apartment	▪ 35	▪ 35	▪ 0
Car Parking	804	806	+2
Site Coverage	13,959.5m ² (44.9%)	14,158m ² (45.7%)	+0.8%
Landscaped Area	8,935.7m ² (28.7%)	8,796m ² (28.2%)	-0.5%
Deep Soil Area	4,354.3m ² (48.7% of landscaped area)	4,314m ² (49.2% of landscaped area)	+0.5%
Unbuilt Upon Area	8,184.3m ² (26.3%)	8,160m ² (26.2%)	-0.1%
Communal Open Space	5,795m ² (18.65%)	5,486m ² (17.6%)	-1.05%
Solar Access	74%	75%	+1%
Cross Ventilation	71%	68%	-3%

The changes to communal open space and landscaping are considered acceptable, as they are respectively attributed to a change in the calculation method, and the provision of onsite detention.

The modifications to the dwelling mix that are shown in the table are described by the applicant as follows:

“The changes to the number and mix of dwellings is limited to:

- *The conversion of 3 X 2 bedroom terraces into 3 X 3 bedrooms in building A1/A2*
- *Deleting 3 X 2 bedroom units in Building B3 (as per Condition 14)*
- *Additional 3 bedroom terrace (E1000)*

The calculation provided in the SEE is based on an incorrect dwelling summary within the original plan set. A select number of apartments were labelled incorrectly within the plan set which have now been rectified in the s96. For clarity, the following table identifies the changes to the dwelling schedule as a result of the discrepancies with the DA and the proposed changes to the dwelling mix in accordance with this s96 modification.

In terms of the s96 modification, the increase in the number of 3 bedroom apartments will provide greater diversity in the overall dwelling mix in accordance with the objectives of the DCP. Only the unit typology is proposed to be changed with no impact on the current unit sizes, storage or the like. The provision of parking has been revised in accordance

with the relevant conditions of consent and to reflect the above changes to dwellings (refer to calculation below)”.

The description above has not made reference to the two proposed terraces which were previously deleted by condition. Notwithstanding, it is agreed that the proposal improves the dwelling mix provided to the site. In addition, it is noted that any additional required parking is accommodated as required, and given the additional bedrooms are provided to three storey terraces, the additional bedrooms will not influence compliance with controls relating to unit size, storage or the like.

Changes to Developer Contributions

The original application was approved with a condition requiring the applicant, prior to the issue of a Construction Certificate, to enter into a Voluntary Planning Agreement (VPA) in accordance with the offer letter dated 26 June 2015. The offer letter indicated that the payable Section 94 contributions would be reduced by selected items within the offer letter, and therefore no specific value of the contributions was provided within the condition.

However, given the protracted negotiations between Council and the applicant in relation to the value of residual contributions, the landscape design, the cost of the embellishment, the employee credits that are applicable, and the terms of the Agreement itself, the VPA has not yet been finalised. Therefore, the most recently approved Section 96 application, DA-13/208/4, modified the consent to enable the VPA to be executed prior to the first CC for above ground works, with the entire value of the calculated Section 94 contributions able to be paid as an alternative. The condition also enables that, in the event the VPA is later executed, refunds to be made for any contributions paid over and above what is payable under the agreement.

The amended condition included a value for the contributions as follows:

Residential:	\$7,794,000
Less employee credits:	\$30,227.54
Total Payable:	\$7,763,772.46

This calculation was based on 433 dwellings.

The current proposal seeks 3 additional dwellings as well as changes to the layout of several other dwellings. Council has agreed to a contribution of \$18,000 per dwelling (i.e. \$20,000 capped amount less \$2,000) to account for the widening of Pemberton Street.

As the consent is to be staged, only contributions from two of the three additional dwellings is required to be incorporated into the above figure, with the remaining dwelling, which is provided within Development Stage 2, to be offset by the works included within the Works In Kind Agreement.

The total residential component for the remaining 435 dwellings is calculated to be \$7,830,000.

The employee credit was calculated proportionally, accounting for the cap applied under the S94E Direction. To calculate the employee credit, the total contributions must also be calculated. This information has previously been provided to the applicant.

The revised employee credits are calculated as follows:

Total S94 2015-2016	\$17,457,680
Capped S94 (436 dwellings)	\$8,720,000
Ratio Capped S94 : Total S94	0.496
CF and OS per employee at 2015-2016 rates	\$3,597.00
Capped per employee CF and OS (2015-2016 rates x 0.497)	\$1,785
Total Employee Credit	\$35,693.16

Therefore, the amended proposal would require the following payment of contributions for Development Stage 1.

Residential:	\$7,830,000
Less employee credits:	\$35,693.16
Total Payable:	\$7,794,306.84

This calculation includes rectification of the previous calculation error.

Note: a new Contributions Plans commenced on 22 June 2016. However, the plan indicates that Section 96 modifications to applications that were subject to the previous plan, are also subject to the previous plan.

SECTION 79C CONSIDERATIONS

In considering the Development Application, the matters listed in Section 79C of the Environmental Planning and Assessment Act 1979 have been taken into consideration in the preparation of this report and are as follows:

- (a) **The provisions of any EPI and DCP and any other matters prescribed by the Regulations. (S.79C(1)(a)(i)and(iii))**

Environmental Planning and Assessment Act 1979 – Integrated Development

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

The NSW Office of Water provided comments on 19 December 2013 for the original application. The General Terms of Approval form a condition of any consent and no further changes are required.

State Environmental Planning Policy (Infrastructure) 2007

The proposed development was referred to the Roads and Maritime Services in accordance with the provisions of State Environmental Planning Policy (Infrastructure) 2007 Schedule 3 – Traffic Generating Development.

The subject application, which includes the vehicular access points off Mahroot Street, was referred to the RMS who raising no objection to the amended proposal.

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

An amended BASIX Certificate has been submitted with the application. The BASIX requirements shall form part of any future consent.

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

The provisions of SEPP No. 55 have been considered in the assessment of the development application. Clause 7 of SEPP No. 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application. Environmental investigations undertaken by the Applicant indicated that the site had been occupied by industrial uses since the 1930s.

The applicant previously submitted a Phase 1 and 2 Environmental and a Remedial Action Plan. The original application was referred to Council's Environmental Scientist who raised no objection to the proposal, subject to conditions.

The subject application incorporates land incorporating a former Ausgrid substation into the development site. A Site Audit Statement was provided, which indicated that the site, including the former Ausgrid land, was suitable for the proposed use. Therefore, the proposal remains satisfactory with respect to SEPP 55.

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

The original assessment report identified the primary non-compliance with SEPP 65 and the RFDC, to be that the size of the apartments were based upon the rule-of-thumb unit sizes and only 58% of the apartments comply with the table on page 69 of the RFDC. The RFDC has since been superseded by the Apartment Design Guide (ADG), and the proposal generates no new concerns in relation to apartment size. The design changes to the facades generally provide additional articulation, and are considered acceptable.

In addition, the embellishment and dedication of the former Ausgrid owned site will significantly improve the outlook for existing properties along Wilson Street and provide increased amenity for future residents of the site. The works will see previously contaminated and unkempt land remediated and turned into a new public open space.

Generally the proposal is in keeping with the original consent and the desired future character for the area. The changes are for the most part minor and do not involve impacts on amenity for residents within the development, nor neighbouring developments. The deletion of one of the two lifts servicing building E still enables compliance with the ADG, as Building E2 contains less than 40 units. The studies which have been added in Units E2001, E2101, E2201, E2301, E2401 do not meet the criteria within the ADG regarding habitable rooms and natural lighting. The studies are not big enough to be used as bedrooms, and future occupants may use these in line with their previous use as storage. Therefore, this outcome is acceptable.

Botany Bay Local Environmental Plan 2013

The provisions of the Botany Bay Local Environmental Plan 2013 (BBLEP 2013) have been considered in the assessment of this application. Relevant matters have been discussed elsewhere within this report. However, the key development standards are discussed below.

Height of Building

The original application was approved with a height non-compliance within both the B4 and R3 zoned portions of the site that range from 2.4m and 9.5m in the B4 zone and 2.5m to 6.6m in the R3 zone. No further height increases are proposed as part of the modification.

Floor space ratio

The proposal seeks consent for additional floor space of 200m². However, given the size of the site, and the increase in the site area, the increase in floor space is negligible (a less than 0.01:1 increase). The FSR of 0.96:1 in the B4 zone, and 1.55:1 in the R3 zone remain compliant.

The proposal is satisfactory with respect to the requirements of the BBLEP 2013.

Botany Bay Development Control Plan 2013

The applicable clauses of the BBDCP 2013 are considered in the assessment of the proposal. Relevant matters have been discussed elsewhere within this report, and the proposal is considered otherwise satisfactory with respect to the requirements of the BBDCP 2013.

(b) The likely impacts of the development including environmental impacts on both the natural and built environments, social and economic impacts in the locality.

Subect to recommended modifications, the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality

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

The site is considered suitable for medium to high density residential and mixed use development. It is located in close proximity to the commercial centres of Banksmeadow and Botany, and is located in an area that is strategically earmarked for revitalisation. The site remains suitable for the development.

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

In accordance with Botany Bay Development Control Plan 2013 Part 2 – Notification and Advertising, the application was advertised and notified to surrounding property owners for fourteen (14) days from 18 May 2016 to 1 June 2016. Given issues with Council's online tracking system, the submission period was formally extended until 10 June 2016. No submissions were received in response to the proposed development.

(e) **The public interest**

The modifications application, subject to recommended condition changes, will have no adverse impact upon the public interest.

OTHER MATTERS

Internal Referrals

The development application was referred to Council's Engineering Services Department, Parks and Landscape Department; and Council's Environmental Scientist for comment. Where relevant, these comments have been incorporated into the body of this report.

External Referrals

The development application was referred to Roads and Maritime Services who raised no objection to the modifications.

CONCLUSION

The Section 96(2) application seeking to modify Development Consent No. 13/208 at 52-54 Pemberton Street Botany has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and it is recommended that the application be modified as outlined below in the recommendation.

RECOMMENDATION

It is RECOMMENDED that the Joint Regional Planning Panel resolve that pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979, to modify Development Consent No. 13/208 for the site at 52-54 Pemberton Street Botany as follows:

1. Modify Condition 1 to update the approved plans and documentation.
2. Modify Condition 1B to refer to construction staging, and to make changes in accordance with other modified conditions.
3. Modify Condition 4 to amend the Section 94 contributions.
4. Modify Condition 5 to refer to multiple parks
5. Modify Condition 7 to refer to the Pocket Park and the turning area.
6. Modify Condition 10 to include the updated BASIX Certificates.
7. Modify Condition 11 to account for the additional dwellings.
8. Modify Condition 13 to enable the two development stages.

9. Delete Condition 14, as the amended plans have provided for the deletion of the relevant units.
10. Delete Condition 15, as the amended plans incorporates the required additional parking spaces into the basement carpark.
11. Modify Condition 16 as the amended plans have incorporated the required floor to floor heights.
12. Insert Condition 16B to indicate that stratum plans are subject to amendment in accordance with conditions of consent relating to the public parks, and the location of infrastructure, such as substations.
13. Add new Condition 56A to require a details landscape plan to be submitted for the Pocket Park extension.
14. Modify Condition 81 to reflect the additional parking provided on the plans, that was previously required by Condition 15.
15. Modify Condition 81A to require that access between the basement carpark and Mahroot be restricted.
16. Modify condition 117 to refer to multiple parks.
17. Modify Condition 130 to provide further clarification on unsuitable locations for electrical kiosks.
18. Modify Condition 137 to refer to the correct condition requiring acoustic measures.
19. Modify Condition No.142 to require dedication of the Pocket Park extension.
20. Modify Condition 152 to require ongoing compliance with the requirements the arrangements made to satisfy Condition 81A.
21. Modify Condition 158 to include the current Section 96 modification.

The recommended amendments are shown in the amended Schedule of Conditions.

SCHEDULE OF CONDITIONS

GENERAL CONDITIONS

- The development is to be 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.

~~Note: No approval is given for access to the basement car park off New Street One as no owners consent was not provided to allow this. In accordance with Condition 13, the consent authority allowed access to the Townhouses via Wilson Street by way of deletion of two townhouses.~~

Drawing No.	Author	Dated
<i>DA-1110_E, Staging Diagrams – New Street, Issue F</i>	Group GSA	4 July 2016
DA-2000_0, B1 Basement Plan Overall, Issue G M	Group GSA	1 April 2015 13 April 2016
DA-2000_1, B1 Basement Plan – NV Quadrant, Issue G K	Group GSA	1 April 2015 13 April 2016
DA-2000_2, B1 Basement Plan – NE Quadrant, Issue G L	Group GSA	1 April 2015 14 April 2016
DA-2000_3, B1 Basement Plan – SE Quadrant, Issue G M	Group GSA	1 April 2015 14 April 2016
DA-2000_4, B1 Basement Plan – SW Quadrant, Issue G K	Group GSA	1 April 2015 13 April 2016
DA-2001, Ground floor plan – overall, Issue E K	Group GSA	1 April 2015 4 July 2016
DA-2001_A, Ground floor plan – Building A, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2001_B, Ground floor plan – Building B, Issue E J	Group GSA	1 April 2015 3 July 2016
DA-2001_D, Ground floor plan – Building D, Issue E I	Group GSA	1 April 2015 11 March

Drawing No.	Author	Dated
		2016
DA-2001_E, Ground floor plan – Building E, Issue E P	Group GSA	1 April 2015 4 July 2016
DA-2002, Level 01 plan – overall, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2002_A, Level 01 plan – Building A, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2002_B, Level 01 plan – Building B, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2002_D, Level 01 plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2002_E, Level 01 plan – Building E, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2003, Level 02 plan – overall, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2003_A, Level 02 plan – Building A, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2003_B, Level 02 plan – Building B, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2003_D, Level 02 plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016

Drawing No.	Author	Dated
DA-2003_E, Level 02 plan – Building E, Issue <i>E H</i>	Group GSA	1 April 2015 <i>11 March 2016</i>
DA-2004, Level 03 plan – Overall, Issue <i>E H</i>	Group GSA	1 April 2015 <i>11 March 2016</i>
DA-2004_B, Level 03 plan – Building B, Issue <i>E H</i>	Group GSA	1 April 2015 <i>11 March 2016</i>
DA-2004_D, Level 03 plan – Building D, Issue <i>E I</i>	Group GSA	1 April 2015 <i>11 March 2016</i>
DA-2004_E, Level 03 plan – Building E, Issue <i>E H</i>	Group GSA	1 April 2015 <i>11 March 2016</i>
DA-2005, Level 04 plan – overall, Issue <i>D I</i>	Group GSA	1 April 2015 <i>13 April 2016</i>
DA-2005_B, Level 04 plan – Building B, Issue <i>E I</i>	Group GSA	1 April 2015 <i>13 April 2016</i>
DA-2005_D, Level 04 plan – Building D, Issue <i>E I</i>	Group GSA	1 April 2015 <i>11 March 2016</i>
DA-2005_E, Level 04 plan – Building E, Issue <i>E H</i>	Group GSA	1 April 2015 <i>11 March 2016</i>
DA-2006, Level 05 plan – overall, Issue <i>D I</i>	Group GSA	1 April 2015 <i>13 April 2016</i>
DA-2006_B, Level 05 plan – Building B, Issue <i>E I</i>	Group GSA	1 April 2015 <i>13 April 2016</i>

Drawing No.	Author	Dated
DA-2006_D, Level 05 plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2007, Level 06 plan – overall plan, Issue D I	Group GSA	1 April 2015 13 April 2016
DA-2007_B, Level 06 plan – Building B, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2007_D, Level 06 plan – Building D, Issue E J	Group GSA	1 April 2015 11 March 2016
DA-2008, Level 07 plan – overall plan, Issue D I	Group GSA	1 April 2015 13 April 2016
DA-2008_B, Level 07 plan – Building B, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2009, Roof plan – overall, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2009_A, Roof plan – Building A, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2009_B, Roof plan – Building B, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2009_D, Roof plan – Building D, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2009_E, Roof plan – Building E, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-3000, Street elevations – 1-500, Issue E J	Group GSA	1 April 2015 13 April 2016

Drawing No.	Author	Dated
DA-3000_A, Street elevations – 1-500– Sheet 2, Issue <i>B E</i>	Group GSA	<i>1 April 2015</i> <i>11 March 2016</i>
DA-3001, Elevations Sheet 1, Issue <i>D G</i>	Group GSA	<i>1 April 2015</i> <i>11 March 2016</i>
DA-3002, Elevations Sheet 2, Issue <i>D H</i>	Group GSA	<i>1 April 2015</i> <i>13 April 2016</i>
DA-3003, Elevations Sheet 3, Issue <i>D G</i>	Group GSA	<i>1 April 2015</i> <i>11 March 2016</i>
DA-3004, Elevations Sheet 4, Issue <i>D G</i>	Group GSA	<i>1 April 2015</i> <i>11 March 2016</i>
DA-3005, Elevations Sheet 5, Issue <i>D G</i>	Group GSA	<i>1 April 2015</i> <i>11 March 2016</i>
DA-3100, Site Sections, Issue <i>D H</i>	Group GSA	<i>1 April 2015</i> <i>13 April 2016</i>
DA-3101, Sections Sheet 1, Issue <i>D H</i>	Group GSA	<i>1 April 2015</i> <i>13 April 2016</i>
DA-3102, Sections Sheet 2, Issue <i>D G</i>	Group GSA	<i>1 April 2015</i> <i>11 March 2016</i>
DA-8200, External colours & Finishes Schedule, Issue <i>B E</i>	Group GSA	<i>1 April 2015</i> <i>11 March 2016</i>
Reference: 18240-5 Sheet 1 of 1	Dunlop Thorpe & Co	<i>26 March 2015</i>

Drawing No.	Author	Dated
Reference: 18240-6 Sheet 1 of 1	Dunlop Thorpe & Co	26 March 2015
Reference: 18240-7 Sheet 1 of 1	Dunlop Thorpe & Co	26 March 2015
Reference: 18240-4 18240_5 (B) Sheet 1 of 2	Dunlop Thorpe & Co	26 March 2015 11 January 2016
Reference: 18240-4 18240_5 (B) Sheet 2 of 2	Dunlop Thorpe & Co	26 March 2015 11 January 2016
Kurnell Street Stormwater Diversion 341565-C-DR-SK0003 (Revision C)	-	25 June 2015

Reference Document(s)	Author	Dated
<i>Statement of Environmental Effects</i>	<i>JBA Urban Planning</i>	<i>April 2015</i>
Design Report / SEPP 65 Design Verification Statement	Group GSA	1 April 2015
Remediation Action Plan	DLA	November 2014
Subdivision Drawings	Dunlop Thorp Co	26 March 2015
Waste Management Plan	GHD	March 2015
BASIX Report	Efficient Living	19 March 2015 11 March 2016
Geotechnical Report	Douglas Partners	March 2015
Stormwater Management & Flooding Analysis Report	Mott McDonald	March 2015
Landscape Drawings and Statement	Tract	1 April 2015
Transport Assessment	Ason Group	1 April 2015
Housing Diversity Assessment	JBA Urban Planning	March 2015
Acoustic Report	Acoustic Logic	25 March 2015
Access Report	Brentnall Technical	1 April 2015

Reference Document(s)	Author	Dated
	Solutions	
Wind Report	Windtech	31 March 2015

Note: No approval is given for access to the basement car park off New Street One as no owners consent was provided to allow this. In accordance with Condition 13, the consent authority allowed access to the Townhouses via Wilson Street by way of deletion of two townhouses.

(Condition Amended DA-13/208/02)

(Condition Amended DA-13/208/03)

- 1A. *Despite any other condition in this consent, no conditions preclude the proponent from undertaking the approved stormwater diversion works and associated amendments to drainage easements.*

Council releases its rights in relation to the existing drainage easements created by dealings Book 1517 No 745, Book 2640 No 50 and Book 2768 No 411. Council acknowledges that the new drainage system to be installed on the site as shown in the drawing provided by the applicant to Council titled 'Kurnell Street Stormwater Diversion' dated 26 June 2015 or any variation to the drawing agreed by Council (and the new easements to be registered in respect of the new drainage system) replaces and is in lieu of the existing drainage system and the rights conferred under the existing easements in respect of the upstream drainage demand from Kurnell Street. The applicant must register with any plan of subdivision that subdivides the land the subject of the existing easements, new drainage easements under the Conveyancing Act 1919 burdening the applicant's land on the site of the new drainage system and benefitting Council. The easements under Building A will be limited in stratum and have a width of 1.2m so as to encompass only the drainage system below the slab. The design of the public park will accommodate an overland flow path from Kurnell Street through to Wilson Street.

(New Condition added DA-13/208/02)

- 1B. *Despite any other condition of this consent, to enable a ~~staged~~ construction **staging**, the following conditions may be satisfied in accordance with the table below:*

CONSTRUCTION STAGE	CONDITIONS TO BE SATISFIED
<i>Prior to the First Construction Certificate for any Above Ground Works</i>	71
<i>Prior to Construction Certificate for the Relevant Building</i>	14, 15, 16, 44, 47, 48, 50, 57, 58, 59, 60, 64, 65, 76, 77, 78, 80, 81, 82, 83, 86, 89
<i>Prior to the Issue of any Occupation Certificate for the Relevant Building</i>	117, 119, 124, 125, 131, 141
<i>Prior to the Issue of any Occupation Certificate for Building B</i>	134, 139, 142, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156,

CONSTRUCTION STAGE	CONDITIONS TO BE SATISFIED
	157, 158

Any condition not listed within the table above shall be satisfied as outlined in elsewhere within this consent.

(New Condition added DA-13/208/02)

(Condition amended DA-13/208/03)

2. This Consent relates to land in Lot 1-5 DP 979152, Lot 51 in DP 15704, Lot 100 in DP 867427 and Lot 101 in DP 867427, as such, building works must not encroach on to adjoining lands ~~or other public places apart from any approvals granted for the road widening and to Pemberton Street which is to be submitted as a civil road works application~~ unless otherwise required by these conditions of consent.

(Condition Amended DA-13/208/02)

3. The applicant must, prior to the issue of Construction Certificate, pay the following fees:

- a) Development Control \$11,200.00

Note: The Footpath Deposit bond that would ordinarily apply has been required as a Condition on DA 14/239 for demolition and tree removal.

4. Planning Agreement

- a) Prior to the issue of any Construction Certificate *for above ground works*, in accordance with the letter of offer dated 26 June 2015, the landowner and Botany Bay City Council are to enter into a planning agreement under Section 93F of the Environmental Planning and Assessment Act 1979.
- b) The preparation of the Planning Agreement and the works subject to the Planning Agreement are to be at no cost to Council.
- c) *Should the planning agreement not have been executed by both parties prior to the issue of the construction certificate for above ground works, payment of development contributions should be made, in accordance with the City of Botany Bay Contributions Plan 2005 -2010, as follows:*

Development Stage 1

Residential: ~~\$7,794,000~~ \$7,830,000

Less employee credits: ~~\$30,227.54~~ \$35,693.16

Total Payable: ~~\$7,763,772.46~~ \$7,794,306.84

Development Stage 2 – \$18,000

However, no contributions are payable for Development Stage 2, in accordance with the offer to enter into a Works In King Agreement for the turning area at the end of Mahroot Street.

The Section 94 Contribution fees 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.

The contributions are to be paid prior to issue any construction certificate for above ground work.

- d) *Should c) above have occurred, then following the planning agreement being executed by both parties, Council will refund to the applicant any amount over and above that is payable under the planning agreement.*

(Condition Amended DA-13/208/04)

(Condition Amended DA-13/208/03)

5. The public park component of the development shall be maintained by the Applicant for a defects period twelve (12) months *after land dedication before handover to Council* and after final written approval of ~~its~~ **their** construction and fitout by Council, including all certifications of structural components and warranties. All liability for damage, theft, death and repair of ~~its~~ **their** components shall be borne by the Applicant. ~~A damage deposit or similar should be placed over this requirement. A defects bond shall be paid to Council, of 30% of the value of the cost of the park works, as advised in writing by Council.~~

The bond may be applied by Council to the establishment and maintenance of the ~~park~~ parks, during the 12 month period, in accordance with the approved ~~plan~~ plans and Council shall be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the approved ~~plan~~ plans.

(Condition Amended DA-13/208/02)

(Condition Amended DA-13/208/03)

6. As a consequence of the development, the applicant is to provide traffic signals at the intersection of Pemberton Street and Botany Road. The applicant's contribution shall be proportional to the traffic generated from the subject development in the Wilson/Pemberton Street Precinct, being \$380,677.00. *The contribution is to be made prior to the issue of any Occupation Certificate.*

This contribution is based on a costing at 30 June 2015 and may be indexed to reflect any changes in costings at the time that the payment is made.

Note:

The traffic lights amount attributable the developer is based on an apportionment factor of 56.64% and is based on an estimated yield for the Parkgrove West site, 16

Pemberton Street Botany of 280 units; and 56 units at the site at 42 – 44 Pemberton Street.

(Condition Amended DA-13/208/02)

7.

- a) The applicant must, at no cost or expense to Council.
 - i) dedicate a 4 metres wide strip of land for road widening purposes adjoining and for the full length of the site frontage to Pemberton Street. Detail layout shall be in accordance with Wilson/ Pemberton Street Precinct Part 9 of the Botany Bay Development Control Plan 2013;
 - ii) dedicate and embellish the public park of a minimum 3000sqm to Botany Bay Council;
 - iii) Provide a Right of Way (*footway*) for public access via the east-west and north-south through site links;
 - iv) upgrade the public domain and Council footpath area *along the site boundaries* on Pemberton Street, Wilson Street and Warrana Street with new paving at the applicant's expense. All improvements shall be in accordance with Council's Landscaping and Engineering specifications and requirements,
 - v) provide suitable street lighting ~~to a high decorative standard~~ to the street boundaries of the site, on the development side of the road so to provide safety and illumination for residents of the development, with such street lighting meeting the relevant electricity authority requirements;
 - vi) existing above ground electricity and telecommunication cables in Pemberton Street adjoining the site to be located below ground, at the applicant's expense, by underground cables, together with the provision of appropriate street light standards, drainage (if any), kerb and gutter, footway, bicycle paths, landscaping, traffic signs, to the relevant Australian Standards and Codes of Practice; and,
 - vii) All land dedication, road construction, kerb and gutter, drainage, street trees and associated works are to be completed prior to the issue of the Occupation Certificate for ~~the development~~ *Building B*.
 - viii) *Dedicate and embellish the Pocket Park extension.***
 - ix) *Complete the turning are at the eastern end of Mahroot Street.***

Note that particular items listed above are also included within the Planning Agreement referred to in Condition 4.

(Condition Amended DA-13/208/02)

(Condition Amended DA-13/208/04)

(Condition Amended DA-13/208/03)

8. The consent given does not imply that works can commence until such time that:
- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - i) The consent authority; or,
 - ii) An accredited certifier; and,
 - b) The person having the benefit of the development consent:
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the persons intention to commence the erection of the building.
- 9.
- a) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
 - b) All plumbing stacks, vent pipes, stormwater downpipes and the like shall be kept within the building and suitably concealed from view;
 - c) The basement of the building must be designed and built so that on completion, the basement is a “fully tanked” structure, i.e. it is designed and built to prevent the entry of ground water / ground moisture into the inner part of the basement;
 - d) Air conditioning units must not be visible from any public place.
10. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. ~~613844M~~ **613844M_02; 613873M 613873M_02, and 613783M, 613783M_02 dated 30 March 2015 11 March 2016**, for the development are fulfilled and updated to reflect the amendments to the proposal.

Note: “relevant BASIX Certificate” means:

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

If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.

BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

(Condition Amended DA-13/208/03)

11. The following shall be complied with:

- a) The maximum floor space ratio shall not exceed 0.96:1 within the B4 Mixed Use Zone, and 1.55:1 within the R3 Medium Density Residential zone.
- b) The approved building heights is defined generally as follows:
 - i) Building A1 and A2 (within the B4 zone) shall be no greater than 3 storeys or 10 metres in height.
 - ii) Building B1 (west) along Pemberton Street (within the B4 zone) shall be no greater than 3 storeys or 12.4 metres in height, with the exception that Building B3 along Pemberton Street is 4 storeys or 16.5 metres.
 - iii) Building B3 (south wing) shall be no greater than 7 storeys or 25.5 metres and part 5 storeys or 19.5 metres.
 - iv) Building B (east wing) shall be no greater than 8 storeys or 28.6 metres.
 - v) Building B2 (north east wing) shall be no greater than 4 storeys or 15.5 metres.
 - vi) Building D2 (south/west wing) shall be no greater than 7 storeys or 25.3 metres.
 - vii) Building D3 (north-west wing) shall be no greater than 7 storeys or 25.4 metres.
 - viii) Building D3 (north wing) shall be no greater than 4 storeys or 15.3 metres.
 - ix) Building D1 (east wing) along Wilson Street shall be no greater than 3 storeys or 12.1 metres.
 - x) Building E1, along Wilson Street shall be no greater than 3 storeys or 11.5 metres.
 - xi) Building E2 shall be no greater than 5 storeys or 18.7 metres.
- c) The development must comply with the following minimum number of adaptable housing and shall be designed and constructed to comply with Adaptable Housing Class A:
 - i) 0 – 9 units – Nil;
 - ii) 10-30 units – 1 adaptable housing;
 - iii) 31-50 units – 2 adaptable housing;
 - iv) 51 plus – 2 units, plus an additional 1 unit for each 30 units;
- d) The number of ~~apartments~~ *dwelling*s must not exceed 435 *dwelling*s for *Development Stage 1 and 1 dwelling for Development Stage 2*, or the number

of apartments as can be contained in compliance with sub conditions (a), (b) & (c) thereof, whichever is the lesser.

(Condition Amended DA-13/208/03)

12. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these conditions, Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the applicant.
13. ~~While Building E and the townhouses are to be separated into 2 development stages. Development Stage 1 must provide for all vehicular access to Building E is approved, two of the proposed townhouses shall not be constructed, to provide alternate vehicular access to those dwellings from Wilson Street in accordance with DA-1110_E – Stage 1. Development Stage 2 may be constructed in accordance with DA- 1110_E – Stage 2, involving erection of an additional townhouse, provision of vehicular access points to Building E and the basement from Mahroot Street after the date on which either~~ When alternate dedicated public access is available from the ~~proposed 'New Mahroot Street' or registration of a right of way over Lot 4 in DP 1203451 benefitting the Site so as to allow vehicular access via Mahroot Street., this matter may be re-visited. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate.~~

(Condition Amended DA-13/208/02)

(Condition Amended DA-13/208/03)

14. ~~Unit numbers B4305, B4306 and B4307 shall be deleted and that component of the building is to be removed. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate.~~

(Condition Deleted DA-13/208/03)

15. ~~An additional 37 on-site visitor spaces are to be provided with no reduction in deep soil landscaped area. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate.~~

(Condition Deleted DA-13/208/03)

16. ~~All floor to floor heights for residential habitable floors shall be reduced to 3.1 metres. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate.~~

(Condition Amended DA-13/208/02)

(Condition Deleted DA-13/208/03)

- 16A. All demolition works are to be undertaken in accordance with DA 14/239.

(Previously Condition 20, now moved from prior to Commencement of Works Section; DA-13/208/02)

16B. The approved stratum plans may be subject to amendment, as required by Council, to satisfy conditions of consent relating to the public parks, and the location of infrastructure, such as substations.

(Condition Added DA-13/208/03)

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

17. The following condition is imposed by Ausgrid and is to be complied with:

- a) Ausgrid has two existing substations within the site. If these substations are to be removed, it will be necessary to establish new substations onsite before decommissioning.
- b) New substations will be required to supply the proposed development.

18. The following conditions form the General Terms of Approval by the NSW Office of Water and must be complied with:

General

- a) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
- b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any watertable watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high watertable elevations to prevent potential future inundation.
- c) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
 - A. any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the watertable might naturally rise in the location immediately prior to the construction of the structure; and
 - B. any elevated watertable is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - C. where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- d) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may

be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

- e) The NSW Office of Water requires documentation (referred to as 'report') comprising measurements, maps, borelogs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to the NSW Office of Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

- f) The following shall be included in the initial report:
- A. measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including borelogs and three-dimensional identification information.
 - B. a map of the site and its immediate environs depicting the watertable (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the watertable during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
 - C. details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
 - D. a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [The Office of Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]
- g) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
- h) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling

locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.

- i) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
- j) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
- k) A copy of a valid development consent for the project shall be provided in the initial report.
- l) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called “tailwater”) must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
- m) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

- n) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- o) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- p) Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records

of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.

- q) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- r) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- s) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
- t) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety procedures.

Following excavation

- u) Following completion of the dewatering operations, the Applicant shall submit to the NSW Office of Water, Parramatta Office, the completion report which shall include:
 - A. detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
 - B. a watertable map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - C. a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
 - v) The completion report is to be assessed by NSW Office of Water prior to any certifying agency's approval for occupation or use of the completed construction.
19. The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) and must be complied with:

Sydney Airports Corporation Limited (SACL) has raised no objection to the height of the development up to a level of 33.6 metres above Australian Height Datum (AHD). The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, and construction cranes etc. Should the development exceed 33.6 metres above AHD, a further application shall be submitted to Sydney Airports Corporation for approval.

- i) Should the height of any temporary structure and/or equipment greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161. Please note that construction cranes may be required to operate at a height significantly higher than that of the proposed development. A further application shall be submitted to Sydney Airports Corporation Limited for the erection of such temporary structures/construction equipment at the site. Any application for approval should be submitted to the Corporation at least 35 days prior to the commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293.
- ii) Operation of construction equipment (i.e. cranes) should be obtained prior to any commitment to construct and the following information is required by SACL prior to any approval:
 - The location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
 - The swing circle of any temporary structure/ equipment used during construction;
 - The maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment i.e. construction cranes, intended to be used in the erection of the proposed structure/activity;
 - The period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.
- iii) Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by a fine of up to 50 penalty units.

The height of the PANS OPS surfaces component of the prescribed airspace at the site is 51.0 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, “a thing to be used in erecting the building, structure of thing would, during the erection of the building, structure or thing, intrude into PANS OPS airspace for the Airport, cannot be approved”.

PRIOR TO COMMENCEMENT OF ANY WORKS

20. ~~All demolition works are to be undertaken in accordance with DA-14/239.~~

(Condition 20 deleted and moved to now be Condition 16A; DA-13/208/02)

21. Prior to commencement of any works on-site, a dilapidation report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a qualified person and submitted to Council. The report shall include records and photographs of the following area that will be impacted by the development:

- a) All properties immediately adjoining the site;

- b) Pemberton Street, Warrana Street and Wilson Street; and

The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course of ~~the demolition~~, site clearing and site remediation works. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer's expense. In addition, the following issues shall also be complied with:

- c) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediately adjoining properties owners and public utility authorities. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;
- d) A second dilapidation report, including a photographic survey shall then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all adjoining properties owners;
- e) It is a condition of consent that should demolition, site clearing and site remediation works cause rise to public safety and/or workplace safety; works shall halt until absolute safety is restored;

Note: Prior to commencement of the surveys, the applicant/ owner of the development shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information shall be submitted to Council.

(Condition Amended DA-13/208/02)

22.

- a) There shall be no loss of support to the Council's nature strip area as a result of the construction within the site. Details prepared by a practicing Structural Engineer of how this support will be maintained during the demolition works shall be submitted to Council prior to the commencement of works.
- b) Council's property shall be supported at all times. Where any shoring is to be supporting (or located on) Council's property, certified engineering drawings showing all details including the extent of encroachment, the type of shoring and the method of removal, shall be submitted prior to the issue of *the relevant* Construction Certificate. If the shoring cannot be removed, it shall be cut to 150mm below footpath level and the gap between the shoring and any buildings shall be filled with a 5Mpa lean concrete mix.

(Condition Amended DA-13/208/02)

23. ~~Prior to the commencement of demolition work, a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority.~~

~~The statement must be in compliance with: AS2601-1991 Demolition of Structures," the requirements of WorkCover Authority and conditions of the Development Approval, and must include provisions for:~~

- ~~a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";~~
- ~~b) Induction training for on-site personnel;~~
- ~~c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);~~
- ~~d) Dust control Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;~~
- ~~e) Disconnection of Gas and Electrical Supply;~~
- ~~f) Fire Fighting Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;~~
- ~~g) Access and Egress No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;~~
- ~~h) Waterproofing of any exposed surfaces of adjoining buildings;~~
- ~~i) Control of water pollution and leachate and cleaning of vehicles tyres Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";~~
- ~~j) Working hours, in accordance with this Development Consent;~~
- ~~k) Confinement of demolished materials in transit;~~
- ~~l) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995";~~
- ~~m) Sewer common sewerage system;~~
- ~~n) On site monitoring both during asbestos removal and the remainder of demolition activities.~~

~~(Condition Deleted; DA-13/208/02)~~

24. 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 to determine the position and level of services;
- b) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with:
 - i) The additional load on the system; and
 - ii) The relocation and/or adjustment of the services affected by the construction.

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

25. ~~Prior to demolition of any building constructed before 1970, the person acting on this consent shall ensure compliance with Australian Standard AS2601-2001, Demolition of Structures by a person with suitable expertise and experience. This may involve a Work Plan that identifies any hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimize any dust nuisance and the disposal methods for hazardous materials, including:~~
- ~~a) — Removal, cleaning and disposal of lead-based paint shall conform to the current EPA guidelines. Demolition of materials incorporating lead is to be conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS2601-1991 Demolition of structure.~~
 - ~~b) — Hazardous dust shall not be allowed to escape from the site. Any existing accumulations of dust (e.g.; ceiling voids and wall cavities) shall be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water shall not be allowed to enter the street and stormwater systems. Demolition is not to be performed during high winds, which may cause dust to spread beyond the site boundaries.~~
 - ~~c) — All contractors and employees directly involved in the removal of hazardous dusts and substances wearing protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices and shall adopt work practices in accordance with the requirements of WorkSafe's Control of Inorganic Lead At Work (NOHSC: 102(1994) and NOHSC: 2015(1994).~~
 - ~~d) — All lead contaminated materials being disposed of in accordance with the Environment Protection Authorities Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999) and The Protection of the Environment Operations Act 1997 (NSW).~~

~~(Condition Deleted; DA-13/208/02)~~

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

It should be noted that 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.)

- Permit to erect hoarding on or over a public place, including Council's property/road reserve,
- Permit to construction works, place and/or storage building materials on footpaths, nature strips,

- Permit for roads and footways occupancy (long term/ short term),
 - Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - 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,
 - Permit to place skip/waste bin on footpath and/or nature strip,
 - Permit to install temporary shoring under Council's road reserve, and
 - Permit to use any part of Council's road reserve or other Council lands.
27. Erosion and sediment control devices shall be installed and in function prior to the commencement of any ~~demolition~~, excavation or construction works upon the site in order to prevent sediment and silt from site works (including ~~demolition and/or~~ excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

(Condition Amended DA-13/208/02)

28. Any soil disposed of offsite shall be classified in accordance with the procedures in the NSW EPA Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes (1999).
29. 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.
30. Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
31. The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA Environmental Noise Control Manual.
32. The approved Waste Management Plan for the, shall be complied with at all times during ~~demolition~~ works and construction works.

(Condition Amended DA-13/208/02)

33. 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 free copy of the sign is available from Council's Customer Service Counter.
34. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.

35. 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.
36. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
- stating that unauthorised entry to the work site is prohibited;
 - 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;
 - the Development Approval number;
 - the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - any such sign is to be removed when the work has been completed.
37. ~~All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:~~
- ~~Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;~~
 - ~~Prior to placement of concrete (kerb and gutter and footpath);~~
 - ~~Prior to construction and placement of road pavement materials; and~~
 - ~~Final inspection.~~
- ~~Note: Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.~~
- (Condition Deleted DA-13/208/02)
38. ~~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 Deleted DA-13/208/02)
39. ~~The upper noise level from the demolition operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).~~
- (Condition Deleted DA-13/208/02)

40. If any material containing asbestos is found on site during the ~~demolition~~ construction process the material is to be removed and disposed of in accordance with WorkCover requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.

(Condition Amended DA-13/208/02)

41. The operation shall not give rise to offensive odour or other air impurities in contravention of the *Protection of the Environment Operations Act 1997*. The Principle contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:

- a) Covering excavated areas and stockpiles,
- b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
- c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,
- d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
- e) All loads entering or leaving the site are to be covered,
- f) The use of water sprays to maintain dust suppression,
- g) Keeping excavated surfaces moist.

42. During ~~demolition~~, excavation, remediation and construction, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:

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

(Condition Amended DA-13/208/02)

43. The following trees existing on the site and the Council road reserve are required to be retained until the issues of building and basement setback, levels, tree retention, landscaping and public domain have been addressed and a revised Arborist report submitted.

- a) Tree 93, ~~88, 100, 104, 106~~ located on adjoining properties to the north.
- ~~b) Tree # 46A - a Liquidamber in the Wilson Street frontage.~~
- ~~c) Tree #55 - a Eucalyptus on the site.~~
- d) All Council street trees in the Wilson ~~and Pemberton Street~~ road reserves.
- ~~e) All other trees in the Wilson Street setback of the property.~~

In order to ensure that ALL of the above trees are protected during construction, the following is required :

- a) Prior to commencing any works on the property the trees are required 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 fence shall remain in place until construction is complete. This work is to be undertaken by an AQF Level 5 Consulting Arborist.

- b) 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.
- c) Fencing shall be erected to ensure the public footway is unobstructed.
- d) If there is insufficient space to erect fencing in a particular area, and after Council approval, 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).
- e) Before any works commence on site, the Applicant is required to contact Council for an inspection of the fenced TPZ's. Council approval is required prior commencement of any work.
- f) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.

(Condition Amended DA-13/208/02)

PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

44. A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of 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.

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

45. A detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or/and Roads and Maritime Services) for approval. The plan shall:

- be prepared by a RMS accredited consultant,
- 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, and
- 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.

46. Prior to any excavation works below 7m below ground level an acid sulfate soil (ASS) assessment shall be undertaken to determine the presence and extent of any ASS.

Note:

- i) Should any potential acid sulfate soil (PASS) or actual acid sulfate soil (AASS) be identified then the an Acid Sulfate Soils Management Plan shall be prepared which shall include any site specific procedures and mitigation measures required and a site analysis from a NATA registered laboratory; and
 - ii) All recommendations of the report shall be implemented prior to the commencement of excavation or building works below 7m below ground level.
47. The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 "Access for People with Disabilities" and Australian Standard AS1428.1 (2001) - Design for Access and Mobility - Part 1 General Requirements for Access - Buildings. This requirement shall be reflected on the Construction Certificate plans.
48. Prior to the issue of Construction Certificate, the construction drawings shall indicate the following:

- a) That water will be prevented from penetrating behind fittings/linings and into concealed spaces in laundry, sanitary areas and bathrooms etc;
- b) That floor to ceiling in ~~laundry and~~ bathroom areas to be tiled;
- c) That timbers used in the development are plantation, recycled or regrowth timbers ~~of timbers grown on Australian farms or State forest plantations~~ and that no old growth or rainforest timbers are to be used in any circumstances; and
- d) That plumbing to each dwelling will be separated and adequately contained to prevent noise transmission and vibration.

(Condition Amended DA-13/208/02)

- 49. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$784,830.00 (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 Occupational Certificate has been issued.
- 50. Prior to the issue of Construction Certificate, 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.

- 51. ~~The Applicant is to submit payment for a Tree Preservation Bond of \$40,000.00 to ensure the protection of all trees outlined in Condition 39 from damage during site works. The duration of the Bond shall be limited to a period of 12 months after issue of the Occupation Certificate. At the completion of the 12 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then Council will forfeit all, or part thereof, of the bond. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.~~

(Condition Deleted DA-13/208/02)

- 52. The Pemberton Street setback shall be primarily a deep soil, permeable landscape zone and is to include medium canopy trees. ~~The 1.8m dividing terrace walls are to be reduced in height to be consistent with property boundary walls and allow street surveillance.~~ Landscape sections and elevations are required to accurately depict landscape treatment, hard elements and levels on this frontage. Terraced landscape areas are not recommended to ensure adequate space for tree planting, large shrubs,

natural drainage (deep soil, not podium) and to ensure landscaping addresses and relates to the public domain. Sections are to be consistent with plan drawings and architectural.

(Condition Amended DA-13/208/02)

53. ~~The Wilson Street setback shall be a deep soil and permeable landscaped area. Hard paving in the setback is to be minimised (patios, entries etc). This area must contain tree planting and must investigate the retention of existing trees to improve the interface with existing low density residential opposite the site. In order to retain existing trees (as stipulated by Council), existing soil levels in this area must be maintained. This may require a re-evaluation of building and basement setbacks and levels. The setback area is to be primarily a deep soil, permeable landscape zone and is to include medium canopy trees. Dividing terrace wall heights and materials are to be consistent with property boundary walls and allow street surveillance. Landscape sections and elevations are required to accurately depict landscape treatments, hard elements and levels on this frontage. Terraced landscape areas are not recommended to ensure adequate space for tree planting, large shrubs, natural drainage (deep soil, not podium) and to ensure landscaping addresses and relates to the public domain. Sections are to be consistent with plan drawings and architectural. The treatment of this boundary must be consistent with adjoining new developments to the south and provide adequate landscaping adjoining the boundary line that is visible from the public domain. The 2.8m high boundary fencing is to be reduced for consistency with adjoining developments and to improve public domain resolution and interface. The proposed landscape treatment shall be re-designed to be more sympathetic with the street and to adequately and suitably ameliorate the development. The deep soil availability in this setback has not been maximised with large planters or by the planting of trees.~~

(Condition Deleted DA-13/208/02)

54. ~~An Arboricultural Report shall be submitted to Council in accordance with Part 3F of BBDEC2013. The Report shall be prepared by a qualified AQF Level 5 Consulting Arborist who is a practicing member of Arboriculture Australia, only. The report is to include all trees as described in Condition 39 The report is to describe the health and SULE of each tree and provide a management strategy to mitigate impacts.~~

(Condition Deleted DA-13/208/02)

55. The landscape areas shown on the conceptual landscape plans by Tract and dated 1 April 2015 shall be the subject of detailed landscape construction documentation – plans, sections, elevations, construction details and specifications, to be submitted to and approved by the City of Botany Bay Council's Landscape Architect. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with BBDCP2013. The detailed, construction level landscape plan shall include, but not be limited to:
- a) A site plan showing building envelopes, paved areas and areas to be landscaped.
 - b) A detailed planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be a dense layered planting scheme

- consisting of trees, shrubs and groundcovers/lawn in all landscaped areas.
- c) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking.
 - d) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls.
 - e) Areas of paving, schedule of materials, edge treatments and sectional construction details.
 - f) All external and internal fencing, privacy screening and pergolas – elevations and materials.
 - g) Details of other landscape elements such as furniture, amenity lighting, artwork and water features. Provide sectional construction details and elevations.
 - h) Planter box on slab sectional details. Planter box depths to be in accordance with BBDCP2013 and SEPP65.
 - i) In communal open spaces, soft landscaping is to be maximised and accessways/ dissecting pathways minimised. Provide lawn as well as planted areas, trees for shade and seating.
 - j) A mixture of tree heights and forms shall be used extensively throughout the site – in private courtyards, communal areas and in setbacks using small, medium and large canopy trees ranging in height from 3 to 15 metres. Trees must be of an appropriate scale to complement and ameliorate the development and to pedestrianise landscaped open spaces. Deep soil zones must include larger canopy trees. Setbacks are to include appropriate sized trees to soften the development and integrate it with the streetscape. Trees to be predominantly native, evergreen species using open canopy evergreens or some selected deciduous for solar penetration.
 - k) The public park shall incorporate playground equipment area of adequate dimensions and fitout and suited to the projected residential and local community, a *casual* fitness area and ~~BBQ~~/picnic facilities. These should all be of adequate dimension to promote useability and functionality and well located for access and surveillance.
 - l) Playgrounds shall be designed in accordance with Australian Standards and all design and structural certifications provided to Council.
 - m) Incorporate shared access paths (north-south or east-west) (to accommodate bicycles).
 - n) Show the location of underground stormwater and rainwater tanks and the like and impact on landscape outcome.
 - o) Provide landscape furniture and recreational facilities appropriate to the development such as ~~BBQ areas~~, shelters, seating, playground, water features and the like.
 - ~~p) — Street setbacks are to be primarily green spaces for the required 3 metre landscaped setback width. Patios shall be provided in private landscape areas behind townhouses, not in the street frontage.~~
 - q) Planting is to be provided to all ground floor townhouse rear private open spaces.
 - r) Clearly demonstrate tree survival/growth within the sunken tree pits regarding watering, contaminated soils, potential impacts on tree growth, form and health. Will the planting result in mostly only canopy visible at the podium communal open space level and is this optimal regarding aesthetics, visual surveillance etc.
 - s) *Amended landscape are to be submitted to Council including Large/wide*

format, ~~deep~~ planters ~~are required on~~ to the podium to support trees, ~~not linear type planters.~~

Once approved by Council, landscaping shall be installed in accordance with the approved landscape as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.

(Condition Amended DA-13/208/02)

56. A public domain improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath locations and paving (including segmental paving), street tree pit treatments, tree guards, in-road planted blister islands, street furniture, in ground landscaping, furniture. The Plan shall be in accordance with Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements and shall be consistent with the landscape drawings.

56A. *A plan of the Pocket Park extension shall be submitted for approval by Council. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, and the plan shall be compatible with the existing Pocket Park adjoining to the south.*

(New condition added DA-13/208/3)

57. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- All driveways/access ramps/vehicular crossings shall 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
- For commercial developments, the applicant shall provide 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.

58. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- All driveways/access ramps/vehicular crossings shall 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,
- All service vehicles shall enter the property front in front out,
- Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
- Swept path analysis shall be provided for manoeuvring of commercial vehicles, and

- A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
59. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- Disabled car parking spaces shall be provided and clearly marked as per the Traffic Impact Assessment Report by ASON Group, dated 1 April 2015, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - 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.
60. Prior to the release of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Engineering and Regulatory Services Department, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.
61. Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. 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.

62. 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 Pemberton Street adjacent to the development. The camera and its operation shall comply with the following:
- The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
 - 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,
 - Distance from the manholes shall be accurately measured, and
 - The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline and detail maps recording which video is of which pipe shall be submitted to Council prior to the commencement of any works. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

Note: If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the applicants expense.

63. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:

- 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,
- Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - The additional load on the system, and
 - The relocation and/or adjustment of the services affected by the construction.
- As part of this development, the stormwater drainage pipe from the Kurnell cul-de-sac and traversing the site, shall be diverted to Pemberton St and connect to existing stormwater drainage pit and pipe system on Pemberton St. Detail engineering drawings shall be in accordance with the submitted and approved by Council prior to the issue of the first Construction Certificate.
- The Ausgrid lighting poles along Warrana St *frontage*, will need to be decommissioned and new lighting poles shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider,
- All above ground utilities *on site frontages*, shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider *prior to the occupation certificate for Building B*, and
- 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 prior to the issue of the ~~Construction Certificate~~ any occupation certificate.

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.

(Condition Amended DA-13/208/02)

64. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal 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:

- The provision made in the Stormwater Management & Flooding Analysis Report by Mott MacDonald, dated March 2015,

- 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,
 - Provision of a minimum 10kL rainwater tank collection system for each separate Lot for internal reuse in accordance with Section 4 of Botany Bay’s SMTG,
 - 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,
 - The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
 - The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
 - If an OSD system is proposed, incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay’s SMTG,
 - The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
 - 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
 - The submission of detailed calculations including computer modelling where required supporting the proposal.
65. Prior to issue of any Construction Certificate, the construction plans shall be revised to address the following: -
- a) the maximum of reflectivity of glazing shall not exceed 20%;
 - b) any exterior lighting shall be designed to comply with *Section 9.2.1 – Lighting in the Vicinity of Aerodromes Manual of Standards*;
 - c) ~~all recommendations stated in the Internal Traffic Assessment Report, prepared by Thompson Stanbury Associates, Ref 12-118, dated November 2012 shall be incorporated into the construction plans;~~
 - d) bollards shall be installed at the shared spaces of the disabled parking bays to comply with AS2890.6;
 - e) the number of disabled parking bays shall comply with AS2890.6;

- f) garbage bins collection area shall not obstruct the shared vehicle access driveway, fire escape exits, vehicle entrance to the basement car parking area; and
- g) an intercom system shall be provided at the vehicle entrance to the development. This is to ensure visitors can gain access to the visitor parking bays located within the basement car parking area.

(Condition Amended DA-13/208/02)

- 66. The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development. Dilapidation survey reports (one prior to commencement and one at completion) of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the release of Construction and Occupation Certificate.
- 67. During ~~demolition~~, excavation, remediation and 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 construction. The area fronting the site and in the vicinity of the development shall also be 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.

(Condition Amended DA-13/208/02)

- 68. ~~Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. 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.~~

(Condition Deleted DA-13/208/02)

- 69. A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of any Construction Certificate.

This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.

- 70. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this

area shall be provided in the Soil and Water Management Plan (SWMP) prior to the release of any construction certificate. This plan shall incorporate and reference the construction environmental management plan and address site limitations.

71. ~~A Site Audit Statement will be required for this site prior to the issue of any Construction Certificate.~~ 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.

(Condition Amended DA-13/208/04)

72. ~~A separate site audit statement for the park that is to be dedicated to council is required and Council will require that there is no ongoing management of any land that is to be dedicated to Council. The proposed park must be assessed using the appropriate National Environment Protection (Assessment of Site Contamination) Measure 199 as amended 2013 (NEPM 2013) exposure scenario of Public Open Space that includes parks and playgrounds.~~

(Condition Deleted DA-13/208/02)

73. The Remedial Action Plan (RAP) shall avoid the use of containment strategy and contaminants should be treated onsite or removed from the site whenever possible. Any remediation that utilises a containment strategy for contaminants must be accompanied by a Long-term Environmental Management Plan (LTEMP). This LTEMP must be added to the title of the site.
74. An Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.

This report shall be provided prior to the issue of any construction certificate and all recommendations of the report shall be implemented during works on site.

75. Prior to the issue of Construction Certificate 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.

Note: The Long Service Levy may be paid in instalments, subject to the approval of the Long Service Levy Corporation.

(Condition Amended DA-13/208/02)

76. Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.
77. Prior to issue of Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certifying Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:
- a) Waste and recycling for commercial users shall be in a separate room from the storage of waste and recycling for residential users;
 - b) The rooms for the storage of garbage and recyclable materials shall be fully enclosed;
 - c) Adequately ventilated and of a suitable size to contain compaction equipment;
 - d) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
 - e) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation; and,
 - f) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
78. ~~The following requirements apply to telecommunication facilities in the building:~~
- ~~a) Appropriate access and space within the plant area of the building shall be provided for a minimum of three telecommunication carriers or other providers of broad band access by ground or satellite delivery.~~
 - ~~b) Appropriate ducting and cabling shall be provided for a minimum of three telecommunication carriers or other providers for telecommunication access and broad band cabling to each apartment of the building.~~
 - ~~c) The details of (a) and (b) above shall be submitted for the approval of the Principal Certifying Authority prior to issue of any Construction Certificate.~~

Details demonstrating that the NBN has been provided for all apartments shall be submitted to the Principal Certifying Authority prior to the issue of the relevant ~~Construction~~ Occupation Certificate.

(Condition Amended DA-13/208/02)

(Condition Amended DA-13/208/04)

79.

- a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill;
- b) All lighting shall comply with AS4282-1997 Control of the obtrusive effects of outdoor lighting; and
- c) The installation of solar power to external space lighting. Details shall be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

80. Prior to issue of any Construction Certificate, the following measures shall be provided within the Construction Certificate documentation with respect to noise attenuation/treatment of the building/s in accordance with the criteria listed within this condition:

- a) the measures Referenced to the Acoustic Logic Noise Impact Assessment Revision 1 dated 25 March 2015 the development shall be designed and constructed such that in-flight aircraft noise is mitigated by effective sound insulation and complies the requirements of AS 2021 -2000 'Aircraft Noise intrusion - Building Siting and Construction'.

CRITERIA

- i) A detailed impact assessment of in-flight aircraft noise intrusion shall be conducted by a suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership prior to the issue of construction certificate to determine acoustic treatments required to ensure ~~road-traffic~~ aircraft noise does not exceed the relevant Conditions of Consent and legislative requirements. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate.
- b) The development shall be designed and constructed taking into account the requirements for effective sound insulation against external ~~road-traffic~~ aircraft noise intrusion and satisfies an internal sound pressure level less than LAeq 1 hour 40dBA, with the doors and windows closed.

CRITERIA

- i) A detailed impact assessment of external ~~road-traffic~~ aircraft noise intrusion shall be conducted by a suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership prior to the issue of

construction certificate to determine acoustic treatments required to ensure road traffic noise does not exceed the relevant Conditions of Consent. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate.

- c) The development shall be designed and constructed taking into account the requirements for effective sound insulation against external noise intrusion from industrial sources, associated land and water based Port Botany activities and all ground activities associated with the operation of Sydney Kingsford Smith Airport including aircraft take-offs and landings and satisfies an internal sound pressure level less than L_{Amax} 50dBA, with the doors and windows closed.

CRITERIA

- i) A detailed impact assessment of noise from industrial sources, associated land and water based Port Botany activities and ground activities associated with the operation of Sydney Kingsford Smith Airport including aircraft take-offs and landings shall be conducted by a suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership prior to the issue of construction certificate to determine acoustic treatments required to ensure noise from these sources does not exceed the relevant Conditions of Consent. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate.
- d) The development shall be designed and constructed taking into account the requirements for effective sound insulation for mechanical plant/equipment installed and operated on the development, and
 - i) shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any point on any residential property, external apartment balcony or external apartment window greater than 5dBA above the existing background LA₉₀ level (in the absence of the noise under consideration).
 - ii) shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any point on any residential property, external apartment balcony or external apartment window that exceeds L_{Aeq} 50dBA daytime and L_{Aeq} 40dBA nighttime.
 - iii) shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any commercial/industrial premises that exceeds L_{Aeq} 65dBA.

For assessment purposes the L_{Aeq} levels referenced above in sub-clauses i), ii) and iii) shall be assessed over a 15 minute period and adjusted in accordance with procedures referenced in the NSW Industrial Noise Policy for tonality, frequency weighting, impulsive characteristics, fluctuation and temporal content where necessary.

CRITERIA

- iv) A detailed noise impact assessment shall be conducted by a suitably qualified Acoustic Engineer with MIE Australia membership or

employed by a consulting firm eligible for AAAC membership prior to the issue of the construction certificate to determine acoustic treatments required to ensure that noise from mechanical plant/equipment systems installed and operated on the development does not exceed the relevant Conditions of Consent. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate.

- e) Prior to any field acoustic compliance testing of internal walls and floors a report shall be provided to the testing Acoustic Engineering certifying that all internal walls and floors within the development are constructed in accordance with the details submitted the documentation provided for Construction Certificate. Any variations to CC approved documentation shall be approved by the Principal Certifying authority and identified in the report.
81. Prior to the issue of Construction Certificate, a minimum ~~777~~ **806** off-street car parking bays as defined in AS2890.2 shall be provided to the development as shown on the approved architectural plans. All parking bays and loading bays shall be line marked. The allocation of parking bays shall be in accordance with the following:-
- a) ~~777~~ **Parking** bays shall be allocated to commercial tenancies, residents and visitors parking only. The allocation of parking bays shall be based on the following rate:
- | | |
|---------------------------------|------------------------------|
| • 9 Commercial units | 1 space/50m ² GFA |
| • Studio/ 1-bedroom unit | 1 space/unit |
| • 2/3 and 4 bedroom | 2 spaces/unit |
- b) ~~Forty Eight (48)~~ **Eighty-five (85)** off-street parking bays shall be made available at all times for visitors parking, with minimum one (1) parking bay to also be used as car wash bay.
- c) The allocation of disabled parking and shall be based on the following rate:
- | | |
|------------------------------------|---------------|
| • Adaptable Studio/ 1-bedroom unit | 1 space/unit |
| • Adaptable 2/3 and 4 bedroom | 2 spaces/unit |
- d) At least one (1) disabled parking bay shall be available for visitor parking.
- e) A minimum one (1) car wash bays shall be provided and shall be connected to water and sewer.
- f) The proposed car parking facility (space size, aisle widths, headroom clearance gradients and safe sight distance etc) shall be designed to ensure all vehicles visiting the site can safely enter and leave in a forward direction in accordance with relevant sections of AS2890. The architectural plans shall be amended where required and Traffic Engineering certification confirming compliance shall be submitted for approval with the Construction Certificate application.

(Condition Amended DA-13/208/02)

(Condition Amended DA-13/208/03)

- 81A. *Access to Mahroot Street shall be restricted such that vehicles associated with no more than 30% of dwellings from Buildings B, D and E2, are provided with access to and from Mahroot Street. A physical barrier shall be provided within the basement carpark to achieve this end. Details of construction and management of a physical barrier, are to be provided for the approval of Council.*

(Condition Added DA-13/208/03)

82. Prior to the issue of Construction Certificate, the measures required in the Wind Impact Assessment, Report prepared by Windtech Pty Ltd dated 31 March 2015 shall be detailed on the Construction Certificate plans.
83. Prior to the issue of Construction Certificate, a Certificate under Section 73 of the Sydney Water Act 1994 shall be obtained and submitted to Council for each stage of construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges.

Note: Immediate application should be made to Sydney Water for this Certificate to avoid problems in servicing the development.

84. ~~*Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:*~~

- ~~*a) — The rooms for the storage of garbage and recyclable materials shall be:*~~
 - ~~*i) — fully enclosed;*~~
 - ~~*ii) — adequately ventilated;*~~
 - ~~*iii) — Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;*~~
 - ~~*iv) — The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.*~~
 - ~~*v) — Washing facilities shall be provided within close proximity to the garbage and recycling storage area.*~~
- ~~*a) — All garbage must be collection within the site. The head clearance of the loading dock area to facilitate this must be 4.6 metres.*~~

(Condition Deleted DA-13/208/02)

85. ~~*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 the Certifying Authority prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.*~~

(Condition Deleted DA-13/208/02)

86. Prior to the issue of the Construction Certificate, detailed construction plans in relation to the development shall be revised and submitted to Council for approval. The plan shall be revised to include the following:
- a) Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distances stipulated in AS 2890.2.
87. The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council approval.
88. The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc
89. 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 with details shown on plans submitted with the construction certificate.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

90. In order to ensure that ALL of the trees required to be retained ~~in Condition 39~~ are protected during construction, the following is required :
- a) All TPZ's as well as the entire Council nature strip are a "No-Go" zone. There shall be no access to the property excluding existing crossovers, 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.
 - b) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
 - c) Excavation within the canopy dripline and within an area extending 3 metres outward of the canopy dripline of any street tree shall be carried out manually using hand tools to minimise root damage or disturbance.
 - d) Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer after a site inspection so as not to unduly impact or stress the tree.
 - e) Ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under separate application.
 - f) The Applicant must ensure a minimum offset of 3 metres between any driveway crossover and street tree. Excavation for the crossover shall be undertaken manually. If major roots are encountered Council's Tree Officer is required to inspect and provide advice.
 - g) Masonry boundary fencing/walls or retaining walls shall be of pierced or

bridged construction to minimise damage to major or structural street tree roots. Trench or strip footings are not permitted. If a tree root 40mm diameter or greater is in the location of a pier and the root cannot be cut without compromising the tree (must be obtained after Council inspection and advice), the pier will need to be relocated and the root bridged.

- h) There shall be no walls retaining or otherwise, pavements, change in levels, trenching for new sub-surface utilities or the location of new overhead services within the primary root zone or canopy of any tree. Any such structures in close proximity to trees must accommodate tree roots without damage or pruning.
- i) The Applicant shall undertake any tree maintenance/remedial pruning as required by Council at the completion of construction.

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.

(Condition Amended DA-13/208/02)

- 91. ~~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.~~

(Condition Deleted DA-13/208/02)

- 92. Erosion and sediment control devices shall be installed and functioning prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines including the *Protection of the Environment Operations Act 1997*.

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.

- 93. ~~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.~~

(Condition Deleted DA-13/208/02)

- 94. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for

the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge shall be provided in this report.

Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

95. Any new information that comes to light during ~~demolition~~ or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

(Condition Amended DA-13/208/02)

96. All remediation work must be carried out in accordance with:

- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites'; and
- 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; and
- d) The '*Remediation Action Plan - 47-67 Wilson Street Botany NSW 2019*' prepared by DLA Environmental, Document No. S002334 dated November 2014; and
- e) Any recommendations of the appointed NSW Environment Authority (EPA) Accredited Site Auditor.

97. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:

- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
- b) Protection of the Environment Operations Act 1997.
- c) Protection of the Environment Operations (Waste) Regulation 2014.
- d) NSW Environment Protection Authority Waste Classification Guidelines 2014.

98. The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Acid Sulfate Soil Management Plan required to be submitted prior to any construction certificate including:

- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil; and
- b) Management of acid sulfate affected excavated material;

- c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.
99. ~~For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system.~~
- ~~If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.~~
- (Condition Deleted DA-13/208/02)
100. 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.
101. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
 - b) Protection of the Environment Operations Act 1997; and
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
- 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.
102. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Soil and Water Management Plan;
 - b) “Managing Urban Stormwater - Soils and Construction” (2004) Landcom (‘The Blue Book’); and
 - c) Protection of the Environment Operations Act 1997.
103. During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council’s lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council’s lands.

(Condition Amended DA-13/208/02)

104. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
105. During construction, the principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Soil and Water Management Plan if required under this consent;
 - b) “Managing Urban Stormwater - Soils and Construction” (2004) Landcom (‘The Blue Book’); and
 - c) Protection of the Environment Operations Act 1997.

Where there is any conflict The Blue Book takes precedence.

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

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

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

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

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

106. During construction and any associated deliveries activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:-
- a) Approved Erosion and Sediment Control Plan; and
 - b) Approved Construction Traffic Management Plan.
107. All works carried out on the road reserve (including future road reserve area) shall be inspected and approved by Council’s engineer. Documentary evidence of compliance with Council’s requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages: -
- a) Initial pre-construction on-site meeting with Council’s engineers to discuss concept and confirm construction details, traffic controls and site

conditions/constraints prior to commencement of the construction of the civil works

- b) Prior to backfill of street drainage pipes
- c) Prior to placement of concrete (vehicular crossings, kerb and gutter, footpaths and shared pedestrian/cyclist paths)
- d) Prior to placement of road pavement
- e) Final inspection

Council's inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for any additional inspections undertaken by Council.

108. Construction Noise shall be in accordance with the following:

- a) 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:
 - ii) 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).
- c) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - i) 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).
- d) Time Restrictions
 - i) Monday to Friday 07:00am to 06:00pm
 - ii) Saturday 07:00am to 04:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
- e) Silencing
 - i) All possible steps should be taken to silence construction site equipment.

109. The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA Environmental Noise Control Manual.

110. ~~All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.~~

(Condition Deleted DA-13/208/02)

111. ~~A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out~~

- ~~a) — stating that unauthorised entry to the work site is prohibited;~~
- ~~b) — showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;~~
- ~~c) — the Development Approval number;~~
- ~~d) — the name of the Principal Certifying Authority including an after hours contact telephone number; and;~~
- ~~e) — any such sign is to be removed when the work has been completed.~~

(Condition Deleted DA-13/208/02)

112. Construction Operations

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
 - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
113. During *Demolition*, Excavation and 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 made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

(Condition Amended DA-13/208/02)

114. During *Demolition*, Excavation, 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. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.

(Condition Amended DA-13/208/02)

115. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.

PRIOR TO THE ISSUE OF ANY OCCUPATION CERTIFICATE

116. 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 (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 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 proposed residential and public park 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 and prior to the issue of any occupation certificate.

117. To ensure that the site is suitable for the proposed uses, 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 residential and dedicated public park use. This shall be provided prior to the release of any Occupation Certificate.

A separate site audit statement for the ~~park~~ **park**s that is to be dedicated to council is required and Council will require that there is no ongoing management of any land that is to be dedicated to Council. The proposed ~~park~~ **park**s must be assessed using the appropriate NEPM 2013 exposure scenario of Public Open Space that includes parks and playgrounds.

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) for each SAS completed 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.

118. Prior to the issue of any Occupation Certificate, the applicant shall lodge with the Council a performance bond of \$514,770.00 against defective public civil works undertaken by the main contractor for a period of twelve (12) months from the date of the completion agreed by Council. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee, which will be refundable (with no

interest) subject to the approval of Council at the end of the maintenance period. In this period, the Applicant is liable for any part of the work, which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.

(Condition Amended DA-13/208/02)

119. A report is to be submitted to the Principal Certifying authority prior to the issue of Occupation Certificate addressing the following.
- a) Field testing and evaluation of internal walls and floor insulation systems is to be carried out at a post construction stage by a suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership to demonstrate compliance with BCA Acoustic requirements. The report is to include details of the walls and floors separating apartments. Apartments with carpet covered floors shall be identified in the report.
 - b) All noise reduction measures specified in the CC Noise Assessment reports and all other relevant conditions of consent shall be validated by a Certificate of Compliance prepared by an Acoustic Consultant. The report shall include measurement results from site attended noise audits and unmanned noise monitoring conducted over not less than three (3) consecutive 24 hours periods to demonstrate that the Development Conditions of Consent are satisfied.
120. All vehicular crossings are to be constructed prior to the issuing of any Occupation Certificate (or the completion of work or the use of the building). The applicant shall make a separate application to Council's Customer Service Counter to construct (or reconstruct) a vehicular crossing (either using Council's or own forces) to all vehicular entry points to the site. All vehicular crossings, which were shown on submitted plans, shall be in the correct location. All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section.
121. ~~Prior to the release of any Occupation Certificate, the following works shall be completed to Council's satisfaction at the applicant's expense to Council's satisfaction:~~
- ~~a) Dedicate at no cost to the Council that part of land required for road widening along the site's Pemberton Street frontage; and~~
 - ~~b) The construction of new vertical kerb and gutter and associated footpath and landscaping paving along the entire frontage of the site to Pemberton Street; and~~
 - ~~c) The asphalt sheeting of half road width including reconstruction of any damaged road pavement along the entire frontage of the site to Pemberton Street; and~~
 - ~~d) The overhead power cables to this development site frontages have been undergrounded; and~~

- ~~e) The construction of underground piped drainage system where required including any other necessary engineering works where required to make the construction effective; and~~
- ~~f) The intersection of Botany Road and Pemberton Street shall be signalised with traffic lights in compliance with the requirements of the Roads and Maritime Service (RMS).~~

(Condition Deleted – see Condition 139 DA-13/208/02)

122.

- a) Prior to the issue of the Occupation Certificate a Traffic Management Plan prepared by a suitably qualified Traffic Engineer shall be prepared and submitted to the Principal Certifying Authority and Council addressing traffic management measures required for Kurnell Street, Herford Street and Warana Street.
- b) The Traffic Management Plan shall be submitted to Council for consideration and any traffic management measures required shall be the subject of a separate development application to Council to undertake the necessary traffic management works at no cost to Council.

123. All services (Utility, Council, etc) within the road reserve (including the footpath) affected by the proposed development shall be relocated/adjusted where required to match the proposed/existing levels. All costs are to be borne by the applicant.

124. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Prior to the issues of a Final Occupation Certificate, as required by Council's DCP for multi-unit dwellings:

- a) Mailboxes shall be provided to all units in accordance with Australia Post standards; and
- b) The name and address of the premises shall be displayed in a visible position.

125. Prior to the issue of an Occupation Certificate, a Certificate from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that:

- a) the maximum floor space ratio shall not exceed 0.96:1 within the B4 Mixed Use Zone, and 1.55:1 within the R3 Medium Density Residential zone and shall comply with the following maximum height restrictions:
 - i) Building A1 and A2 (within the B4 zone) shall be no greater than 3 storeys or 10 metres in height.
 - ii) Building B1 (west) along Pemberton Street (within the B4 zone) shall be no greater than 3 storeys or 12.4 metres in height, with the exception that Building B3 along Pemberton Street is 4 storeys or 16.5 metres.
 - iii) Building B3 (south wing) shall be no greater than 7 storeys or 25.5 metres and part 5 storeys or 19.5 metres.

- iv) Building B (east wing) shall be no greater than 8 storeys or 28.6 metres.
- v) Building B2 (north east wing) shall be no greater than 4 storeys or 15.5 metres.
- vi) Building D2 (south/west wing) shall be no greater than 7 storeys or 25.3 metres.
- vii) Building D3 (north-west wing) shall be no greater than 7 storeys or 25.4 metres.
- viii) Building D3 (north wing) shall be no greater than 4 storeys or 15.3 metres.
- ix) Building D1 (east wing) along Wilson Street shall be no greater than 3 storeys or 12.1 metres.
- x) Building E1, along Wilson Street shall be no greater than 3 storeys or 11.5 metres.
- xi) Building E2 shall be no greater than 5 storeys or 18.7 metres.

126.

- a) An experienced Landscape Contractor shall be engaged to undertake the landscaping 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.
- b) 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.
- c) The contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

127. The Applicant is to submit payment of a Street Tree Maintenance Bond of \$30,000.00. The duration of the Bond shall be limited to the 12 month maintenance and defects period after planting of the new street trees and inspection and written approval from Council. At the completion of the Bond period the Bond will be refunded pending a satisfactory inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.

128. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided.

Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

129. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements :

- a) Ensure soil depths in accordance with Council's Landscape DCP. 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 Council's satisfaction* ~~co-ordinate with the colour schemes and finishes of the building.~~

(Condition Amended DA-13/208/02)

130. All electrical kiosks/substations, fire booster assemblies or similar utilities must be housed within the external face of the building structure ~~and or~~ screened from view from the public domain area. The utilities must be *appropriately* 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 installation. ~~The 2 x electrical kiosks have not been incorporated into the building structure and stand alone on the street frontages. The fire booster assemblies are not indicated. These must be incorporated into the building structure and screened with walling and doors.~~

Electrical kiosks shall not be provided on any land to be dedicated to Council, including public parks, or on land containing easements for which Council will become the beneficiary.

(Condition Amended DA-13/208/02)

(Condition Amended DA-13/208/03)

131. Prior to the issue of either an Interim or Final Occupation Certificate of the relevant stage, documentation from suitably qualified engineer shall be submitted to the

Principal Certifying Authority certifying that the car parking area, loading area, turning area access ramps, driveways and internal circulation driveways have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6 requirements. All internal circulation road network, parking and loading facilities shall be clearly designated, sign posted (including “Passenger Vehicle Only”, “Entry Only” and “Exit Only” signs) and line marked. Signage and line marking shall comply with the current version of Australian Standards.

132. Prior to the issue of either an Interim or Final Occupation Certificate, all applications associated with works on Council’s land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.

133.

- a) Prior to the issue of either an Interim or Final Occupation Certificate, the construction of the stormwater drainage system of the proposed development shall be completed in accordance with the approved stormwater management construction plan(s), *or as otherwise agreed by Council*.
- b) Documentation from a practicing and qualified Civil Engineer experienced in stormwater drainage design shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed in accordance with the approved stormwater management construction plan(s) and accepted practice.

(Condition Amended DA-13/208/02)

134. 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 *Building B* development and release of damage deposit.

(Condition Amended DA-13/208/02)

135. 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 Pemberton Street and the new stormwater pipe servicing the Kurnell Street catchment.

The camera and its operation shall comply with the following:

- The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
- 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,
- Distance from the manholes shall be accurately measured, and
- The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline and detail maps recording which video is of which pipe shall be submitted to Council for review. Any defect/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.

136. Prior to the issue of ~~the~~ *an* Occupation Certificate, 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) *or as otherwise agreed by Council* and all relevant standards.

(Condition Amended DA-13/208/02)

137. Prior to the issue of either an Interim or Final Occupation Certificate, the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in Condition No. ~~69~~ **80** of this consent have been carried out and certify that the construction meets those 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).
138. The name of the development, street numbers and unit numbers shall be clearly displayed with such numbers being in contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council and the PCA for approval prior to the release of the Occupation Certificate.
139. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works *to Council's satisfaction and at the applicant's expense:*
- ~~On Botany Road and Pemberton St, the applicant shall contribute to the cost of the construction of the new Traffic Signals,~~
 - *Dedicate at no cost to the Council that part of land required for road widening along the site's Pemberton Street frontage*
 - *The construction of new vertical kerb and gutter and associated footpath and landscaping paving along the entire frontage of the site to Pemberton Street*
 - *The asphalt sheeting of half road width including reconstruction of any damaged road pavement along the entire frontage of the site to Pemberton Street,*
 - On Pemberton St, carry out all civil works as per the Road Widening and Verge Works by Mott MacDonald, dated 25 March 2015,
 - On Warrana St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications,
 - On Warrana St, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications,

- On Wilson St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications,
- On Wilson St, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications,
- On Kurnell St, adjacent to the development, reconstruct the cul-de-sac stormwater inlet pit(s) with minimum 2.4metre Lintels in accordance with Council's Infrastructure Specifications, and
- On Kurnell St, adjacent to the development, reconstruct the cul-de-sac kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications.

Note that particular items listed above are also included within the Planning Agreement referred to in Condition 4.

(Condition Amended DA-13/208/02)

140. 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.
141. 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:
- Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording,
 - ~~Restriction on use of land for Compensatory Flood Storage. Refer to Appendix D of the SMTG for suggested wording, and~~
 - 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.

(Condition Amended DA-13/208/02)

142. Prior to the issue of any Occupation Certificate, the following is to be complied with:
- a) Dedicate *the public park and the Pocket Park extension* to Council and at no expense to the Council and generally in accordance with the Subdivision Drawings by Dunlop Thorpe & Co. dated 26 March 2015.

(Condition Amended DA-13/208/02)

(Condition Amended DA-13/208/03)

143. The Pemberton Street public footpath shall be re-constructed in accordance with Council specifications and the final, approved public domain plan. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications only.

Note: Construction hold points and Council inspections are required at the following points:

- (i) after formwork installation and to prior pouring the concrete blinding slab,
- (ii) at the commencement of paving works, and
- (iii) at final completion.

Council approval of public domain works is required prior issue of an Occupation Certificate.

144.

- a) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, 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.
- b) 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 a directory board or notice board, where it can easily be observed and read by persons entering the building.

145.

- a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.
- ~~b) Condition Nos. 112 to 141 are pre-conditions prior to the issue of the Occupation Certificate.~~

(Condition Amended DA-13/208/02)

OPERATIONAL CONDITIONS

146. The *private* 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.

(Condition Amended DA-13/208/02)

147. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a defects and maintenance period of twelve (12) months after written approval of the street tree planting by Council. Maintenance includes twice weekly watering to sustain adequate growth, bi-annual feeding, weed removal around the base,

maintenance of a 100mm deep mulch ring at all times and replacement of damaged, dead, diseased, declining or stolen plant material at any time during the 12 month period. Maintenance does not include pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time. This includes existing and new street trees. All pruning work is undertaken by Council only.

148. Ongoing maintenance of the grass/landscaped nature strips that are located outside the property boundaries and within the road verges shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass or plant material in accordance with the approved landscape plan.
149. Any subsequent Strata Subdivision must be accompanied by a formal copy of the By-Laws which shall be in accordance with the plans and documentation approved under this Consent and should also address the following matters:
 - a) 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.13/208;
 - b) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No.13/208;
 - c) Responsibilities regarding the maintenance of the car wash bays by the Owners Corporation / building owner;
 - d) Responsibilities for ensuring owners and/or tenants have adequate and hygienic disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times in accordance the conditions of this consent;
 - e) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises by 12.00 noon;
 - f) 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;
 - g) Responsibilities to ensure that graffiti is removed as soon as practicable. In this regard a graffiti management plan is to be incorporated into the maintenance plan for the development;
 - h) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*;

150. All vehicles (including deliveries) shall enter and exit the premises to the public roads in a forward direction.
151. The landscaped areas on the property shall be installed and maintained in accordance with approved landscaped documents, the conditions of consent, Council's DCP and to Council's satisfaction at all times.
- 152.
- a) All parking areas shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods.
 - b) Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.
 - c) *Access to Mahroot Street shall be restricted in accordance with the arrangements made to satisfy Condition 81A.*

(Condition Amended DA-13/208/03)

153. The operation of plant equipment shall comply with the City of Botany Bay's General Noise Criteria is as follows:
- a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration). The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - b) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

Note: 'Offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2000*, (See advisory notes).

- b) Noise controls specific to the amenity of the residential neighbourhood
 - i) The La10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5 dB between 7:00pm one day and 7:00am the day following Monday to Sunday when measured at the boundary of any residential property; and,
 - ii) Notwithstanding compliance with the above (Condition No. 72(c)(i)), the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 7:00pm one day and 7:00am the day following Monday to Sunday.

154. Internal lighting should be left on at night to communal corridors and emergency exits enable patrolling police, security guards and passing people to monitor activities within the businesses and ground floor common areas.
155. Any new street trees shall be maintained by the Owner/Strata Corporation for 12 months after planting. Maintenance includes watering twice weekly for a minimum period of 4 months (or until established) and after that at a frequency to sustain adequate growth, bi-annual feeding with a suitable fertilizer, weed removal and replenishment of the mulched base, but does not include trimming or pruning the trees under any circumstances. Any trees that fail to thrive shall be replaced by the owner/strata corporation to Council's satisfaction at their expense.
156. All waste and recycling containers shall be stored in the designated waste storage area. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The building owner shall be responsible for the following:
- a) Where waste and recycling containers need to be moved to the street;
 - b) Movement of the waste and recycling containers to the footpath for collections, and the return of waste and recycling containers to the waste storage area;
 - c) Refuse containers are to be returned to the waste storage area on the same day as the refuse is collected;
 - d) Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers; and
 - e) Providing and maintaining signage and information to uses to encourage recycling.
- 157.
- a) (i) The hours of operation for the commercial tenancies located on the ground floor shall be restricted to 8am- 7pm Monday to Saturday.
 - (ii) No work on Sundays or public holidays.
 - b) The collection of garbage and any delivery of goods associated with the commercial tenancies shall be limited 8am-7pm Monday to Saturday.
158. 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. 13/208 dated 1 April 2015, *as modified by DA-13/208/2, lodged with Council on 28 August 2015, and DA-13/208/4, lodged with Council on 13 May 2016, and DA-13/208/3, lodged with Council on 18 April 2016*, and that any alteration, variation, or extension to the use, for which approval has been given, would require further consent from Council.

(Condition Amended DA-13/208/02)

(Condition Amended DA-13/208/03)

ADVISORY NOTE

The following conditions are imposed by the NSW Police Service:

- (a) As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
- (b) The CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas that are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or more cameras should be strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance);
- (c) Any proposed landscaping and vegetation should adhere to the following principles:
 - (i) Shrubs bushes, plants should remain under 900mm in height;
 - (ii) Branches or large trees should start at a height of two (2) metres and higher;

This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
- (d) 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;
- (e) Any storage cages in the underground car park areas should not be constructed in an isolated area. CCTV cameras must cover this area, as they are easy targets when they have little supervision. Solid steel housing and quality key locks should be used to prevent access.

Visitor Parking

- a) Residents are not eligible to participate in on-street resident parking schemes.