

COUNCIL ASSESSMENT REPORT

Panel Reference	2018SCL011
DA Number	2014/68/2
LGA	Bayside Council
Proposed Development	Section 4.56 application to modify Development Consent No. 2014/68 to increase the number of basement car parking spaces, various amendments to the approved development including (but not limited to) increase footprint of buildings, additional levels on buildings, relocation of communal room, additional 38 apartments, and reconfiguration of apartment layouts
Street Address	8, 12, 14 and 16 Pemberton Street, Botany
Applicant/Owner	Applicant: Krikis Tayler Architects Owner: JKN Australia Pty Ltd
Date of DA lodgement	19 September 2017
Number of Submissions	63
Recommendation	<p>It is recommended that the Sydney Eastern City Planning Panel, as the Consent Authority, resolve:</p> <p>Pursuant to Section 4.56 of the Environmental Planning and Assessment Act, 1979, partially approve the application and amend Development Consent No. 2014/68/2 as follows:</p> <ul style="list-style-type: none"> a) Amend Condition No. 1 to include revised architectural plans applicable for the development; b) Add Condition 1A to include references to amendments that are not supported c) Amend Condition No. 16 to reflect the increased contributions payable under S7.11.
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	General development over \$30 million
List of all relevant s4.15(1)(a) matters	<p>List all of the relevant environmental planning instruments S4.15(1)(a)(i);</p> <ul style="list-style-type: none"> • SEPP (Infrastructure) 2007; • SEPP No. 55 – Remediation of Land; • SEPP No. 65 – Design Quality of Residential Apartment Development; • SEPP (BASIX) 2004; • Botany Bay Local Environmental Plan 2013 • Apartment Design Guide <p>List any proposed instrument that is or has been the subject of</p>

	<p>public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii);</p> <ul style="list-style-type: none"> • N/A <p>List any relevant development control plan: s4.15(1)(a)(iii);</p> <ul style="list-style-type: none"> • Botany Bay Development Control Plan 2013 <p>List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4:</p> <ul style="list-style-type: none"> • N/A <p>List any relevant regulations: s4.15(1)(a)(iv):</p> <ul style="list-style-type: none"> • Environmental Planning and Assessment Regulations 2000
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Planning Assessment Report • Draft Determination • Architectural Plans
Report prepared by	Andrew Ison – Senior Development Assessment Planner
Report date	6 December 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. *Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

**Not
Applicable**

Conditions

Yes

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

RECOMMENDATION

That the Section 4.56 application to increase the number of basement car parking spaces, various amendments to the approved development including (but not limited to) increase footprint of buildings, additional levels on buildings, relocation of communal room, additional 38 apartments, and reconfiguration of apartment layouts is **APPROVED** with the exception of the following:

- (a) The additional Level 8 in Buildings B2 and B3; and
- (b) The relocation of the communal open room in Building C2 and with it the creation of unit C2101.

EXECUTIVE SUMMARY

Council received the subject Section 4.56 modification application to modify DA-2014/68 on 19 September 2017 to amend the approved development at 8, 12, 14 and 16 Pemberton Street, Botany.

The subject modification application seeks an additional 38 units through the reconfiguration of the existing layout and also additional storeys on a number of the approved buildings.

The development is currently under construction on site, with excavation of the basement area nearing completion at the time of writing this report.

The proposal involves amendments to a development originally determined by the Panel that has a Capital Investment Value greater than \$30 million. As such, the application is referred to the Regional Panel for determination as per Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 (SEPP).

The Panel can be satisfied that the relevant considerations of Section 4.56 are met in this instance for the reasons contained within the below report. The subject modified application is recommended for partial approval, subject to conditions contained therein.

BACKGROUND

History

On 16 December 2015, the former Sydney East Joint Regional Planning Panel refused an application seeking approval for the redevelopment of the site for residential purposes; comprising the erection of a mixed use development comprising of 3 residential flat buildings ranging in height between 3 to 8 storeys, containing 313 residential apartments, 2 commercial tenancies, and basement car park for 552 spaces.

The Panel did not support the application on the grounds for the following reasons:

- Overall, it does not comply with the height of the Height of Building and Floor Space Ratio development standards of the Botany Bay Local Environmental Plan 2013;
- In particular, there is non-compliance in the B4 zone along Pemberton Street;

- The buildings fronting Rancom Street have excessive height, bulk and scale, inadequate setbacks and therefore overshadowing impacts; and
- The eight storey Building B has excessive height and length and therefore adverse bulk, scale and overshadowing impacts.

On 12 December 2016, the subject development was approved by the Land and Environment Court by way of a Section 34 Agreement.

The approved was for development of the existing industrial site for a mixed use development comprising 2 residential flat buildings ranging in height between 4 to 7 storeys, containing in total 268 residential apartments (5 x studio, 110 x 1 bed, 123 x 2 bed and 30 x 3 bed) and 2 retail tenancies (323m²), above 2 levels of basement car parking for 479 spaces.

The approval was the subject of deferred commencement conditions that resulted in changes to the approved units. The deferred commencement conditions was deemed satisfied by Council on 12 December 2017.

A Voluntary Planning Agreement was executed in 2017 for the large public park along the eastern boundary of the site.

Proposal

The subject modification application seeks to undertake a series of amendments, including the reconfiguration of the approved building footprint and internal layout, and an additional 38 units through the reconfiguration of the existing layout and also additional storeys on a number of the approved buildings. This is detailed further below:

Basement

- Additional car parking within the approved basement footprint, with 25 additional spaces on basement level 1 and 9 additional spaces on basement level 2.

Building A1

- Increase in level 5 by 99m², with a reduction in the roof terrace areas, with two additional units;
- New level 6, with a total floor area of 335m² and 4 new units;
- Reconfiguration of balconies on levels 2, 3 and 4 to improve solar access; and
- Reconfiguration of three approved units on levels 2, 4 and 5.

New units

Unit	Bedrooms	Size	Balcony size	Other comments
A1504	2	99m ²	16m ²	Single storey unit
A1505	2	84m ²	16m ²	Single storey unit
A1601	2	88m ²	29m ²	Single storey unit
A1602	2	84m ²	10m ²	Single storey unit
A1603	1	64m ²	10m ²	Single storey unit
A1604	3	99m ²	95m ²	Single storey unit

Re-configured units

Unit	Approved size	Approved bedrooms	Approved balcony	Proposed size	Proposed bedrooms	Proposed balcony	Other comments
A1201	88m ²	2	19m ²	88m ²	2	11m ²	Single storey unit
A1401	88m ²	2	19m ²	88m ²	1	11m ²	Single storey unit
A1502	64m ²	1	10m ²	92m ²	2	22m ²	Single storey unit

Building A2

- Reduction in levels 2 and 3 by 13m²;
- Increase in level 4 by 79m² with 2 new units;
- New level 5, with 4 new units and increase by 346m²;
- Reconfiguration of balconies on levels 2 and 3 to improve solar access; and
- Reconfiguration of seven approved units on levels 2, 3 and 4.

New units

Unit	Bedrooms	Size	Balcony size	Other comments
A2405	1	63m ²	10m ²	Single storey unit
A2406	2	88m ²	13m ²	Single storey unit
A2501	3	99m ²	58m ²	Single storey unit
A2502	2	75m ²	29m ²	Single storey unit
A2503	2	75m ²	15m ²	Single storey unit
A2504	3	97m ²	56m ²	Single storey unit

Re-configured units

Unit	Approved size	Approved bedrooms	Approved balcony	Proposed size	Proposed bedrooms	Proposed balcony	Other comments
A2204	92m ²	2	12m ²	81m ²	2	19m ²	Single storey unit
A2205	65m ²	1	12m ²	63m ²	1	10m ²	Single storey unit
A2304	92m ²	2	12m ²	81m ²	2	19m ²	Single storey unit
A2305	65m ²	1	12m ²	63m ²	1	10m ²	Single storey unit
A2401	99m ²	3	13m ²	54m ²	1	17m ²	Single storey unit
A2403	75m ²	2	12m ²	66m ²	1	9m ²	Single storey unit
A2404	99m ²	2	12m ²	81m ²	2	19m ²	Single storey unit

Building A3

- Reduction in the floor area of levels 2 and 3 by 12m²;
- Increase in the floor level on level 4 by 85m², with a reduction in the roof terrace areas, with one additional unit; and
- New level 5, with a total floor area of 258m² and 3 new units;
- Reconfiguration of balconies on levels 2 and 3 to improve solar access; and
- Reconfiguration of 8 approved units on levels 1, 2, 3 and 4.

New units

Unit	Bedrooms	Size	Balcony size	Other comments
A3406	1	64m ²	10m ²	Single storey unit
A3501	3	97m ²	56m ²	Single storey unit
A3502	2	75m ²	15m ²	Single storey unit
A3503	2	86m ²	57m ²	Single storey unit

Re-configured units

Unit	Approved size	Approved bedrooms	Approved balcony	Proposed size	Proposed bedrooms	Proposed balcony	Other comments
A3103	92m ²	2	44m ²	92m ²	2	44m ²	Single storey unit
A3201	92m ²	2	12m ²	81m ²	2	15m ²	Single storey unit
A3206	65m ²	1	12m ²	64m ²	1	10m ²	Single storey unit
A3301	92m ²	2	12m ²	81m ²	2	15m ²	Single storey unit
A3306	65m ²	1	12m ²	64m ²	1	10m ²	Single storey unit
A3401	99m ²	2	12m ²	81m ²	2	15m ²	Single storey unit
A3402	75m ²	2	12m ²	98m ²	2	12m ²	Single storey unit
A3403	86m ²	2	57m ²	102m ²	3	15m ²	Single storey unit

Building B1

- Increase in level 5 by 111m², with a reduction in the roof terrace areas, with one additional unit;
- Increase in level 6 by 111m², with a reduction in the roof terrace areas, with one additional unit; and
- Reconfiguration of 8 approved units on levels 2, 3, 4, 5, 6 and 7.

New units

Unit	Bedrooms	Size	Balcony size	Other comments
B1505	3	118m ²	25m ²	Single storey unit
B1605	3	118m ²	25m ²	Single storey unit

Re-configured units

Unit	Approved size	Approved bedrooms	Approved balcony	Proposed size	Proposed bedrooms	Proposed balcony	Other comments
B1204	101m ²	3	21m ²	101m ²	3	11m ²	Single storey unit
B1304	101m ²	3	21m ²	101m ²	3	11m ²	Single storey unit
B1404	101m ²	3	21m ²	101m ²	3	22m ²	Single storey unit
B1503	101m ²	3	163m ²	100m ²	2	11m ²	Single storey unit
B1504	101m ²	3	21m ²	101m ²	3	11m ²	Single storey unit
B1603	107m ²	3	29m ²	100m ²	2	22m ²	Single storey unit
B1702	89m ²	2	64m ²	89m ²	2	11m ²	Single storey unit
B1703	65m ²	1	23m ²	84m ²	2	11m ²	Single storey unit

Building B2

- Increase in the floor area on level by 3m²;
- Decrease in the floor area of levels 2, 3, 4, 5 and 6 by 2m²;
- Increase in level 7 by 99m², with a reduction in the roof terrace areas, with two additional units;
- New level 8, with a total floor area of 121m² and 4 new units;
- Reconfiguration of balconies on levels 2, 3, 4, 5 and 6 to improve solar access; and
- Reconfiguration of 10 approved units on levels 1, 2, 3, 4, 5, 6 and 7.

New units

Unit	Bedrooms	Size	Balcony size	Other comments
B2705	2	83m ²	18m ²	Single storey unit
B2706	2	84m ²	16m ²	Single storey unit

B2801	3	100m ²	13m ²	Single storey unit
B2802	2	75m ²	36m ²	Single storey unit
B2803	3	100m ²	51m ²	Single storey unit
B2804	1	63m ²	56m ²	Single storey unit

Re-configured units

Unit	Approved size	Approved bedrooms	Approved balcony	Proposed size	Proposed bedrooms	Proposed balcony	Other comments
B2106	81m ²	2	30m ²	84m ²	2	35m ²	Single storey unit
B2201	65m ²	1	12m ²	63m ²	1	10m ²	Single storey unit
B2301	65m ²	1	12m ²	63m ²	1	10m ²	Single storey unit
B2401	65m ²	1	12m ²	63m ²	1	10m ²	Single storey unit
B2501	65m ²	1	12m ²	63m ²	1	10m ²	Single storey unit
B2601	65m ²	1	12m ²	63m ²	1	10m ²	Single storey unit
B2701	91m ²	2	13m ²	63m ²	1	10m ²	Single storey unit
B2702	75 m ²	2	40m ²	92m ²	2	23m ²	Single storey unit
B2703	100m ²	3	51m ²	64m ²	1	12m ²	Single storey unit
B2704	63m ²	1	56m ²	64m ²	1	15m ²	Single storey unit

Building B3

- Decrease in the floor area on level 1 by 5m²;
- Increase in the floor areas on levels 2, 3, 4, 5 and 6 by 1m²;
- Increase in level 7 by 125m², with a reduction in the roof terrace areas, with two additional units;
- New level 8, with a total floor area of 324m² and 4 new units;
- Reconfiguration of balconies on levels 2, 3, 4, 5 and 6 to improve solar access; and
- Reconfiguration of 15 approved units on levels 1, 2, 3, 4, 5, 6 and 7.

New units

Unit	Bedrooms	Size	Balcony size	Other comments
B3705	2	92m ²	23m ²	Single storey unit
B3706	1	64m ²	10m ²	Single storey unit
B3801	1	50m ²	44m ²	Single storey unit
B3802	3	99m ²	78m ²	Single storey unit
B3803	2	75m ²	36m ²	Single storey unit
B3804	3	100m ²	59m ²	Single storey unit

Re-configured units

Unit	Approved size	Approved bedrooms	Approved balcony	Proposed size	Proposed bedrooms	Proposed balcony	Other comments
B3101	85m ²	2	52m ²	80m ²	2	50m ²	Single storey unit
B3201	85m ²	2	15m ²	87m ²	2	10m ²	Single storey unit
B3206	65m ²	1	12m ²	64m ²	1	10m ²	Single storey unit
B3301	85m ²	2	15m ²	87m ²	2	10m ²	Single storey unit
B3306	65m ²	1	12m ²	64m ²	1	10m ²	Single storey unit
B3401	85m ²	2	85m ²	87m ²	2	10m ²	Single storey unit
B3406	65m ²	1	12m ²	64m ²	1	10m ²	Single storey unit
B3501	85m ²	2	15m ²	87m ²	2	10m ²	Single storey unit
B3506	65m ²	1	12m ²	64m ²	1	10m ²	Single storey unit
B3601	85m ²	2	15m ²	87m ²	2	10m ²	Single storey unit

Unit	Approved size	Approved bedrooms	Approved balcony	Proposed size	Proposed bedrooms	Proposed balcony	Other comments
B3606	65m ²	1	12m ²	64m ²	1	10m ²	Single storey unit
B3701	62m ²	1	52m ²	87m ²	2	10m ²	Single storey unit
B3702	101m ²	2	71m ²	83m ²	2	14m ²	Single storey unit
B3703	75m ²	2	41m ²	64m ²	1	17m ²	Single storey unit
B3704	91m ²	2	13m ²	64m ²	1	11m ²	Single storey unit

Building C1

- Decrease in level 2 by 1m²;
- Decrease in level 3 by 4m²;
- Increase in level 4 by 7m², with a reduction in the roof terrace areas, with one additional unit;
- New level 5, with a total floor area of 110m² and one new unit;
- Lowering of levels 2, 3, 4, 5 and 6 by 150mm per level; and
- Reconfiguration of one approved unit on level 2.

New units

Unit	Bedrooms	Size	Balcony size	Other comments
C1403	1	50m ²	7m ²	Single storey unit
C1501	3	110m ²	143m ²	Single storey unit

Re-configured units

Unit	Approved size	Approved bedrooms	Approved balcony	Proposed size	Proposed bedrooms	Proposed balcony	Other comments
C1201	101m ²	2	23m ²	101m ²	2	25m ²	Single storey unit

Building C2

- Relocation of communal room on level 1 further north into the landscaped area, with one new unit;
- Decrease in the size of level 4 by 1m²;
- Increase in level 5 by 65m², with a reduction in the roof terrace areas;
- New level 7;
- Lowering of levels 2, 3, 4, 5 and 6 by 150mm per level; and
- Reconfiguration of seven approved units on level 5 and 6, including four units on level 6 to be reconfigured to become two storey units across levels 6 and 7.

New units

Nil

Re-configured units

Unit	Approved size	Approved bedrooms	Approved balcony	Proposed size	Proposed bedrooms	Proposed balcony	Other comments
C2502	64m ²	1	10m ²	91m ²	2	13m ²	Single storey unit
C2503	57m ²	1	49m ²	64m ²	2	16m ²	Single storey unit
C2601	95m ²	2	11m ²	79m ²	2	44m ²	Single storey unit

Unit	Approved size	Approved bedrooms	Approved balcony	Proposed size	Proposed bedrooms	Proposed balcony	Other comments
C2602	54m ²	1	83m ²	117m ²	3	112m ²	Two storey unit across levels 6 & 7
C2603	55m ²	1	42m ²	85m ²	2	62m ²	Two storey unit across levels 6 & 7
C2604	62m ²	1	8m ²	87m ²	2	34m ²	Two storey unit across levels 6 & 7
C2605	64m ²	1	10m ²	90m ²	2	37m ²	Two storey unit across levels 6 & 7

Building C3

- Decrease in the size of levels 1, 2, 3, 4 and 5 by 1m²;
- New level 7;
- Lowering of levels 2, 3, 4, 5 and 6 by 150mm per level;
- Increase setback and reduce size of balcony to units C3210, C3310, C3410 and C3510;
- Remove indent in façade to units C3104, C3204, C3304, C3404, C504; and
- Reconfiguration of 20 approved units on levels 1, 2, 3, 4, 5 and 6, including 8 units on level 6 to be reconfigured to become a mix of single storey and two storey units across levels 6 and 7, as well as 1 new single storey and 4 two storey units across levels 6 and 7.

New units

Unit	Bedrooms	Size	Balcony size	Other comments
C3609	3	104m ²	33m ²	Single storey unit
C3610	3	119m ²	84m ²	Two storey unit across levels 6 & 7
C3611	2	91m ²	12m ²	Single storey unit on level 7 with front door access via level 6
C3612	2	89m ²	27m ²	Single storey unit on level 7 with front door access via level 6
C3613	2	92m ²	24m ²	Single storey unit on level 7 with front door access via level 6

Re-configured units

Unit	Approved size	Approved bedrooms	Approved balcony	Proposed size	Proposed bedrooms	Proposed balcony	Other comments
C3101	92 m ²	2	20 m ²	92m ²	2	12m ²	Single storey unit
C3104	95m ²	3	34m ²	96m ²	3	53m ²	Single storey unit
C3108	64m ²	1	35m ²	62m ²	1	35m ²	Single storey unit
C3204	95m ²	3	24m ²	96m ²	3	24m ²	Single storey unit
C3208	64m ²	1	11m ²	62m ²	1	8m ²	Single storey unit
C3304	95m ²	3	24m ²	96m ²	3	24m ²	Single storey unit
C3308	64m ²	1	11m ²	62m ²	1	8m ²	Single storey unit
C3310	50m ²	1	11 m ²	50 m ²	1	8m ²	Single storey unit
C3404	95m ²	3	24m ²	96m ²	3	24m ²	Single storey unit
C3408	64m ²	1	11m ²	62m ²	1	8m ²	Single storey unit
C3410	50m ²	1	11m ²	50m ²	1	24m ²	Single storey unit
C3504	95m ²	3	24m ²	96m ²	3	8m ²	Single storey unit
C3508	64m ²	1	11m ²	62m ²	1	24m ²	Single storey unit
C3510	50m ²	1	11m ²	92m ²	1	8m ²	Single storey unit
C3601	95m ²	2	22m ²	50m ²	2	46m ²	Single storey unit
C3602	83m ²	2	15m ²	80m ²	2	15m ²	Single storey unit

Site Description

The subject sites are commonly known as 8 (Lot 2 in DP 1207144), 12 (Lot 1 in DP 656307), 14 (Lot B in DP 402187) and 16 (Lot 5 in DP 1192005) Pemberton Street, Botany. The site is irregular in shape and has an area of 18,454m². At the time of the writing of this report it is a cleared site, with construction of the DA approved building having commenced. The surrounding area is characterised by a range of land uses, with high density residential to the north and east, industrial to the west and commercial / industrial to the south. The subject site is located to the south east of the Botany town centre, to the north of Botany Road and to the south of the Botany Goods Line.



Figure 4: Aerial showing subject sites, marked in red (Source: Bayside IntraMaps)



Figure 5: The subject site (to the left), looking south down Pemberton Street at the Mahroot Street intersection (taken 19 July 2018)



Figure 6: The subject site (to the right), looking east up Mahroot Street at the Pemberton Street intersection (taken 19 July 2018)



Figure 7: The subject site (to the right), looking south down from Mahroot Street (taken 19 July 2018)



Figure 8: The subject site (to the left), looking east up Rancom Street at the Pemberton Street intersection (taken 19 July 2018)

STATUTORY CONSIDERATIONS

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

Section 4.56(1) – Modification by consent authorities of consents granted by the Court

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and***

The modifications result in a series of amendments to the height of some of the buildings as well as an increase in the floor area with the in filling of articulated areas such as large balconies on the upper floors.

However, there is generally no increase in the approved footprint of the building on the ground floor, with the exception of the western edge of Building C2 with the relocation of the communal room and with it one new residential unit.

With all of the above considered, it can be concluded that Council is satisfied that the proposed modifications will result in substantially the same development.

- (b) it has notified the application in accordance with:***

- (i) the regulations, if the regulations so require, and***

The regulations are not relevant in this instance.

- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period.

- (c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and***

Council contacted all of the affected properties for this application as per the Development Application.

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

The submissions are to be discussed as per Section 4.55(1)(d) of the report.

Section 4.15(1)(a)(i) – Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by a BASIX Certificate committing to environmental sustainable measures. The Certificate is in accordance with the SEPP.

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 – Traffic Generating Development

The proposed development falls within the provisions of Schedule 3 of the SEPP – Traffic Generating Development that is required to be referred to the NSW RMS. The application was accompanied by a traffic assessment prepared by Colston Budd Rogers and Kafes Pty Ltd, dated 28 August 2017.

Plans and documentation were referred to the NSW RMS for consideration and comment. The RMS has advised that it has no objection to the proposed amendments, subject to conditions imposed as part of the original DA.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 were considered and satisfied as part of the DA.

Subject to conditions, the site is suitable for the proposed development, no further consideration of this SEPP is required.

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

In accordance with clause 28(2) of this policy, the consent authority must take into consideration the following:

a. The advice of the Design Review Panel (DRP)

This modification was not referred to the Design Review Panel. However, the approved "Deferred Commencement" plans were as a result of agreed Urban Design experts conditions in the Section 34 proceedings. The proposed modified plans were referred to Council's internal Urban Designer for further consideration.

b. The design quality of the development when evaluated in accordance with the design quality principles.

The design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

Principle 1: Context and Neighbourhood Character

The site is located near the Banksmeadow town centre (to the south along Botany Road) and is zoned both B4 Mixed Use and R3 Medium Density as prescribed under the Botany Bay LEP 2013. The existing streetscape is characterised by a mixture of industrial uses to the west and south, and new residential developments to the north and east. The subject site will provide a development to complement recently completed developments to both the north and east.

The immediate area has been undergoing a transformation in recent years as the land was re-zoned from industrial and is subject to an approved master plan. The proposed amendments will result in a transition from the B5 Business Park zoned land to the west to the R2 Low Density land further to the east (along Wilson Street). The proposed amendments result in variations to both the Height of Building and Floor Space Ratio development standards that will be discussed later in the report. However, it is generally compliant with most of the relevant standards in the Apartment Design Guide (ADG) as prescribed under this SEPP and controls in the Botany Bay DCP 2013.

Principle 2: Built Form and Scale

The proposed amendments to the bulk and height of the buildings along the western and southern edges of the site (buildings A and C) will actively contribute towards the evolving nature of the streetscape as it will provide a bulk and scale similar to that of the completed developments on the northern side of Mahroot Street as well as to the east of the site.

The manipulation of the building elements will add visual interest from the street. Internal amenity, outlook and surveillance opportunities are provided through the location of living areas and the location of the centralised communal open space on the roof top.

Principle 3: Density

The proposed amendments will result in a FSR that is greater than what is allowed in the B4 Mixed Use part of the site (buildings A1, A1, A3 and C1). However this is considered to be acceptable as it will provide a density similar to that on the northern side of Mahroot Street and will also aide in providing a clear edge to the development site as well as provide an appropriate transition from the B5 Business Park land to the west to the R2 Low Density land to the east. The proposed amendments in the R3 zoned part of the site is under the maximum allowable FSR, however, Council is not supportive of the additional storeys within Buildings B2 and B3 as discussed later in the report.

Furthermore, there is sufficient communal open space as well as private open space areas. The application of these principles means that it is not considered to be overdevelopment of the site. It is in close proximity of the Banksmeadow town centre, which has regular bus services, and is within walking distance of a number of public parks and reserves, as well as schools.

Principle 4: Sustainability

The applicant has submitted a BASIX Certificate, demonstrating that the proposal achieves the relevant energy efficiency standards as specified by the BASIX SEPP. It also complies with the minimum 70% requirement of the proposed apartments living area windows and private open space (balconies) needing to receive at least two hours sunlight between 9am and 3pm in midwinter.

Principle 5: Landscape

There are no changes to the approved landscaping, with the exception of a small reduction in the size of the communal area to the north of building C with the relocation of the communal open room. However, Council is not supportive of this as the relocated room does not appear to benefit from increased solar access, it removes the dual aspect of the approved layout and has been reconfigured to fit an extra unit. It is preferable that the communal room remains in the approved location as it will allow for activation and passive surveillance of both the communal open space and the street. There are no other changes to the landscaped areas as approved.

Principle 6: Amenity

The design provides a good level of amenity for future occupants by providing appropriate room dimensions, suitable solar access to most units, appropriately sized balconies for each residential unit as well as communal open space, and ease of access for all age groups and degrees of mobility.

Principle 7: Safety

The proposed amendments do not involve any physical changes to the ground floor of the approved development. Accordingly, the relationship between public and private open space remains as approved, including clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.

Principle 8: Housing Diversity and Social Interaction

The proposed development will provide additional studios, one, two and three bedroom units and thus catering for different budgets and housing needs. This will aide in addressing housing affordability.

Principle 9: Aesthetics

The proposed additions will contain the same materials and design elements that are consistent with that of the approved development.

Apartment Design Guide (ADG)

Further to the design quality principles discussed above, the proposed additional units have been considered against the various provisions of the Apartment Design Guide in accordance with Clause 28 (2)(c) of SEPP 65.

An assessment of the proposed additional 38 units as well as the 76 reconfigured units (total of 114 units) against the 'Design Criteria' controls of the ADG is demonstrated in the table below. It is noted that the approved DA was lodged before the implementation of the ADG in June 2015, and hence was not considered as part of the assessment of the approved development. Accordingly, a number of non-compliances have been identified, and will be discussed further below.

Section	Design Criteria	Proposed	Complies
Part 3 Siting the Development			
Part 3D: Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site.	The relocation of the communal room further to the north has reduced the communal open space area for the approved development to 1,717m ² (11.5%) of the site. However, Council is not supportive of its relocation. The Botany Bay DCP does not prescribe a minimum area to be dedicated for the communal open space. Furthermore, 3285m ² of land will be provided for the public park plus 979m ² to provide access. Accordingly, it would be unreasonable to request compliance with this requirement.	Variation considered acceptable
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Greater than 50% of the communal open space is able to receive a minimum of 2 hours of sunlight in mid winter	Yes
Part 3F: Visual Privacy	For developments up to 8 storeys: <ul style="list-style-type: none"> 9m between habitable/balconies and non-habitable 4.5m between non-habitable rooms 	The building separation is greater than these.	Yes
Part 4 Designing the Building			
Part 4A: Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.	The living rooms and private open space areas for 93 out of the 114 apartments (81.6%) receive at least 2 hours of direct sunlight between 9am and 3pm on 21 June.	Yes

Section	Design Criteria	Proposed	Complies
Part 4B: Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	79 of the 114 units (69.3%) will be naturally ventilated by way of having dual perspectives.	Yes
Part 4C: Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: - 2.7m for habitable rooms - 2.4m for non-habitable rooms	The ceiling heights of all residential floors are measured at 3m from floor to ceiling.	Yes
Part 4D: Apartment Size and Layout	Apartment are required to have the following minimum internal areas: - Studio: 35m ² - 1 bedroom: 50m ² - 2 bedrooms: 70m ² - 3 bedrooms: 90m ² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each.	The minimum area for the studio units are 38m ² . The minimum area for the 1 bedroom units are 55m ² . The minimum area for the 2 bedroom units are 75m ² . The minimum area for the 3 bedroom units are 98m ² .	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All habitable rooms have windows of acceptable size to facilitate acceptable solar access and natural ventilation.	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	The habitable room depths do not exceed a depth of 7.5m.	Yes
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	The size of the master bedrooms for all the units are 12m ² , whilst the secondary bedrooms are 12m ² .	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m, excluding wardrobe space.	Yes

Section	Design Criteria	Proposed	Complies
	Living rooms or combined living/dining rooms have a minimum width of: - 3.6m for studio and 1 bedroom apartments - 4m for 2 and 3 bedroom apartments	The width of the studio and 1 bedroom units is at or greater than 3.6m, and the width of the 2 bedroom units is at or greater than 4m.	Yes
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of each apartment is at least 4m.	Yes
Part 4E: Private Open Space and Balconies	All apartments are required to have primary balconies as follows: - Minimum area of 4m ² and minimum depth of 2m for studio units - Minimum area of 8m ² and minimum depth of 2m for 1 bedroom units - Minimum area of 10m ² and minimum depth of 2m for 2 bedroom units - Minimum area of 12m ² and minimum depth of 2m for 3 bedroom units The minimum balcony depth to be counted as contributing to the balcony area is 1m.	The minimum area for of the balconies for the studio units are 9m ² . The minimum area for of the balconies for the 1 bedroom units are 9m ² . The minimum area for the 2 bedroom units are 10m ² . The minimum area for of the balconies for the 3 bedroom units are 18m ² . All balconies have minimum depth of 2m.	Yes
Part 4F: Common Circulation and Spaces	Maximum of 8 units off a circulation core on a single level	No more than 8 units off each lift on each level	Yes

Section	Design Criteria	Proposed	Complies
Part 4G: Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> - 4m³ for studios - 6m³ for 1 bedroom units - 8m³ for 2 bedroom units - 10m³ for 3 bedroom units <p>At least 50% of the required storage is to be located within the apartment.</p>	<p>There are areas identified within each of the proposed units that could be nominated storage areas. The Botany Bay DCP does not prescribe numerical requirements for the size and location of storage areas. Given that the proposed units are replicating a typical floor layout, it is considered acceptable in this instance and it is unreasonable to provide storage cages within the basement area to satisfy this requirement.</p>	Variation considered acceptable

Botany Bay Local Environmental Plan 2013 (LEP)

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application and the following information is provided:

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Land-use Zone	Yes	The site is located within the B4 Mixed Use and R3 Medium Density Residential zones.
Is the proposed use/works permitted with development consent?	Yes	The proposed development is permissible in both prescribed zones.
Does the proposed use/works meet the objectives of the zones?	Yes	The proposed development is consistent with the relevant objectives.
What is the height of the building?	---	The maximum height of building development standard across the entire site is 10m. However, Clause 4.3(2A) of the LEP allows a maximum of 22m in the R3 zone if the site is greater than 2,000m ² in area
Does the height of the building exceed the maximum building height?	Yes in both zones	
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	Yes in the B4 zone No in the R3 zone	The maximum floor space ratio development standard across the entire site is 1:1. However, Clause 4.4B(3) of the LEP allows a maximum of 1.6:1 in the R3 zone if the site is greater than 2,000m ² in area

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Is the site within land marked "Area 3" on the FSR Map?	No	N/A
6.3 – Stormwater management	Yes	The subject application involves no physical changes at ground level. Accordingly, the approved stormwater management systems require no further amendments to accommodate the additional units.
6.9 – Development in areas subject to aircraft noise	Yes	The subject site is located primarily within the 20 ANEF and partly within the 25 ANEF area. Condition 47 of the development consent issued prescribes the implementation of measures as recommended under the acoustic report, particularly relating to achieving indoor design sound levels. These measures are to apply to the additional units, where applicable.

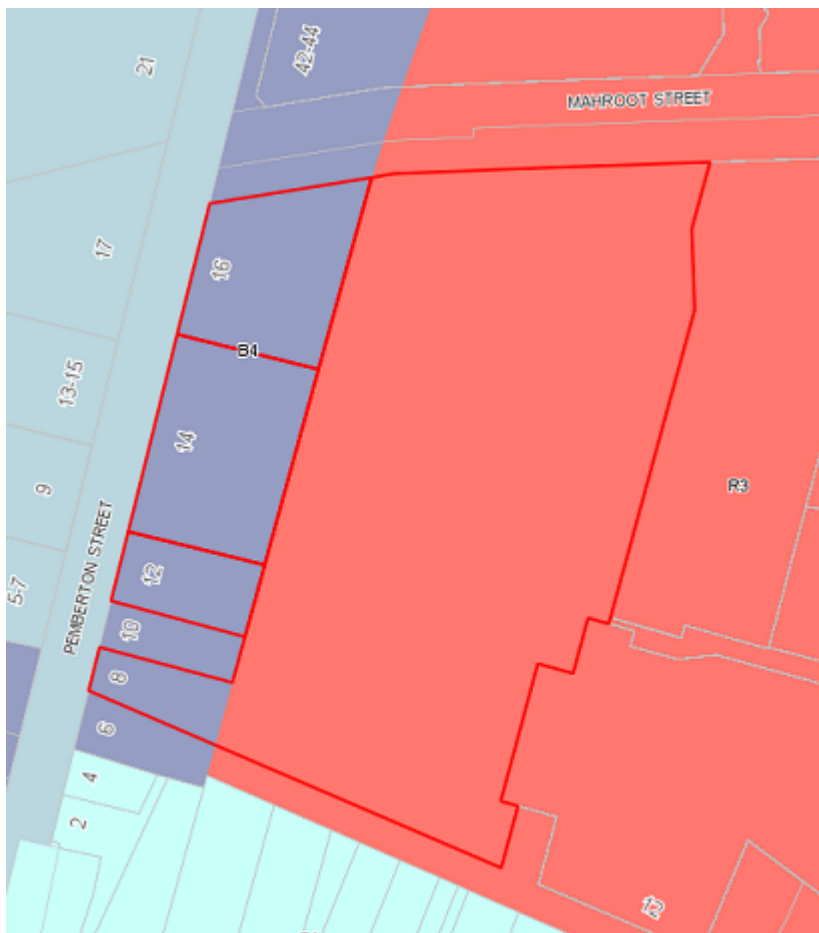


Figure 9: Site plan showing the zone boundary between B4 Mixed Use and R3 Medium Density Residential (Source: Bayside IntraMaps)

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

Height of Buildings

The Height of Building development standard is 10m across the entire site, however, Clause 4.3(2A) of the LEP allows a maximum of 22m in the R3 zone if the site is greater than 2,000m² in area.

In the B4 Mixed Use zone area, the Land and Environment Court approved plans permitted five storeys in Building A1 and four storeys for Buildings A2 and A3, with a maximum height of 17.2 metres to the lift over run. The proposed amendments result in an additional storey being proposed on top of each of these buildings, with a proposed maximum height of 20.2 metres to the lift over run.

Further to the south in Building C1, the Court permitted four storeys with a maximum height of 13.85 metres. The proposed amendments result in an additional storey, with a proposed maximum height of 16.85 metres to the lift over run.

In the R3 Medium Density Residential zone area, the Court permitted six storeys for Building B1, with a maximum height of 22.9 metres to the lift over run. No additional storeys are proposed, hence the height remains the same as part of this application.

With Buildings B2 and B3, the Court approved seven storeys with a maximum height of 22 metres to the lift over run. The proposed amendments result in an additional storey, with a proposed maximum height of 25 metres to the lift over run.

Further to the south in Buildings C2 and C3, the Court approved six storeys with a maximum height of 19.15 metres to the lift over run. The proposed amendments result in an additional storey, with a proposed maximum height of 22 metres, with no lift over run required on account of the new storey being incorporated as the second floor for a series of two storey units.

Given that is a Section 4.56 application, there is no requirement to provide a Clause 4.6 variations statement with the application. However, the applicant has still provided written justification for the proposed amendments, as follows:

- *This application seeks to utilise the gross floor area that was anticipated when the controls were established for this precinct and as provided in the current LEP. When determined as an average across Parkgrove West, the development as amended under this application provides a density below what the planning controls deemed suitable based on the gross site area. The application provides a quantum of housing across the precinct consistent with the average density provided. This development as approved and amended seeks to maximise the provision of housing by shifting floor space across the site in locations which provide a better planning outcome. As a result, the application as amended seeks to breach the height control in the B4 zone and centrally within the R3 zone.*
- *Given the transitional nature of the area from industrial to residential/mixed use, the design as amended proposes a reasonable distribution of building massing that provides a strong statement building of primarily 5 storeys to Pemberton Street and increased height of 6 storeys at the northern end to reflect the height to the north and the transition point to the B7 zone to the west of Pemberton Street. This is an increase of one storey from the approved treatment along Pemberton Street.*

- *The height proposed at Pemberton Street provides a more appropriate transition to the scale and form of the approved development at 42-44 Pemberton Street which contains a 6 storey building in the B4 zone. The variation of an additional one storey over the majority and an additional one storey over a small portion of the B4 zone at the northern end has no adverse impact on surroundings properties. The variation of one storey centrally within the precinct does not impact on compliant levels of solar access to the public park and follows the approved building design and orientation.*
- *The varying and stepping of the building heights enable a modulation to the skyline which produces an interesting and improved streetscape.*
- *The bulk and scale of the development is consistent with the desired future character of the Precinct. The DCP recognises the Desired Future Character of the Medium Density zone and the Mixed Use zone along Pemberton St as achieving the stated objectives.*
- *Visually the buildings will complement the existing and future streetscape.*
- *There are no identified views that would be adversely disrupted by the proposed building heights.*
- *As amended the development maintains the approved separation distances between the proposed and existing buildings on the site.*
- *The public park will maintain high levels of solar access throughout the day. The communal open space will retain high levels of solar access between 10.30am to 12.30pm in mid winter. No units within the neighbouring Buildings D, E & F that previously achieved 2 hours will be affected. Furthermore, an analysis of the shadow impacts of the proposal on the properties to the south demonstrates that future residential uses in the form of shop top housing would be capable of achieving in excess of the required two hours solar access in mid winter.*

With relation to the proposed amendments along the western edge (i.e. Buildings A1, A2, A3 and C1), it is considered that the relevant objectives have been addressed. The proposed amendments do not present amenity impacts associated with view loss, privacy or solar access as compliance with SEPP 65 building separation distances has been achieved as well as via the use of privacy screens and design of window openings. The streetscape along Pemberton Street (west), Mahroot Street (north) and Rancom Street (south) will be improved by the proposed amendments.

The underlying objective and purpose of the building height standard has been achieved by providing interface buffer between the B7 Business Park zone and the residential flat buildings within the R3 Medium Density zone, therefore the standard is relevant but strict compliance with the numerical requirement being a maximum height of 10 metres is unnecessary.

If a building height of 22 metres is permitted in the R3 zone a building height of 10 metres in the B4 buffer zone would not provide amenity to residential development beyond the 10 metre height limit, as such the purpose of the standard in addressing the desired future character would be thwarted if compliance was required.

It can be argued that the development standard has been abandoned at this particular site by way of the Land and Environment Court already approving a development that exceeds the 10 metre standard, on the basis of providing a strong western edge and transition from the B7 Business Park zone land to the west to the R2 Low Density Residential land to the east. Furthermore, a similarly

scaled development on the northern side of Mahroot Street has been lawfully approved under DA-2013/278.

Based on the above, it is considered that the variation to the height along the Pemberton Street frontage to be acceptable.

With relation to Buildings C2 and C3 (to the south along Rancom Street), the maximum height is 22 metres. Given that it is located within the R3 portion of the site and it has an area greater than 2,000 square metres, this is considered compliant.

With relation to the increased height of Building B2 and B3, Council is not supportive of the proposed amendments for the following reasons:

- The increase in bulk of the built form and the additional apartments particularly in B3 have had impact on the communal open space, specifically the infilling the approved articulation on the southern end of B3. This has impacts on the visual perception of bulk of the building at human scale and is considered unacceptable as it has such close relationship to the communal open space (this building sits within the communal open space and has no interface with a street therefore its visual relationship and how it responds to the communal open space is integral).
- With the increase in bulk and scale of Building A2/A3/C1 it would be expected that the bulk of building B2 and B3 would be retained as approved. Building B2 and B3 play an important transitioning role within the site to the completed development on the east along Wilson Street and therefore should be retaining more of a transition in scale.
- It is noted that minimal overshadowing is caused by the proposed built form. However the scale and bulk of the inner building will have considerable impacts on the perception of space and departs from the original design intentions of the approved DA.
- With relation to the canyon effect, it has the potential to be amplified by increase in height, as mentioned the setback will mitigate some concerns regarding this. However, the infill of the articulation in B2 and B3 has led to an outcome of significantly increase bulk. The attempts to articulate the Eastern facade with triangular protruding forms after infilling the approved articulation has led to increase in non-functional space within the living rooms of the eastern apartments.
- It is also noted that the reconfiguration of apartments is not for the overall increase in size of each apartment but rather a measure to achieve more apartments of similar sizes.

Floor Space Ratio

The FSR development standard is 1:1 across the entire site, however, Clause 4.4B of the LEP allows a maximum of 1.6:1m in the R3 zone if the site is greater than 2,000m² in area, and the consent authority (i.e. Council) is satisfied that:

1. the development will be compatible with the desired future character in terms of building bulk and scale,
2. the development will contribute to the amenity of the surrounding locality, and
3. any consolidation of lots for the purposes of this clause is not likely to result in adjoining lots that cannot be developed in accordance with this Plan.

In the B4 Mixed Use zone area, the Land and Environment Court approved a Floor Space Ratio of 1.3:1. The proposed amendments result in an increase to 1.6:1 (a 23% increase).

For the purposes of consistency with the DA, the B4 area to which the FSR is calculated includes the now constructed Mahroot Street and Rancom Street Extension.

Given that is a Section 4.56 application, there is no requirement to provide a Clause 4.6 variations statement with the application. However, the applicant has still provided written justification for the proposed amendments, as follows:

- *As amended, this Section 96 seeks a modest increase in floor area to facilitate the use of the GFA that the LEP considered appropriate when the controls were drafted as an average across the entire site including the areas that originally formed part of Parkgrove West. Based on the gross site area, the FSR proposed is 1.5:1 and would comply with the average FSR between the two zones.*
- *The site included significant portions of the site that have now been subdivided to enable dedication to Council. The GFA of these areas of the site which contribute to the gross site area have not been utilised elsewhere. Accordingly, there was an expectation in relation to the density of development that these parts of the site would generate a GFA. Accordingly, as amended the average FSR complies what was originally established as the maximum site density.*
- *As amended, the development is well below the maximum permitted FSR in the R3 zone based on gross area. This is offset by an increase in the B4 zone. Accordingly, the development does not result in a density greater than envisaged for the precinct.*

The scale of proposed amendments is considered to be compatible with the existing and desired future character of the area. This is a variation of that is dispersed over a site area of 18,454m² containing four buildings, with new road networks, and communal open spaces. Given the overall design of the site the additional bulk proposed has been accommodated within the site without adversely impacting on the streetscape, the enjoyment of adjoining properties or public spaces, or the existing character of the area.

The underlying objective and purpose of the standard has been achieved as stated above by providing interface buffer between the B7 Business Park zone and the residential flat buildings within the R3 zone which presents a bulk and scale of development consistent with the existing residential developments to the north and east and desired future character within the B7 zone, therefore the standard is relevant but strict compliance with the numerical requirement being a maximum FSR of 1:1 within the B4 Mixed Use zone is unnecessary.

The underlying purpose of the standard is to provide a buffer between the B7 and R3 zoned land and which presents a bulk and scale of development consistent with the existing and desired future character of the area. The proposed building has been stepped in its design to appropriately respond to the existing bulk and scale of development to the north and the desired future character of the B7 zone to the west and Neighbourhood Centre to the south.

It can be argued that the development standard has been abandoned at this particular site by way of the Land and Environment Court already approving a development that exceeds the 1:1 development standard, on the basis of providing a strong western edge and transition from the B7 Business Park zone land to the west to the R2 Low Density Residential land to the east. Furthermore, a similarly scaled development on the northern side of Mahroot Street has been lawfully approved under DA-2013/278.

In the R3 Medium Density Residential zone area, the Land and Environment Court approved a Floor Space Ratio of 1.06:1. The proposed amendments result in an increase to 1.2:1. It is over the 1:1 as prescribed in the LEP map however it is under the 1.6:1 bonus as prescribed under Clause 4.4B.

For the bonus to be considered acceptable by Council, the previously mentioned three-part test must be satisfied.

1. *the development will be compatible with the desired future character in terms of building bulk and scale*

The amendments to the bulk and scale is considered acceptable for Building B1 as there are minor increases to the floor area on levels 5 and 6, with the articulation elements created by the wrap around balconies retained in the design.

The amendments to the bulk and scale for Building C2 and C3 is considered acceptable as it is compliant with the Height of Building development standard of 22 metres, and also there are articulation elements on the upper floors such as stepping back the building line and larger balconies.

The proposed amendments to Buildings B2 and B3 are not considered acceptable, as previously discussed, on the basis of its relationship to the adjacent public park.

2. *the development will contribute to the amenity of the surrounding locality*

The proposed amendments to Buildings B1, C2 and C3 will contribute to the amenity of the surrounding locality with relation to acceptable building separation distances and also solar access with neighbouring buildings to the east.

3. *any consolidation of lots for the purposes of this clause is not likely to result in adjoining lots that cannot be developed in accordance with this Plan*

No site isolation will occur.

Section 4.15(1)(a)(ii) – Provisions of any Draft EPI's

There are no current Draft EPIs applicable to this development.

Section 4.15(1)(a)(iii) – Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Botany Bay Development Control Plan 2013

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan 2013 as follows:

Botany Bay Development Control Plan 2013

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan 2013 as follows:

Part 4C – Residential Flat Buildings

Part	Control	Proposed	Complies (Yes/No)
4C.2 Site Design			
4C.2.3 Streetscape Presentation	C5 Street corners must be addressed by giving visual prominence to parts of the building façade, such as a change in building articulation, materials, colour, roof form or height.	Increased heights on the street corners for Buildings A1 and C1 gives visual prominence and the materials remain the same	Yes
4C.2.6 Site Coverage	C1 Development for a residential flat building must not exceed a maximum site coverage of 45%.	44.2% (8,165m ²)	Yes
4C.2.10 Through Site Links & View Corridors	C1 Existing significant views are to be retained.	The DA assessment concluded that there were no significant views to be retained.	Previously considered acceptable by the Land and Environment Court
4C.3 Building Design			
4C.3.4 Roofs and Attics/ Dormers	C1 Roofs should be pitched between 22.5 degrees and 36 degrees.	The development proposes flat rooves which is consistent with other developments in the immediate area.	Considered acceptable
	C2 All rooftop or exposed structures including lift motor rooms, plant rooms, etc., together with air conditioning, ventilation and exhaust systems, are to be suitably screened and integrated with the building in order to ensure a properly integrated overall appearance.	Rooftop structures do not have screening devices.	No, but previously considered acceptable by the Land and Environment Court
	C3 The visual impact of roof fixtures (e.g. vents, chimneys, aerials, solar collectors, mobile phone transmitters and satellite dishes) is to be minimised.	The visual impact of the roof fixtures is not considered to be detrimental and is not considered to be visible from the street.	Yes
4C.3.6 Materials & Finishes	C2 Materials, colours, architectural details and finishes must be consistent with those that are identified in the relevant Character Precinct in Part 8 - Character Precincts. If not identified in the character statement natural colours and muted tones and finishes are to be used.	The proposed materials, colours and finishes are consistent with the large-scale developments approved in the immediate area.	Yes

4C.5 Site and Building Amenity			
4C.5.1 Dwelling Mix, Room Size and Layout	C2 The combined total number of one-bedroom and studio dwellings shall not exceed 25% of the total number of dwellings within any single site area in residential zones.	5 x studio (1.6%) 168 x 1 bed (54.9%) 166 x 2 bed (54.2%) 4 x 3 bed (1.3%) TOTAL: 306 units	No, but a similar mixture was considered acceptable by the Land and Environment Court
	C3 Laundry, food preparation and sanitary facilities are to be provided in a convenient location within a dwelling (or a building containing a number of dwellings) and built appropriate to the function and use of the dwelling.	Laundry, kitchen and bathroom facilities are provided within each apartment.	Yes
4C.5.4 Balconies in Residential Flat Buildings	C1 In large developments (containing 20 or more units/dwellings) different styles and designs for balconies are required.	Different style balconies have been provided.	Yes
	C2 At least one balcony per apartment is to be provided off the living areas.	Complies.	Yes
	C5 Balconies should allow visual privacy but not excessive transparency. They should allow surveillance over the street, common open space etc.	The balconies are oriented over various streets and open spaces and are considered to provide appropriate casual surveillance.	Yes
	C6 Balconies must not be continuous across the entire façade of the apartment.	Complies.	Yes
4C.5.8 Solar Access	C6 Development sites and neighbouring dwellings are to achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 50% of the required minimum amount of private open space, as well as to living rooms.	It is considered that the neighbouring buildings to the east will receive at least 2 hours sunlight between 9am and 3pm in mid winter.	Yes
4C.5.11 Views	C1 Development is to preserve views of significant topographical features such as the urban skyline, landmark buildings and areas of high visibility.	There is considered to be no significant views or landmarks that are required to be maintained.	N/A
4C.5.17 Car Parking & Vehicle Access	C2 All developments must comply with the car parking and bicycle rates and design requirements within Part 3A - Car Parking. Car Parking Rates Studio: 1 space / dwelling	5 x studio = 5 spaces 114 x 1 bedroom = 114 spaces 147 x 2 bedroom = 296 spaces 40 x 3 bedrooms = 80 spaces 306 units / 5 = 62 visitor spaces 323 / 40 = 9 commercial spaces	Yes

	1 bed: 1 space / dwelling 2 bed: 2 space / dwelling 3 bed: 2 space / dwelling Visitors: 1 space / 5 dwelling Commercial: 1 space / 40m2	A total of 456 spaces required. 563 spaces are provided.	
4C.6.1 Adaptable Housing	Part 3C; Provide all access to common areas in accordance with DDA & BCA; Compliance with adaptable housing standards AS4299-1995.	An Access Report has been submitted with the application and concludes that the access and adaptability review of the development demonstrates the retail areas, common domain residential amenities, visitability and adaptability of residential apartments will comply with the accessibility requirements of the BCA and relevant sections 3A, 3C and 4C Council's DCP 2013 pertaining to accessible pathways, visitable, adaptable housing for people with disabilities.	Yes, previously approved

S.79C(1)(a)(iv) - Provisions of regulations

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

S.4.15(1)(b) - Likely Impacts of Development

Relocation of the communal room in Building C2

The approved communal room on the ground floor of Building C2 has been relocated further to the north within the communal open space area and replaced with a proposed unit (C2101). However, Council is not supportive of this as the relocated room does not appear to benefit from increased solar access, it removes the dual aspect of the approved layout and has been reconfigured to fit an extra unit. It is preferable that the communal room remains in the approved location as it will allow for activation and passive surveillance of both the communal open space and the street. There are no other changes to the landscaped areas as approved.

As outlined in the assessment above, the proposed amendments will have no significant adverse environmental, social or economic impacts in the locality.

S.4.15(1)(c) - Suitability of the site

The proposed amendments, with the exception of Buildings B2 and B3 do not alter the conclusions that were resolved and approved within the development consent and subsequent modifications. It does not impact on the zone of influence with the railway and Sydney Airport.

The approved development is permissible in the zone and satisfies the objectives of the zone. The traffic impacts are not considered to be significantly increased beyond that anticipated for this site and furthermore the proposed amendments to Buildings A1, A2, A3, B1, C1, C2 and C3 are considered acceptable, as discussed in the report. Those matters when considered do not warrant the full refusal of the proposed amendments.

S.4.15(1)(d) - Public Submissions

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period. A total of 63 submissions were received, and are further addressed below:

1. *Concerns with bulk and scale*

As discussed earlier in this report, Council is supportive of the additional bulk along the western edge of the subject site (i.e. Pemberton Street) as it provides a consistency with what has already been constructed on the northern side of Mahroot Street, as well as the additional storey for Building C2 and C3 as it complies with the Height of Building development standard as prescribed under the Botany Bay LEP.

However, discussed earlier in this report Council is not supportive of the proposed additional storey for Building B2 and B3 as it plays an important transitioning role within the site to the completed development on the east along Wilson Street and therefore should be retained as approved to provide more of a transition in scale.

2. *Overshadowing*

As discussed earlier in this report, it is considered that the neighbouring buildings to the east and south will receive at least 2 hours sunlight between 9am and 3pm in mid winter.

3. *Privacy concerns*

As discussed earlier in this report, the proposed amendments comply with the relevant building separation requirements in the Apartment Design Guide, which are prescribed as a mechanism to maximise visual and acoustic privacy to neighbouring buildings and properties. Accordingly, it is considered that this has been satisfactorily addressed.

4. *Loss of views*

As discussed earlier in this report, there are no significant or iconic views or landmarks that are required to be maintained.

5. *Reduction in the size of the public park and landscaping*

There is no increase in the floor plate of the ground floor for the buildings that surround the approved public park on the eastern edge of the subject site. Therefore, the size of the public park will remain the same size.

As discussed earlier in this report, there is a reduction in the landscaped area adjacent to Building C2 with the relocation of the communal room on the ground floor further into the development, and replaced with a proposed residential unit. However, as discussed earlier in this report Council is not supportive of its relocation and thus the approved landscaped area within this part of the development is to be retained as approved.

6. *Lack of car parking*

As discussed earlier in this report, there is a substantial surplus of car parking spaces available on the site, and thus the number of car parking spaces available is considered satisfactory.

7. *Traffic congestion and the impact on the Pemberton Street and Botany Road intersection*

As discussed earlier in this report, the application was accompanied by a traffic assessment. This was referred to the NSW RMS for consideration and comment. The RMS has advised that it has no objection to the proposed amendments, subject to conditions imposed as part of the original DA.

The impacts of the additional number of units on the performance of the Pemberton Street and Botany Road intersection has been assessed. At this stage, the RMS considers that a signalised intersection is not required, however, Council is monitoring the demand for signalisation of this intersection, which is likely to occur in the future.

8. *Excessive height*

As discussed earlier in this report, the additional height along the Pemberton Street section of the development is considered acceptable as it is consistent with what has been approved to the north of Mahroot Street. Furthermore, Council is not supportive of the additional height proposed for Building B2 and B3 as it plays an important transitioning role within the site to the completed development on the east along Wilson Street and therefore should be retained as approved to provide more of a transition in scale.

9. *No new facilities have been built*

With regards to facilities, the approved development will provide a large park which will be dedicated to Council and provide many benefits to the local residents. The applicant will also be paying development contributions which in part will provide upgrades to existing facilities and services as well as new facilities if the demand arises.

10. *Increasing the footprint of the buildings*

As discussed earlier in this report, there is no increase in the floor plate of the ground floor for the buildings that surround the approved public park on the eastern edge of the subject site.

11. *Increase in density*

As discussed earlier in this report, the increase in the density as part of the proposed amendments is considered appropriate along the western, northern and southern sections of the site. However, Council is not supportive of the additional height proposed for Building B2 and B3 as it plays an important transitioning role within the site to the completed development on the east along Wilson Street and therefore should be retained as approved to provide more of a transition in scale.

12. *Impact on property values*

The impact of development on the property values of neighbouring properties is not considered as a valid planning consideration in the assessment of this application.

S.4.15(1)(e) - Public interest

Granting partial approval to the proposed modifications as discussed in this report will have no adverse impact on the public interest. The proposal will facilitate the orderly development of the land.

Section 7.11 Contributions

The provisions contained in Council's Section 7.11 Contributions Plan apply to developments involving the construction of additional residential development that creates further demand to improve or upgrade existing facilities, amenities or services. Accordingly, the prescribed conditions in the development consent will be modified to adjust the contributions given the change in the number of units.

Conclusion

Development Application No. 2014/68/2 to increase the number of basement car parking spaces, various amendments to the approved development including (but not limited to) increase footprint of buildings, additional levels on buildings, relocation of communal room, additional 38 apartments, and reconfiguration of apartment layouts at 8, 12, 14 and 16 Pemberton Street, Botany has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for partial approval subject to conditions of consent.

Attachment

Schedule 1 – Conditions of Consent

Premises: 8, 12, 14 and 16 Pemberton Street, Botany

DA No: 2014/68/2

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

Drawing No.	Rev	Author	Dated
A03 – Basement Level 2 Plan (DA-2014/68/2)	14	Krikis Tayler Architects	22 August 2017 (DA-2014/68/2)
A04- Basement Level 1 Plan	17 19 (DA-2014/68/2)		3 February 2017 22 August 2017 (DA-2014/68/2)
A05- Level 1 (Ground) Plan	22A 24 (DA-2014/68/2)		17 October 2017 28 August 2017 (DA-2014/68/2)
A06- Level 2 Plan	18 21 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A07- Level 3 Plan	14 17		3 February 2017

	(DA-2014/68/2)		25 August 2017 (DA-2014/68/2)
A08- Level 4 Plan	13 16 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A09- Level 5 Plan	13 16 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A10- Level 6 Plan	12 15 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A11- Level 7 Plan	12 15 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A13- Roof Plan	12		3 February 2017
A20- Elevations 1	16 20 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A21- Elevations 2	16A 20 (DA-2014/68/2)		17 October 2017 25 August 2017 (DA-2014/68/2)
A22- Elevations 3	13 17 (DA-2014/68/2)		19 May 2017 25 August 2017 (DA-2014/68/2)
A23- Elevations 4	11 15 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A30- Sections	9 12 (DA-2014/68/2)		3 February 2017 22 August 2017 (DA-2014/68/2)
Apartment Schedule	P S (DA-2014/68/2)		6 February 2017 30 August 2017 (DA-2014/68/2)
SK170522-02- Page 1 to 11- GFA Diagrams	-		22 May 2017
SK170522-01- Page 1 to 3- Car park entry details	-	-	22 May 2017
000- Cover Sheet	G	Site Image Landscape Architects	2 August 2017
001- Landscape Masterplan	G		2 August 2017
101- Landscape Plan- South West	G		2 August 2017
102- Landscape Plan- North West	G		2 August 2017

103- Landscape Plan- South East	G		2 August 2017
104- Landscape Plan- North East	G		2 August 2017
105- Landscape Plan- Level 2 and 3	G		2 August 2017
106- Landscape Plan- Nature Playground	G		2 August 2017
401- Landscape Planting Plan South West	G		2 August 2017
402- Landscape Planting Plan North West	G		2 August 2017
403- Landscape Planting Plan South East	G		2 August 2017
404- Landscape Planting Plan North East	G		2 August 2017
405- Planting Plan Level 2 and 3	G		2 August 2017
501- Landscape Details	G		2 August 2017
502- Landscape Details, Specification and Plant Schedule	G		2 August 2017
D20- Landscape Stormwater Drainage Plan	B	Australian Consulting Engineers	July 2017
000 - Cover sheet, legend & drawing schedule	A	Australian Consulting Engineers	August 2015
001 - Basement 2 storm water drainage plan and details	B		
002 - Basement 1 storm water drainage plan	B		
003 - Level 1 storm water drainage plan	C		
004 - Level 2 storm water drainage plan	A		
005 - Level 3 storm water drainage plan	A		
006 - Level 4 storm water drainage plan	A		
007 - Level 5 storm water drainage plan	A		
008 - Level 6 storm water drainage plan	B		
009 - Level 7 storm water drainage plan	B		
010 - Level 8 storm water drainage plan	B		
011 - Roof level storm water drainage plan	A		
015 - Storm water drainage sections and details	B		

Reference Document(s)	Author	Dated
Letter re: Proposed Modifications to Parkgrove	Colston Budd Hunt and Kafes Pty Ltd	19 August 2015

Buildings A, B and C, Botany Ref: JH/8501/jj		
Internal Traffic Assessment	Thompson Stanbury Associates	November 2016
NaTHERS- Class 2 Summary	SLR Consulting Pty Ltd	3 November 2016
BASIX Certificate No. 540244m_04	SLR Consulting Pty Ltd	3 November 2016
Noise Intrusion Assessment Report No. 5367-3.1R Rev A	Day Design Pty Ltd	8 November 2016
Environmental Noise Assessment Report 5367-3.2R Rev A	Day Design Pty Ltd	8 November 2016
Geotechnical Assessment 2373- B	Asset Geotechnical	27 March 2014
Geotechnical Assessment Addendum 2373-2-L1 Rev 1 Report No. E22374 GA	Asset Geotechnical	11 November 2016
Dewatering Assessment 2373- 1-L1 Rev 1	Asset Geotechnical	17 June 2016
Access Report Job No. IAC-594	Iaccess Consultants	3 November 2016
Letter Re Flood Storage and OSD Storage, Parkgrove, KF111540-L03	KF Williams and Associated Pty Ltd	9 September 2015
Waste Management Plan	Elephants Foot Recycling Solutions	September 2015
Pedestrian Wind Environment Statement WB999-03F01	Windtech Consultants Pty Ltd	4 November 2016
Remediation Action Plan Part of Former Brambles Site Report ID: CES021209- AUS-11-F	Consulting Earth Scientists	15 June 2005
Remediation Action Plan Former Aerosols Australia Site and Proposed Commercial Redevelopment Report ID: CES021209-AUS-12-F2	Consulting Earth Scientists	13 February 2006
Report on Additional Groundwater Investigation	Consulting Earth Scientists	6 February 2006
Sampling Analysis and Quality Plan: Groundwater Monitoring, Austcorp Botany Site, Botany Report JD: CESD21209-AUS- 02-F (SAQP)	Consulting Earth Scientists	16 February 2004
Letter Re: Proposed Modifications to Parkgrove Buildings A, B and C, Botany	Zoic Environmental Pty Ltd	21 September 2015
BCA Capability Report Ref: J160528	Vic Lilli and Partners Consulting	4 November 2016

Where there is any inconsistency between the drawings listed in (a) and (b), the architectural plans shall prevail.

- 1A. ***Notwithstanding the above, the following amendments are to be noted on the approved plans:***
 - (a) ***The communal room in Building C2 is to be retained, as per the Level 1 (Ground Plan), Drawing A05 Issue 22A as determined by Bayside Council on 12 December 2017***
 - (b) ***The roof plan for Building B upper roof is to be retained, as per Roof Plan, Drawing A13, Issue 12 as determined by Bayside Council on 12 December 2017.***
 - (c) ***The elevations for Building B is to be retained, as per Elevations 1 (Drawing A20, Issue 16), Elevations 3 (Drawing A22, Issue 13) and Elevations 4 (Drawing A23, Issue 16) as determined by Bayside Council on 12 December 2017.***
 - (d) ***The sections for Building B is to be retained, as per Sections, Drawing A30, Issue 9 as determined by Bayside Council on 12 December 2017. (DA-2014/68/2)***
2. No construction works shall be undertaken prior to the issue of the Construction Certificate.
3. Building works must not encroach on to adjoining lands or other public places, unless authorised by this consent.
4.
 - 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 and downpipes, including balcony drainage and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level; and,
 - c) All air conditioning units shall be appropriately treated to ensure that they are concealed from view.
5. 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 approved BASIX Certificate are fulfilled.
 - a) Note Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or,
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate;

- iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
- 6. The finishes, materials and colour scheme and facade details approved by this consent shall not be altered or amended at the Construction Certificate stage without a separate Section 96 approval.
- 7. 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.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

- 8. The proposed development is to comply with the conditions dated 27 April 2015 issued by Sydney Airport Corporation Limited (SACL). However, the approved building heights are limited to that shown on the approved architectural plans. Details of the requirements of SACL are provided below:
 - a) Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
 - b) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.
 - c) Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by Sydney Airport prior to any approval is to include:
 - i) The location of any temporary structure or equipment, ie. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);

- ii) The swing circle of any temporary structure/equipment used during construction;
 - iii) The maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
 - iv) The period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
 - d) An Application for approval must be given to the Airport at least 35 days before commencement of the operation.
 - e) 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.
9. The proposed development is to comply with the following conditions provided by Sydney Water on 19 March 2015:
- a) The proposed development will be able to connect to the newly constructed 200mm main.
 - b) An extension of the wastewater system will be required from the 225mm in Pemberton Street. The extension will require a point of connection at least 1 m inside all the proposed Jot boundaries.

This extension should form part of the overall wastewater scheme plan for the ultimate development. This can be in the format of a catchment plan indicating proposed extensions, connection points and flows (EP) to the existing system.

An accredited Hydraulic Designer will be engaged by the developer to ensure that the proposed wastewater infrastructure for this development will be sized & configured according to the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002). Evidence of Code compliance should be attached with the design.

- c) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

Make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

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

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

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

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

The permit application should be emailed to Sydney Water's Business Customer Services at businesscustomers@sydneywater.com.au.

It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

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

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

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

All properties connected to Sydney Water's supply must install a testable Backflow Prevention Containment Device appropriate to the property's hazard rating. Property with a high or medium hazard rating must have the backflow prevention containment device tested annually. Properties identified as having a low hazard rating must install a non-testable device, as a minimum.

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

Before you install a backflow prevention device:

- i) Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.
- ii) Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300 889 099.

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

10. The proposed development is to comply with the following advice provided by Ausgrid:

- a) Prior to the commencement of works, the developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/or Connection Application form, to allow Ausgrid to determine the method of electrical supply for the development.
 - b) The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.
11. The proposed development is to comply with the following advice provided by Roads and Maritime Services, dated 25 March 2015:
- a) Any redundant driveways on Botany Road shall be removed and replaced with kerb and gutter to Roads and Maritime requirements.
 - b) The swept path of the longest vehicle (to service the site) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
 - c) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004.
 - d) All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.
12. The proposed development is to comply with the following advice provided by NSW Ports, dated 23 March 2015:
- a) The proposed development is located approximately 750m to the north of the Port Botany precinct. The design of the proposed development will provide a direct line-of-sight to the Port from the upper stories of the southern elevation of Block C and therefore has the potential to result in lighting impacts on future occupants to this development. NSW Ports requests that the design of this building take into account the potential for lighting impacts by providing appropriate mitigation through such measures as external louvres.
 - b) NSW Ports notes the proposed development incorporates noise mitigation measures (e.g. double glazing on windows and doors) in order to achieve specific internal noise levels within habitable rooms. Notwithstanding this, the internal noise levels are only achievable if windows and doors remain closed. On this basis, NSW Ports is of the view that future residents and / or purchasers of apartments within this development are notified of port operational activities and potential noise impacts if mitigation measures are negated (i.e. through leaving double glazed doors or windows open).

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

13. Prior to issue of a Construction Certificate, permission must be obtained from the Owner's Corporation of SP 91307 in relation to the carrying out of the proposed landscaping/ public domain works over the westernmost portion of that allotment.

Evidence of the permission must be provided to the Council prior to issue of any Construction Certificate. If the Council is not the PCA, the PCA must be provided with written notice from the Council demonstrating compliance with this condition prior to the issue of any Construction Certificate.

14. Prior to the issue of a Construction Certificate, written documentation/certification shall be provided to Council demonstrating that the approved works do not interfere with the operation of the infiltration trench associated with SP89302. If the Council is not the PCA, the PCA must be provided with written notice from the Council demonstrating compliance with this condition prior to the issue of any Construction Certificate
15. Prior to the issue of any Construction Certificate, the applicant must pay the following fees and bonds. Details are provided elsewhere within these conditions. A summary of the payments is as follows:-

- | | | |
|----|---|-----------------------------------|
| a) | Builders Damage Deposit: | \$362,745.00 (outlined elsewhere) |
| b) | Development Control: | \$12,900.00 |
| c) | Section 7.11 Contributions: | (outlined elsewhere) |
| d) | Street Tree and Landscape Performance Bond: | \$100,000.00 (outlined elsewhere) |

16. Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plan 2016, Section 94 Contribution are to be paid to Council prior to the issue of the first Construction Certificate and are to be paid in accordance with the following calculation:

- | | | |
|-----|--|--|
| (a) | Studios: | \$8,334.68 |
| (b) | One bedroom dwellings apartments: | \$8,029.65 \$8,902.91 per dwelling |
| (c) | Two bedrooms dwellings apartments: | \$13,211.47 \$14,648.27 per dwelling |
| (d) | Three or more bedroom dwellings apartments: | \$17,265.80 \$19,143.52 per dwelling |

Note: The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the quarter in which your consent is granted. If you pay the contribution in a later quarter you will be required to pay the fee applicable at the time **(DA-2014/68/2)**

17. Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit and Performance Bond of **\$362,745.00** (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.

18. The dedication of the following land to Council (at no cost to Council) is required to occur, as required by previous conditions of development consent:
 - a) The dedication of Rancom Street (Lot 3 DP 1207144) as required by DA-12/210,
 - b) The dedication of New Street 1 (Lot4 DP 1203451), which is currently the subject of Land and Environment Court proceedings No. 324448 of 2016
 - c) The dedication of Mahroot Park (Lot 3 DP 1203451 and Lot 4 DP 1192005)

NOTE: this condition should not in any way be interpreted as any acquiescence or acceptance by Council of previous/ ongoing breaches of development consent, including in particular the failure to dedicate New Street 1 which is currently the subject of Land and Environment Court proceedings No. 324448 of 2016. It is in the interests of the orderly, economic and safe development of the land that the previous conditions of consent, in particular the conditions requiring creation of public roads, be complied with as soon as possible, particularly in the event of the approval of the Park Grove West development.

19. Prior to the issue of any 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.

20. A Construction Management Program shall be submitted to, and approved in writing by the Private Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:
 - a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,

- d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- i) Proposed protection for Council and adjoining properties, and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

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

21. 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 Roads and Maritime Services) for approval. The plan shall:
 - a) be prepared by a RMS accredited consultant,
 - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
 - c) 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.

22. 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:

- a) 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
 - b) 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.
 - c) All service vehicles shall enter the property front in front out,
 - d) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
 - e) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - f) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
23. 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:
- a) Disabled car parking spaces shall be provided and clearly marked as per the Internal Traffic Assessment, by Thompson Stanbury, dated September 2015, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
24. 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.
25. 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.
26. In the event that the existing stormwater drainage infrastructure on Pemberton Street is retained in situ, 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:

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

The written report, together with a copy of the digital video footage of the pipeline 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.

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

- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
- b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - i) The additional load on the system, and
 - ii) The relocation and/or adjustment of the services affected by the construction.
- c) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
- d) 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 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.

28. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to On-site Flood Mitigation Temporary Storage Tanks system for the development shall be submitted to 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', ASINSZ 3500- Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

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

- a) Provision of an On-site Flood Mitigation Temporary Storage Tanks. The tanks shall be sized accordingly to compensate for the loss of flood storage as a consequence of the development. Calculations and storage tank design shall be submitted to Council for approval.
29. 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', ASINSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

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

- a) 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,
- b) 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,
- c) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- d) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
- e) If an OSD system is proposed, incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
- f) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.

- g) 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
 - h) The submission of detailed calculations including computer modelling where required supporting the proposal.
30. A Building Certificate (or alternatively a s 96 application seeking retrospective approval) must be approved by Council for the unauthorised retaining walls, infiltration trench, and associated earthworks that have been undertaken at the site.
 31. 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.

32. 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.

33. A sufficient area shall be provided onsite to enable separate stockpiling and treatment of excavated materials with a pH of less than 5.5. Details of this area shall be provided in the Soil and Water Management Plan (SWMP) prior to the release of any construction certificate.
34. A Site Audit Statement will be required for this site prior to the issue of any Occupation 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 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.

35. The Remedial Action Plan (RAP) shall avoid the use containment 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.

36. 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.

37. Detailed mechanical ventilation system plans and specification prepared by a *professional practising engineer*, as defined by the Building Code of Australia, must be submitted to Principal certifying authority prior to the release of the relevant Construction Certificate certifying compliance with AS/NZS 1668 *The Use of Mechanical Ventilation and Air Conditioning in Buildings*, Part 1-2002: *Fire and smoke control in multi-compartment buildings* and Part 2-2002: *Ventilation design for indoor air contamination control*. (Note: BCA has not yet adopted the 2002 Standards and still utilises the previous 1991 AS1668).
38. Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1 and AS1668.2. Details to be submitted to the Principal Certifying Authority prior to release of the relevant Construction Certificate.
39. A final Waste Management Plan prepared in accordance with Council's Waste Management and Minimisation Guidelines Development Control Plan shall be submitted to the Council for approval prior to the release of the Construction relevant Certificate. The Waste Management Plan shall include the size and storage of bins, the collection point for the waste contractor recycling contractor, maintenance of the bins and the provision of recycling and composting facilities.
40. Prior to the release of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.

41. Prior to the issue of a Construction Certificate for the basement structure, details are to be provided to the Principal Certifying Authority demonstrating that the each land use within the development is provided with a minimum parking allocation in accordance with the following table:

a)

Use	Required Spaces
Residential	416
Visitor	54, including 2 disabled
Retail	9, including_ 1 disabled
Bicycle Parking	47
Motorcycle	3 (may be used in place of visitor parking)
Service vehicle	As indicated on approved plans
Car share	1

- b) A minimum of four (4) visitor spaces shall be provided as car wash bays and shall be connected to water and sewer.
- c) The car share parking space shall be allocated for the use of a car share service provider. This shall be provided in place of a visitor parking space.
- d) 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 relevant Construction Certificate application.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE FOR ABOVE GROUND WORKS

42. 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. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
43. A public domain improvements plan shall be submitted for approval by Council's Landscape Architect. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving, street tree pit treatments and tree guards (where required), street furniture, landscaping, irrigation, lighting, in-road landscaping, WSUD treatments and so on . The Pemberton Street treatment is to be contiguous with the adjoining development site to the north. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any

other Council specification or requirement. Landscape plans shall be accompanied by civil drawings detailing levels and construction sections in accordance with Council's Engineering Services requirements.

44. The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be provided in a report prepared by a practicing professional acoustical consultant. The report shall be submitted to Certifying Authority prior to the release of the Construction Certificate for above ground works and the building plans endorsed with the required acoustical measures.
45. The building shall be designed in accordance with the *Office of Environment and Heritage (Department of Environment, Climate Change and Water) 'NSW Road Noise Policy'*, and shall also meet the criteria recommended in Table 1 of Australian Standard AS 2107-2000. Details shall be submitted to the certifying authority prior to the release of the Construction Certificate for above ground works.
46. Details on the mechanical plant and equipment to be submitted to the Principal Authority prior to the release of the Construction Certificate for above grounds works. The report must identify the compliance of each item of plant and equipment in relation to the following criteria
 - a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

Note "sensitive" positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the facade at night time), unless other positions can be shown to be more relevant.

47. The measures required in the approved acoustic report/s shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000.

The work detailed in the report includes:

- a) Appropriate acoustic glazing to stated windows and doors, b) Detailed roof and ceiling construction,
- c) Wall and ceiling corner details and,
- d) External door specification,
- e) Acoustically treated mechanical ventilation.

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

- 48. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Certifying Authority prior to the issue of the first Construction Certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 49. 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 Apartment Development.
- 50. Prior to the issue of the construction certificate, the architectural plans shall be amended to include gas and water tap connections to each private open space area
- 51. Circulation spaces shall be well lit at night, with any lighting on the site 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. All lighting shall comply with *AS4282-1997 Control of the obtrusive effects of outdoor lighting*; and the installation of solar power to external space lighting. Details are to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.
- 52. Appropriate noise insulation shall be provided between common walls within residential apartments. Details shall be provided to the Principal Certifying Authority.

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

- 53. 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.)
 - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,

- c) Permit to install temporary ground anchors in public land,
 - d) Permit to discharge ground water to Council's stormwater drainage system,
 - e) Permit for roads and footways occupancy (long term/ short term),
 - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re- adjustments of utility services,
 - h) Permit to place skip/waste bin on footpath and/or nature strip, and
 - i) Permit to use any part of Council's road reserve or other Council lands.
54. A Stage 1 Preliminary and a Stage 2 Detailed Site Investigation shall be completed for any land either not covered by the current assessments or that has been used in a commercial or industrial nature since any Preliminary or Detailed Site Assessment or Remediation Action Plan was completed. Any required assessments shall be undertaken by a suitably qualified and experienced environmental consultant 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.

Following completion of any additional Preliminary or Detailed Site Assessments in accordance with the above guidelines, a Stage 3 Remedial Action Plan (RAP) shall be prepared and remediation of the site shall be carried out. Any RAP shall be submitted to Council prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP.

Approvals from appropriate government departments where required shall be obtained and full details of the investigation and site remediation are to be submitted to Bayside Council prior to the commencement of any excavation or building works onsite.

55. A separate site audit statement for the public parks is required and Council will require that there is no ongoing management of any land that may be dedicated to Council.
56. 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.

57. 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.
58. 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.

59. To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to stormwater a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
60. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principal Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
61. 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.

62. A sufficient area shall be provided onsite to enable separate stockpiling and treatment of excavated materials with a pH of less than 5.5. Details of this area shall be provided in the Soil and Water Management Plan (SWMP) prior to the release of any construction certificate.
63. 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.

64. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
65. 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.
66. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
67. Existing structures and or services on this and adjoining properties are not to be endangered during any excavation or construction work associated with the above project. The application is to provide details of any shoring, piercing or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilize any adjacent structures.
68. The Principal Certifying Authority must be satisfied that: -
 - a) In the case of work to be done by a licensee under the Home Building Act:
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
 - b) In the case of work to be done by any other person: -
 - i) Has been informed in writing of the persons name and owner-builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
69. At least forty-eight (48) hours prior to the commencement of, the applicant must inform Council, in writing, of:
 - a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This person's full name and address.
 - c) Details of Public Liability Insurance.
70. Building plans must be lodged through Sydney Water Tap in Service for approval prior to commencement of works.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

71.

- 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.

72. 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.

73. 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.

74. 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. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.

75. 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';
- b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;

- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
 - d) The Remedial Action Plan (RAP) required to be submitted prior to the issue of the Construction Certificate.
76. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) SafeWork 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.
77. 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.
78. 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.
79. To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to stormwater a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.

80. 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.

81. 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.

82. 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.

83. 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.

84. 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.

85. 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;

- 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.
86. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - e) If the soil conditions required it:
 - i) Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided, and
 - ii) Adequate provision must be made for drainage.
87. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and, ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

88. 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*.
89. 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.
90. 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.
91. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.

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

92. Prior to the issue of any Occupation Certificate, so as to address adverse site isolation issues caused by the development, the following easements shall be created in favour of Lot 1 DP 656307 so as to facilitate that site's redevelopment in the future:
 - a) An easement for light, ventilation and construction access 3.0m wide extending vertically from RL 8.0 AHD to RL21.0 AHD, adjacent to the northern boundary of Lot 1;
 - b) An easement for light and ventilation 3.0 metres wide extending vertically from RL 12.0AHD to RL21.0 AHD, adjacent to the southern boundary of lot 1 for a length of 5m from its eastern boundary of Lot 1;
 - c) A right of carriageway through the carpark to allow ingress into a future basement at approximate RL1.80 to the north of Lot 1.
93. Prior to issue of any Occupation Certificate (and prior to dedication of the 'Council Dedicated Park' to Council, an easement over the infiltration trench located on Lot 2 DP 1207144 associated with SP 89302 shall be created so as to provide lawful rights to SP 89302 for drainage and maintenance with respect to this infrastructure, that forms part of it overall building/ development. Evidence of the creation of the easement must be provided to Council.
94. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
95. 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 Rancom Street.

The camera and its operation shall comply with the following:

- a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
 - b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
 - c) Distance from the manholes shall be accurately measured, and
 - d) The inspection survey shall be conducted from manhole to manhole.
 - e) 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.
96. Prior to the issue of the 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) and all relevant standards.
97. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
- a) On Pemberton St, carry out all civil works as per the Road Widening Works by KFW, dated April 2014,
 - b) On Pemberton St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications,
 - c) On Pemberton St, adjacent to development, construct new footpath as per Council's Infrastructure and Landscape Architect specifications,
 - d) On Rancom St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications,
 - e) On Rancom St, adjacent to development, construct new footpath as per Council's Infrastructure and Landscape Architect specifications,
 - f) On Saxby Close, construct new road as per Council's Infrastructure and Landscape Architect specifications,
 - g) On Lenthon Lane, construct new thru site link to Botany Road as per Council's Infrastructure and Landscape Architect specifications.

98. 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.
99. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording,
 - b) Restriction on use of land for Compensatory Flood Storage. Refer to Appendix D of the SMTG for suggested wording, and
 - c) 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.

100. Prior to the dedication of the public park to Council, the infiltration trench located on Lot 2 DP 1207144 associated with SP89032 must be regularised. Regularisation may be achieved by way of either:
- (a) modification of DA 12/71 so as to retrospectively approve the infiltration trench; or
 - (b) by way of the approval of a building certificate in relation to the infiltration trench pursuant to s 1490 of the Environmental Planning and Assessment Act 1979.

Satisfactory evidence demonstrating that the trench has been regularised must be provided to Council.

101. 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 likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

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

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

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

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

104. Landscaping shall be installed in accordance with the approved landscape plan only 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.
105. 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 Bayside Council prior to the issue of an Occupation Certificate.
106. The Applicant is to submit payment of a Street Tree and Landscape Performance Bond of \$100,000.00. The duration of the Bond shall be for a period of 12 months after Council approved completion of landscaping in all public domain areas and open space areas (north-south link, public park, Rancom Street link and park) and a satisfactory inspection of the works from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the landscaping by Council. If any component of the landscaping requires replacement Council will forfeit all or part of the bond unless the Applicant undertakes landscape rectification work under instruction from Council.

107. 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.
108. 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 co-ordinate with the colour schemes and finishes of the building.
109. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668- Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
110. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to use or occupation of the premises. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
111. Prior to commencing trading the occupier of the premises must register any food premises with Council (application form attached), and register with the New South Wales Food Authority (contact details for registration for the Food Authority NSW are <http://www.foodnotify.nsw.gov.au/nafsis> or by telephone

1300 650 124.

112. Prior to release of the Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the approved acoustic report/s have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
113. Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
- a) All reduced levels shown upon the approved plans, with relation to the required building heights, drainage, boundary and road reserve levels, have been strictly adhered to; and
 - b) The development as built stands within the subject land.
114. A copy of any Building Management Statement and By-Laws shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Occupation Certificate. The Building Management Statement and By-Laws shall address all conditions associated with the ongoing use of the development of Development Consent No. 14/68 and include:
- 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. 14/68;
 - 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. 14/68;
 - c) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste sterile, 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;
 - d) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are available for collection adjacent to the MRV bay depicted on the approved plans, 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 before 12.00 noon;
 - e) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000;
 - 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) The linen plan must include details of any easements, encroachments, rights of way, including right of footway, restriction as to user or positive covenants and include a Section 888 Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
- h) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
- i) The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines;
- j) CCTV surveillance of all public areas within the development site; and

115.

- a) Residents of this development are not eligible to participate in Council's on- street resident parking scheme. Before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised of this by the owner of the building.
- 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;
- c) Where a building is to be Strata subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.

116. A suitable intercom system linked to all units within the development shall be provided at pedestrian and vehicle entrances to ensure that any legitimate visitors to the site can gain access to the development, including the visitor parking located in the car parking area. The details of the intercom system shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

117. Each apartment and non-residential unit shall be provided with individual water meters.

118. Written evidence is required to be provided to Council prior to the issue of the any Occupation Certificate from all service providers such as Sydney Water, Energy Australia and their telecommunication provider, confirming that adequate infrastructure can and/or has been provided to the development.

119. The car parking spaces shall be made available to occupants and visitors at all times, with such spaces being clearly marked and signposted prior to issue of the Occupation Certificate. The Allocation of the car parking shall be as indicated on the approved plans, except where modified by these conditions. A minimum of half of the approved adaptable dwellings shall be provided with accessible parking spaces.
120. The floor surface of the entry area, kitchen and internal storage, of each two- bedroom and three-bedroom apartment, are to be water-resistant and easy to be cleaned and maintained, i.e. not carpet.
121. Street numbers shall be clearly displayed with such numbers being of contrasting colour, of adequate size and location for viewing from the footway and roadway, and in accordance with the NSW Addressing Policy.

All letter boxes must be constructed and located in accordance with the relevant provisions of Australian Standard AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction. Letter boxes shall be located in lobbies or perpendicular to the street alignment, with no interference with proposed landscaping.

Details of street numbering, letter boxes, and apartment numbers, shall be submitted to Council for approval prior to the issue of the Occupation Certificate.

122. Legible signage should be provided throughout the development containing information on common areas.
123. Parking shall be provided as indicated elsewhere within these consent conditions.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

124. The stormwater drainage system (including all pits, pipes, absorption, detention structures; treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
125. The public park (including all roadways, pathways, play structures, etc) shall be regularly cleaned, maintained and repaired to ensure safe access to the general public at all times. The public park shall inspected and cleaned on a regular basis. All waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
126. Landscaping within the north-south link, public park areas and public link between Rancorn Street and Botany Road shall be maintained by the Applicant for 12 months after final Council inspection of planting.
127. Any landscaping that requires replacing during or at the end of the 12 month period shall be undertaken by the Applicant.

128. Ongoing maintenance of grassed nature strips in Pemberton and Rancom Streets shall be undertaken by the strata. Maintenance includes mowing, watering and maintaining an even coverage of grass. 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, including new street trees. All pruning is undertaken by Council only.
129. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.
130. The use of the premises shall not give rise to all impurities in contravention of the Protection of the Environment Operations Act 1997. Waste gases released from the premises shall not cause a public nuisance nor be hazardous or harmful to human health or the environment.
131. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975*, and *AS2201, Parts 1 and 2 - 1978 Intruder alarm systems*.
132. The operation of the required car share space must be undertaken in conjunction with a car share service provider.
133. The permitted hours of the retail/commercial premises as follows:
- a) Monday- Friday: 7:00am to 6:00pm;
 - b) Saturday – Sunday: 8:00am to 5:00pm
- Any additional hours of operation to the premises shall be subject to a further application to Council.
- 134.
- a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary

135.

- a) All waste and recycling containers shall be stored in the designated waste storage areas within the building. 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 occupier shall be responsible for cleaning the waste storage area, equipment, and waste collection containers
- b) No waste or waste containers shall be placed on the public way (including: footpaths, roadways and reserved) at any time.

136.

- a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council
- b) The adaptable apartments approved under this development consent are to remain as adaptable apartments at all times;
- c) Any storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces (including bicycle storage) shall be monitored by CCTV cameras at all times;
- d) The approved Waste Management Plan shall be complied with at all times during the on-going use of the site / premises.

137. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or like vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.

138. Any air conditioning units shall comply with the following requirements:

- a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
- b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - ii) Before 7 am or after 10 pm on any other day.

ADVISORY NOTES

139. The following recommendations are provided by NSW Police Botany Bay Local Area Command. The conditions are outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:

a) Surveillance

- i) Digital technology should be used to receive, store and process data recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis. It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.
- ii) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
- iii) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external lighting.

b) Territorial Reinforcement

- i) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
 - 1 Warning, trespasser will be prosecuted
 - 2 Warning, these premises are under electronic surveillance
- ii) Directional signage should be posted at decision making points (e.g. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
- iii) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours.
- iv) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development.

c) Access Control

- i) The main access to the underground car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering.