JRPP No:	2010SYE052
DA No:	DA10/314
PROPOSED DEVELOPMENT:	Construction of a new building comprising 127 residential units, 2 ground floor commercial units & three levels of basement parking for 258 car spaces - 214-220 Coward Street, Mascot
APPLICANT:	Krikis Tayler Architects Pty Ltd
REPORT BY:	Maya Elnazer, Assessment Officer, City of Botany Bay Council

Assessment Report and Recommendation

DA No:	10/314
Application Date:	15 July 2010
Property:	214-220 Coward Street, Mascot NSW 2020
Lot No:	Lot F
DP/SP No:	DP 369255
Details:	Construction of a 13 storey mixed residential and commercial building comprising 127 residential units, 2 ground floor commercial tenancies, and basement level car parking for 258 vehicles.
Applicant:	Krikis Tayler Architects Pty Ltd
Applicant Address:	PO BOX 726, North Sydney NSW 2059
Builder:	To be advised
Principal Certifying Authority:	To be advised
Property Location:	Northern side of Coward Street between O'Riordan Street to the east and Laycock Street to the west, with secondary street frontage to John Street
Zoning:	Mixed Uses Commercial/Residential 10(a) Botany Local Environmental Plan, 1995
Present Use:	Vacant
Classification of Building:	Class 2 - residential flat building Class 6 – shop/retail Class 7a - carpark

Value:	$20,000,000.00
Drawing No:	Refer to Condition No. 1

SUMMARY OF REPORT

Recommendation:	Grant Development Consent
Special Issues:	Floor Space Ratio, Building Height, Road Widening, Separation Distances
Public Objection:	Nil
Permissible:	Yes

THE DIRECTOR OF PLANNING AND DEVELOPMENT REPORTS:-

Executive Summary

Council received Development Application No. 10/314 on 15 July 2010 seeking consent for the construction of a 13 storey mixed residential and commercial building comprising 127 residential units, 2 ground floor commercial tenancies, and basement level car parking for 258 vehicles, at 214-220 Coward Street, Mascot.

The development form will comprise of a 13 storey building with frontage to Coward Street comprising a defined podium element accommodating ground floor commercial space and a residential tower element extending vertically above. The building height is progressively reduced to the middle and upper levels, with the John Street frontage accommodating a 6 storey residential building, each with separate pedestrian access points and containing:-

- Three levels of basement carparking accommodating 258 vehicle parking spaces with vehicular access via John Street. Bike racks and storage rooms will also be provided at the basement levels;

- Two ground floor commercial tenancies at ground floor level fronting Coward Street, with a gross floor area of 333sqm; and

- Residential flat building comprising a 12 storey residential tower extending above the ground floor commercial space fronting Coward Street (Building A), and a 6 storey residential building fronting John Street (Building B), with a total of 127 residential units. The proposed residential component consists of 15 studio apartments, 1 x 1 bedroom apartment, 109 x 2 bedroom apartments, and 2 x 3 bedroom apartments, with a total gross floor area of 13,824sqm.

Council received additional information with respect of the proposed development on 9 August 2010, 19 August 2010, and 3 December 2010, being information in support of the

development, together with an updated calculation of floor space ratio in accordance with the definition of *gross floor area* under the Botany LEP 1995.

Council's Design Review Panel (DRP) has considered the proposed development prior to the lodgment of the application on two occasions, in February 2010 and again in March 2010. The subsequent meeting sought to provide amended plans addressing initial concerns raised by DRP regarding floor space ratio (FSR) and various other design issues. Upon assessment of the amended plans, DRP sought further amendments, notably a reduction in floor space ratio (FSR) and building envelope. The current plans which are the subject of this assessment have addressed the concerns raised by the DRP through reduction of FSR from 4.9:1 to 4.24:1, as well as various minor design changes.

The development will result in a dedication of approximately 277sqm for the purpose of road widening required for John Street under the Mascot Station Precinct Development Control Plan (DCP).

The development application is accompanied by an objection under State Environmental Planning Policy No. 1 – Development Standards (SEPP 1). The SEPP 1 has been submitted seeking variation to Clause 12A of Botany Local Environmental Plan 1995 with relation to floor space ratio. The SEPP 1 Objection has been assessed in detail further within this report and is considered to be well founded.

The application is integrated development in accordance with Part 5 of the *Water Act 1912* as the development involves a temporary construction dewatering activity. As such the application was referred to the Department of Environment, Climate Change and Water (DECCW) (NSW Office of Water) and the application was notified for a 30 day period from 10 August 2010 to 10 September 2010.

It is noted that no submissions were received following notification and advertisement of the proposed development.

As this proposal has a Capital Investment Value of greater than $10 million the consent authority for the development application is the Joint Regional Planning Panel, Sydney East Region (JRPP).

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for development approval subject to conditions of consent.

Site Description

The subject site has a legal description of Lot F in Deposited Plan 369255 and is commonly known as 214-220 Coward Street, Mascot. The site is located on the northern side of Coward Street between O'Riordan Street to the east and Laycock Street to the west, with secondary street frontage to John Street. The subject site is a rectangular shaped block with a primary frontage of 48.77 metres to Coward Street, secondary frontage of 48.77 metres to John Street, and a lot depth of 66.745 metres, comprising a total site area of 3261sqm. The site topography is relatively level with a gentle cross fall towards the north-western corner of the site.

The site is currently vacant and devoid of vegetation, with previous structures and vegetation having recently been demolished under Development Consent DA10/380 for demolition of existing structures on site including ancillary plants, approved by Council on 17 September 2010. The site is also the subject of previous Development Consent DA07/371 for the demolition of existing buildings and construction of a mixed use development comprising of two buildings of 10 storeys in height to Coward Street and 7 storeys in height to John Street, containing 72 residential units, 724m2 of commercial space and 2 levels of basement car parking, approved by Council on 13 December 2007.

The area is currently undergoing significant change to become a higher density residential and commercial area focused around the Mascot Station Precinct. Development surrounding the site consists of mixed residential and commercial development of similar height and density to that of the subject proposal.

To the north of the subject site at No. 10-14 John Street is a recently constructed development comprising of three mixed use buildings of 6 storeys, 7 storeys, and 8 storeys heights. To the south of the subject site at No. 197 Coward Street is an 8 storey height large commercial development.

Adjoining the subject site to the west at No. 222-228 Coward Street is a recently constructed mixed development comprising of two buildings of 6 storeys and 8 storeys heights, with associated commercial units and basement carparking. Adjoining the subject site to the east are older industrial/warehouse buildings which are likely to be re-developed in the future.

Further to the west of the site on the corner of Coward Street and Bourke Street, is a recently constructed mixed development identified as No. 25 John Street, which comprises two (2) detached buildings over a common podium, of 11 storeys and 7 storeys heights, with associated commercial units and basement carparking.

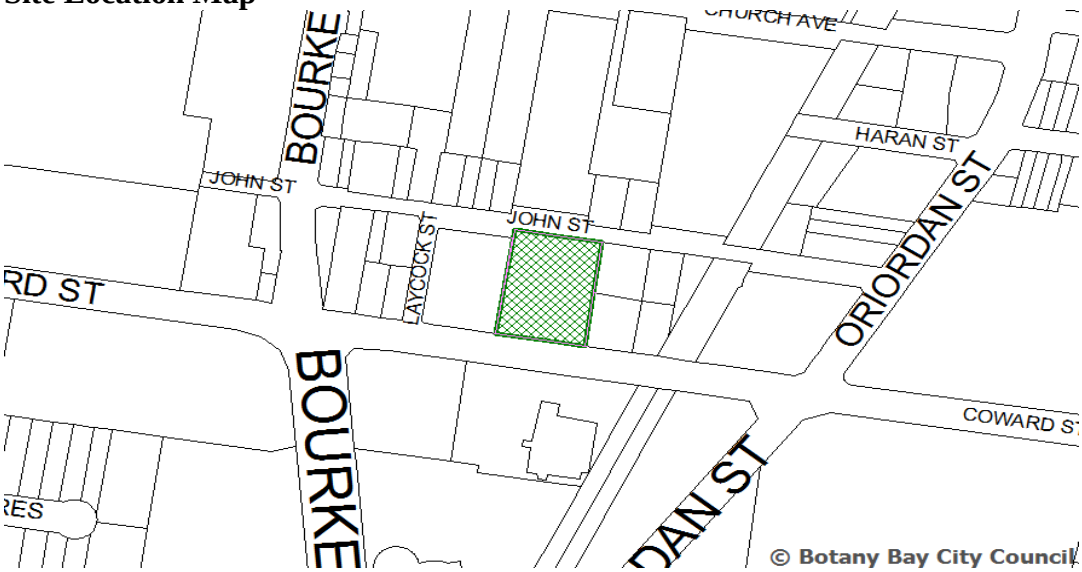
The site falls within the Mascot Station Precinct, which has been identified for significant re-development as a focal residential/commercial urban centre in accordance with the Mascot Station Precinct Development Control Plan (DCP), and a future town centre in accordance with the Draft Subregion East Strategy.

Site Photos

Subject site as viewed from Coward Street, facing north.

Subject site as viewed from John Street, facing south.

Site Location Map



Site and Development History

Development Application No. 07/371 was approved by Council on 13 December 2007 for the demolition of existing buildings and construction of a mixed use development comprising of 72 residential units, 724m2 of commercial space and 2 levels of basement car parking and provision of associated private and communal open space areas. Council has issued an early works Construction Certificate under DA07/371.

Development Application No. 10/380 was approved by Council on 17 September 2010 for demolition of existing structures on site including ancillary plants. The site is currently vacant and devoid of vegetation with demolition of structures already undertaken in accordance with this previous consent.

Description of Development

The development application seeks consent for the construction of a 13 storey mixed residential and commercial building comprising 127 residential units, 2 ground floor commercial tenancies, and basement level car parking for 258 vehicles, at 214-220 Coward Street, Mascot. The consent authority for the development application is the Joint Regional Planning Panel, Sydney East Region (JRPP).

The development form will comprise of a 13 storey building with frontage to Coward Street comprising a defined podium element accommodating ground floor commercial space and a residential tower element extending vertically above. The building height is progressively reduced to the middle and upper levels, with the John Street frontage accommodating a 6 storey residential building.

Development consent is sought for the following works:

- 127 residential units comprising 15 studio apartments, 1 x 1 bedroom apartment, 109 x 2 bedroom apartments, and 2 x 3 bedroom apartments, with a gross floor area of 14,528sqm;

- 2 commercial tenancies at ground floor level fronting Coward Street, with a gross floor area of 333sqm;
- three levels of basement carparking accommodating 258 vehicle parking spaces with vehicular access via an entry/egress driveway off John Street;
- bike racks and storage rooms will also be provided at the basement levels;
- communal landscaped open space to the ground floor with an area of 352sqm, a communal enclosed space of 77sqm to level 6 which connects to communal open space over the roof with an area of 171sqm, with a combined total communal open space area of 523sqm;
- pedestrian access points from both John and Coward Streets; and
- street trees and landscaping to both John and Coward Streets frontages, with landscape planting throughout the site.

The development will result in the dedication to Council of 277sqm of land for widening on John Street.

The proposed gross floor area is 13,824sqm. The floor space ratio of the proposed development is therefore 4.24:1. The development application is accompanied by an objection under State Environmental Planning Policy No. 1 – Development Standards (SEPP1) with relation to the proposed floor space ratio.

SECTION 79C CONSIDERATIONS

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

(a) The provisions of any EPI and DCP and any other matters prescribed by the Regulations.

Environmental Planning and Assessment Act 1979 – Part 4, Division 5 – Special Procedures for Integrated Development and Environmental Planning and Assessment Regulations 2000 – Part 6, Division 3 – Integrated Development

The relevant requirements under Division 5 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the development application. The subject application is Integrated Development in accordance with the *Water Act 1912* as the development involves a temporary construction dewatering activity.

Before granting development consent to an application, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development.

In this regard, the application was referred to the Department of Environment, Climate Change, and Water. The Department issued their General Terms of Agreement on 20 September 2010, with further correspondence received on 1 December 2010 deleting the recommendation for a staged consent as demolition had already been undertaken under separate consent DA10/380. The General Terms of Agreement are attached to the schedule of consent conditions.

State Environmental Planning Policy No 1 – Development Standards

The provisions of SEPP No. 1 have been considered in the assessment of the application. The policy aims to introduce flexibility in the application of development standards where it can be shown that strict compliance is unreasonable or unnecessary in the circumstances of the case.

Under the provisions of the Botany LEP 1995 the site is zoned 10(a) Mixed Uses Commercial/Residential and Council may only consent to the erection of a building if the floor space ratio (FSR) does not exceed 2.5:1 or 8152.5sqm in accordance with Clause 12A of the Botany LEP 1995.

The proposal seeks the following:

Requirement under Clause 12A of Botany LEP 1995	**Proposed FSR- Botany LEP 1995**	**Proposed FSR- SEPP Standard Instrument**
2.5:1 (8152.5sqm)	4.24:1 (13,824sqm)	4.12:1 (13,448sqm)

Accordingly, the applicant has submitted an objection to Clause 12A of the Botany LEP 1995 pursuant to State Environmental Planning Policy No 1 – Development Standards. The objection to the FSR control has been assessed in accordance with relevant case law and the rationale of the applicant as outlined below is generally agreed with:

1. Is the planning control in question a development standard?

The planning control in question is a development standard in the Botany Local Environmental Plan 1995.

2. What is the underlying purpose of the standard?

The Botany LEP 1995 does not contain specific objectives in respect of FSR.

However the Mascot Station Precinct DCP provides objectives relating to floor space ratios. These objectives have been identified by the applicant and addressed in detail below:

Mascot Station Precinct DCP Objectives	**Applicants Submission**
To ensure that the floor space ratios allocated to each sub-precinct provide sufficient incentive to encourage redevelopment within the MSP, within a reasonable time frame.	*"The site is located within Sub-precinct 4 of the Mascot Station Precinct, with the sub-precinct recognised as a gateway to the remainder of the precinct. The Sub-precinct is to be characterised by a pleasant pedestrian environment, with a strong visual corridor to be achieved by building design, building setbacks and landscaping. Further, the sub-precinct is to establish unity with a clear relationship to the built form abutting the precinct.* *The proposed development has been designed to make efficient use of well serviced land in close*

	proximity to Mascot Railway Station, and contribute to the ongoing redevelopment of the locality in the form of residential, retail and commercial uses, accommodated within contemporary building forms. Further, the proposed development will encourage the use of existing infrastructure, contribute to the gateway function of the locality, with a pleasant pedestrian environment and a strong visual presence, and provide appropriate incentives to stimulate the redevelopment of surrounding land."
To allocate floor space ratios to each sub-precinct which are commensurate with the permitted building heights within the MSP.	*"In general terms, the primary factors influencing the design solution include accentuating the Coward Street frontage and acknowledging the lower scale built form along John Street, maximising the number of single level apartments, and introducing some internal variation to the "central through space" created by the massing of east-west buildings between Linear Park to the east and Bourke Street to the west.* *In terms of built form, the Minutes of the Urban Design Review Panel (dated 9 April 2010) confirm that 'the 5/6 storey height of the proposed façade fronting John Street would be acceptable provided the north-south central mass is deleted or substantially reduced in height so that it does not read from John Street', and 'the height of the proposed 13 storey façade fronting Coward Street is acceptable'.* *The proposed development has maintained the 5/6 storey height of the façade fronting John Street, and the 13 storey façade fronting Coward Street.* *Further, the proposed development extends to a maximum height of RL51.00 which is comparable to the height of the TNT Building (RL48.00) located directly opposite the site on the southern side of Coward Street, and the Electrolux Building (RL51.00) located at the junction of Coward Street and O'Riordan Street."*
To ensure equity amongst potential redevelopment sites within the MSP by allowing those property owners, that are affected	*"Figure 6 of the Mascot Station Precinct Development Control Plan (DCP) depicts the widening of John Street across the frontage of the site to achieve a road reservation width of 20 metres. The proposed development makes*

by the public facility dedication provisions within this development control plan, to utilise their original site area for the purposes of determining their maximum permitted floor space ratios.	*provision for the widening of John Street across the frontage of the site to contribute to a road reservation width of 20 metres.* *Further, the mixed use development being constructed at No's 25 – 29 John Street incorporates an FSR of approximately 4.0 - 4.1:1, and that site enjoys similar proximity to Mascot Railway Station."*
To provide sufficient development incentives to compensate for the dedication of land for public facilities on identified development sites.	*"Again, Figure 6 of the Mascot Station Precinct DCP depicts the widening of John Street across the frontage of the site to achieve a road reservation width of 20 metres. The proposed development makes provision for the widening of John Street across the frontage of the site to contribute to a road reservation width of 20 metres.* *Further, the proposed development makes provision for extensive landscaping within the setbacks to Coward Street and John Street, with additional street tree planting provided along the street frontages."*

3. Is compliance with the development standard consistent with the aims of the Policy, and in particular, does the development standard tend to hinder the attainment of the objects specified in s.5(a)(i) and (ii) of the EPA Act?

The stated aims / objectives of SEPP No. 1 are:

"This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act."

The proposal represents a high quality orderly and economic use and development of the subject land that will achieve an appropriate development of the site in accordance with the current and envisaged redevelopment of the Mascot Station Precinct. In this regard, variation of the development standard is necessary in order to attain the objectives specified in s.5(a)(i) and (ii) of the EPA Act.

The applicants rationale with respect of the objectives of the SEPP 1 policy is provided in detail below:

"In Wehbe v Pittwater Council [2007] NSWLEC 827, Preston CJ identified the matters to be considered in an SEPP No.1 Objection as follows:

> *1. The applicant must satisfy the consent authority that "the objection is well founded" and compliance with the development standard is unreasonable and unnecessary in the circumstances of the case;*

2. The consent authority must be of the opinion that granting consent to the development application would be consistent with the Policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979; and

3. It is also relevant to consider:

(a) whether non-compliance with the development standard raises any matter of significance for State or regional planning; and

(b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

Preston CJ then expressed the view that there are five (5) different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the Policy:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;

The proposed development is consistent with the objectives of the FSR control as set out (within table of objectives) above.

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

The underlying objectives and purposes of the FSR control remain relevant to the proposed development, and the proposed development is consistent with the objectives of the FSR control as set out (within table of objectives) above.

3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

The proposed development is consistent with the aims and objectives of SEPP No. 1 to the extent that compliance with the FSR control would hinder the attainment of the objects of the Environmental Planning and Assessment Act 1979

The proposed development makes provision for the widening of John Street across the frontage of the site to contribute to a road reservation width of 20 metres, and makes provision for extensive landscaping within the setbacks to Coward Street and John Street, with additional street tree planting provided along the street frontages.

Further, the proposed development will encourage the use of existing infrastructure, contribute to the gateway function of the locality, with a pleasant pedestrian environment and a strong visual presence, and provide appropriate incentives to stimulate the redevelopment of surrounding land.

In the circumstances, the underlying objectives and purpose of the FSR control would be thwarted if the proposed development was not to proceed.

4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

The FSR control has not specifically been abandoned or destroyed, however there are multiple examples of similar circumstances in which the variation to the FSR control has been approved.

In particular, the mixed use development being constructed at No's 25 - 29 John Street incorporates an FSR of approximately 4.0 - 4.1:1, and that site enjoys similar proximity to Mascot Railway Station.

5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

The site is zoned 10(a) - Mixed Uses - Commercial/Residential pursuant to the Botany LEP 1995, and commercial premises and residential flat buildings are permissible in the zone with the consent of Council.

Further, the proposed development is consistent with the primary and secondary objectives of the zone, and consistent with the objectives of the FSR control as set out (within table of objectives) above."

4. Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?

It is considered that compliance with the standard is unreasonable and unnecessary in the circumstances of the case. The rationale of the applicant, provided below, is generally agreed with:

"The proposed development is consistent with the primary and secondary objectives of the zone, and consistent with the objectives of the FSR control as set out (within table of objectives) above;

The proposed development provides a significant public benefit in terms of the dedication of land to facilitate the widening of John Street;

The proposed development will encourage the use of existing infrastructure, and provide appropriate incentives to stimulate the redevelopment of surrounding land;

The proposed development will reduce motor vehicle dependency by increasing the commercial floor space and residential accommodation in close proximity to Mascot Railway Station;

There are multiple examples of similar circumstances in which the variation to the FSR control has been approved;

The mixed use development being constructed at No's 25 – 29 John Street incorporates an FSR of approximately 4.0 - 4.1:1, and that site enjoys similar proximity to Mascot Railway Station;

The proposed development will integrate with the physical form of development extending along the southern side of Coward Street and the northern side of John Street in terms of building setbacks, alignment, manipulation of building elements, and landscaping;

The proposed development extends to a maximum height of RL51.00 which is comparable to the height of the TNT Building (RL48.00) located directly

opposite the site on the southern side of Coward Street , and the Electrolux Building (RL51.00) located at the junction of Coward Street and O'Riordan Street;

The locality surrounding the site is in a state of transition, and the proposed development promotes the desired future character of the immediate surrounds as the gateway to the wider precinct, with a pleasant pedestrian environment and a strong visual presence;

The proposed development achieves a good level of internal amenity with a predominance of single level apartments;

The proposed development will not impose any significant or adverse impacts on the amenity of surrounding land in terms of overshadowing, loss of privacy or loss of views; and

The proposed development does not restrict the development potential of any surrounding land."

5. Is the objection well founded?

It is considered that the proposal is generally consistent with the underlying objectives identified in point (2) above. The SEPP 1 objection contends that compliance with the 2.5:1 FSR development standard is unreasonable and unnecessary in the circumstances of the case with respect of the aims and objectives of SEPP 1 and the relevant matters of consideration. The rationale and argument presented in the SEPP 1 submission is generally agreed with and it is recommended that the development standard relating to the maximum FSR for the site as contained within Clause 12A of the Botany LEP 1995 should be varied in the circumstances to allow the development to attain a floor space ratio of 4.24:1.

It is necessary to consider the strategic implications of the floor space ratio provision with respect of recent studies and recommendations for the Mascot Station Precinct area.

The Mascot Station Precinct DCP was adopted in December 2001. It was prepared to guide the redevelopment of Mascot Station Precinct (which is bounded by Gardeners Road, O'Riordan Street, Coward Street and Kent Road). At the centre of this precinct is the underground passenger railway station, which provided the impetus for new forms of mixed development to be introduced into this locality.

The area since 2001 has seen substantially redevelopment. It should be noted that the Mascot Station Precinct has been identified as a future town centre on Page 52 of the Draft East Subregional Strategy.

Neustein Urban together with David Lock Associates and Taylor Brammer Landscape Architects were commissioned by the City of Botany Bay in February 2010 (under Planning Reform Funding from the Department of Planning) to inform the development of the City of Botany Bay's LEP 2011. The purpose of this study was to translate recommendations of the Botany Bay Planning Strategy 2031 (BBPS), prepared by SGS Economics and Planning in 2009, into LEP Standards (FSR, height and zoning) and urban design controls for five study areas within the Botany Bay Local Government Area. These five areas were identified in order to develop LEP and urban design controls that will assist the City of Botany Bay to meet its subregional targets for housing and employment. One of the areas was the Mascot Station Precinct and its surrounds.

Neustein Urban found that there are significant opportunities for redevelopment and intensification in the Mascot Station Precinct. Situated at the gateway to Sydney's Global Economic Corridor the precinct is well served by public transport providing significant opportunities for Transit Oriented Development (TOD). The principles of TOD encourage the intensification of residential and employment uses around public transport interchanges in order to increase public transport use.

In recent years development around the Mascot Station has been of a high quality, high density residential/mixed use character. The Neustein Urban Study has indicated that there is further potential for redevelopment particularly given the larger lot sizes, and the large areas of common ownership that can support higher levels of consolidation. Given that the 2029 ANEF Contour Map has increased the area of land suitable for residential development within Precinct, subject to the S117 direction requiring compliance with AS 2021, Neustein Urban has recommended aligning the zoning with the ANEF 25 contour to maximise the residential use.

The Neustein Urban Study also examined the means by which the BBPS sought to provide for the housing and employment targets and subsequently determined that alternative means of reaching these targets needed to be devised. Like the BBPS, the Neustein Urban study found that the housing and employment targets will be substantially satisfied by development in the Mascot Town Centre. Development elsewhere will provide a useful addition to the number of dwellings and jobs in the Mascot Town Centre but these numbers will only ever be subsidiary to the Town Centre. The Neustein Urban Study found that in the long term, with 50% of sites redeveloped within the Mascot Station Precinct, this will result in an employment capacity yield of 16,926 to 21,484 jobs and a dwelling capacity of 3,300 dwellings.

Neustein Urban has recommended that detailed masterplanning be undertaken as the DCP adopted in 2001 is out of date and does not reflect its role as a Future Town Centre.

Therefore, based on the above assessment, the SEPP 1 objection is well founded and it is recommended that the variation to the Floor Space Ratio (FSR) be supported in the circumstances of the case.

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

A BASIX certificate with Certificate Number 318943M_02 dated 6 July 2010, pursuant to the provisions of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 has been submitted in accordance with the SEPP.

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

The applicant has submitted the following documentation:

- Environmental Site Screening for 214-220 Coward Street, Mascot NSW, prepared by Environmental Investigation Services, dated October 2004;
- Letter report on environmental status for 214-220 Coward Street, Mascot NSW, prepared by Environmental Investigation Services, dated July 2010;
- Preliminary Geotechnical Investigation for 214-220 Coward Street, Mascot NSW, prepared by Jeffery and Katauskas Pty Ltd, dated October 2004;
- Preliminary Geotechnical Investigation for 214-220 Coward Street, Mascot NSW, prepared by Asset Geotechnical, dated July 2010.

Council's Environmental Scientist has reviewed the documentation and raised no objection to the proposed development, subject to relevant conditions.

Subject to the recommended conditions of consent, the proposal is considered to satisfy the requirements of SEPP 55.

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

State Environmental Planning Policy No. 65 aims to improve the design quality of residential flat development in New South Wales. *Part 1, Clause 2, Sub-clause 3* of the SEPP stipulates the aims through which the policy seeks to improve the design quality of residential flat development:-

> *(a) to ensure that it contributes to the sustainable development of New South Wales:*
>
> *(i) by providing sustainable housing in social and environmental terms, and*
>
> *(ii) by being a long-term asset to its neighbourhood, and*
>
> *(iii) by achieving the urban planning policies for its regional and local contexts, and*
>
> *(b) to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
>
> *(c) to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
>
> *(d) to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
>
> *(e) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.*

The provisions of SEPP No. 65 have been considered in the assessment of the development application. The applicant has submitted a SEPP 65 assessment of the proposed development along with a design verification statement prepared by Krikis Taylor Architects, dated 30 June 2010, to verify that the plans submitted were drawn by a Registered Architect and achieve the design quality principles set out in Part 2 of SEPP No. 65.

Council's Design Review Panel has considered the proposed development prior to the lodgment of the application on two occasions, in February 2010 and March 2010. The current plans which are the subject of this assessment have addressed the concerns raised by the Design Review Panel through reduction of FSR from 4.9:1 to 4.24:1, along with various minor design changes.

In performing a detailed assessment, it is considered that the proposed development is consistent with the aims and objectives of the policy as the proposal responds to the urban context in terms of scale, bulk, materials, setbacks, security and amenity.

The ten design principles are addressed as follows:

Principle 1: Context

The site falls within the Mascot Station Precinct which has been identified for significant re-development in accordance with the Mascot Station Precinct Development Control Plan (DCP). The site is considered to be a primary gateway location for the Mascot/Sydney area. The built form context is currently undergoing significant change to become a higher density residential and commercial area focused around the Mascot Station Precinct.

Development surrounding the site consists of mixed residential and commercial development of similar height and density to that of the subject proposal. Recently constructed mixed use developments range from 6 to 11 storey heights with podium level commercial premises upon which is erected residential towers. Effectively, the proposal will fill the currently vacant land with a built form that is more contextually appropriate, adding to the active and appropriate setting for the site. On this basis, it is considered that the proposed use of the subject site for the purposes of a mixed development is consistent with its context.

Principle 2: Scale

The scale of the proposed development is similar to several of the mixed developments located in close proximity to the site. Recently constructed mixed use developments range from 6 to 11 storey heights with podium level commercial premises upon which is erected residential towers. Adjoining the subject site to the east are older industrial/warehouse buildings which are likely to be re-developed in the future.

Council's Design Review Panel has considered the proposed development prior to the lodgment of the application and provided the following comment in relation to scale: *"the height of the proposed 13 storey façade facing Coward Street is acceptable"*.

Adjoining the site to the west at No. 222-228 Coward Street is a recently constructed mixed development comprising of two buildings over a common podium, with a 6 storey elevation to the John Street frontage and an 8 storey elevation to the Coward Street frontage, and an approved overall height of RL37.915 AHD. The proposed development at No. 214-220 Coward street maintains the consistent 6 storey façade along John Street, and is appropriate in scale to the Coward Street frontage with respect of the prevailing built form.

It is noted that the previous consent for the subject site allowed for a 10 storey mixed development facing Coward Street with a 6 storey frontage to John Street. On this basis, the proposal would be contextual with both the existing and envisaged future streetscape. It is considered that the proposed architectural treatment of the development aims to fulfil the desirable future character for the locality and is specifically designed to have a strong link to the Mascot Station Precinct, given its gateway location.

Principle 3: Built Form

The development form will comprise of a defined podium element to the Coward Street frontage accommodating the ground floor commercial space and a 12 storey residential tower element extending vertically above, with the building height progressively reduced to the middle and upper levels, with the John Street frontage accommodating a 6 storey residential building. The podium and tower elements have been shaped and positioned to provide internal separation between apartments and adjoining buildings.

Council's Design Review Panel has considered the proposed development prior to the lodgment of the application. In relation to built form, the panel state the following: *"the massing of 5/6 storeys to John Street and 13 storeys to Coward Street as per the amended design would provide an appropriate street edge and be consistent with the emerging character of the streetscape".*

The building form is expressed with a defined base, middle, and upper component with curved balcony elements to the front façade, and a modern roof form that is consistent with surrounding development. The proposal comprises a built form which could be described as a contemporary rendered masonry style with added external elements to provide visual interest. Communal open space areas are provided to the ground level and mid level roof component, along with significant street tree planting to contribute to the streetscape. The overall built form is compatible with the adjacent mixed developments and the emerging character of the area as it undergoes redevelopment. The proposed modern architectural form will contribute to the public domain as a gateway location.

Principle 4: Density

Council's Design Review Panel has considered the proposed development prior to the lodgment of the application. The Design Review Panel sought amendments, notably a reduction in floor space ratio and building envelope. The current plans which are the subject of this assessment have addressed the concerns raised by the Design Review Panel through reduction of FSR from 4.9:1 to 4.24:1.

A total of a total of 127 residential units are proposed, comprising of 15 studio apartments, 1 x 1 bedroom apartment, 109 x 2 bedroom apartments, and 2 x 3 bedroom apartments, with a gross floor area of 13,824sqm. The number of units provided within the building is appropriate given that sufficient landscaping, car parking, private balconies, appropriate internal layouts, and setbacks are integrated into the design.

Principle 5: Resource, energy and water efficiency.

The location, orientation and design of the development provides for adequate solar access and cross ventilation to the majority of apartments in accordance with SEPP 65. The Residential Flat Design Code recommends that at least 60% of the proposed units shall achieve flow through ventilation with the proposal indicating 58% of proposed units able to achieve cross flow ventilation. The applicant has confirmed that all habitable spaces are adequately ventilated, as such the 2% non-compliance is reasonable.

The Residential Flat Design Code recommends that at least 70% of all proposed units and balconies shall achieve 3 hours of solar access during the period 9.00am and 3.00pm at mid-winter, with the proposal indicating that 64% of proposed units will receive at least 2 hours sunlight during mid-winter.

The applicant has provided the following justification for the non-compliance:

> *"Shadow diagrams are submitted in the submission of the application. These will show that although there is a shortage of the 3-hour minimum requirement for some units between the times mentioned, these 3 hours are achieved within half an hour off the 9am to 3pm on the east. We consider these variances reasonable."*

It should be noted that all units within the development are designed with open layouts and private balconies. A BASIX Certificate has been submitted with the application which demonstrates the development is capable of meeting thermal, energy, and water efficiency targets.

Principle 6: Landscape

A landscape plan has been submitted with the application which demonstrates that a quality landscaped setting for the proposed development will provide a reasonable level of amenity for future occupants and the adjoining properties, with street planting to enhance the streetscape. Council's Landscape Officer has reviewed the proposal and provided conditions requiring additional planting on the site. The proposed plantings consist of native species and varying sizes to provide visual interest to enhance the setting of the site. The proposed landscaping planting is commensurate with the building size and bulk; hence it is considered that the proposal is consistent with this design quality principle.

Principle 7: Amenity

All units within the building achieve a satisfactory level of amenity with regards to privacy, ventilation, and access to sunlight. The proposed design provides high levels of internal amenity to future residents, with the units ranging in size and number of bedrooms. The room dimensions and layouts are appropriate for residential use and the maximum separation distance possible for the site has been achieved for visual outlook and privacy.

Private recreational areas are provided in the form of balconies off the living areas and are supplemented by communal landscaped areas to ensure an overall quality of living for future occupants. Approximately 26.8% of the development site shall be provided with communal open space areas.

Furthermore the proposal complies with disability access requirements and incorporates sufficient service areas as required. It is considered that the development satisfies the provisions with respect to layout and amenity, accordingly, the development is considered to be consistent with this principle.

Principle 8: Safety and Security

The development provides for direct and casual surveillance to the public domain. Pedestrian and vehicular entries are clearly separated and well defined with active street frontages incorporating extensive glazing and feature lighting. Safe internal access is available from the basement car park directly into the building and the public/private domain is clearly distinguished. The proposal satisfies the requirements of Crime Prevention Through Environmental Design (CPTED) as assessed by NSW Police (Mascot Local Area Command), and conditions have been provided in this regard.

Principle 9: Social Dimensions

The development provides apartment style accommodation that is located within close proximity to public transport, recreation facilities, and shopping facilities. The subject site is located in an area earmarked for higher density mixed development as a gateway location for the Mascot Station Precinct. The applicant proposes a moderate mix of unit types, both in terms of layout and number of bedrooms which are likely to provide an appropriate style of dwelling for a variety of demographics. It is considered, on this basis, that the proposed development will add to the social mix of

the locality and provide housing which will enhance and provide for the desired future character of the area.

Principle 10: Aesthetics

Aesthetically and functionally, the development proposes quality internal and external design, having regard to built form, landscaping, setbacks, internal layouts and provision of underground parking. Particular emphasis has been placed on external appearance to enhance the streetscape and create visual interest in the architecture of the building for all elevations, along with a selection of appropriate finishes. The contemporary design of the building is compatible with the design and scale of the urban form for the Mascot Station Precinct. It is considered that rendered masonry, glazed finishes, and articulation contribute to the overall modern urban style. Therefore the proposed development is considered to be consistent with this design quality principle.

The proposal is thus considered satisfactory in addressing the matters for consideration and is consistent with the aims and objectives of the SEPP. The proposed development complies with the ten design principles that provide a basis for evaluation of residential buildings within the SEPP.

Botany Local Environmental Plan (LEP) 1995

Clause 10 – Zoning

The subject site is zoned 10(a) – Mixed Uses Commercial/Residential in accordance with clause 10 of the LEP. The proposed development, being for commercial premises and residential flats, is permissible in the 10(a) zone with the appropriate consent of Council. The primary objective of the 10(a) zone is as follows:

The primary objectives are to permit a mixture of compatible residential and non-residential activities and promote development that enhances the revitalisation of the locality.

It is considered that the proposed development, being for a mixture of compatible residential and commercial activities is consistent with this primary objective.

The secondary objectives of the zone are as follows:

(a) to permit non residential development of a type that is unlikely to impact adversely on the amenity of residents in the zone, and

(b) to encourage a range of compatible employment-generating uses in the zone, and

(c) to encourage development that provides a positive contribution to the streetscape and public domain, and

(d) to encourage energy efficiency in all forms of development in the zone, and

(e) to encourage best practice stormwater management in the zone, and

(f) to capitalise on the location of transport facilities in or near the zone.

It is considered that the proposed development is consistent with these secondary objectives. The proposal incorporates a mixed-use commercial/residential development and is considered to be suitable so as not to adversely impact on the amenity of residents within the area.

The design of the proposal contributes positively to the streetscape and public domain through a design incorporating appropriate massing, built form and landscaping to the street frontages and site boundaries. The development has been designed to achieve high energy efficiency ratings and will incorporate a number of energy conservation measures and suitable stormwater management. The location of the site is such that it is also easily accessed via road, rail and bus transport links. As stated previously the Mascot Station Precinct is well served by public transport providing significant opportunity for Transit Oriented Development (TOD).

Clause 12A – Floor space ratios – Mascot Station Precinct

The requirements of Clause 12A have been considered in the assessment of the development application. The maximum FSR permitted for the subject site is 2.5:1. The development is proposed with an FSR of 4.24:1. The applicant has submitted a SEPP 1 Objection, as discussed earlier in the report, which demonstrates that the development standard is unreasonable and unnecessary in this case, and is recommended for support.

Clause 13 & 13A – Aircraft Noise / Noise and Vibration

The site is located within the 20-25 contour on the Aircraft Noise Exposure Forecast (ANEF) chart, and is located along Coward Street which is identified by the Roads and Traffic Authority (RTA) as a classified road. As such, Clause 13 and 13A of the LEP have been considered in the assessment of the Development Application.

An Aircraft & Road Traffic Noise Report prepared by Day Design Pty Ltd, dated 1 July 2010, has been submitted with the application. Council's Health and Environmental Services Department has confirmed that compliance with the aircraft noise requirements contained in AS2021-2000, and the relevant acoustic requirements for traffic noise, can be achieved with the installation of acoustic treatment devices within the development as detailed in the report. Compliance with the measures contained in the Acoustic & Road Traffic Noise Report will be required as conditions of the development consent.

Clause 13B – Development and Obstacle Limitation Surfaces (OLS)

The subject site lies within an area defined in the schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The application exceeds this maximum height and was referred to Sydney Airports Corporation Limited (SACL) for consideration. SACL raised no objections to the proposed maximum height of 51 metres AHD, subject to conditions to be imposed on any consent.

Clause 18A – Development in mixed use zones – Mascot Station Precinct

Clause 18A requires Council not to grant consent to the carrying out of any development on land in Zone 10(a) unless it is satisfied that a number of criteria have been suitably met as follows:

(a) the development provides adequate off-street parking;

The proposed development provides 258 off-street parking spaces in accordance with the Mascot Station Precinct DCP requirements and this is considered adequate to cater for the proposed development.

(b) the development provides an efficient and safe system for the manoeuvring, loading and unloading of vehicles;

The design of the car park is such that appropriate Australian Standards are met and all vehicles can enter and exit the site in a forward direction. Vehicle access to the site is proposed via John Street, and this is considered to be the most suitable location for vehicle access to and from the development. The Traffic Impact Assessment prepared by Thompson Stanbury Associates dated July 2010 has concluded that the provision for servicing, including loading/unloading is satisfactory for the nature of the development.

(c) any goods, plant, equipment or other material will be stored in a building or wholly within the site and will be suitably screened from public view;

The waste storage areas for the development are within the basement car park area and are therefore away from public view. Plant associated with the functioning of the building has been designed to be contained in the basement car park.

(d) the development will not have an adverse impact on the surrounding road network;

A Traffic Impact Assessment prepared by Thompson Stanbury Associates dated July 2010 has been submitted to accompany the development application and this concludes that the traffic generation resultant from the development is not considered significant on the surrounding road network, and the provision for servicing, and loading/unloading are satisfactory for the nature of the development.

(e) the development will not have an adverse impact on the locality generally as a result of traffic movement, discharge of pollutants, other emissions, waste storage, hours of operation or the like.

As discussed above, traffic movements and waste storage associated with the development are considered acceptable and given the essentially residential nature of the proposed development, it is unlikely to result in significant adverse impact as to pollutant discharge, other emissions or hours of operation.

(f) the levels of noise generated from vehicles or operations associated with the development are compatible with the use to which adjoining land is put.

It is considered that the essential residential nature of the proposed development will ensure that there are no adverse impacts in the locality with respect of noise generation.

(g) the landscaping of the site is integral to the design and function of any building resulting from the development and will improve its appearance, enhance the streetscape and add to the amenity of the adjoining locality.

A landscape plan has been submitted with the application which demonstrates that a quality landscaped setting for the proposed development will provide a reasonable level of amenity for future occupants and the adjoining properties, with street planting to enhance the streetscape. Council's Landscape Architect has reviewed the proposal and provided conditions requiring additional planting on the site to further enhance the streetscape.

(h) the building height, scale and design are sympathetic with and complementary to the built form, the streetscape and the public domain in the vicinity.

The building height, scale and design of the development have been designed in accordance with the design guidelines and controls within the Mascot Station DCP and the design criteria within State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings.The scale of the proposed development is similar to several of the mixed developments located in close proximity to the site. It is considered that the proposed will complement the desired future character for the locality and is specifically designed to have a strong link to the Mascot Station Precinct, given its gateway location.

(i) the building design and finishes will not have an adverse impact on the amenity of the locality because of wind generation, overshadowing, reflections and the like.

A Wind Environment Statement prepared by Windtech Consultants dated 19 July 2010 has been submitted to demonstrate that the development will not result in adverse impact on the amenity of the locality with respect of wind generation.

Shadow diagrams have been submitted with the application which demonstrate that overshadowing arising from the development is not considered to result in adverse impact to the immediate locality, nor adjoining land or buildings.

A detailed finishes schedule has been provided to accompany the development application and this is considered to offer an acceptable result with respect of the amenity of the locality and reflection.

(j) the development will protect the visual and aural amenity of the non-industrial uses to which adjoining land is put.

The development, being for essentially residential purposes has been designed so to ensure an adequate level of visual and acoustic privacy both within and beyond the site.

(k) the land can be remediated in accordance with the provisions of the relevant environmental planning instruments.

The applicant has submitted the following documentation:

- Environmental Site Screening for 214-220 Coward Street, Mascot NSW, prepared by Environmental Investigation Services, dated October 2004;
- Letter report on environmental status for 214-220 Coward Street, Mascot NSW, prepared by Environmental Investigation Services, dated July 2010;
- Preliminary Geotechnical Investigation for 214-220 Coward Street, Mascot NSW, prepared by Jeffery and Katauskas Pty Ltd, dated October 2004;
- Preliminary Geotechnical Investigation for 214-220 Coward Street, Mascot NSW, prepared by Asset Geotechnical, dated July 2010.

Council's Environmental Scientist has reviewed the documentation and raised no objection to the proposed development with respect of contamination and remediation, subject to conditions to be imposed in any consent issued.

Clause 22 – Greenhouse, Energy Efficiency, etc.

Clause 22 of the LEP and the requirements of Council's Development Control Plan for Energy Efficiency have been considered in the assessment of the development application.

A BASIX Certificate and associated thermal comfort certificate dated 6 July 2010 have been submitted with the application indicating that the proposal meets the water saving target of 40%, energy saving target of 20%, and the thermal comfort requirements of the SEPP (BASIX) 2004. As such, the proposal is considered to adequately address the requirements of this clause.

Clause 28 – Excavation and filling of land

Clause 28 of the LEP has been considered in the assessment of the development application as the site seeks consent for excavation to a depth of approximately 0.8 metres AHD.

As the development involves works to the basement level that may transect the watertable, the proposal was referred to the Department of Environment, Climate Change and Water (DECCW) as an integrated development in accordance with the *Water Act 1912*. The NSW Office of Water (division of DECCW) issued their General Terms of Agreement on 20 September 2010. Appropriate conditions, including the General Terms of Agreement, are proposed on the consent to ensure that the excavation involved in the development will not detrimentally impact upon drainage patterns, soil stability or the development of adjoining sites in the locality to ensure compliance with clause 28.

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

The site is located within a Class 2 Acid Sulfate Soil Area. As such under Clause 30A of the Botany LEP 1995 any works that are below ground surface and works by which the watertable is to be lowered require the submission of an acid sulfate soils management plan.

The laboratory results specified in the Environmental Site Screening Report identified a need to prepare an acid sulfate soils management plan. The development application did not contain an acid sulfate soils management plan and, as such, a condition is proposed requiring its submission prior to issue of the Construction Certificate.

Clause 38 – Water, wastewater and stormwater systems

The provisions of clause 38 have been considered in the assessment of the development application. Council must not grant consent to the carrying out of development as follows;

> *(i) on land or subdivision of land to which this plan applies for the purpose of a habitable building unless it is satisfied that adequate water and sewerage services will be available to the land it is proposed to develop;*
>
> *(ii) on land or subdivision of land to which this plan applies for the purpose of a habitable building unless it is satisfied that adequate provision has been made for the disposal of stormwater from the land it is proposed to develop.*

The application was referred to Sydney Water with regard to water supply and wastewater. Correspondence received from Sydney Water dated 7 September 2010 provides recommendations to be attached to any consent issued.

Concept stormwater plans were submitted with the application, which have been reviewed by Council's Development Engineer. Council's Engineer has provided

conditions of consent with regard to the provision of stormwater drainage for the development.

Mascot Station Precinct Development Control Plan (DCP)

The subject site is contained within Precinct No. 4 under the DCP. The following is an assessment of the application against the provisions of the DCP:

Requirement	Comment	Complies
C13 Demonstrate no potential sterilisation of land	The location and nature of the proposed development site is that it will still permit the appropriate development of adjoining sites.	Yes
C14 Floor Space Ratio Max – 2.5:1	The application proposes an FSR of 4.24:1. This exceeds the maximum permitted and the applicant has submitted an objection to the development standard in accordance with SEPP 1. The variation is supported in this case, as discussed in detail in the sections above.	**No – Refer to SEPP 1 Objection to Clause 12A of Botany LEP within this report.**
C15 Public Facility Dedications	As the site is affected by public facility dedication, the original site area (inclusive of the land required for the John Street widening) has been utilised for the purposes of determining floor space ratio.	Yes
C16 Maximum Building Height = 7 storeys	A building height of 13 storeys is proposed to the Coward Street frontage and 6 storeys proposed to the John Street frontage.	**No – See Note 1**
C18 Airport related building heights – buildings over 15.24 metres in height shall be referred to FAC	Sydney Airports have provided approval for the building to a maximum height of 51 metres AHD, subject to conditions of consent.	Yes
C23 Maximum site coverage = 55%	The development proposes a site coverage of 59%.	**No – See Note 2**
C25 Minimum apartment sizes Studios 60m^2 1 bedroom 75 m^2 2 bedrooms 100m^2 3 bedrooms 130m^2	All units within development comply with, or exceed, the specified minimum unit sizes. Proposed minimum apartment sizes are as follows: Studios 65m^2 1 bedroom 88 m^2 2 bedrooms 100 m^2 3 bedrooms 131 m^2	Yes

Requirement	Comment	Complies
C26 Unit mix - maximum 25% studio/one bedroom apartments	Studio/One bedroom = 16 units (12.6%) Two bedrooms = 109 units (85.8%) Three bedrooms = 2 units (1.6%)	Yes
C26A The minimum internal widths are as follows: Cross over units: 4m (excluding garage) Single level unit/dwelling: 6m excluding garage	The minimum width of the single level units are 5.3 – 10.8 metres.	**No – See Note 3**
C26B Facilities to be provided in a convenient location within the apartment and built appropriate to the function and use of the apartment	Laundry, food preparation, and sanitary facilities have been designed so that they are in a convenient location	Yes
C26C and D Floor to ceiling tiles	Will be conditioned to comply.	Yes
C26E and F Building Separation *Up to 4 storeys:* • 12 metres between habitable rooms/balconies; • 9 metres between habitable/balconies and non-habitable rooms; and • 6 metres between non-habitable rooms. *5 – 8 storeys:* • 18 metres between habitable rooms/balconies; • 13 metres	*Up to 4 storeys:* Minimum building separation of 16.5 – 19.5 metres between the buildings fronting Coward Street and John Street. Separation of 12-15.5 metres between balconies of proposed development and adjoining development at No. 222-228 Coward Street. *5 – 8 storeys:* Minimum19.5 metres separation for level 5 and above, between the buildings fronting Coward Street and John Street. Level 6 includes west facing Unit No. 601 with a balcony setback 6.5 metres to living room window at No. 222-228 Coward Street and west facing living room windows to Unit No. 606 setback	**No – See Note 4 & Conditions of Consent**

Requirement	Comment	Complies
between habitable rooms/balconies and non-habitable rooms; and • 9 metres between non-habitable rooms.	15.5 metres to balcony at No. 222-228 Coward Street. Level 7 includes west facing Unit No. 701 with a balcony setback 7 metres to living room window at No. 222-228 Coward Street and west facing balcony to Unit No. 706 setback 14.5 metres to living room window at No. 222-228 Coward Street.	
C27 – C31 Submission of concept landscape plans, landscaping requirements, paving, trees and street trees	A construction landscape plan has been submitted to accompany the development application and this has been reviewed by Council's Landscape Architect and is considered acceptable, subject to relevant conditions.	Yes
C32 Communal open space = 20% of development site and 25% of this area shall be deep soil planting.	The proposal incorporates 352m² of communal open space at ground floor level and 171m² of communal open space at roof top level. Amended plans will be requested prior to the issue of the Construction Certificate to the effect that the communal open space at the level 6 roof level shall be extended to the building alignment to the east and west boundaries, to be embellished with useable outdoor recreational features, which will bring the total area of communal open space at level 6 to approximately 450sqm. Altogether, communal open space will comprise 802sqm or 26.8% of the development site, which exceeds the requirements of this control. Approximately 365sqm shall be provided as deep soil planting, which equates to 45% of the communal open space area.	**Yes, subject to condition**
C33 Private open space= 12m^2/unit with minimum 3 metre width	All proposed units are provided with a balcony/terrace which exceed the minimum 12m^2 requirement and have a minimum depth of 3 metres.	Yes
C34	The proposed setbacks to the walls of	**No – See**

Requirement	Comment	Complies
Landscaped Setback Coward Street - 6m John Street - 3m	the development are: Coward Street – 6 metres John Street – 3 metres The basement level car parking extends beyond the building footprint, along with some encroachments of balconies and awnings.	**Note 5**
C34A – underground parking is to be configured to allow for deep soil zones – parking to be provided under the building footprint only	The basement level car parking has been configured to allow for 292.62sqm for the provision of deep soil zones to both street frontages.	Yes
C34B – underground stormwater tanks not to be located within landscaped areas	The stormwater detention basin is located below the building footprint along the John Street boundary, directly under the driveway and paved area.	Yes
C35 Landscape setback to Coward Street design to comprise 50% lawn and 50% plantings	The Coward Street setback to the development will comprise an appropriate combination of lawn and plantings, with street trees proposed to the adjacent road reserve.	Yes
C38 Compliance with Landscape DCP	Construction landscape plans have been submitted to accompany the development application and these have been reviewed by Council's Landscape Architect and are considered to be acceptable.	Yes
C39 Road widening	The development has been designed to incorporate the required road widening to John Street. The consent will be conditioned to require the road widening works to form the subject of a further development application to Council.	Yes
C40 Finished ground levels	Council's Engineering Services Department have raised no objection to the finished ground levels proposed within the development. Relevant conditions are proposed to ensure that the road reserve and	Yes

Requirement	Comment	Complies
	internal site levels are built in accordance with Council's road design levels.	
C44 Compliance with Energy Efficiency DCP	A BASIX Certificate and associated thermal comfort certificate have been submitted with the application. The development satisfies the solar amenity controls with respect of solar access to adjoining properties. A detailed assessment in accordance with the solar access planning principles is provided under Note 6.	**Yes – See Note 6**
C45 Maximum building depth -18 metres	The proposed units have a maximum depth of 14.5 – 15.1 metres (exclusive of any balcony space) with the exception of 16 units within the central portion of the building which have maximum depths of 19 – 20.2 metres.	**No – See Note 7**
C46 Cross ventilation	The DCP requires for 25% of the floor areas of the development to achieve cross ventilation. The Residential Flat Design Code recommends that at least 60% of the proposed units shall achieve flow through ventilation. The proposal indicates 58% of proposed units are able to achieve cross flow ventilation. The applicant has confirmed that all habitable spaces are adequately ventilated, as such the 2% non-compliance is reasonable, and the provision maintains compliance with the Mascot DCP.	Yes
C47 Wind control	A Wind Environment Assessment prepared by an appropriate wind consultant has been submitted to accompany the development application and is considered satisfactory.	Yes
C48 Aircraft Noise	The development site is located within the 20 – 25 ANEF contour. An Aircraft Noise Assessment has been submitted to accompany the development application and it is recommended that the consent be conditioned to require compliance with the recommendations made	Yes

Requirement	Comment	Complies
	within this assessment.	
C49 Road traffic noise	An acoustic report has been submitted to accompany the development application in relation to aircraft and road traffic noise. It is recommended that the consent be conditioned to require compliance with the recommendation within this report to ensure noise impacts in accordance with relevant standards.	Yes
C50 Internal noise transmission to comply with BCA	The consent is proposed to be conditioned to require compliance with the BCA.	Yes
C51 Contamination	The applicant has submitted the following documentation: • Environmental Site Screening for 214-220 Coward Street, Mascot NSW, prepared by Environmental Investigation Services, dated October 2004; • Letter report on environmental status for 214-220 Coward Street, Mascot NSW, prepared by Environmental Investigation Services, dated July 2010; • Preliminary Geotechnical Investigation for 214-220 Coward Street, Mascot NSW, prepared by Jeffery and Katauskas Pty Ltd, dated October 2004; • Preliminary Geotechnical Investigation for 214-220 Coward Street, Mascot NSW, prepared by Asset Geotechnical, dated July 2010. Council's Environmental Scientist has reviewed the documentation and raised no objection to the proposed development, subject to conditions to be imposed in any consent issued.	Yes
C54 Acid Sulfate Soils	The site is located within a Class 2 Acid Sulfate Soil Area and a condition is proposed requiring the submission of an Acid Sulfate Soils Assessment and Management Plan prior to issue of a Construction Certificate.	Yes

Requirement	Comment	Complies
C55 Groundwater requirements	The Department of Environment, Climate Change, and Water (DECCW) has granted concurrence to the proposed development subject to General Terms of Agreement issued to Council on 20 September 2010.	Yes
C56/57/58/C62 Carparking: 1 space – studios/1 bed 2 space – 2 bed/3 bed 1 visitor space/7 units 1 space/60m^2 commercial Traffic study may be required.	In accordance with the DCP, car parking is required at the following rates for the proposed development: • 1 space per studio / 1 bedroom units = 16 spaces required • 2 spaces per 2 and 3 bedroom units = 218 spaces required • 1 space / 60sqm commercial floor space = 6 spaces required • 2 car wash bays per development site • 1 visitor space per 7 dwellings = 18 spaces required The development thus requires a total of 262 car parking spaces. The proposed development provides car parking for a total of 258 vehicles over three basement levels inclusive of 3 disabled car spaces, which presents as a minor shortfall of 4 spaces (proposed to be deducted from visitors parking spaces), giving rise to a total of 14 visitor car spaces. A Traffic Impact Assessment prepared by Thompson Stanbury Associates dated July 2010 has been submitted to accompany the development application which concludes that the car parking provision is acceptable Council's Engineers have raised no objection to the proposal subject to conditions.	**No – See Note 8**
C63/C64/65	Off street parking is located via a	Yes

Requirement	Comment	Complies
Internal vehicular access/design of parking areas	single point of access from the secondary frontage to John Street via a combined ingress/egress driveway of 6 metres wide. Off-street car parking is located within basement levels B1, B2, and B3, and will not be visible from a public space. Council's Engineers have raised no objection to the proposed development with respect to vehicular access arrangements and parking module design.	
C69-72 Loading/Unloading facilities, location/aesthetics	Loading / unloading is expected to be undertaken by courier / passenger vehicles / vans, which are to utilise the visitor car parking spaces or allocated commercial car parking spaces located with the basement car parking.	Yes
C76 Facade composition	The facades within the development make use of appropriate urban design principles as outlined within the DCP.	Yes
C77 Balcony design	Balconies within the development are functional for their intended purposes and are capable of providing appropriate table/chair settings. Balconies to the Coward Street primary frontage are a combination of curved elements varying in length and depth so to articulate the building facades, whilst internal balconies feature varying depths to provide articulation and off-set private open space areas.	Yes
C78 Materials	A materials sample board has been submitted to accompany the development application. The design of the development is such that it incorporates a combination of contrasting materials and elements so to provide visual interest to the buildings.	Yes
C79 Entries	The entrance into the development has been designed so to be clearly identifiable from the street yet integrated into the overall appearance of the development.	Yes

Requirement	Comment	Complies
C80 Integration of rooftop elements	No rooftop plant/equipment is proposed.	Yes
C81 Rooftop recreation areas	Proposed communal open space area to level 6 roof top to be provided with landscaping and appropriate shelter to encourage their usage. The siting and setback of the level 6 roof terrace is not considered to generate privacy impacts on adjoining development.	Yes
C82-C88 Crime prevention	Appropriate crime prevention design elements have been included as part of the overall development, which include natural surveillance opportunities, lighting, defined public/private spaces, and space management / maintenance. The proposed development has been referred to Mascot Police Local Command Area for detailed assessment against Crime Prevention Through Environmental Design (CPTED) principles, with their comments and recommendations to be incorporated into the consent.	Yes
C92 - 97 Accessibility- Separation of uses/active street fronts	Separate entrances are proposed to residential and non-residential uses located at ground floor level. Pedestrians enter the site from Coward Street and John Street via paths that are separate from the vehicle entry point. Vehicular access is provided solely from the secondary street with the lowest traffic volume – John Street. A Disability Access Report prepared by Lindsay Perry dated 22 July 2010, has been submitted with the development which provides an assessment against the Building Code of Australia 2010, the Disability Discrimination Act 1992, and Botany Council's Access Development	Yes

Requirement	Comment	Complies
	Control Plan. Compliance with the recommendations outlined in the report will be required as a condition of consent.	
C98 - 104 Services	**Underground Cabling** – the consent will be conditioned to require that cabling be provided underground in accordance with relevant energy providers. **Electricity** – Energy Australia raised no objection to the proposed development, and has requested a condition that a sub-station be provided within the premises. This will be required as a condition of consent. **Water and sewerage** – Sydney Water raised no objection to the proposed development, and has requested an upsized drinking water main, and construction of a wastewater main. This will be required as a condition of consent. **Stormwater –** Councils Development Engineers have reviewed the proposal and raise no objection subject to conditions. **Fire Hydrants –** shall be provided and the development shall be appropriately conditioned. **Waste Management –** Garbage collection areas are proposed from John Street. The consent will be conditioned to provide a plan of Management for Waste.	Yes
C105- C107 Other controls	**Fencing** – No fencing is proposed along the front façade to Coward Street. Rear pre-finished palisade fencing to John Street is proposed to assist with privacy and noise attenuation for residential units. **Signage** – No signage is proposed and the development shall be	Yes

Requirement	Comment	Complies
	appropriately conditioned to ensure a comprehensive signage strategy is proposed separately for the development **Storage** – Appropriate storage areas have been provided for all units within the development, both within the units themselves and in the basement areas of the development	

Non-Compliances

Note 1: Maximum Building Height

The maximum building height as required under the DCP for the subject site is 7 storeys. A building height of 13 storeys is proposed to the Coward Street frontage and 6 storeys proposed to the John Street frontage.

The applicant has provided the following justification for the height variation:

> *"The maximum permitted height of 7 storeys is achieved on majority of the development's site area. Although the south portion of the proposed development is over the permitted height, the scale responds to Coward Street's commercial context within the precinct. In addition, the proposal's building height satisfy SACL requirements."*

The panel is asked to note that SACL is not a planning body but a referral body for matters of a technical nature.

Council's Design Review Panel has considered the proposed development prior to the lodgment of the application and provided the following comments in relation to scale and built form:

> *"the height of the proposed 13 storey façade facing Coward Street is acceptable… the massing of 5/6 storeys to John Street and 13 storeys to Coward Street as per the amended design would provide an appropriate street edge and be consistent with the emerging character of the streetscape".*

The development form will comprise of a 13 storey building with frontage to Coward Street comprising a defined podium element accommodating ground floor commercial space and a residential tower element extending vertically above. The building height is progressively reduced to the middle and upper levels, with the John Street frontage accommodating a 6 storey residential building.

The AHD height of the 13 storey part is RL 51.The building height has been designed to provide an appropriate visual relationship and transition in line with the existing developments along the streetscape. Directly opposite the site at No. 197 Coward Street (TNT) is built to approximate height RL 48 AHD, with the mixed development at No. 163 O'Riordan Street (Electrolux) at the corner of Coward Street and O'Riordan Street built to approximate height RL 51 AHD.

Adjoining the site to the west at No. 222-228 Coward Street is a recently constructed mixed development comprising of two buildings over a common podium, with a 6 storey elevation to the John Street frontage and an 8 storey elevation to the Coward Street frontage, and an approved overall height of RL37.915 AHD. The proposed development at No. 214-220 Coward Street maintains the consistent 6 storey façade along John Street, and is appropriate in scale to the Coward Street frontage with respect of the prevailing built form.

Further to the west is a recently constructed mixed development at No. 25 John Street as approved to height RL 45.9 AHD, with an 11 storey façade to Coward Street and a 7 storey façade to John Street.

The non-compliance to the building height is contained to the Coward Street frontage only, with the John Street frontage proposing a height of 6 storeys which is below the maximum requirement. The proposed design seeks to maintain an appropriate scale to the street level through the ground level podium structure accommodating the commercial space being the predominant visual element, with the residential tower presenting as a continuation of the prevailing built form along Coward Street providing a focal link to the Mascot Station Precinct.

Mascot DCP part 3.11 states that *'the existing low scale development of the MSP… suggests that the area is underdeveloped in terms of the opportunities presented by the recent completion of the Mascot Station.'* The DCP further outlines the overall objectives and urban strategy under Part 4, with the future character of the Sub-precinct 4 - Coward Street, identified as follows:

> *Future development is to partially reflect the theme of development located south of Coward Street. The built form and public domain is to be designed to create a pleasant pedestrian environment and a strong visual corridor. This is to be achieved by building design, appropriate building setbacks, and landscaping.*

It is important to note above that future development is to reflect development south of Coward Street. Representative of this character are the "Electrolux" and "TNT" buildings, which project heights to Coward Street of RL 48 AHD and RL 51 AHD, significantly adding to the strong visual corridor. The proposed development will thus fulfil the underlying objective and urban strategy of the DCP by virtue of its proposed height and primary gateway location.

The podium and tower elements have been shaped and positioned to provide internal separation between apartments and adjoining buildings to ensure amenity is achieved. The proposed height and overall built form is compatible with the adjacent mixed developments and the emerging character of the area as it undergoes redevelopment.

Furthermore, the proposal does not result in any unreasonable view impact to adjoining properties as the site to the south of Coward Street is commercial development, the site to the east is a vacant industrial building, and the mixed development to the west at No. 222-228 Coward Street does not currently receive significant views across the development site.

Accordingly, it is recommended to the JRPP that the proposed building height in the stepped configuration be supported in this instance.

Note 2: Site Coverage

The maximum site coverage as required under the DCP for the subject site is 55% of the total site area. The development proposes a site coverage of 59%, which represents a non-compliance of 4%.

The applicant has provided the following justification for the site coverage variation:

> *"The proposed development has a site coverage of approximately 59% of the site area (excluding the basement level car parking), and provision has been made for an appropriate quantum of communal open space, with the communal open space and setbacks to Coward Street and John Street accommodating a combination of landscaping and paving, with additional landscaping provided along the street frontages."*

The proposed site coverage variation is considered minor in nature and does not detract from the sites ability to maintain adequate open spaces and consistent setbacks to adjoining properties. The development will result in ample communal open space to be consolidated, appropriately configured and sited to achieve the primary function, being to provide amenity in the form of landscape design, daylight and ventilation access to apartments, and opportunities for recreation and social activities. The rationale of the applicant is generally agreed with, and the variation is considered appropriate in this context.

Note 3: Internal Unit Width

The internal unit width as required under the DCP for single level units is 6 metres. The development proposes single level unit minimal unit widths of 5.3 – 10.8 metres.

The applicant has provided the following justification for the internal unit widths:

> *"Minimum internal widths: Single level unit: 5.3 - 10.8 metres, with the narrower apartments (less than 12.6%) complying with the requirements of the RFDC and DCP No. 35."*

As indicated above, whilst the proposal does not meet the DCP requirement, the development does in fact comply with SEPP 65 as the minimum internal unit width required in the Residential Flat Design Code for apartments over 15 metres deep is 4 metres. The proposal is thus considered satisfactory in this regard.

Note 4: Building Separation

The development proposes building separation up to 4 storeys of 16.5 metres rising to 19.5 metres between the building components that front Coward Street and John Street, and building separation of 12 metres rising to 15.5 metres between balconies of proposed development and adjoining development at No. 222-228 Coward Street.

For levels 5 and above, a building separation of 19.5 metres is proposed between the building components that front Coward Street and John Street. The building separation to the adjoining development at No. 222-228 Coward Street which is to the west is non-compliant for Levels 6 and 7 and are related to the following areas:

Level 6 includes west facing Unit No. 601 with a balcony setback 6.5 metres to living room window at No. 222-228 Coward Street and west facing living room windows to Unit No. 606 setback 15.5 metres to balcony at No. 222-228 Coward Street.

Level 7 includes west facing Unit No. 701 with a balcony setback 7 metres to living room window at No. 222-228 Coward Street and west facing balcony to Unit No. 706 setback 14.5 metres to living room window at No. 222-228 Coward Street.

The applicant has provided the following justification for the building separation:

> *"Minimum building separation distance of approximately 19.7 metres between the buildings fronting Cowards Street and John Street, with the internal separation through the central portion of the site controlled by the arrangement of openings and/or fixed privacy screens."*

With respect of the west facing balconies on Levels 6 and 7, pertaining to Units 601 and 701, these are provided with privacy screening along the west elevation to ensure privacy of occupants.

In relation to the building separation to the recessed part of the development, relating to Level 6 Unit 606 and Level 7 Unit 706, it is recommended as a condition of consent that the setback be increased to 18 metres by virtue that opportunity exists to do so, to ensure compliance with Councils DCP and the Residential Flat Design Code. This is considered satisfactory in addressing this matter.

It is also noted within the Residential Flat Design Code that a development may:

> *"Coordinate building separation controls with side and rear setback controls. For example in a suburban area where a strong rhythm has been established between buildings, smaller building separations may be appropriate."*

In this regard, the proposed development has clearly coordinated the setbacks with that of adjoining and similar developments within the immediate vicinity, as such, the resulting separations are considered both adequate and appropriate for the area. The development will allow for adequate solar access and ventilation whilst maintaining privacy between dwellings.

Note 5: Setbacks

The building setbacks as required under the DCP for the subject site are 6 metres to the primary frontage Coward Street, and 3 metres to John Street and side setbacks. The basement level which is wholly below finished ground level protrudes beyond the building footprint extending to the east, west, and south boundaries, with a 2.5 metre setback to the John Street boundary. The walls to the building comply with the required setbacks with the exception of balconies/awnings to the Coward Street and John Street frontages, and nil east and west side setbacks to the podium element only.

The applicant has provided the following justification for the setback variation:

> *"The proposed development provides a 6 metre setback to Coward Street, and 3 metres to the realigned boundary along John Street, with a minor protrusion of an entry stairwell. The side boundary setbacks vary from 3 - 11 metres, with the exception of portions of the podium elements at the ground and first floor levels. The setbacks are generally designed to provide a distinctive base to the building and correspond with the alignment of the adjoining development to the west."*

The applicant further states with respect of the basement car parking structure:

> *"The basement level car park is to be configured to parking extends beyond the building footprint to minimise the depth of excavation necessary to*

accommodate an appropriate provision of car parking. Irrespective, the proposed development makes provision for deep soil landscaping in raised platforms above the basement structure. Further, extensive landscaping is proposed within the setbacks to Coward Street and John Street, with additional street tree planting within the adjacent road reserve."

Identical setback provisions to basement level carparking structures have been consistently applied with recent developments within the Mascot Station Precinct due to site constraints resulting from groundwater conditions.

The minor encroachments pertaining to architectural elements are necessary to provide articulation to the building facade. These elements are open in nature, being balconies and awnings, and therefore do not contribute to building bulk or scale. The podium level nil side setbacks are consistent with that of surrounding development and is considered appropriate given the high urban density context, which is desirable for the purpose of defining and restricting access points for the purposes of security and space management.

Furthermore the podium level presents as a focal point to the Coward Street frontage, by providing an active street front and contributing to the urban character of the Mascot Station Precinct. In this regard, the proposed setbacks are considered appropriate and satisfy the requirements of the DCP.

Note 6: Solar Access

In accordance with Council's Energy Efficiency DCP, the minimum amount of direct solar access to the solar collectors of adjoining property shall not be less than 2 hours between 9am to 3pm on 21 June. The submitted shadow diagrams demonstrate that the proposal complies with relation to adjoining properties solar access.

Detailed assessment is provided against the Land and Environment Court planning principle on the impact on solar access of neighbours (Parsonage V Ku-ring-gai (2004) NSWLEC 347) and (The Benevolent Society V Waverly Council (2010) NSWLEC 1082) as follows:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed). At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: The site is located within the Mascot Station Precinct, identified as a high density mixed use commercial/residential area and accordingly, it is unreasonable to expect that adjoining properties will retain existing sunlight. To the west of the subject site at No. 222-228 Coward Street is an 8 storey mixed development, and to the east of the subject site at No. 210 Coward Street is a vacant industrial building. Opposite the site at No. 197 Coward Street is a commercial development. Shadow diagrams have been submitted which indicate that the adjoining mixed development to the west at No. 222-228 Coward Street will continue to receive a minimum of 2 hours sunlight during winter solstice.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may*

be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.

Comment: The proposal is of quality design and is appropriate in context given the primary location within the Mascot Station Precinct. The design is optimal for the subject site, as demonstrated by the similar design previously approved under DA07/371, in which a similar level of solar access and amenity is achieved.

- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*

Comment: As submitted on the aerial perspective shadow analysis, the east facing openings to adjoining property No. 222-228 Coward Street will achieve a minimum of 2 hours sunlight between 9am-3pm during winter solstice. The level of solar access to these areas is considered proportionate to the level of glazed area.

- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

Comment: The private open space areas to the adjoining property No. 222-228 Coward Street are limited to balconies and private courtyards. As submitted on the aerial perspective shadow analysis, the east facing openings to adjoining property No. 222-228 Coward Street will achieve a minimum of 2 hours sunlight between 9am-3pm during winter solstice. However it is noted the ground levels to No. 222-228 Coward Street are currently affected by its own overshadow, and this is not exacerbated by the proposed development.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comment: Overshadowing from fencing, roof overhang, and vegetation have been taken into consideration. Given the high density locality and large nature of the developments, impacts from fencing and the like are minimal.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as existing development.*

Comment*:* The area is a high-density locality currently undergoing significant re-development centred around Mascot train station. The adjoining property to the west is a recently constructed mixed development and the adjoining site to the east

is likely to be developed in a similar manner in accordance with the current zoning 10(a) mixed use commercial/residential under the Botany LEP 1995.

Note 7: Unit Depth

The DCP allows for a maximum unit depth of 18 metres. The proposed units have a maximum depth of 14.5 – 15.1 metres (exclusive of any balcony space) with the exception of 16 units within the central portion of the building which have maximum depths of 19 – 20.2 metres. The non-compliance is limited to 12.5% of the total number of units and does not exceed 2.2 metres. It is considered that adequate natural ventilation and sunlight access is achieved, and the numerical variation is acceptable in this instance.

Note 8: Car Parking

In accordance with the DCP, car parking is required at the following rates for the proposed development:

Car Parking Rates	**Required**	**Proposed**
1 space per studio and 1 bedroom units	16 spaces	16 spaces
2 spaces per 2 and 3 bedroom units	222 spaces	222 spaces
1 space / 60sqm commercial floor space	6 spaces	6 spaces
1 visitor space per 7 dwellings	18 spaces	14 spaces (Note: this includes provision for parking for those persons with a disability)
TOTAL	**262**	**258**
	+ 2 car wash bays	+ 2 car wash bays

A Traffic Impact Assessment prepared by Thompson Stanbury Associates dated July 2010 has been submitted to accompany the development application, and provides the following assessment:

> *"Based on the provisions of the Mascot Station DCP, the proposed development requires 262 off-street parking spaces including 2 vehicle wash bays. With a total of 258 off-street spaces proposed, the subject development provides a minor shortfall in parking with reference to the Mascot Station Precinct DCP. It is however reiterated that the DCP states that 'consideration will be given to a reduction in visitor parking for developments containing greater than a total of 55 dwellings'. It is therefore proposed that the minor parking shortfall of 4 spaces (or less than 2% of the site wide parking provision) will be confined to the visitor parking area. In this regard, the abovementioned primary DCP commercial and resident parking requirements will be suitably accorded with.*

In any case, we note that the proposed site wide parking provision complies with the recommendations of the Roads & Traffic Authority as provided within its Guide to Traffic Generating Developments for high density residential developments provided within sub regional centres. Further, a reduced parking provision suitably accords with the objectives of SEPP 66 which aims to reduced private car ownership by reducing on-site parking within mixed use developments located within close proximity to public transport facilities. In consideration of this and the previous discussion in relation to Council's DCP requirements, the proposed parking provision is considered to be satisfactory."

The rationale of the Traffic Engineer is generally agreed with. The minor shortfall of 4 spaces is considered nominal given the overall provision of car parking, and the development is considered satisfactory in this regard.

Aircraft Noise Development Control Plan

The requirements of the Aircraft Noise DCP have been considered in the assessment of the Development Application as the site is located within the 20-25 contour on the Aircraft Noise Exposure Forecast (ANEF) chart.

An Aircraft & Road Traffic Noise Report prepared by Day Design Pty Ltd, dated 1 July 2010 has been submitted with the application. Council's Health and Environmental Services Department has confirmed that compliance with the aircraft noise requirements contained in AS2021-2000 can be achieved with the installation of acoustic treatment devices within the development as detailed in the report. Compliance with the measures contained in the Acoustic & Road Traffic Noise Report will be required as conditions of the development consent.

Access Development Control Plan

Car parking has been provided at a rate of 1 space per 100 spaces in accordance with the DCP requirements. A Disability Access Report prepared by Lindsay Perry dated 22 July 2010, has been submitted with the development which provides an assessment against the Building Code of Australia 2010, the Disability Discrimination Act 1992, and Botany Council's Access Development Control Plan. Compliance with the recommendations outlined in the report will be required as a condition of consent.

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

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

(c) The suitability of the site for the development.

These matters have been considered in the assessment of the development application. The site is not known to be affected by any site constraints or other natural hazards likely to have a significant adverse impact on the proposed development. Groundwater issues have been addressed in the development application submission and the Department of Environment, Climate Change, and Water have raised no objection to the development in this respect. Contamination issues have also been

addressed in the development application submission. Accordingly, the site is considered suitable to accommodate the proposed development.

The proposed development, being for construction of a new mixed-use multi-unit residential/commercial development to a site located within the 10(a) Mixed Uses Commercial/Residential zone, is considered a suitable development in the context of the site and locality.

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

These matters have been considered in the assessment of the development application. In accordance with Council's Notification Policy (Development Control Plan No. 24), the development application was notified to surrounding property owners and occupants, advertised in the local newspaper and a notice erected upon the subject site from the 10 August 2010 to 10 September 2010. No submissions were received in response to the notification/advertisement of the proposal.

(e) The public interest.

These matters have been considered in the assessment of the development application. It is considered that approval of the proposed development will have no significant adverse impacts on the public interest.

Other Matters

External Referrals

Department of Environment, Climate Change, and Water

The application is Integrated Development in accordance with Part 5 of the *Water Act 1912* as the development involves a temporary construction dewatering activity. As such the application was referred to the Department of Environment, Climate Change, and Water. The application was notified and advertised for a 30 day period from 10 August 2010 to 10 September 2010 in accordance with the legislative requirements for Integrated Development. The Department issued their General Terms of Agreement on 20 September 2010.

Sydney Airports Corporation Limited (SACL)

The subject site lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. Correspondence received from Sydney Airports Corporation Limited (SACL) dated 12 October 2010 approved the maximum height of the building to 51 metres AHD. A condition is proposed on the consent providing the height restrictions.

Energy Australia

Correspondence received from Energy Australia dated 24 August 2010 raised no objection to the proposed development, and has requested a condition of consent that an electricity substation be provided. This will be required as a condition of consent.

Sydney Water

Correspondence received from Sydney Water dated 7 September 2010 raised no objection to the proposed development, and has requested an upsized drinking water main, and construction of a wastewater main. This will be required as a condition of consent.

Roads & Traffic Authority

Correspondence received from Roads & Traffic Authority dated 13 September 2010 raised no objection to the proposed development, subject to recommendations, which will be required as conditions of consent.

Mascot Police Local Area Command

Correspondence received from Mascot Police Local Area Command dated 1 November 2010 raised no objection to the proposed development, subject to recommendations, which will be required as conditions of consent.

NSW Fire Brigade

No response received from NSW Fire Brigade.

Internal Referrals

The development application was referred to relevant internal departments within Council, including the Traffic Engineer, Development Engineer, Landscape Officer, Environmental Officer, and Health Officer for comment and the relevant conditions have been inserted into the recommendation.

Voluntary Planning Agreement (VPA)

The applicant agreed to enter into a Voluntary Planning Agreement (VPA) with Botany Bay City Council on 7th December 2010, for the purpose of carrying out works in kind with no draw down on the Section 94 Contributions for the road widening works to John Street and any street improvements to the Coward Street frontage adjacent to the property. The details of the VPA are to form the subject of a separate development application to Council.

Section 94 Contributions

At Council Development Committee on 6 May 2009, Council was advised of the changes made to the Section 94 Contributions imposed by the State Government. The Minister for Planning issued a Section 94E Direction on 23 January 2009, which capped levies for residential development and residential subdivision to $20,000.00. Council responded to the Direction by passing a resolution on the 18 March 2009 to comply with the cap. Therefore based on the cap the Section 94 Contributions may be applied to the 127 residential units.

As such, the calculations are as follows:

- 127 units @ $20,000.00 each = $2,540,000.00

The Section 94 Contributions for the commercial component (333m^2) of the proposed development is not included in the above Directive and as such is subject to Council's Section 94 Contributions Plan 2005-2010 and Section 94 Contributions Plan – Mascot Station Precinct.

As such, the calculations are as follows:

Section 94 Contributions Plan 2005-2010:

- Community Facilities $3,885.00
- Administration $630.00
- Shopping Centre Improvements $2,820.00
- Open Space & Recreation $3,810.00
- Drainage $69,067.98

Total $80,212.98

Section 94 Contributions Plan – Mascot Station Precinct:

- Public Road Land Dedications $19,135.00

Therefore a total Section 94 Contribution of **$2,639,347.98** is required to be paid to Council prior to the issue of the Construction Certificate as conditioned under this consent.

Conclusion

Development Application No. 10/314 for construction of a 13 storey mixed residential and commercial building comprising 127 residential units, 2 ground floor commercial tenancies, and basement level car parking for 258 vehicles, has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* and the *Botany Local Environmental Plan 1995* and it is recommended that the application be granted consent.

RECOMMENDATION

In view of the preceding comments, it is RECOMMENDED that the Joint Regional Planning Panel (JRPP) for the Sydney East Region, as the Consent Authority, resolve to:-

(a) Grant consent to the objection submitted under the provisions of State Environmental Planning Policy No. 1 – Development Standards to vary the provisions of Clause 12A of Botany Local Environmental Plan 1995 relating to maximum floor space ratio applied under this clause on the basis that:

i. Clause 12A of Botany Local Environmental Plan 1995 is a development standard; and

ii. The objection lodged by the applicant is well founded; and

(b) Approve Development Application No. 10/314 for construction of a 13 storey mixed residential and commercial building comprising 127 residential units, 2 ground floor commercial tenancies, and basement level car parking for 258 vehicles, subject to the Conditions imposed in the attached schedule.

Premises: 214-220 Coward Street, Mascot **DA No: 10/314**

SCHEDULE OF CONSENT CONDITIONS

1 The development shall be carried out in accordance with the plans and studies received by Council being:

Plans

(a) Krikis Tayler Architects: Project No. 0810, Drawing Nos. DA00 (Revision B) dated 28 June 2010; DA01 (Revision D) dated 28 June 2010; DA02-DA11 (Revision E) dated 28 June 2010; DA12 (Revision D) dated 28 June 2010; DA13 (Revision C) dated 28 June 2010; DA15 (Revision D) dated 6 December 2010; DA16-DA19 (Revision B) dated 28 June 2010;

(b) Tramonte Jensen Landscape Architects: Drawing Nos. 598.01-598.04 (Issue B), dated 7 July 2010;

(c) C & M Consulting Engineers: Concept Stormwater Drainage Plans Drawing Nos. H01-H09; (Revision A), dated 30 June 2010.

Documents

(a) James Lovell and Associates: Statement of Environmental Effects, dated July 2010;

(b) James Lovell and Associates: Amended State Environmental Planning Policy No. 1 Objection (SEPP 1), dated December 2010;

(c) Krikis Tayler Architects: Design Verification Statement, dated 30 June 2010;

(d) Krikis Tayler Architects: Residential Flat Design Code Analysis, dated 10 August 2010;

(e) Krikis Tayler Architects: floor space ratio calculations, dated 1 December 2010;

(f) Jeffery & Katauskas Pty Ltd: Preliminary Geotechnical Investigation, dated 29 October 2004;

(g) Environmental Investigation Services: Environmental Site Screening, dated October 2004;

(h) Environmental Investigation Services: letter report on environmental status, dated July 2010;

(i) Asset Geotechnical: Preliminary Geotechnical Investigation Assessment, dated July 2010;

(j) Thompson Stanbury Associates: Traffic Impact Assessment, dated July 2010;

(k) Day Design: Environmental Noise Impact, dated 1 July 2010;

(l) Day Design: Aircraft & Road Traffic Noise Intrusion Report, dated 1 July 2010;

(m) Windtech Consultants: Pedestrian Wind Environment Statement, dated 19 July 2010;

(n) Lindsay Perry: Disability Access Report, dated 22 July 2010;

(o) Elephant's Foot Waste Compactors: Waste Management Report, dated 21 July 2010;

(p) Department of Planning: BASIX Certificate No. 318943M-02, dated 6 July 2010;…

except where amended by the conditions of the Consent.

(a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;

(b) All plumbing stacks, vent pipes, stormwater downpipes and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level;

(c) The basement of the building must be designed and built so that on completion, the basement is a "fully tanked" structure, i.e. it is designed and built to prevent the entry of ground water / ground moisture into the inner part of the basement;

(d) The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 "Access for People with Disabilities" and Australian Standard AS1428.1 (2001) - Design for Access and Mobility - Part 1 General Requirements for Access - Buildings. This requirement shall be reflected on the Construction Certificate plans.

(e) Prior to the issue of a Construction Certificate, the construction drawings shall indicate the following:

(i) That water will be prevented from penetrating behind fittings/linings and into concealed spaces in laundry, sanitary areas and bathrooms etc;

(ii) That floor to ceiling in laundry and bathroom areas to be tiled;

(iii) That timbers used in the development are plantation, recycled or regrowth timbers of timbers grown on Australian farms or State forest plantations and that no old growth or rainforest timbers are to be used in any circumstances;

(iv) That plumbing to each dwelling will be separated and adequately contained to prevent noise transmission and vibration; and

(v) The provision of a suitable intercom system linked to all units within the development at the vehicle access to the development to ensure that visitors to the site can gain access to the visitor parking located within the basement car park.

3 The applicant must prior to the obtainment of the approved plans and specifications pay the following fees:-

(a) Builders Security Deposit.....$21,900.00

(b) Development Control $11,011.00

(c) Landscape Bond $15,000.00

(d) Landscape Bond Preparation Fee.....$350.00

(e) Section 94 Contribution $2,639,347.98

(f) Waste Levy.....$25,000.00

4 The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's

Section 94 Contributions Plans listed below a contribution of **$2,639,347.98** is required as follows:

(a) Mascot Station Precinct Section 94 Contributions Plan – a contribution of $1,289,135.00 determined as follows:

(i) Public Open Space/ Public Road and Improvements $1,289,135.00

(b) City of Botany Bay Section 94 Contributions Plan 2005-2010 a contribution of $1,350,212.98 determined as follows:

(i)	Community Facilities:	$461,085.00
(ii)	Open Space:	$549,910.00
(iii)	Administration:	$26,030.00
(iv)	Drainage	$69,067.98
(v)	Transport	$241,300.00
(vi)	Shopping centre	$2,820.00

The Section 94 Contribution of **$2,639,347.98** is to be paid to Council prior to the issue of the Construction Certificate.

5 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.

6 Amended plans must be submitted prior to the issue of the Construction Certificate to the effect that:

(a) The communal open space at the level 6 roof level shall be extended to the 6 metre setback each to the east and west building alignments, and to the northern building alignment of the John Street setback (comprising an area of 30 metres length x 15 metres width), which is to be embellished with useable outdoor recreational features, including a swimming pool, BBQ facilities, shade structures, etc, inclusive of landscaped planter boxes, in order to bring the total area of communal open space at level 6 to approximately 450sqm;

(b) The building separation to the recessed part of the "H" shaped building footprint of the development from and including Levels 6 and above be increased to comply with the building separation controls of the Residential Flat Design Code requirements per State Environmental Planning Policy 65 (SEPP 65);

(c) Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate, together with a design verification statement under the provisions of SEPP 65.

7 This Consent relates to land in Lot F in DP 369255 and, as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public domain work required of this consent.

8 The consent given does not imply that works can commence until such time that:-

(a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-

(i) the consent authority; or,

(ii) an accredited certifier; and,

(b) the person having the benefit of the development consent:-

(i) has appointed a principal certifying authority; and,

(ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,

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

9 Prior to the issue of Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that the Floor Space Ratio (FSR) of 4.24:1 (calculated in accordance with the provisions of Botany LEP 1995) as approved under this Development Application, has been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.

10 Prior to the issue of Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels shown upon the plans approved under the Development Application, with relation to drainage, car parking structures, boundary and road reserve levels, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.

11 It is a condition of approval that the applicant shall, at no costs or expense to Council, comply with the following: -

(a) Dedicate the portion of land to Council for the purpose of John Street road widening. The areas of the land to be dedicated shall be the full length of John Street frontage of the site and to a depth, which is determined by measuring from the centerline of John Street, a horizontal distance of 10 meters and as detailed in the Mascot Station Precinct Development Control Plan. The Plan of Dedication shall be lodged with Council prior to the issue of the Construction Certificate and registered with the Department of Lands prior to the issue of the Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes.

(b) Upgrade the public domain by construction and reconstruction of road pavement, kerb and gutter, footpath, drainage system, street trees, landscaping and any associated works for all street frontages of the site (Coward Street and John Street) at the applicant's expense. All improvements shall be in accordance with specifications and requirements from Council's landscape and engineering sections and the approved civil works construction plans and landscape plans. All the public domain works shall be constructed and completed to Council's satisfaction prior to the issue of an Occupation Certificate.

(c) All existing aboveground service cables, including power lines, telecommunications cables and other similar services ("overhead service cables") in the streets adjacent to and within the confines of the development site shall be placed underground at no cost to the Council in the following manner:

(i) Overhead service cables on the **John Street** frontage to be undergrounded, starting from the existing pole "A" to the existing pole "B" as shown on Drawing No. **S-17347-1 dated 07 March 2003 drawn by Kevin Brown & Associate Pty Ltd.**

(d) Existing street lights located within the footpath reserve along the entire **John Street** frontage of the development site, being street lights identified as being located on poles "A" and "B" as shown on **S-17347-1 dated 07 March 2003 drawn by Kevin Brown & Associate Pty Ltd** shall be replaced with new street lights in accordance with the requirements of Australian/New Zealand Standard AS/NZS 1158-1997 "Public Lighting Code" and the requirements of the Roads and Traffic Authority. All of the works required by this condition must be completed prior to the issue of any Occupation Certificate.

(e) Construct the drainage system from the property to the existing pit in John Street. The construction shall include a new kerb inlet grated pit and all associated works within the road reserve area.

(f) Provide appropriate and suitable street lighting to a high decorative standard to the street frontage of the site, so to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements.

12 Prior to issue of the Construction Certificate, the applicant shall lodge a further Development Application to Council for the civil works associated with the development to be carried out in public domain area (including road reserve area). Details of the civil works shall be submitted to Council as part of the documentation of Development Application and all costs associated with the design and construction shall be borne by the applicant. The civil works in public domain area shall include the following: -

(a) Replace the existing above ground electricity and telecommunication cables in John Street with underground cables to relevant authorities requirements.

(b) Design and construct kerb and gutter: -

(i) for the full Coward Road frontage of the site and;

(ii) for the full John Street frontage of the site after the dedication of road widening.

(c) Design and reconstruct road pavement directly in front of the site for both Coward Street and John Street frontages. The area of construction shall extend from the lip of the new kerb and gutter to the centreline of the road.

(d) Design and construct footpath paving and the landscaping in the road reserve area for all street frontages of the site (Coward Street and John Street) in accordance with the current Council's approved public domain landscape plans.

(e) Design and construct vehicular crossing with minimum width of 6m at the property boundary.

(f) Design and provide line marking and all necessary signage on Coward Street and John Street to RTA's requirements.

(g) Design and construct stormwater drainage system from the site to the existing Council's drainage pit in John Street. This work shall include construction of a new 3.6m long grated gully pit on John Street.

(h) Design and provide appropriate street lighting to the street frontage of the site to cables to relevant authorities requirements. After the approval has been obtained from the responsible utility for street lighting, detailed street lighting design and construction plans, prepared by a suitably qualified person, shall be submitted to Council for approval. The design shall be in accordance with AS 1158 and to Energy Australia's requirements. Alterations/additions to street lighting shall be carried out by the responsible utility authority for lighting, or to the satisfaction of that authority, and all capital contributions associated with the installation of the lighting shall be borne by the applicant. The proposal shall include details of all fixtures being proposed and underground power reticulation shall be allowed for in the design. The lighting design categories on John Street shall be in **P2** design category.

(i) The finished floor levels (FFLs) at the vehicle and pedestrian access points fronting John Street shall be revised to ensure these levels are matching with Council's John Street Road Design Plans, prepared by BMD Consulting, Drawing No. CS0063-C01 to CS0063-C13, Rev C, dated 17 Aug 2010. These levels shall be shown on the plans and submitted to the Principal Certifying Authority for approval.

All the above works shall be designed and prepared by suitably qualified civil engineers and landscape architects with relevant qualification in civil engineering and landscape respectively.

Note: The proposed design shall correspond shown on Council's John Street Road Design Plans, prepared by BMD Consulting, Drawing No. CS0063-C01 to CS0063-C13, Rev C, dated 17 Aug 2010, for details.

13 Prior to issue of the Construction Certificate, a Dilapidation Report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a Practising Structural / Geotechnical Engineer

and submitted to Council. The report shall include records and photographs and submitted as follows: -

(a) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediate adjoining properties owners, and a copy lodged with Principal Certifying Authority and the Council prior to the commencement of excavation and any dewatering and demolition works. The reports should be agreed to by Council and the adjacent building owners as a fair record of existing conditions prior to commencement of any works.

(b) A second Dilapidation Report, including a photographic survey shall then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report together with the accompanying photographs shall be given to all immediate adjoining properties owners, and a copy lodged with Principal Certifying Authority and the Council prior to the issue of any Construction Certificate.

(c) Any damage to buildings, structures, lawns, trees, sheds, gardens and the like shall be fully rectified by the applicant or owner of the development, at no cost to Council and the affected property owner. The applicant or owner of the development shall bear the cost of all restoration works to any damage during the course of this development.

(d) It is a condition of consent that should demolition and/or construction works cause rise to public safety and/or workplace safety; works shall halt until absolute safety is restored.

(e) Any damage not shown in the dilapidation report submitted to Council before site works have commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to the issue of Final Occupation Certificate.

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

14 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 Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -

(i) The additional load on the system; and

(ii) The relocation and/or adjustment of the services affected by the construction.

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

15 Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant's expense.

16

(a) Prior to the issue of the Construction Certificate, design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1;

(b) Prior to the issue of Final Occupation Certificate, driveways and vehicular access paths shall be designed and constructed to comply with the minimum requirements (including changes of grade) of AS/NZS 2890.1.

(i) The internal road network, pedestrian facilities and parking facilities (including visitor parking and parking for persons with disabilities) shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current version of Australian Standards.

(ii) Documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the car parking area has been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1 requirements. The internal parking facilities shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standards.

17 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure that visitors to the site can gain access to the visitor parking located within the basement car park. The details of the intercom system shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.

18 Prior to the issue of the Construction Certificate, detailed construction plans in relation to the stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval. The detailed Stormwater Management Plan shall be generally in accordance with the **concept stormwater management plans, prepared by C & M Consulting Engineers, Job No. PN-00577, Drawing No. H01-H09, Rev A, dated 30 Jun 2010**, and shall incorporate the following amendments: -

(a) The proposed design and location of the pump-out system shall be revised to collect the stormwater runoff from the driveway ramp only. Subsoil drainage

lines shall not be provided to the basement area due to the groundwater table. The pump-out system shall be designed to comply with the following: -

- The volume of the pump-out storage tank shall be designed with a minimum storage capacity equivalent to the runoff volume generated from the area draining into the tank for the 1 in 100 year ARI 2-hours duration storm event.
- Information of the selected pumps (eg brand, model numbers, performance curve and specifications) shall be submitted to Council to ensure the pump has adequate capacity. Each pump shall have a minimum capacity of 10L/s or shall be based on the flow rate generated from the 1 in 100 year ARI 5-minutes duration storm event of the area draining into the system, whichever is greater.
- The pump-out system shall comprise with two (2) submersible type pumps. The two pumps shall be designed to work on an alternative basis to ensure both pumps receive equal use and neither remains continuously idle.
- An alarm warning device (including signage and flashing strobe light) shall be provided for the pump-out system to advise the occupant of pump failure. The location of the signage and flashing strobe light shall be shown on the stormwater management plans

(b) The design of the On-Site Detention (OSD) System shall be revised. As such, the OSD system shall be designed to comply with the following: -

- Detain stormwater runoff generated from the site <u>for all storm events up to and including 1 in 100 year ARI storms.</u>
- For each storm, the permissible site discharge shall not exceed the "State of Nature" condition of the site (i.e. the entire site is totally pervious).
- Submerged outlet conditions shall be considered.
- The location of the OSD tank shall not interfere the deep soil planting area. As such, consideration shall be given to provide the OSD system on the roof.
- In order to verify the input parameters and layout of the model, a copy of the DRAINS working file shall be submitted to Council for review.

(c) All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment prior to entering the public stormwater system. Details of the pollution control device shall be shown on stormwater management plan.

(d) The underground parking structure shall be tanked, so that there is no intrusion of waters into the structure.

(e) Rainwater tanks shall be provided with a minimum 5,000 L capacity and shall service any landscape systems.

The detailed drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', AS/NSZ 3500 – *Plumbing and Drainage Code* and the BCA.

19 Prior to the issue of the Construction Certificate, further geotechnical investigation report shall be submitted to Council for review. The report shall prepared by a qualified geotechnical engineer and shall address the following:

- The assessment of the *temporary* (during construction) and *permanent* impacts by the development on: -
    - the existing water table, with the inclusion of flow net calculations and diagrams
    - the footings and buildings of the neighbouring properties and
    - the road pavement structure on John Street and Coward Street

Written certification, issued by the qualified geotechnical engineer, shall be submitted to Principal Certifying Authority certify that the development will not have major impact to the adjacent buildings and infrastructure.

20 A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to *'Do It Right On-Site' Soil and Water Management for the Construction Industry* (available from Council) and NSW EPA's *Managing Urban Stormwater: Construction Activities* and submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. This Plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the Soil and Water Management Plan shall be kept on-site at all times and made available to Council Officers on request.

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 Traffic Authority) for approval. The plan shall: -

- be prepared by a RTA accredited consultant.
- nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
- if required, implement a public information campaign to inform any road changes well in advance of each change.

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 Detailed Construction Management Plan (CMP) shall be submitted to Council and the Principal Certifying Authority for approval. The CMP shall address:

- Construction vehicles access to and egress from the site;

- Storage location of the construction building materials (to be wholly within the site);
- Parking for construction vehicles. Parking of construction-related vehicles shall be within the site;
- Locations of site office, accommodation and the storage of major materials related to the project;
- Protection of adjoining properties, pedestrians, vehicles and public assets;
- Location and extent of proposed builder's hoarding and Work Zones, if there is any;
- Tree protection management measures for all protected and retained trees.

23 Council's property shall be supported at all times. Where any shoring is to be supporting (or located on) Council's property, certified engineering drawings showing all details including the extent of encroachment, the type of shoring and the method of removal, shall be submitted prior to the issue of the Construction Certificate. If the shoring cannot be removed, it shall be cut to 150mm below footpath level and the gap between the shoring and any buildings shall be filled with a 5Mpa lean concrete mix.

24 Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.

25 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.

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

- Permit to erect hoarding on or over a public place, including Council's property/road reserve
- Permit to construction works, place and/or storage building materials on footpaths, nature strips
- Permit for roads and footways occupancy (long term/ short term)
- Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve
- Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
- Permit to place skip/waste bin on footpath and/or nature strip
- Permit to use any part of Council's road reserve or other Council lands
- Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area

(It should be noted that the issue of such permits may involve approval from RTA and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.)

- Permit to establish "Works Zone" on public roads adjacent to the development site, including use of footpath area.

(Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Engineers for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s))

27 During construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

28

(a) Erosion and sediment control devices shall be installed 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 Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the *Protection of Environment Operations Act 1997* and the Department of Environment, Climate Change and Water guidelines. These device 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 three (3) month period after the completion of the development, where necessary.

(b) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion. In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. 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 enter Council's land.

(c) 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.

(d) 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.

29 The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than $20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.

30 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.

31 All services (Utility, Council, etc) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.

32 Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.

33 Prior to the issue of any Occupation Certificate, the construction of the stormwater drainage system of the proposed development shall be completed generally in accordance with the approved stormwater management construction plan(s), Council's '*Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay*', AS/NSZ 3500 – *Plumbing and Drainage Code* and the BCA.

34 Prior to the issue of any 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 accepted practice.

35 Prior to the issue of any Occupation Certificate, new vehicular crossing including layback and/or gutter and any associated road restoration shall be constructed in accordance with Council's requirements. The applicant shall make a separate application to Council's Customer Service Counter for the construction/

reconstruction of vehicular crossing (either by Council or own forces) to the vehicular entry point of the site as shown on the submitted approved plan.

The crossing shall be minimum **6** metres wide at the property boundary and at 90^{o} to the property boundary line in plain concrete. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant.

36 Prior to issue of Final Occupation Certificate, all civil works in public domain area (including vehicular crossings, footpath paving, kerb and guttering, street lighting, landscaping, line marking and signage) shall be completed to Council's satisfaction. Written confirmation / completion certificate shall be obtained from Council and submitted to the Principal Certifying Authority attesting to this condition has been appropriately satisfied.

37 Prior to the issue of Final Occupation Certificate, a copy of the approved public domain civil works plans showing Work-as-Executed details (together with an electronic copy) shall be prepared by a registered surveyor and submitted to Council.

38 Prior to the issue of Final Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels shown upon the approved plans, with relation to drainage, boundary and road reserve levels, have been strictly adhered to.

39 The applicant is responsible for the installation and protection of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.

40 In order to ensure that the required on-site detention system will be adequately maintained, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built on-site detention system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. The relative location of the on-site detention system, in relation to the building footprint, shall be shown on a scale sketch, attached as an annexure to the plans/ forms. Proof of registration shall be submitted to the Principal Certifying Authority prior to occupation of the premises.

41 In order to ensure that the required pump-out system will be adequately maintained, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built pump-out system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in

Council. Proof of registration shall be submitted to the Principle Certifying Authority prior to occupation of the premises.

42 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, sluge 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

43 All vehicles (including deliveries) shall enter and exit the premises to the public roads in a forward direction.

44 Vehicles making deliveries and/or or loading and unloading shall comply with the following requirements: -

- Vehicles making deliveries to the premises shall be limited to B99 vehicles or smaller as defined by AS 2890.2;
- All loading and unloading of vehicles in relation to the commercial use of the premises shall take place wholly within the parking spaces allocated to the tenancy;
- No deliveries to the premises shall be made direct from a public places, public streets or any road related areas (eg. footpath, nature strip, road shoulder, road reserve, public carpark, service station etc).

45 The occupier of the commercial premises of the development shall make it a condition of the employment of any person employed on the premises that they shall park their vehicles, if any, in the employee parking area provided only.

46 Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the *Protection of the Environment Operations Act 1997*.

(a) Level Restrictions

Construction period of 4 weeks and under:

the L_{10} sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).

Construction period greater than 4 weeks and not exceeding 26 weeks:

the L_{10} sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

(b) Time Restrictions

Construction/demolition work shall be limited to the following hours:

Monday to Friday 07:00 am to 05:00 pm

Saturday 08:00 am to 01:00 pm

No Construction to take place on Sundays or Public Holidays.

(c) Silencing

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

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

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

48 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.

49 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property.

(a) 'Offensive noise' as defined in the Protection of the Environment Operations Act 1997

(b) Transmission of vibration to any place of different occupancy above the requirements of AS2670

(c) a sound pressure $L_{Aeq,period}$ at any noise sensitive position of any other premises or occupancy greater than the recommended amenity noise criteria detailed in the *Department of Environment and Conservation, New South Wales (EPA) Industrial Noise Policy*.

(d) a sound pressure $L_{Aeq,15min}$ at any noise sensitive position greater than the intrusiveness criteria determined in accordance with the *Department of Environment and Conservation, New South Wales (EPA) Industrial Noise Policy* and does not contain any tones, low frequency or impulsive factors as defined in the *Department of Environment and Conservation, New South Wales (EPA) Industrial Noise Policy* table 4.1

(e) the following additional criteria:

(i) The operation of all plant and equipment shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background L_{A90} level (in the absence of the noise under consideration).

(ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds L_{Aeq} 50dB(A) day time and L_{Aeq} 40 dB(A) night time.

(iii) 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 L_{Aeq} 65dB(A) day time/night time.

(iv) For assessment purposes, the above L_{Aeq} 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.

50 The erection of the building shall not impart a noise or vibration nuisance to the land the buildings and the inhabitants of the surrounding locality and for this purpose the following criteria shall be observed:

(a) Where pile driving is carried out anywhere on the site, the ground vibration when measured at the closest point at or within the ground floor and/or at any elevated floor of any commercial/industrial building which is technically in good order shall not exceed a peak particle velocity of 10mm/sec. For buildings with existing defects, having visible cracks the maximum peak particle velocity shall not exceed 5mm/sec.

(b) Where pile driving is carried out anywhere on the site, the ground vibration measured at the closest point at or within the ground floor and/or at any elevated floor of any commercial building shall be measured as peak velocity and shall not exceed Curve 4 of BS6472 - 1984. With respect to workshop premises the vibration levels induced by the pile driving shall not exceed Curve 8 of the above standard and Curve 2 for residential premises.

(c) In accordance with the New South Wales Environmental Protection Authority, Environmental Noise Control Manual, where there is the likelihood of annoyance from noise associated with the pile driving the L10 noise levels shall not exceed 65dB (A) or the background noise level by more than 10dB (A). These levels shall be measured external to the facade of any commercial or industrial premises. For residential premises the noise levels shall not exceed 10dB(A) above background. Measurements to be taken at the residential boundary line.

(d) Permanent monitoring of vibration levels with respect to possible building damage during the piling operations in adjoining buildings being carried out with all levels above half of the allowable limit being hard copied and logged for inspection by Council or its nominee.

51 If the work involved in the excavation or construction of a building:

(a) is likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,

(b) involves the enclosure of a public place:

(c) a hoarding or fence must be erected between the work site and the public place.

(d) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.

(e) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s in the public place.

(f) Any such hoarding, fence or awning is to be removed when the work has been completed.

(g) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.

52 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

(a) demolition or erection 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 clause must be completed before any other work is commenced.

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

(a) stating that unauthorised entry to the work site is prohibited;

(b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;

(c) the Development Approval number;

(d) the name of the Principal Certifying Authority including an after hours contact telephone number; and

(e) any such sign is to be removed when the work has been completed.

54

(a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and

(b) All excavations shall be properly guarded and protected to prevent them from being dangerous to life or property; and,

(c) If the soil conditions require it:-

(i) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and:-

(ii) adequate provision must be made for drainage.

(d) Existing structures and or services on this and adjoining properties are not endangered during any excavation or construction work associated with the development. The applicant is to provide details of any shoring, piering, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.

(e) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

(i) Protect and support the adjoining premises from possible damage from the excavation, and

(ii) Where necessary, underpin the adjoining premises to prevent any such damage.

55 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.

56 An additional site investigation shall be undertaken to address the following:

(a) The soil sampling in the Environmental Site Screening did not provide adequate site coverage. The additional investigation shall complete soil sampling in accordance with the NSW EPA Sampling Design Guidelines, and shall complete the grid pattern used in the Environmental Site Screening by sampling underneath the footprint of the building currently onsite. At least one additional location (i.e. additional to the total number of samples used to comply with the Sampling Design Guidelines) shall be sampled in the vicinity of BH5, and include analysis of at least one surface and one subsurface sample for TPH.

(b) Soil sampling shall be undertaken using a method other than a hand auger, due to the difficulty encountered during sampling in Environmental Site Screening with refusal on materials in the fill. Samples shall not be directly from a spiral auger as was done in the Environmental Site Screening.

(c) The groundwater sampling conducted in the Environmental Site Screening did not allow an adequate assessment of the groundwater condition at the site. The further investigation shall address this by installing at least two groundwater wells in accordance with the NSW EPA endorsed guildelines. The wells shall be developed in accordance with NSW EPA guidelines, and sampled one week

after installation. The groundwater samples shall be analysed for the same contaminants of concern as soil samples i.e. PAH's, OCs, PCBs, TPH and BTEX. If contaminants observed in the groundwater samples exceed the relevant guideline values, additional monitoring wells may be required to be installed to allow further assessment of groundwater.

(d) The additional site investigation shall provide a site diagram with the location of all soil samples undertaken onsite utilised for assessment of the site, that shows the location of all sampling points in reference to the current site condition, not the proposed site layout, as in the Environmental Site Screening.

This information shall be provided prior to the issue of a construction certificate.

57 An additional Preliminary Acid Sulfate Soils Assessment shall be completed in accordance with the NSW Acid Sulfate Soil Manual Advisory Committee's Acid Sulfate Soil Manual. The results of this assessment shall incorporate previous acid sulfate soil analysis results and shall include:

(a) Analysis of samples from two additional locations in the area of excavation.

(b) Collection and analysis of samples from each soil layer observed to a depth of at least one metre beyond the maximum depth of excavation.

(c) If required an Acid Sulfate Soils Management Plan based on the results of the assessment.

58 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW DECC (2008) Waste Classification Guidelines prior to being disposed of to a NSW approved landfill or to a recipient site.

59 Dust emissions shall be confined to within the site boundary. The following dust control procedures shall be employed to comply with this requirement:

(a) Erection of dust screens around the perimeter of the site;

(b) Securely covering all loads entering or exiting the site;

(c) Use of water sprays across the site to suppress dust;

(d) Covering of all stockpiles of contaminated soil remaining more than 24 hours;

(e) Keeping excavation surfaces moist.

60 To prevent contaminated soil being used onsite, all imported fill shall be validated in accordance with the Department of Environment, Climate Change and Water (DECCW) approved guidelines to ensure that it is suitable for the proposed development. Imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

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

the 95% protection trigger values for freshwater. 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(s) indicating the water is acceptable to be released into Councils stormwater system.

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

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

(a) Department of Environment, Climate Change and Water NSW (DECCW) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites'; and

(b) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of any required works, whether there are any ongoing site management requirements and a clear statement on the suitability of the 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 for review and concurrence).*

64

(a) The Strata subdivision of the development shall be the subject of a further Development Application to Council; and,

(b) The subdivision application must be accompanied by a formal copy of the by-laws which shall be in accordance with the plans and documentation approved under this Consent and must also include the following:

(i) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 10/314.

(ii) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 10/314.

(iii) Responsibilities regarding the maintenance of the car wash bay the Owners Corporation / building owner.

(iv) Responsibilities for ensuring owners and/or tenants have adequate and hygienic disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times in accordance with the Plan of Management required under the conditions of this consent.

(v) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day

following, returned to the premises by 12.00 noon in accordance with the Plan of Management required under Condition No. 54 of this consent.

(vi) 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.

(vii) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.

(viii) The linen plan must include details of any easements, encroachments, rights of way, including right of footway. restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants.

65 The landscape plans by *Tramonte Jensen 598.01-04, Issue B, dated July 2010*, as submitted with the Application, shall be the subject of amended landscape documentation submitted to Council for approval by Council's Landscape Architect prior to the issue of the Construction Certificate. The landscape documentation is to be amended as follows and in accordance with Council's Landscape DCP:

(a) Indicate the location of all existing *Robinia frissei* street trees in Coward Street, these are to be retained, and indicate any new plantings of same to ensure consistent spacings.

(b) Pavement specification and planter box dimensions and treatment surrounding existing Coward Street trees to be in accordance with Council's specification *SS01, Issue B, July 2010*.

(c) Coward Street planter box dimensions in the setback to be increased in length to reduce the amount of hard paving and access openings within the setback area generally.

(d) Additional Magnolias or a taller growing species shall be planted within the Coward Street setback to ensure a dense row of trees. Magnolias to be a minimum height of 3 metres at time of planting.

(e) An additional 1-2 street trees in John Street to ensure a 9 metre spacing. Rigid polyethylene sheet type tree root barriers to be installed alongside the kerb and footpath edge at a depth of 900mm and 150mm inward of edges. Root deflectors/directors are not permissable. All trees shall be planted in a 1metre square timber edged and mulched bed.

(f) Planter box depths shall comply with DCP 32 requirements and conditions of approval.

(g) Provide details and specifications for podium planting indicating internal treatment to planter boxes, waterproofing, drainage etc and planter box depths.

(h) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging, planter box finishes and other landscape hardworks such as retaining walls. Schedule of paving materials, edge treatments and sectional construction details. Fencing and privacy screening elevations and materials. Details of other landscape elements - furniture, internal/landscape lighting etc.

(i) Increase the size of planter boxes in the eastern communal open space area to maximise planted areas. Ensure adequate provision for passive use of the space with sufficient seating etc.

(j) Dense plantings of evergreen canopy trees shall be used extensively in communal open spaces, the deep soil planting to both Coward and John Street frontages, and private courtyards to enhance the screening and softening of surrounding buildings. Palms shall be substituted for canopy trees in communal spaces including Level 6 north tower.

(k) Some of the nominated plants to be amended in consideration of the deep shade in the communal open spaces.

(l) Consider the use of taller, leafy (possibly some deciduous) canopy trees in the John Street setback to take advantage of the deep soil and improve the amenity of the development at street level eg. Chinese Tallow Tree.

Landscaping shall be installed in accordance with the approved amended landscape plan only, and 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.

66

(a) Planter boxes constructed over podium shall be built so as to ensure soil depths strictly in accordance with Council's Landscape DCP or greater. 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. External drainage outlets/weep holes on the external face of the planter wall are not permitted under any circumstances.

(b) A masonry hob or haunch shall be constructed internally of the planter to ensure no water seepage between the floor and walls of the planter.

(c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent to eliminate water seepage and staining of the external face of the planter, particularly at corner joints. 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 PCA prior to backfilling with soil.

(d) Drainage cell must be supplied to the base and sides of the planter box (to minimize damage to the waterproof seal during backfilling). Apply a proprietary brand filter fabric and backfill with an imported lightweight soil

suitable for planter boxes that complies with AS 4419 and AS 3743. Install drip irrigation.

(e) Planter boxes shall be finished externally with a suitable paint or render to co-ordinate with the colour schemes of the building.

67 To ensure satisfactory growth and maintenance of the landscaped areas, a fully automatic drip irrigation system shall be installed throughout all landscape areas by a suitably qualified landscape contractor, prior to the issue of the Occupation Certificate. The irrigation system shall provide full coverage of planted areas with no more than 300mm between drippers, appropriate zoning, controllers, automatic timer and backflow prevention devices. Irrigation must be connected to a recycled water source. Underground rainwater tanks shall be designed to allow approved mains filling only when the tank is dry through an electronic float cut-off allowing for partial filling only. The irrigation system shall comply with all Sydney Water and Council stormwater requirements as well as Australian Standards, and be maintained in working order at all times.

68 The detention tank in John Street shall be confined to the location shown on the approved plans so as not to compromise the landscape area and deep soil zones in the John Street setback. The tank should be designed to allow re-use of detained water for irrigation. The GPT is to be located such that landscape area adjacent is not reduced in size or made redundant.

69

(a) The ground level curtilages of the electrical kiosk shall be finished with a large diameter, compacted decorative gravel.

(b) The fire hydrant and booster assembly valve shall be housed within the external ground floor façade of the building structure (as shown in the north-eastern corner of the building on the *Ground Floor Plan, DA 02, Issue E*) only and shall be enclosed and screened with doors to Council's approval. The fire booster valve assembly must not be located near pedestrian entries to the building (either frontage) nor within the landscaped setback compromising the appearance and amenity of the streetscape.

70

(a) An experienced Landscape Contractor shall be engaged to undertake the landscaping and shall be given a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.

(b) The contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time monthly maintenance is required.

71 All internal pedestrian areas and pathways within the setbacks shall be unit paved/tiled. The driveway crossover shall be constructed of plain broom finished concrete.

72 The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of $15,000.00 for a period of five (5) years after practical completion of landscape works, to ensure establishment and maintenance of the landscaping in accordance with the plan. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years.

The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.

The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of $350 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate.

73 New street trees shall be maintained by the Owner / future Strata Corporation for the duration of the landscape bond period. Maintenance includes watering twice weekly for a period of 4 months (or until established) and after that at a frequency to sustain adequate growth, bi-annual feeding with a suitable fertilizer and weed removal within the mulched base, but does not include trimming or pruning under any circumstances. Any trees that fail to thrive shall be replaced by the owner / future strata corporation to Council's satisfaction.

74

(a) During construction work the Council nature strip/footpath area shall be maintained in a clean and tidy state at all times and shall be replaced in accordance with the approved landscape plan and Council specification at the completion of construction work and prior to the issue of an Occupation Certificate, at the Applicant's expense.

(b) The ongoing maintenance of the nature strip/footpath shall be undertaken by the occupier/owner. Maintenance includes mowing and watering of grass areas and the maintenance of a good, even coverage at all times and the removal of weeds and rubbish in grass and paved areas.

75 All public domain/footpath improvement works shall be installed in accordance with Council specification and installed by the Applicant at the Applicant's expense. All improvements shall be constructed and complete prior to the issue of a Final Occupation Certificate.

76

(a) The PROPERTY DEVELOPMENT at 214-220 COWARD STREET, MASCOT lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of this Corporation.

(b) The Civil Aviation Safety Authority (CASA) have no objection to the erection of this structure to a maximum height of 51 metres above Australian Height Datum (AHD). The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.

(c) Should you wish to exceed the above height, a new application must be submitted.

(d) 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. 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. SACL advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by SACL 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.

(e) Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.

(f) 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 up to 50 penalty units.

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

(h) The area in which the proposed development is located is immediately adjacent to Runway 16L/34R. To minimise the potential for bird habitation and

roostinf, the proponent must ensure that the following plans are prepared prior to construction commencing:

- Landscape Plan which only includes non-bird attracting plat species;
- Site management Plan which minimises the attractiveness for foraging birds, i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted;
- The proposed development incorporates anti-bird roosting measures to discourage bird habitation.

The proponent must consult with Sydney Airport Corporation Limited on the preparation of each plan.

All trees to be planted shall not be capable of intruding in to the Obstacle Limitation Surface when mature.

77 The proposed development is to comply with the conditions provided by the Roads & Traffic Authority (RTA) dated 8 September 2010. The conditions are outlined as follows:

(a) The pedestrian footpath fronting the proposed development needs to be widened and modified to match the footpaths fronting adjacent developments. Widening of footpath is required to cater for the expected significant increase in pedestrian movements.

(b) Sight distances from the proposed access driveway to pedestrians and vehicles entering and exiting John Street are to be in accordance with AS2890.1-2004. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the access driveway to motorists, pedestrians and cyclists.

(c) It is noted that the proposed parking spaces for the development in the RTA's Guide to Traffic Generating Development.

(d) All vehicles are to enter and leave the site in a forward direction.

(e) 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 AS2890.1-2004 (Parking facilities, Part 1: Off-street car parking).

(f) A demolition and construction traffic management plan detailing construction /demolition vehicle routes, number of trucks, hours of operation, access arrangements, and traffic control should be submitted to Council prior to the issue of the Construction Certificate.

(g) All works/regulatory signposting associated with the proposed development are to be at no cost to the RTA.

78 The proposed development is to comply with the conditions provided by Energy Australia dated 24 August 2010. The conditions are outlined as follows:

- The applicant must make provision of accommodation for an electricity substation within the premises.

79 The proposed development is to comply with the conditions provided by Sydney Water dated 7 September 2010. The conditions are outlined as follows:

(a) Water

(i) The existing 150 mm drinking water main on the northern side of Coward Street must be upsized to a 200 mm drinking water main;

(ii) This upsized main shall extend from the 200 mm drinking water main that is being constructed to service the mixed use development at 222-228 Coward Street, Mascot.

(b) Wastewater

(i) The development must design and construct a wastewater main connecting to the 225 mm main. This wastewater main shall provide a point of connection of at least one metre inside the property's boundary;

(ii) The proposed wastewater infrastructure for this development will be upsized and configured according to the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

(c) Sydney Water Servicing

(i) Sydney Water will further assess the impact of the developments when the proponent applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of the development and to assess if amplification and/or changes to the system are applicable. Sydney Water requests Council continue to instruct proponents to obtain a Section 73 Certificate from Sydney Water;

(ii) The proponent must fund any adjustments needed to Sydney Water infrastructure as a result of any development. The proponent should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. Details are available from any Sydney Water Customer Centre on 13 20 92 or Sydney Water's website at www.sydneywater.com.au.

80 The proposed development is to comply with the recommendations provided by NSW Police Botany Bay Local Area Command, dated 1 November 2010. The conditions are outlined as follows:

(a) As the proposed development may be exposed to Break Enter and Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit television system (CCTV) which complies with the Australian Standard — Closed Circuit Television System (CCTV) AS:4806:2006 needs to be implemented to receive, hold or process data for the identification of people involved in anti social or criminal behaviour. The

system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation.

(b) This system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas which are difficult to supervise.

- Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas.
- One or more cameras should be positioned at the entry and exit points to monitor these areas (underground car park, foyer entrance)

(c) 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.

(d) A monitored intruder alarm system which complies with the **Australian Standard — Systems Installed within Clients Premises, AS:2201:1998** should be installed within the premises to enhance the physical security and assist in the detection of unauthorised entry to the premises. This standard specifies the minimum requirements for intruder alarm equipment and installed systems. It shall apply to intruder alarm systems in private premises, commercial premises and special installations. The system should be checked and tested on a regular (at least monthly) basis to ensure that it is operating effectively. Staff should be trained in the correct use of the system. The light emitting diodes (LED red light) within the detectors should be deactivated, to avoid offenders being able to test the range of the system.

(e) Consideration should also be given to incorporating duress facility into the system to enable staff to activate the system manually in the event of an emergency, such as a robbery **NB Duress devices should only be used when it is safe to do so.**

(f) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.

(g) 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.

(h) The configuration of car parking spaces can impact the risk to car thieves. Grid rows increase natural surveillance. Avoid dark spots, corners and isolated car spaces.

(i) Public laundries, garbage disposal areas and other communal spaces should not be located in a buildings 'leftover space'. Poor supervision of communal facilities can greatly increase the risk of predatory crime, theft and vandalism. Areas that are unused or sporadically used after hours and unsupervised should not be accessible to the public.

(j) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.

(k) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime.

(l) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with **Australian Standard AS:1158.** Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens). The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis. A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.

(m) Improved lighting needs to extend from the development towards O'Riordan Street and Bourke Road. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.

(n) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently $5500) for an individual and 100 penalty units (currently $11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.

(o) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.

- Warning, trespasser will be prosecuted
- Warning, these premises are under electronic surveillance

(p) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.

(q) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.

(r) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.

(s) Signage needs to be provided to assist occupants to identify fire suppression equipment, eg extinguishers, fire hoses etc.

(t) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW http://www.emergency.nsw.gov.au or Emergency Management Australia http://www.ema.gov.au.

(u) It is not advised to install storage cages or similar for the residents in the underground car park. If it is required, consider that they should not be constructed in an isolated area. The cages are easy targets when they have little supervision. CCTV cameras must cover this area if they are constructed. Suitable fencing and quality locks should be used to prevent access.

(v) The door and door frames to these premises should be of solid construction. Doors should be fitted with locks that comply with the Australian Standard – Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are recommended for residential units.

(w) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space. The doors in the required exits must be readily open-able without a key from the side that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor.

(x) 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.

(y) The main entry/egress doors to the development should have an electronically operated lock which require security swipe pass for entry. The lifts operating in the building should have the same security swipe pass technology. When an occupant buzzes in a visitor the lift should recognise the floor the occupant resides and only allow the visitor access to that floor in the lift.

(z) Entrance doors to commercial premises should include an electronically operated lock, which can be locked after hours to control access to the development. Staff could release this lock electronically from the safety of the counter area once the customer has been identified. This locking mechanism should be activated during the hours of darkness.

81

(a) If the existing boundary levels are in accordance with +2% crossfall from the top of the closest adjacent kerb (± 5mm), then this level can be used as the proposed design level. Otherwise, plans have to be submitted to Council showing the existing and proposed levels at the boundary; in the footpath area (between roadway and boundary); at the kerb and gutter; and in the roadway, inclusive of a long section at the boundary showing existing and proposed levels.

(b) All required works and levels are to be submitted and approved prior to the issue of the Construction Certificate. All works are to be completed prior to issue of the Occupation Certificate.

82

(a) Council will not give permission for contaminated ground water to be discharged to a Council road or stormwater system.

(b) To discharge groundwater to a Council road or stormwater drain the applicant must supply the following:

(i) An Application is to be made to Council's Engineering Services for permission to discharge site dewatering to Council's stormwater drainage system with such application being approved by Council before commencement of works;

(ii) A copy of the current bore license from the Department of Natural Resources; and

(iii) A report from a suitably qualified person is to be provided together with results from a NATA approved laboratory confirming that the quality of the water meets the 95% freshwater trigger values applying to typically slightly-moderately disturbed systems as detailed in the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality, Australian and New Zealand Environment and Conservation Council and Agriculture and Resource Management Council of Australia and New Zealand, Paper No 4, October 2000.*

(iv) Any proposed treatment to be applied to the water prior to being discharged.

83

(a) Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certifying Authority with the

application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:

(i) Waste and recycling for commercial users shall be in a separate room from the storage of waste and recycling for residential users;

(ii) The rooms for the storage of garbage and recyclable materials shall be fully enclosed;

(iii) Adequately ventilated and of a suitable size to contain compaction equipment;

(iv) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;

(v) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation;

(vi) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.

(b) The provision of storage waste and recycling shall meet the above requirements.

84

(a) Detailed mechanical ventilation system plans and specification prepared by a *professional engineer*, as defined by the Building Code of Australia, must be submitted to principal certifying authority with the application for a 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. Ventilation the underground car park must include carbon monoxide detectors in accordance with Council's Energy Efficiency Development Control Plan.*

(b) The mechanical ventilation system must be installed and commissioned in accordance with the above requirements.

85 The Development is to be constructed to meet the requirements detailed in the Environmental Noise Impact, dated 1 July 2010 and Aircraft & Road Traffic Noise Intrusion Report, dated 1 July 2010, both prepared by Day Design;

(a) The work detailed in the report includes:

(i) Appropriate acoustic requirements to external walls,

(ii) Detailed roof and ceiling design and construction for top floor units only,

(iii) External door and window specification and installation,

(iv) Acoustically treated mechanical ventilation.

(b) All works are to be detailed in the construction certificate plans.

(c) All works completed prior to the issue of the Occupation Certificate and validated by a person with appropriate qualifications and experience.

86 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (No. 318943M_02) dated 6 July 2010 for the development are fulfilled.

Note:

(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.

87

(a) The following requirements apply to telecommunication facilities in the building:

(i) Appropriate access and space within the plant area of the building shall be provided for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery.

(ii) Appropriate ducting and cabling shall be provided for a minimum of three telecommunication carriers or other providers for telecommunication access and broad-band cabling to each apartment of the building.

(iii) The details of (i) and (ii) above shall be submitted for the approval of the certifying authority, prior to issue of a construction certificate.

(b) A suitable intercom system linked to all units within the development shall be provided at all vehicle accesses to the development to ensure that visitors to the site can gain access to the visitor parking located within the basement car park. The details of the intercom system shall be submitted prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.

88

(a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill.

(b) All lighting shall comply with *AS4282-1997 Control of the obtrusive effects of outdoor lighting*; and

(c) The installation of solar power to external space lighting. Details shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

89 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval prior to the issue of the Construction Certificate.

90

(a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

(b) Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au <http://www.sydneywater.com.au> then the "e-developer" icon or telephone 132092.

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

(d) Building plans must be submitted to any Business Office of Sydney Water Corporation prior to commencement of work.

(e) The construction of the underground car parking and landscaping for the development must comply with Sydney Water's *Guidelines for Building Over/Adjacent to Sydney Water Sewers* and details are to be shown on the construction drawings prior to the issue of a Construction Certificate by the Principal Certifying Authority.

91 The visible light reflectivity from building materials used on the facade of the building should not exceed 20% and must be otherwise designed so as not to result in glare that causes discomfort or threatens safety of pedestrians or drivers.

92 The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.

93 The future use of the commercial space within the development shall form the subject of a further development application to Council.

94

(a) Any air conditioning units are to be located so that they are not visible from the street or public place and are not obscure windows/window frames or architectural features of the development.

(b) Any air conditioning units are not to exceed the $L_{aeq\ 15\ minute}$ by 5dBA measured at boundary and are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

95

(a) Prior to use and occupation of the dwellings an Occupation Certificate must be obtained. The purpose of this condition is to ensure that the Council is given sufficient notice prior to the issuing of the Occupation Certificate to carry out inspections of soon to be completed buildings, where Council considers it necessary. In doing so, this ensures that the Council is able to provide an independent analysis of whether the building is constructed to a standard that complies with the BCA and in accordance with the development consent.

(b) The applicant and building owner are to note that it is an offence under S.109N of the Environmental Planning and Assessment Act 1979, to occupy or use a building in whole or in part, unless an Occupation Certificate has been issued in relation to the building or the part.

(c) A maximum penalty of 25 penalty units applies under the provisions of the Environmental Planning and Assessment Act 1979, for the contravention of the above requirements.

(d) Council officers may undertake random inspections from time to time during construction and toward the end of building works to ensure that buildings or part of buildings are not occupied without a partial or final Occupation Certificate, and to check compliance with conditions of development consent and the BCA.

96 Prior to the release of the Construction Certificate, design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No-65. Design Quality of Residential Flat Development.

97 The development shall make provision for a total of 258 car parking spaces in accordance with the following allocations per Traffic Impact Assessment prepared by Thompson Stanbury Associates dated July 2010.

Car Parking Rates	**Required**
1 space per studio and 1 bedroom units	16 spaces

2 spaces per 2 and 3 bedroom units	222 spaces
1 space / 60sqm commercial floor space	6 spaces
1 visitor space per 7 dwellings	14 spaces (Note: this includes provision for parking for those persons with a disability)
TOTAL	**258**
	+ 2 car wash bays

This requirement shall be reflected on the Construction Certificate plans. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.

98 The installation of any security roller shutter for the basement car parking area shall not restrict access to any designated visitor car parking space. In the event that the approved visitor car parking spaces are located behind any proposed security roller shutter, an intercom system is required to be installed to enable visitor access into the basement car parking area. This requirement is to be reflected on the Construction Certificate plans and any supporting documentation for the endorsement of the Principal Certifying Authority, prior to the release of the Construction Certificate.

99 In order to maximise visibility in the basement carpark, the ceiling shall be painted white. This requirement shall be reflected on the Construction Certificate plans.

100 The proposed development is to comply with the General Terms of Approval dated 20 September 2010 issued by the NSW Office of Water. The conditions are outlined as follows:

(a) General and Administrative Issues

(i) Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering.

(ii) Tailwater shall not be allowed to discharge off-site (eg adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent.

(iii) The licensee shall allow (subject to Occupational Health and Safety Provisions) the NSW Office of Water or any person authorised by it, full and free access to the works (excavation or bore/borefield), either during or after construction, for the purpose of carrying out inspection or test of the works and its fittings and shall carry out any work or alterations deemed necessary by the NSW Office of Water for the protection and proper maintenance of the works, or the control of the water extracted to prevent wastage and for the protection of the quality and prevention from pollution or contamination of the groundwater.

(iv) If a work is abandoned at any time the licensee shall notify the NSW Office of Water that the work has been abandoned and seal off the aquifer by such methods as agreed to or directed by the NSW Office of Water.

(v) Suitable documents are to be supplied to the NSW Office of Water of the following:

(vi) A report of prediction of the impacts of pumping on any licensed groundwater users or groundwater dependent ecosystems in the vicinity of the site. Any adverse impacts will not be allowed and the project will need to be modified.

(vii) A report of assessment of the potential for salt water intrusion to occur as a result of the dewatering. This report is only required for sites within 250m of any marine or estuarine foreshore area. The generation of conditions leading to salt water intrusion will not be allowed, and the proposal will need to be modified.

(viii) Descriptions of the methods used and actual volume of groundwater to be pumped (kilolitres/megalitres) from the dewatering works, the works locations, the discharge rate (litres per second), duration of pumping (number of days/weeks), the amount of lowering of the water table and the anticipated quality of the extracted water.

(ix) Descriptions of the actual volume of tailwater to be reinjected (kilolitres/megalitres), the reinjection locations, the disposal rate (litres per second), duration of operation (number of days/weeks) and anticipated quality of treated tailwater to be reinjected.

(x) Monitoring of groundwater levels (minimum of 3 weekly measurements of depth to water at a minimum of 3 locations broadly distributed across the site) beneath the proposed development site prior to construction. This requirement is only for sites where the proposed structure shall extend greater than one floor level into the existing ground level.

(b) Specific Conditions

(i) The design of the structure must preclude the need for permanent dewatering.

(ii) The design of the structure that may be impacted by any watertable must require a water proof retention system (i.e. a fully tanked structure) with adequate provision for future fluctuations of watertable levels. (It is recommended that a minimum allowance for a watertable variation of at least +/-1.0 metre beyond any expected fluctuation be provided). The actual water table fluctuation and fluctuation safety margin must be determined by a suitably qualified professional.

(iii) Construction methods and material used in and for construction are not to cause pollution of the groundwater.

(iv) Monitoring of groundwater levels is to be continued at least weekly during the construction stage and at least weekly over a period of at least 2 months following cessation of dewatering, with all records

being provided to the NSW Office of Water on expiration of the licence. This requirement is only for sites where the proposed structure shall extend greater than one floor level into the existing ground level.

(v) Groundwater quality testing must be conducted (and report supplied to the NSW Office of Water). Samples must be taken prior to the commencement of dewatering, (and ongoing to the satisfaction of the NSW Office of Water for both extraction and reinjection activities, if required). Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.

(vi) Discharge of any contaminated tailwater that is not to be reinjected, must satisfy all requirements of any controlling authority (i.e. the NSW Department of Environment and Climate Change, Council and Sydney Water). The method of disposal of excess tailwater (i.e. street drainage to the stormwater system or discharge to sewer) and written advice from the relevant controlling authority, indicating that the proposed/actual quality of tailwater is acceptable, must be presented to the NSW Office of Water and the consent authority.

(vii) Discharge of any contaminated tailwater, if reinjection is proposed, must satisfy all requirements of the NSW Department of Environment and Climate Change and the NSW Office of Water. The quality of any tailwater reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site. Contaminated groundwater is not to be reinjected into any aquifer. The following must be demonstrated in writing:

- The treatment to be applied to the tailwater to remove any contamination.
- The measures to be adopted to prevent redistribution of any contaminated groundwater.
- The means to avoid degrading impacts on the identified beneficial use of the groundwater.
- Written advice from the NSW Department of Environment and Climate Change indicating their approval for the methodology of handling and treating the groundwater.

(viii) Written advice be provided from the Certifying Authority to the NSW Office of Water to certify that the following ground settlement issues have been addressed in reports submitted by the proponent:

- Assessment by a suitably qualified geotechnical professional that the proposed dewatering activity does not pose an unacceptable risk of off-site impacts such as damage to surrounding buildings or infrastructure as a result of differential sediment compaction and surface settlement during and following pumping of groundwater.

- Settlement monitoring activities to be undertaken prior to, during and for the required period of time following the dewatering pumping to confirm the impact predictions.
- Locations of settlement monitoring points, and schedules of measurement.

(c) Formal Application Issues

(i) An application must be completed on the prescribed form for the specific purpose of temporary construction dewatering and a licence obtained from the NSW Office of Water prior to the installation of the groundwater extraction works. A plan drawn to scale will be required with the application clearly identifying the location of the dewatering installations.

(ii) Upon receipt of a Development Consent from the Council of the City of Botany Bay, unambiguous documentation of the means by which the below-ground areas of the development will be designed and constructed to prevent any groundwater seepage inflows (and therefore preclude any need for permanent or semi-permanent pumping), together with all other required supporting information, the NSW Office of Water will issue a Water Licence under Part 5 of the *Water Act, 1912*.

(iii) A licence application under Part 5 of the *Water Act 1912* must be accompanied by a $151.00 fee and must specify the proposed volume of groundwater to be pumped in total (megalitres). The licence is also subject to administrative charges as determined from time to time by the Independent Pricing and Regulatory Tribunal (IPART).

101

(a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the *Environmental Planning and Assessment Act, 1979*; and,

(b) Condition Nos. 9, 10, 11, 16, 32, 33, 34, 35, 36, 37, 38, 65, 72, 74, 75, 81, 85, and 95 are pre conditions to the issue of an Occupation Certificate.

102 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 10/314 dated as 15 July 2010 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

Certified Mr Rodger Dowsett……
Director - Planning and Development