

**JOINT REGIONAL PLANNING PANEL  
(East Region)**

<b>JRPP No</b>	<b>2011SYE072</b>
<b>DA Number</b>	<b>DA11/67</b>
<b>Local Government Area</b>	<b>City of Botany Bay</b>
<b>Proposed Development</b>	<b>Construction of a 6 to 13 storey mixed residential and commercial development comprising 148 residential apartments, 2 ground floor commercial suites, 296 car parking spaces over 3 basement levels and associated landscaping works</b>
<b>Street Address</b>	<b>208-210 Coward Street, Mascot</b>
<b>Applicant/Owner</b>	<b>Krikis Tayler Architects/Mascot 3 Pty Ltd</b>
<b>Number of Submissions</b>	<b>Nil</b>
<b>Recommendation</b>	<b>Conditional consent</b>
<b>Report by</b>	<b>Rodger Dowsett, Director Planning and Development</b>

## ASSESSMENT REPORT AND RECOMMENDATION

### 208-210 COWARD STREET, MASCOT – INTEGRATED DEVELOPMENT

**File No:** 11/67

**Responsible Officer:** Rodger Dowsett, Director of Planning and Development

**Date of Preparation:** 18 November 2011

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**DA No:** 11/67

**Application Date:** 29 April 2011

**Property:** 208-210 Coward Street, Mascot

**Lot & DP No:**

- Lot 29 in DP 59063 and Lot 30 in DP 939729, being 208 Coward Street;
- Lot G & H in DP 378846 being 210 Coward Street;
- Lot 278 in DP 1100292, known as No. 1 John Street; and,
- Lot F in DP 369255, known as No. 214-220 Coward Street.

**Details:** Construction of a 6 to 13 storey mixed residential and commercial development comprising 148 residential apartments, 2 ground floor commercial suites, 296 car parking spaces over 3 basement levels and associated landscaping works

**Applicant:** Krikis Tayler Architects

**Applicant Address:** Level 7, 97 Pacific Highway, North Sydney NSW 2060

**Builder:** To Be Advised

**Principal Certifying Authority:** City of Botany Bay

**Property Location:** Located between John Street to the north, Coward Street to the south, O’Riordan Street to the east and Laycock Street to the west

**Zoning:** Mixed Uses Commercial/Residential 10(a)  
Botany Local Environmental Plan, 1995

**Present Use:** Industrial

**Classification of Building:** Class 2 - residential flat building  
Class 5 – shop/retail/commercial  
Class 7a – car park

**Value:** \$25,000,000.00

**Drawing Nos.:** Refer to Condition No. 1

### **SUMMARY OF REPORT**

**Recommendation:** Conditional consent

**Special Issues:** Floor Space Ratio, Building Height, Land Dedication, Public Domain Works, Lot Consolidation, Site includes Lot F in DP 369255 (214-220 Coward Street)

**Public Objection:** Nil

**Permissible:** Yes

### **THE DIRECTOR OF PLANNING AND DEVELOPMENT REPORTS:**

#### **Executive Summary**

Council received Integrated Development Application No. 11/67 on 29 April 2011, seeking consent for the construction of a 6 to 13 storey mixed residential and commercial development comprising 148 residential apartments, 2 ground floor commercial suites, 296 car parking spaces over 3 basement levels and associated landscaping works at 208-210 Coward Street, Mascot.

The development form will comprise of a “U” shaped building, ranging from 6 to 13 storeys fronting John Street, Coward Street and Linear Park. The building facing John Street (north) is 6 storeys in height, the building facing Linear Park (east) is 6 rising to 13 storeys in height with the 13 storey component focused on the southern portion of the site, and the building fronting Coward Street (south) is 13 storeys above ground level, and contains a lower ground level, which is not discernable from the Coward Street elevation. The development proposes a defined podium element accommodating communal open space and ground floor commercial space. The building elements that front John Street and Coward Street each have separate pedestrian access points.

In summary the development comprises:

- Two ground floor commercial tenancies fronting Coward Street with a gross floor area of 223sq.m; and,
- Residential flat building comprising 148 residential units with the following unit mix:
  - 23 x 1 bedroom units;
  - 12 x 1 bedroom units with study;

- 111 x 2 bedroom units; and,
  - 2 x 3 bedroom units.
- The construction of a three (3) level basement car park accommodating 296 vehicles parking spaces;
- The basement carpark is to be accessed via two entry points on each level, connected to the basement carpark approved for the mixed use development at No. 214-220 Coward Street Mascot (directly to the west of the site) under Development Consent No. 10/314.
- Two ground floor commercial tenancies fronting Coward Street with a gross floor area of 223sq.m; and,
- Residential flat building comprising 148 residential units with the following unit mix:
  - 23 x 1 bedroom;
  - 12 x 1 bedroom + study;
  - 111 x 2 bedroom; and,
  - 2 x 3 bedroom units.
- Dedication of Lot 278 in DP 1100292, known as No. 3 John Street, Mascot, with a site area of 431sq.m to Council for the further expansion of Linear Park. It is noted that of the 431sqm of land to be dedicated to Council, approximately 84sqm will be used to continue the road widening of John Street and 347sqm will be used as park or open space;
- Dedication of 246sqm of land for the widening of John Street.
- Consolidation of four (4) lots comprising 208-210 Coward Street Mascot to form one lot and DP.

Additional information was received from the applicant on 25 May 2011, 28 June 2011 and 29 September 2011, relating to the submission of an Acid Sulfate Soils Assessment, Environmental Site Assessment, SEPP 1 Objection, Residential Flat Design Code Analysis Report, Disability Access Report and an amended BASIX Certificate for the development.

Further additional information was received from the applicant on 10 November 2011 relating to the submission of the following documentation:

- LJB Planning Response to comments made by Neustein Urban letter dated 18 October 2011 regarding FSR's in the Mascot Station Precinct;
- GFA calculations under Botany Bay LEP 1995;
- GFA calculations under the Standard Template Definition;
- Amended SK20 drawing providing for additional natural light to corridors;
- Lift Performance Analysis Report;
- Indicative shadow diagrams providing for setback to western boundary;
- Car parking allocation table; and,
- Amended SEPP 1 Objection.

On 17 November 2011, the applicant submitted a letter to Council with regard to the proposed future stratum subdivision of DA 10/314 at No. 214-220 Coward Street, Mascot as discussed below.

Council's Design Review Panel (DRP) has considered the proposed development prior to the lodgment of the application on two occasions, the first occasion being on

17 February 2011 and the second occasion being on 31 March 2011. The second meeting was convened to review the amended plans which responded to the initial concerns raised by the DRP relating to floor space ratio (FSR), building height and the relationship of the proposal to surrounding development. The DRP at their meeting of 31 March 2011 provided support to the amended pre-DA subject to recommendations for further refinement with regard to aesthetics and amenity of the development.

The plans now before the JRPP have incorporated the recommendations made by the DRP.

The development is proposed to be constructed to adjoin and integrate into the recently approved mixed use development at 214-220 Coward Street Mascot, directly to the west of the site, under DA 10/314. It is noted that this development application was determined by the Panel on 16 December 2010. This development is currently under construction.

Approval of the proposed development at 208-210 Coward Street, will require modification by way of a Section 96(1A) Application to be made to DA 10/314, ahead of construction work to permit integration of the building at 214-220 Coward Street Mascot, with this development both at basement level and that part of the building above ground level and including lot boundary re-definition under a future stratum subdivision application. The applicant under letter dated 16 November 2011, received by Council 17 November 2011, provided the following statement with regard to the future Stratum Subdivision:

*“We refer to the above development (214-220 Coward Street Mascot) and the proposed development at 208-210 Coward Street Mascot which is effectively the second stage. The two developments will form one united building as defined in part A4 of the Building Code of Australia.*

*As part of the lot consolidations and redefinition, including dedication of the land to Council for the widening of John Street, that will be required for the two developments, it is intended that the common boundary be steeped to form lots in stratum. The stratum subdivision will transfer airspace above 214-220 Coward Street to 208-210 Coward Street and will facilitate in the construction of the cantilevered westward extension of the north and south wings of the proposed development at 208-210 Coward Street.”*

The development will result in a dedication of approximately 246sq.m for the purpose of road widening required for John Street under the Mascot Station Precinct Development Control Plan (DCP) and dedication of the north-eastern portion of the site known as Lot 278 in DP 1100292, (No. 1 John Street, Mascot), with a site area of 431sq.m to Council for the further expansion of Linear Park. It is noted that of the 431sqm of land to be dedicated to Council, approximately 84sqm will be used to continue the road widening of John Street and 347sqm will be used as park or open space. The applicant confirmed by letter dated 10 October 2011, that they are willing to enter into a Voluntary Planning Agreement (VPA) with Botany Bay City Council.

The exact wording and details of the VPA for the above, are to form the subject of a separate offer to Council.

The development application was accompanied by an objection under State Environmental Planning Policy No. 1 – Development Standards (SEPP 1). The SEPP 1 Objection initially sought a variation to Clause 12A of the Botany Local Environmental Plan 1995 in relation to the permitted floor space ratio (FSR) for the site, being 2.5:1. The variation sought under the SEPP 1 Objection was to permit an FSR of 4.6:1. However, the applicant has since submitted an amended SEPP 1 Objection to Council on 10 November 2011, which cites a reduction in the proposed FSR for the development from 4.6:1 to 4.44:1. The applicant advises that this reduction in FSR is due to the erroneous inclusion of storage spaces within each unit in the initial FSR calculations. Under BLEP 1995, the definition of gross floor area does not include storage areas. The amended SEPP 1 Objection has been assessed in detail further within this report.

The proposed development is integrated development under the provisions of Section 91 of the Environmental Planning and Assessment Act. The Development requires the concurrence of the NSW Office of Water as the development involves temporary construction dewatering activity to accommodate basement car parking facilities, and the NSW Roads Traffic Authority as the development is classified as “Traffic Generating Development” under State Environmental Planning Policy (Infrastructure) 2007.

It is noted that no submissions were received following two (2) separate rounds of notification and advertisement of the proposed development. The notices were done in accordance with the DCP and included an advertisement in the local newspaper and site notice.

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

It is made known to the Panel that the unit (dwelling) sizes measured in metres squared and of the available internal floor area of each dwelling unit within the development is calculated exclusive of balcony space and all units meet Council’s minimum unit sizes controls Minimum Apartment Sizes, as contained in Control C25 of the Mascot Station Precinct (MSP) DCP, and exceed the “rule of thumb” apartment sizes contained in the Residential Flat Design Code (RFDC):

<b>Unit Type</b>	<b>MSP DCP</b>	<b>SEPP 65 (RFDC) Note: Rule of Thumb</b>	<b>Proposed</b>
Studio	60sq.m	38.5sq.m	Nil
1 bedroom	75sq.m	50sq.m	75-88sq.m
2 bedroom	100sq.m	70sq.m	100-125sq.m
3 bedroom	130sq.m	95sq.m	143sq.m

The subject site has also been the subject of the following applications:

- Development Consent No. 11/156 granted by Council on 19 August 2011, for the demolition of the existing buildings and structures at 208-210 Coward Street and 1 John Street Mascot;
- Construction Certificate No. CC 11/67 lodged with Council with Development Application No. 11/67 on 29 April 2011 for the construction of the development at 208-210 Coward Street Mascot. The Construction Certificate is yet to be determined;
- Complying Development Certificate No. CDC 11/41 issued by Council on 11 August 2011 for the demolition of an existing two storey commercial building at 210 Coward Street, Mascot, and **more recently:**
- Development Consent No. 11/165 granted by Council on 28 September 2011 for the installation of contiguous piles around the perimeter of the site that will become part of the future wall/cut off walls at 208-210 Coward Street and 1 John Street, Mascot.

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

### **Site Description**

The subject site to which the application relates is formed by the following six (6) allotments, in their legal descriptions as follows

- Lot 29 in DP 59063 and Lot 30 in DP 939729, being 208 Coward Street; and,
- Lot G & H in DP 378846 being 210 Coward Street; which are to contain the proposed buildings.
- Lot 278 in DP 1100292, known as No. 1 John Street, Mascot with a site area of 431sq.m; to be dedicated to Council as a part of the future expansion of Linear Park; and,
- Lot F in DP 369255 known as No. 214-220 Coward Street (see below comment).

The combined area of the above lots, with exception to Lot F in DP 369255, is 3,417sq.m. All buildings on the above allotments have been demolished under Development Consent No. 11/156 issued by Council on 19 August 2011, and Complying Development Certificate No. CDC 11/41 issued by Council on 11 August 2011.

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. Development surrounding the site consists of mixed residential and commercial development of similar height and density to that of the subject proposal.

Directly to the west of the site is No. 214-220 Coward Street. This site is currently under construction of the basement parking levels under Development Consent No. 10/314 for the construction of a part 6 storey and part 13 storey mixed residential and commercial building comprising 127 residential units, 2 ground floor commercial tenancies, and basement level car parking for 258 vehicles, issued by the Joint Regional Planning Panel (JRPP) on 16 December 2010. This consent was modified by Development Application No. 11/27 to construct and additional 9 units, and by Section 96(2) Application No. 10/314/02 for a further 2 units and to modify the approved basement car park to provide an additional 21 car parking spaces. This consent will require further modification by way of a Section 96(1A) Application ahead of construction work to permit integration of the building at 214-220 Coward Street Mascot, with this development both at basement level and that part of the building above ground level and including lot boundary re-definition under a future stratum subdivision application.

To the north of the subject site at No. 3-9 Church Street Mascot, is a recently constructed mixed use development 8 storeys in height. To the northwest of the 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.

Further to the west of the site at No. 222-228 Coward Street is a recently constructed mixed development comprising two buildings of 6 storeys and 8 storeys in height with associated commercial units and basement car parking.

To the east of the site is a vacant lot known as No. 206A Coward Street Mascot. The lot supports the Southern Sewer Outfall (located below ground), which runs diagonally from Gardeners Road dissecting through the precinct through to Coward Street, and is owned by the Sydney Water Corporation. This area of land is specifically earmarked in Council's Mascot Station DCP to form "*a major open space area for the precinct*" and is named Linear Park, comprising approximately 7,800sq.m of land area in total. The City of Botany Bay has been collecting Section 94 Contributions from development in the Mascot Station Precinct to be put towards the future embellishment of Linear Park which includes the provision of landscape planting, paving, furniture, lighting, artworks, and a pedestrian footpath and cycleway. Linear Park will not be owned by the City of Botany Bay, but is to be secured via an appropriate long term lease with Sydney Water Corporation. The lease arrangement with Sydney Water is progressing and agreed to by Council when it met on 16 November 2011.

## **Locality Plan**





## Site Photos



Subject site as viewed from Coward Street. Note: Buildings have been demolished.



The subject site as viewed from John Street. Note: Buildings have been demolished.



*Sydney Water drainage easement to the east of the subject site.*

## Site History

### No. 208-210 Coward Street

- On 20 August 1987, Council granted Development Consent No. 259/87 to Sweden Investments for additions to the existing building at 210 Coward Street Mascot.
- On 16 October 1992, Council granted Development Consent No. 92/267 to Civic Smash Repairs for the construction of a carport at 208 Coward Street, Mascot.
- On 19 August 2011, Council granted Development Consent No. 11/156 for the demolition of the existing buildings and structures at 208-210 Coward Street Mascot.
- Construction Certificate No. CC 11/67 lodged with Council with Development Application No. 11/67 on 29 April 2011 for the construction of the development at 208-210 Coward Street Mascot. The Construction Certificate is yet to be determined;
- Complying Development Certificate No. CDC 11/41 issued by Council on 11 August 2011 for the demolition of an existing two storey commercial building at 210 Coward Street, Mascot, and **more recently:**
- Development Consent No. 11/165 granted by Council on 28 September 2011 for the installation of contiguous piles around the perimeter of the site that will become part of the future wall/cut off walls at 208-210 Coward Street and 1 John Street, Mascot.

### No. 1 John Street

- On 19 August 2011, Council granted Development Consent No. 11/156 for the demolition of the existing buildings and structures at 208-210 Coward Street, and 1 John Street Mascot.

## Description of Development

The development application seek consent for the construction of a 6 to 13 storey mixed residential and commercial development comprising 148 residential apartments, 2 ground floor commercial suites, 296 car parking spaces over 3 basement levels and associated landscaping works at 208-210 Coward Street, Mascot.

The specifics of the proposal are as follows:

- The development form will comprise of a “U” shaped building, ranging from 6 to 13 storeys fronting John Street, Coward Street and Linear Park. The building facing John Street (north) is 6 storeys in height, the building facing Linear Park (east) is 6 rising to 13 storeys in height with the 13 storey component focused on the southern portion of the site, and the building fronting Coward Street (south) is 13 storeys above ground level, and contains a lower ground level, which is not discernable from the Coward Street elevation.
- The building elements that front John Street and Coward Street each have separate pedestrian access points;
- The development proposes a defined podium element accommodating communal open space and ground floor commercial space.
- The development proposes additional communal open space on Level 7 (rooftop of Level 6) of the building fronting John Street;
- The construction of a three (3) level basement car park accommodating 296 vehicles parking spaces;
- The basement carpark is to be accessed via two entry points on each level, connected to the basement carpark approved for the mixed use development at No. 214-220 Coward Street Mascot (directly to the west of the site) under Development Consent No. 10/314. It is noted that this development application was determined by the Panel on 16 December 2010;
- Two ground floor commercial tenancies fronting Coward Street with a gross floor area of 223sq.m; and,
- Residential flat building comprising 148 residential units with the following unit mix:
  - 23 x 1 bedroom;
  - 12 x 1 bedroom + study;
  - 111 x 2 bedroom; and,
  - 2 x 3 bedroom units.
- Dedication of Lot 278 in DP 1100292, known as No. 3 John Street, Mascot, with a site area of 431sq.m to Council for the further expansion of Linear Park. It is noted that of the 431sqm of land to be dedicated to Council, approximately 84sqm will be used to continue the road widening of John Street and 347sqm will be used as park or open space;
- Dedication of 246sqm of land for the widening of John Street; and,
- Consolidation of four (4) lots comprising 208-210 Coward Street Mascot to form one lot and DP.

The development is proposed to be constructed to adjoin and integrate into the recently approved mixed use development at 214-220 Coward Street Mascot, directly to the west of the site, under DA 10/314. It is noted that this development application was determined by the Panel on 16 December 2010. This development is currently

under construction. Approval of the proposed development at 208-210 Coward Street, will require modification by way of a Section 96(1A) Application to be made to DA 10/314, ahead of construction work to permit integration of the building at 214-220 Coward Street Mascot, with this development both at basement level and that part of the building above ground level and including lot boundary re-definition under a future stratum subdivision application.

The proposed gross floor area is 15,175sqm. The floor space ratio of the proposed development is therefore 4.44:1. 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.

The applicant has submitted a design statement in support of the development applications, which is discussed below under SEPP 65 Considerations. It is stated that the proposal has been designed to sensitively and imaginatively interact with the contextual, aesthetic, environmental, and commercial criteria.

Summary table:

<b>Control</b>	<b>Proposal</b>
<b>FSR</b>	4.44:1 (15,175sq.m)
<b>Height</b>	13 storeys (a.g.l) on the Coward Street elevation 6 storeys (a.g.l) on the John Street elevation 6 rising to 13 storeys (a.g.l) fronting Linear Park
<b>Site Coverage</b>	55.25%
<b>Landscaping</b>	376sq.m (14%)

Commercial Component

<b>Level</b>	<b>Unit No.</b>	<b>Gross Floor Area</b>	<b>Car Parking</b>
Ground	Unit 1	185sq.m	3
	Unit 2	38sq.m	1
<b>Total</b>		<b>233sq.m</b>	<b>4</b>

Residential Component

<b>Level</b>	<b>No. of Bedrooms</b>			<b>GFA sq.m</b>		<b>P.O.S (min-max sq.m)</b>	<b>Car Parking (spaces per level)</b>
	<b>1 &amp; 1 + study</b>	<b>2</b>	<b>3</b>	<b>BLEP 1995</b>	<b>Standard Instrument</b>		
Ground	-	-	-	1,304	1,294	0	-
1	-	20	-	1,050	797	13-41	40
2	8	11	-	1,547	1,344	12-36	30
3	2	9	-	1,462	1,287	12-38	20
4	8	11	-	1,531	1,334	12-36	30
5	2	9	-	1,462	1,287	12-38	20
6	8	11	-	1,531	1,334	12-34	30
7	-	4	-	878	756	15-180	8

8	2	9	1	873	772	13-39	22
9	1	3	-	779	705	15-40	7
10	2	9	1	873	772	13-39	22
11	1	3	-	779	705	15-38	7
12	1	23	-	729	645	14-56	25
13	-	-	-	599	590	-	-
<b>Subtotal</b>	<b>35</b>	<b>111</b>	<b>2</b>	<b>15,397</b>	<b>13,622</b>	<b>3,443</b>	<b>261</b>
<b>Total</b>	<b>148 residential units</b>			<b>15,175</b> Less service risers @ 1.5sq.m per unit.	<b>13,400</b> Less service risers @ 1.5sq.m per unit.	<b>3,443</b>	<b>265</b>

### Car Parking Allocation to Basement Levels

<b>Level</b>	<b>Residential</b>	<b>Commercial</b>	<b>Visitors</b>	<b>Total</b>
B1	76	4	16	96
B2	84		15	99
B3	101			101
<b>Total</b>	<b>261</b>	<b>4</b>	<b>31</b>	<b>296</b>

Note: The development provides for 9 visitor car parking spaces in excess of Council's requirements for visitor car parking.

### **SECTION 79C CONSIDERATIONS**

In considering the Development Applications, 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 NSW Office Water (formerly the Department of Environment, Climate Change, and Water) on 8 August 2011. The Department issued their General Terms of Agreement on 29

September 2011. The General Terms of Agreement are attached to the schedule of consent conditions.

State Environmental Planning Policy (Infrastructure) 2007

The proposed development falls within the provisions of Schedule 3 of the SEPP – Traffic Generating Development that is required to be referred to the NSW RTA. The application was accompanied by a Traffic Impact Assessment prepared by Thompson Stanbury Associates; Ref No. 11-048 dated May 2011.

Plans and documentation were referred to the RTA’s Sydney Regional Development Advisory Committee (SRDAC) for consideration and comment on 7 September 2011. Under letter dated 14 September 2011, the SRDAC provided its concurrence and conditions/comments in relation to the application.

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 Use 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 in accordance with Clause 12A of the Botany LEP 1995.

The proposal seeks an FSR as indicated under Column 2 of the table below:

<b>Requirement under Clause 12A of Botany LEP 1995</b>	<b>Proposed FSR Botany LEP 1995</b>	<b>Proposed FSR Standard Instrument</b>
2.5:1 (8,542sq.m)	4.44:1 (15,175sq.m)	3.92:1 (13,400sq.m)

The development application was accompanied by an objection under State Environmental Planning Policy No. 1 – Development Standards (SEPP 1). The SEPP 1 Objection initially sought a variation to Clause 12A of the Botany Local Environmental Plan 1995 in relation to the permitted floor space ratio (FSR) for the site, being 2.5:1. The variation sought under the SEPP 1 Objection was to permit an FSR of 4.6:1. However, the applicant has since submitted an amended SEPP 1 Objection to Council on 10 November 2011, which cites a reduction in the proposed FSR for the development from 4.6:1 to 4.44:1. The applicant advises that this reduction in FSR is due to the erroneous inclusion of storage spaces within each unit in the initial FSR calculations. Under BLEP 1995, the definition of gross floor area does not include storage areas.

The SEPP 1 Objection is reproduced as follows:

*“It is requested that City of Botany Bay vary clause 12A of Botany Bay LEP 1995 to allow floor space ratio of 4.4:1 under the current LEP.*

*It is noted that the FSR has reduced from the originally submitted calculations as storage spaces within the apartments have been deducted from the GFA calculations as permitted by sub-clause (e) of the definition reproduced in section 2 of this report. In addition an allowance of 1.5m<sup>2</sup> for service risers has been allowed for.*

*In relation to the storage spaces, it is noted that there are provisions rather than to be actually built prior to completion as good residential design allows for flexibility in use and configuration of apartments. Combined with the generous area of apartments required by Council’s planning codes, a well designed apartment that maximises usable area rather than have extensive ancillary and circulation spaces will provide many opportunities for the inclusion of storage spaces. In order to maximise flexibility, these spaces have not been fitted out for exclusive use as storage. This allows the residents to tailor the use of spaces to suit their lifestyle and needs e.g. spaces could be used for media desks, open shelving, display cases or general living space should these be a priority over storage.*

*The Draft Botany Bay LEP, which was made public on 4 August 2011, proposes to increase the FSR on this site to 3:1 and increase the height to 44 metres. Under the definition of the Standard LEP template, the development proposes a FSR of 3.92:1.*

*The key differences between the current and draft definitions of GFA are the calculation from the internal face of external walls and the exclusion of vertical circulation.*

*My interpretation of vertical circulation includes corridors, which are an extension of vertical circulation. This interpretation is consistent with the approach of the standard instrument towards the measurement of net areas. The inclusion of corridors in GFA would encourage developers to minimise the extent of circulation space and corridor width to maximise the saleable unit areas. By excluding corridors as part of vertical circulation given their role in a building, developers will be encouraged to provide wide spaces with increased amenity.*

*In addition, Council engaged SMEC Consultants to prepare a Transport Management Accessibility Plan (TMAP) for the Mascot Area. The aim of the TMAP was to determine how and to what extent the Mascot Precincts transport and road systems need to be managed to meet the intended population and employment targets and to determine the extent of land use changes to be tempered to cater for transport constraints.*

*A Draft TMAP has now been completed and submitted to Council. The TMAP recognises that the FSR for the subject site could be increased to 3.5:1, a further increase to the draft controls. This will be further addressed below. As a result of the recommendation in the Draft TMAP the proposed development would result in a non-compliance of 12%. This will be further addressed below.”*

The amended SEPP 1 Objection to the FSR control has been assessed in accordance with relevant case law and the rationale of the applicant as outlined below:

***1. Is the requirement a development standard?***

The subject floor space ratio requirement is a development standard contained in the Botany Local Environmental Plan 1995.

***2. What is the underlying object or purpose of the standard (if there is no stated objective 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:

*“There is no stated objective in relation to the floor space ratio control in the LEP; however the Mascot Station Precinct DCP provides objectives relating to floor space ratios as follows:*

- 1. 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.*
- 2. To allocate floor space ratios to each sub-precinct, which are commensurate with the permitted building heights within the MSP.*
- 3. To ensure equity amongst potential redevelopment sites within the MSP by allowing those property owners, that are affected 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.*
- 4. To provide sufficient development incentives to compensate for the dedication of land for public facilities on identified development sites.”*

Even though there are no specific objectives for FSR, the Mascot Station Precinct DCP contains the objectives and desired character for the redevelopment of the area. The comments made above by the applicant in the SEPP 1 Submission are consistent with objectives of the DCP that is to establish controls that encourage good quality urban design, a high level of residential amenity and environmental sustainability.

***3. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?***



*This may be found if:*

- (a) The proposal meets the objectives of the development standard notwithstanding its non-compliance with the standard. In this instance one must determine the objectives of the standard and if not expressly stated in the LEP what are the inferred objectives?*
- (b) The underlying objective or purpose is not relevant to the development;*
- (c) The underlying objective or purpose would be defeated or thwarted if compliance was required with the standard;*
- (d) The development standard has been virtually abandoned or destroyed by Council's own actions.*

The applicant claims that compliance with the maximum FSR development standard is unreasonable and unnecessary in the circumstances of the case on the following grounds:

*“In the circumstances of this development application, strict compliance with Clause 12 of Botany Bay LEP 1995 is unreasonable and unnecessary for the following reasons:*

***1. The objectives of the standard are achieved notwithstanding noncompliance with the standard;***

*The LEP does not include objectives for the FSR control; however the Mascot Station Precinct DCP provides objectives relating to floor space ratios.*

*These objectives are addressed in detail below:*

- 1. 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 pedestrian friendly 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 an enhanced pedestrian environment and a strong visual presence, and*

*provide appropriate incentives to stimulate the redevelopment of surrounding land.*

*In order to achieve the desired future character the floor space ratio of the proposed building is considered appropriate.*

*To allocate floor space ratios to each sub-precinct which are commensurate with the permitted building heights within the MSP.*

*In general terms, the proposed development is intended to visually and physically integrate with the approved development on the adjoining site to the west, and the building height has been designed to match the height and alignment of the approved development along both the Coward Street and John Street frontages.*

*It provides a distinctive corner treatment and strong building articulation to define the junction of Coward Street and Linear Park.*

*The development extends to a maximum height of RL51.00 which is consistent the height of the approved development to the west (RL51.00), 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 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.*

*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 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 includes the dedication of the north-eastern portion of the site, approximately 430m<sup>2</sup> to provide for the expansion of Linear Park.*

*The current height controls in the DCP permit a building of 6 storeys on this site. The current height control does not correlate with the objectives of the precinct and the importance of this site as a gateway site into the Precinct.*

*The inappropriateness of the current height control has led to Council resolving in its Draft LEP to increase the floor space ratio and building height controls in the Precinct. The Draft LEP proposes to increase the building height on this site to 44 metres.*

*The proposed heights and floor space ratio in the draft LEP were based on a study undertaken by Neustein Urban, David Lock Associates and Taylor Brammer Landscape Architects in February 2010.*

*Neustein Urban found that there are significant opportunities for redevelopment and intensification in the Mascot Station Precinct. The Precinct is situated at the gateway to Sydney's Global Economic Corridor and 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 current floor space does not achieve the future character and opportunities within the precinct as identified by the study. Accordingly the allocated floor space is insufficient to support this.*

*To ensure equity amongst potential redevelopment sites within the MSP by allowing those property owners, that are affected 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.*

*The development facilitates the widening of John Street by the dedication of land to achieve a road reservation of 20 metres. In addition the development proposes the dedication of approximately 430m<sup>2</sup> of land as an extension to Linear Park. The site area of these dedicated spaces has been included in the FSR calculations.*

- 4. To provide sufficient development incentives to compensate for the dedication of land for public facilities on identified development sites.*

*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.*

*The proposed development also includes the dedication of the north-eastern portion of the site, approximately 430m<sup>2</sup> to provide for the expansion of Linear Park.*

*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.*

*The cost associated with the dedications and embellishment works is compensated by the increased floor space.*

- 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. The proposed development is consistent with the objectives of the FSR control in the Mascot Station Precinct DCP as detailed 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 1 to the extent that compliance with the FSR control would hinder compliance with the objects of the Act.*

*The objects of the act provide for the proper management and development of land to promote the social and economic welfare of the community. It promotes the orderly and economic use and development of land as compliance with the standard would make the development unviable.*

*In addition to the standard construction costs, development of sites in the Mascot Station Precinct is burdened with additional constraints. Due to the high cost of land in the precinct and the upgrade works required to remediate contaminated land, compliance with the floor space ratio would not make the development of this site economically viable.*

*In the circumstances of this development, the underlying objectives would be thwarted if compliance was required.*

- 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 current development standard is proposed to be virtually abandoned by Council, as the Draft Botany Bay LEP 2011, which was made public on 4 August 2011, proposes to increase the FSR on this site to 3:1. The Draft Botany Bay LEP has been adopted by Council.*

*Under the Standard LEP template, the definition of GFA is:*

***gross floor area*** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and*
- (b) habitable rooms in a basement or an attic, and*

- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
  - (i) storage, and
  - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

*Under the definition of the Standard LEP template, the development proposes a FSR of 3.92:1. The key differences between the current and draft definitions of GFA are the calculation from the internal face of external walls and the exclusion of vertical circulation.*

*My interpretation of vertical circulation includes corridors, which are an extension of vertical circulation. This interpretation is consistent with the approach of the standard instrument towards the measurement of net areas. The inclusion of corridors in GFA would encourage developers to minimise the extent of circulation space and corridor width to maximise the saleable unit areas. By excluding corridors as part of vertical circulation given their role in a building, developers will be encouraged to provide wide spaces with increased amenity.*

*Furthermore, Council engaged SMEC Consultants to prepare a Transport Management Accessibility Plan (TMAP) for the Mascot Area. The aim of the TMAP was to determine how and to what extent the Mascot Precincts transport and road systems need to be managed to meet the intended population and employment targets and to determine the extent of land use changes to be tempered to cater for transport constraints.*

*A Draft TMAP has now been completed and submitted to Council. The TMAP recognises that the FSR for the subject site could be increased to 3.5:1, a further increase to the draft controls. As a result of the recommendation in the Draft TMAP the proposed development would result in a noncompliance of 12%.*

*Due to the configuration of the allotments and a zero lot line to the west, the subject development includes floor space that is located on*

*the adjacent property. The two adjacent developments will become a united building and share services and carpark access. This will be formulated as part of a stratum subdivision.*

*The additional floor space on the adjacent lot essentially overlaps the ground level plan of the building at 214 – 220 Coward Street. Therefore the floor space does not increase site coverage or affect the provision of communal open space or landscaped areas.*

*Notwithstanding this, the additional floor space that forms part of the adjacent lot equates to approximately 10% of the GFA proposed. This floor space does not form part of the subject lot, and its main function is to provide consistency with the streetscape and maintain the zero lot line considered appropriate by Council.*

*As a result it essentially acts as a form of ‘bonus floor space’ to provide the desired future outcome and built form consistent with approved development along Coward and John Streets. It is this floor space that primarily results in the increase beyond the 3.5:1. Given the benefits this attributes to the building form and streetscape, it is therefore considered that the increased FSR proposed beyond the identified 3.5:1 is appropriate in the circumstances of this development.”*

The rationale provided by the applicant in the SEPP 1 Objection is generally agreed with. The development as proposed is considered acceptable for this site. Compliance with the FSR development standard is unnecessary and unreasonable in the circumstances of the case and refusal of the development application on this basis is not warranted.

#### ***4. 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 4.44:1.

In arriving at a view the objection was reasonable, 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 Strategic matters are as follows:-

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.

It should also be noted that Council, over time has approved developments within the MSP above the FSR controls outlined in the LEP as a result of the housing demands for the area. The following table provides a list of these developments:

<b>Address</b>	<b>FSR Control</b>	<b>Approved FSR</b>	<b>Approval Date</b>
214 Coward Street	2.5:1	4.5:1	16 December 2010
230 Coward Street (aka 25 John Street)	2.5:1	4:1	23 August 2006
3-9 Church Avenue	2:1	2:08:1	21 May 2008
13A Church Avenue	2:1	2.36:1	30 June 2009
10-14 Church Avenue & 619-629 Gardeners Road	2:1	2.52:1	3 August 2011
1-5 Bourke Street	3.3:1	3.35:1	11 August 2004
7 Bourke Street & 30-32 John Street	2.9:1	4.16:1	13 January 2011
24-26 John Street	2.0:1	3.46:1	6 September 2009
8 Bourke Road & 37 Church Avenue	3.3:1	4.24:1	13 May 2009

Therefore, based on the above assessment, together with related strategic matters 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.

**5. *Is the granting of consent consistent with the aims of the SEPP 1 policy, namely:***

**(a) *to provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance in any particular case would be unreasonable or unnecessary.***

**(b) *Will strict compliance with the development standard tend to hinder the objects of the Act, namely:***

**(i) *the proper management development and conservation of natural and artificial resources, including agricultural land, natural forest, forest, minerals, water, cities, towns and villages for the purposes of promoting the social and economic welfare of the community and a better environment; and***

**(ii) *the promotion and coordination of the orderly and economic use and development of land.***



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 applicant in the an objection submitted pursuant to State Environmental Planning Policy No 1 - Development Standards, states as follows:

*“The aims and objectives of SEPP 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 objects of the act provide for the proper management and development of land to promote the social and economic welfare of the community. It promotes the orderly and economic use and development of land as compliance with the standard would make the development unviable.*

*The aims of the MSP DCP are to establish controls that encourage good quality urban design, high residential amenity and environmental sustainability. The subject application represents a high quality orderly and economic use and development of the site, achieving an appropriate building form envisaged by the current and future planning controls.*

*As discussed in detail at Section 7 above, compliance with the development standard would be unreasonable and unnecessary in the circumstances.”*

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 reference to the objectives of SEPP 1 and floor space controls. The aims of MSP DCP are to establish controls that encourage good quality urban design, and high level of residential amenity and environmental sustainability. In addition to this the DCP aims to ensure that development does not unduly prejudice the future planning and development of the surrounding employment area to the west of the precinct. It is considered the proposed development has addressed the aims and objectives of the DCP and that it has considered the potential redevelopment of the locality.

Furthermore the proposed exceedance in FSR of any proposed development on this site is not inconsistent with the adjoining developments approved surrounding Coward Street and John Street in terms of height, and scale. It would be considered inappropriate for development on this particular site to be held to strict compliance with this FSR standard, as it would not complement the surrounding development. In addition the proposed development includes

the dedication of a public park, which will contribute to the amenity of the area.

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 Section 5 (a) (i) and (ii) of the Act.

## **6**

- (a) Whether or not non-compliance with the development standard raises any matter of significance for State or Regional environmental planning;***
- (b) The public benefit of maintaining the planning controls adopted by the environmental planning instrument.***

Where Council is to support a departure in FSR, Council is to ensure that the departure from the standard will raise no matters that will have State or Regional significance.

The SEPP 1 Objection addresses Part 6 (a) and (b) as follows:

- “(a) The proposed variation to the development standard does not raise any matters of significance for state or regional planning. The variation is also not contrary to any state policy of ministerial directive.*
- (b) The public interest would not be served by requiring compliance with the Floor space ratio controls for the following reasons:*
  - The proposed development provides a significant public benefit in terms of the dedication of land to facilitate the widening of John Street and the expansion of Linear Park;*
  - 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 commercial floor space and residential accommodation in close 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;*
  - The proposed development has been designed to visually and physically integrate with the approved/proposed development on the adjoining site to the west, and provide a*

*distinctive corner treatment and strong building articulation to define the junction of Coward Street and Linear Park;*

- *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 in terms of room sizes/dimensions/shapes, sunlight access, natural ventilation, visual and acoustic privacy, storage, indoor/outdoor space, efficient layouts/service areas, outlook and access;*
- *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.*

*On the basis of the above assessment, requiring compliance would not be a public benefit as the development of an important site would not be achieved.”*

Based on the above, and which is not disputed, the departure from the FSR will provide a public benefit being public open space provision and road widening construction, (construction and dedication in both circumstances), that Council unit sizes are greater than those to SEPP 65, which is a result of the ANEF contour which contributes to an increased FSR. It should be noted and as previously indicated, the *LEP Standards and Design Study* dated October 2010 and prepared for Council by Neustein Urban, recommends for this site to have a maximum floor space ratio of 3:1 (assessed in accordance with the Standard Instrument) and a height control of 44 metres.

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. The attainment of a FSR of 3:1 and a height of 44 metres will be based on whether or not the proposed development demonstrates a high quality of urban design in all elements of the built environment and public domain. Neustein Urban has recommended that detailed master planning be undertaken as the DCP adopted in 2001 is out of date and does not reflect its role as a Future Town Centre.

On 4 August 2011, the Draft Botany Local Environmental Plan 2011 was made public with the recommendations contained in the Neustein Urban Study, being an FSR of 3:1 and a height limit of 44 metres.

However, an increase in the residential and employment capacity of the Mascot Station Town Centre Precinct (west) will only be possible if traffic and

transport issues are resolved. The Neustein Urban Study therefore recommended the next step in the LEP and DCP making process be a Transport Management and Accessibility Plan (TMAP); and the preparation of a Master Plan and a Public Realm Plan of the Precinct, to identify suitable provision for open space, an appropriate pedestrian network, lively and creative open spaces and streets.

A Draft TMAP was lodged with Council on 26 September 2011. The Draft TMAP recommended a 3.5:1 maximum FSR for development within the Mascot Station Precinct. This figure was calculated based on traffic modeling and the projected maximum capacity of the road network and public transport network.

Neustein Urban was engaged by Council to review the FSR's of both current and recently approved development applications in relation to the Mascot Station TMAP. Under letter dated 18 October 2011, the following review was provided by Neustein Urban in relation to the subject development.

*“208-210 Coward Street, designed by Krikis Tayler Architects FSR 4.6:1*

*A “U” shaped building with a six storey wing to the north and east and a 14 storey rear wing on Coward Street. Very long corridors with up to 18 units served/accessed from only two elevators on each floor. A mix of corridor and balcony access, the taller southern block features two storey “cross-over” apartments on the Marseilles model pioneered by le Corbusier. Some 40 of the apartments are single aspect, i.e. not cross ventilated. The internal courtyard has no sunlight on its floor level for most of the day for the period from March through to September.*

*The building shows the stress of a design which tries to pack too much into its site (FSR 4.6:1) and thereby breaches the Residential Flat Design Code. There is virtually no useable communal open space at or near ground floor, no planting area that is not above parking and no provision for through site links or any contribution to the streetscape. Together with the matching application at 214-220 Coward Street, the design provides a solid unbroken building wall to both Coward and John Streets. The design is not good enough to warrant this outcome. (Having regard to the comments made by Council's Design Review Panel with regard to other applications, I am surprised that this application has not attracted great criticism.”*

The applicant was referred a copy of the above review and was offered an opportunity to respond to the comments made by Neustein Urban. On 9 November 2011 a response was received by Council from LJB Urban Planning Pty Limited (on behalf of the applicant) in relation to the comments made by Neustein Urban and also providing further justification in support of the proposed FSR for the development. The response has been reproduced as follows:

*“Corridor Lengths*

- *The comments indicate that the development has very long corridor lengths and 18 units serviced by only two elevators on each floor.*
- *The RFDC suggests that: ‘where units are arranged off a double loaded corridor, the number of units accessible from a single core/corridor should be limited to eight’.*
- *The code also allows exemptions to this rule of thumb where: ‘developments can demonstrate a high level of amenity for common lobbies, corridors and units (cross over, dual aspect).*
- *The development provides two lift cores, which are accessible off the primary building entry off John Street. The location of the lift cores will provide convenient access to all units.*
- *The proposal incorporates three distinct wings that are punctuated by lift lobbies, changes in direction and natural light. As a result, the individual corridor legs will be perceived as separate and discrete spaces. All of the corridor legs service less than eight apartments with exception of the south corridor which services ten apartments on Level 2, 4, 6 and 8 and nine apartments on levels 10 and 12.*
- *The layout of the corridors affords high level of amenity with natural light and ventilation provided on every level. The northern and eastern corridors on every level are provided with large expanses of glass to allow natural light and ventilation into the space. The southern corridors which occur on levels 2, 4, 8, 10 also have natural light and ventilation with a light lobby at its eastern and western ends while the corridor on level 12 has a light lobby at its eastern end only.*
- *In response to the comments provided, it is proposed to provide increased natural light into the corridors by the provision of full height glazing to the south facing internal facade of the John Street (north) building and west facing internal facade of the Linear Park (east) Building.*
- *An amended plan SK20 providing for additional natural light and ventilation is submitted with this report. It is requested that Council impose a condition requiring the plans to be amended to reflect the additional glazing shown on SK20 prior to the issue of the Construction Certificate.*
- *The configuration of the corridors and unit entries affords high levels of natural light and ventilation into the communal corridors as indicated by the RFDC to increase amenity in circulation spaces.*
- *The RFDC, as noted above, allows exemptions for developments that demonstrate a high level of amenity for common lobbies, corridors and units.*

- *Natural light and ventilation is provided to all lobbies and corridors, the provision of natural light and ventilation will result in high amenity to these spaces.*
- *The RFDC measures amenity for units according to acoustic privacy, daylight access and natural ventilation.*
- *Acoustic privacy has been achieved between units by the internal configuration of the apartments, separation between units and buildings on the site. These measures afford the building acoustic privacy.*
- *62% of the units are naturally cross-ventilated. As demonstrated in Figure 03.41 of the RFDC, the provision of cross over units achieves good levels of cross ventilation, facilitating the movement of air through the apartments.*
- *In regards to solar access, 62% of the units will receive 2 hours of solar access between 9am to 3pm in mid winter. A further 27 apartments will achieve 1 hour 50 minutes just short of the 2 hours between 9am to 3pm. Resulting in 80% of units achieving almost 2 hours of solar access in mid winter. Furthermore, the units will achieve additional solar access prior to 9am. The morning sun will assist in warming the glazing and subsequently the units in mid winter, which will assist in reducing reliance on artificial heating.*
- *On the basis of the above, it is considered that the development achieves a high level of amenity for the corridors and units and therefore enables an exemption to the ratio of units to cores.*
- *In addition to further substantiate the appropriateness of the scheme; further analysis has been undertaken to determine the efficiency of the proposed lifts with the provision of a Core Waiting Analysis. The Analysis accompanies this submission and indicates that the lifts will perform at good (Lift 1) and excellent (lift 2) levels of performance.*
- *On this basis of the above assessment the corridor lengths and number of cores are considered appropriate and do not afford the building lesser amenity.*

#### Cross flow ventilation & single aspect units

- *The RFDC indicates as a Rule of Thumb a minimum of 60% of units should be cross ventilated.*
- *62% of the units are cross ventilated, fully compliant with the rule of thumb.*
- *Concern was also raised in the comments about the use of cross over apartments. It is noted that the RFDC promotes the use of cross over apartments at Figure 3.40 as a means of achieving good levels of cross flow ventilation.*

- *56 of the apartments are single orientated apartments and not cross ventilated. The subject units have a northern or eastern orientation.*
- *The RFDC recognises that not all apartments can achieve dual orientation or cross flow ventilation and accordingly for good residential design suggests that 60% of units should be cross ventilated. The development fully complies with this requirement.*
- *In addition, the RFDC seeks to restrict south facing single orientated units to a maximum of 10%. All the single orientated units are north or east facing. The development fully complies with this rule of thumb.*

*Provision of communal open space & solar access*

- *The development provides a number of opportunities for communal open space.*
- *At the ground level a central paved courtyard is proposed that provides a passive space with seating for residents to gather and use. This space will be protected during the hot summer months.*
- *To significantly enhance the social interaction of the residents, a generous communal open space is provided on the roof of the John Street building at Level 7. This space will provide a range of usage options by the provision of:*
  - *Two large landscaped spaces*
  - *BBQ facilities with pergola structure over*
  - *Seating areas*
  - *Toilet facilities*
  - *Internal communal room*
- *In addition to the above, the development provides a significant benefit by the dedication of land to the east of the building for a further expansion of Linear Park. This space will provide significant recreational opportunities for residents within and adjoining the development. The open space will achieve high levels of solar access in the morning till lunch time as demonstrated in the submitted shadow diagrams. It will also enhance solar access to the remainder of Linear Park by restricting development to approximately 16 metres away from the existing eastern boundary of Linear Park where it meets John Street.*
- *Notwithstanding the comments provided on this application, it does provide useable areas of open space at ground and above ground level. The development also dedicates to Council a large useable area of public open space that will provide an extension to Linear Park. The provision of public open space provides a direct benefit to the wider community.*

- *The value of the subject property and the cost associated with demolition of the existing buildings and landscaping of this area are significant. The area to be dedicated to Council will add positively to the long term durability of Linear Park due to its location and the opening up of Linear Park to greater solar penetration and pedestrian access by virtue of the increased 'throat' to John Street.*
- *It will also provide a temporary small open reserve for the surrounding residents benefit prior to the realisation of Linear Park as a whole.*
- *As noted in the Neustein Report, the courtyard at ground level does not achieve solar access in mid winter. As noted above, the development provides alternate opportunities for residents to enjoy open space with high levels of solar access. Notwithstanding this, an assessment has been undertaken to determine if the zero lot line to the west attributes to the overshadowing of the ground level courtyard.*
- *Attached to this submission is an amended shadow analysis incorporating a 3 metre setback from the western boundary of this development and the eastern boundary of the adjacent development providing a total separation of 6 metres. The shadow diagrams indicate that no significant improvement in solar access to either development would result from providing a setback to the lot boundary.*

#### *Design & Form of the Building*

- *The comments from Neustein Urban indicate that the development will make no contribution to the streetscape and the design provides a solid unbroken wall to both Coward and John Streets.*
- *Consistent with the adjacent development at 214-220 Coward Street the subject development proposes a zero lot line to the western boundary. As indicated above, providing a setback between the buildings will have no improved solar access to the central courtyard.*
- *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 has been designed to visually and physically integrate with the approved development on the adjoining site to the west, and provide a distinctive corner treatment and strong building articulation to define the junction of Coward Street and Linear Park.*



- *The base of the building is expressed as a negative two storey height to create the impression of the building floating above street level.*
- *The buildings provide an appropriate transition and stepping in building height, which reduces the overall bulk and scale of the buildings. The building integrates with the surrounding development and provides a lower scale building of 6 storeys to John Street. This low scale wraps the north eastern end of proposed Linear Park transitioning to the Coward Street building of 13 visible storeys. The building drops down at its western end to reflect the form of the adjacent development.*
- *The proposed development extends to a maximum height of RL51.00 which is consistent with the height of the approved development to the west (RL51.00), 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 proposal provides a variety of modulation within the articulation zone together with a variety of balustrade treatments as well as weather protection to all balcony spaces. The proposal demonstrates a strong, confident approach to building massing and articulation reflecting the commercial character of its location and context, which sets it apart from the existing residential building stock in the precinct.*
- *The building form and massing is considered highly appropriate in this location, providing a distinctive treatment to this important gateway site.*

#### Floor space ratio

- *The proposed development exceeds the FSR currently permitted under Botany Bay LEP 1995 of 2.5:1. Under the current controls FSR is calculated as the ratio of GFA to the site area. The definition of GFA is:*

*“gross floor area means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1,400 millimetres above each floor level excluding the following:*

- (a) columns, fin walls, sun control devices and any other elements, projections or works outside the general line of the outer face of the external walls,*
- (b) lift towers, cooling towers, machinery and plant rooms and ancillary storage space and vertical air-conditioning ducts,*
- (c) car parking at basement and at grade (ground level) and 50% of the car parking area provided at first floor*

*level (and any internal access to that car parking), being car parking that is needed to meet any requirements of the Council,*

- (d) space for the loading and unloading of goods,*
  - (e) designated storage spaces (if any) designated for personal items associated with multi unit housing, residential flat buildings and mixed development.*
- *On the basis of the above definition, the total GFA is 15,175, which equates to a FSR of 4.44:1. It is noted that the FSR has reduced from the originally submitted calculations as storage spaces within the apartments have been deducted from the GFA calculations as permitted by sub-clause (e). In addition an allowance of 1.5m<sup>2</sup> for service risers has been allowed for.*
  - *In relation to the storage spaces, it is noted that there are provisions rather than to be actually built prior to completion as good residential design allows for flexibility in use and configuration of apartments. Combined with the generous area of apartments required by Council's planning codes, a well designed apartment that maximises usable area rather than have extensive ancillary and circulation spaces will provide many opportunities for the inclusion of storage spaces. In order to maximise flexibility, these spaces have not been fitted out for exclusive use as storage. This allows the residents to tailor the use of spaces to suit their lifestyle and needs e.g. spaces could be used for media desks, open shelving, display cases or general living space should these be a priority over storage.*
  - *The Draft Botany Bay LEP, which was made public on 4 August 2011, proposes to increase the FSR on this site to 3:1 and increase the height to 44 metres. Under the Standard LEP template, the definition of GFA is:*
    - “gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:*
- (a) the area of a mezzanine, and*
  - (b) habitable rooms in a basement or an attic, and*
  - (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:*
  - (d) any area for common vertical circulation, such as lifts and stairs, and,*
  - (e) any basement:*
    - (i) storage, and*

- (ii) *vehicular access, loading areas, garbage and services, and*
  - (f) *plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and,*
  - (g) *car parking to meet any requirements of the consent authority (including access to that car parking), and*
  - (h) *any space used for the loading or unloading of goods (including access to it), and*
  - (i) *terraces and balconies with outer walls less than 1.4 metres high, and,*
  - (j) *voids above a floor at the level of a storey or storey above.*
- *Under the definition of the Standard LEP template, the development proposes a FSR of 3.92:1. The key differences between the current and draft definitions of GFA are the calculation from the internal face of external walls and the exclusion of vertical circulation.*
  - *My interpretation of vertical circulation includes corridors, which are an extension of vertical circulation. This interpretation is consistent with the approach of the standard instrument towards the measurement of net areas. The inclusion of corridors in GFA would encourage developers to minimise the extent of circulation space and corridor width to maximise the saleable unit areas. By excluding corridors as part of vertical circulation given their role in a building, developers will be encouraged to provide wide spaces with increased amenity.*
  - *Furthermore, Council engaged SMEC Consultants to prepare a Transport Management Accessibility Plan (TMAP) for the Mascot Area. The aim of the TMAP was to determine how and to what extent the Mascot Precincts transport and road systems need to be managed to meet the intended population and employment targets and to determine the extent of land use changes to be tempered to cater for transport constraints.*
  - *A Draft TMAP has now been completed and submitted to Council. The TMAP recognises that the FSR for the subject site could be increased to 3.5:1, a further increase to the draft controls. As a result of the recommendation in the Draft TMAP the proposed development would result in a noncompliance of 12%.*
  - *Due to the configuration of the allotments and Council's desire to maintain a zero lot line to the west, the subject development includes floor space that is located on the adjacent property. The two adjacent developments will become a united building and share services and carpark access. This will be formulated as part of a stratum subdivision.*

- *The additional floor space on the adjacent lot essentially overlaps the ground level plan of the building at 214 – 220 Coward Street. Therefore the floor space does not increase site coverage or affect the provision of communal open space or landscaped areas.*
- *Notwithstanding this, the additional floor space that forms part of the adjacent lot is 1,460m<sup>2</sup>, which equates to approximately 10% of the GFA proposed. For Council’s reference diagrams are attached which indicated the area of the ‘western boundary GFA’.*
- *This floor space does not form part of the subject lot, and its main function is to provide consistency with the streetscape and maintain the zero lot line considered appropriate by Council.*
- *As a result it essentially acts as a form of ‘bonus floor space’ to provide the desired future outcome and built form consistent with approved development along Coward and John Streets. It is this floor space that primarily results in the increase beyond the 3.5:1. Given the benefits this attributes to the building form and streetscape, it is therefore considered that the increased FSR proposed beyond the identified 3.5:1 is appropriate in the circumstances of this development.*
- *An amended SEPP 1 objection to compliance with the FSR of Botany Bay LEP 1995 accompanies this submission.*

*Public Benefit*

- *The proposed development will contribute to the public domain and is an appropriate development in this locality for the following reasons:*
  - *The proposed development provides a significant public benefit in terms of the dedication of land to facilitate the widening of John Street and the expansion of Linear Park;*
  - *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 commercial floor space and residential accommodation in close proximity to Mascot Railway Station;*
  - *The proposed development will integrate with the physical form of development extending along the northern side of Coward Street and the southern side of John Street in terms of building setbacks, alignment, manipulation of building elements, and landscaping;*

- *The proposed development has been designed to visually and physically integrate with the approved development on the adjoining site to the west, and provide a distinctive corner treatment and strong building articulation to define the junction of Coward Street and Linear Park;*
- *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 in terms of room sizes/dimensions/shapes, sunlight access, natural ventilation, visual and acoustic privacy, storage, indoor/outdoor space, efficient layouts/service areas, outlook and access;*
- *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.”*

The proposed mixed-use residential and commercial development on the subject site is consistent with the Sydney Metropolitan Plan 2036, which identifies Mascot Station Precinct as a future Town Centre. It also assists Council in achieving its residential and employment targets as identified in the Draft East Sub regional Strategy. The proposed development of this site is also consistent with the recommendations of the Neustein Urban Study (September 2010), which identified significant opportunities for redevelopment and intensification in the Mascot Station Precinct.

The SEPP1 objection submitted by the applicant is considered to be well founded as:

- The proposed development is a well mannered and sympathetic design form that fits well into the existing streetscape, which consists of other mixed residential and commercial development of a similar height and density to that of the subject proposal.
- As identified in the Table on page 23 of this report, the proposed FSR (4.44:1) is directly comparable in scale with other surrounding and recently approved/constructed developments, for example:
  - 214 Coward Street (which directly adjoins the subject site) has an approved FSR of 4.5:1
  - 230 Coward Street has an approved FSR of 4:1

- 7 Bourke Street and 30-32 John Street has an approved FSR of 4.16:1; and
- 8 Bourke Road and 37 Church Avenue has an approved FSR of 4.24:1
- In terms of height, the proposed building (at RL 51.00) is consistent with other surrounding developments, as follows:
  - 214 Coward Street (adjoining the site) has an RL 51.00
  - The TNT Building (directly opposite the site) at 197 Coward Street has an RL 48.00
  - The Electrolux Building (at the junction of Coward and O’Riordan Street) has an RL 51.00
- Attached in Appendix No. 1 (page 129) of this report are photomontages of the proposed building, which demonstrate how the development fits into its environs, and has minimal impact on the surrounding streetscape. As illustrated in the photomontages, the character of both Coward and John Street is effectively reinforced by the proposal, by adopting the already established setbacks, heights and FSRs of adjacent developments in this part of the Mascot Station Town Centre Precinct.
- The subject site is identified within the Mascot Station Town Centre as suitable for high-density residential/commercial development, which is reflective of its excellent location near the Mascot Railway Station, based on its close proximity.
- The proposal to redevelop the site for a mixed apartment/commercial building is also consistent with State Government urban consolidation initiatives, as outlined in the Sydney Metropolitan Plan for Sydney 2036. It also assists in achieving the residential targets for the City of Botany Bay as required by the Draft East Subregional Strategy.
- The proposed mixed residential and commercial building is reflective of the transition currently occurring in this part of the Mascot Town Centre, with the introduction of a number of new mixed-use developments.
- The proposed development provides a high quality development, which exhibits a high standard of architecture and excellent residential amenity. The design adopts strong urban design principles that ensure the proposal is consistent in scale and form with the surrounding development. It also provides a significant public benefit in terms of land dedication to allow for the extension of John Street and the expansion of Linear Park.

In summary the proposed development is a well-conceived response to all the relevant planning controls and Strategies, constraints and opportunities presented by the site and results in a development that is in the public interest.

Accordingly, it is considered that the development standard relating to the maximum FSR development for the site as contained within Clause 12A of the

Botany LEP, should be varied in the circumstances to allow the development to attain a floor space ratio of 4.44:1.

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

In accordance with the requirements of the SEPP, a BASIX Certificate No. 37881M\_03 dated 28 September 2011 received by Council 29 September 2011, has been submitted for the development pursuant to the provisions of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

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

The provisions of SEPP No. 55 have been considered in the assessment of the development application. Clause 7 of State Environmental Planning Policy 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application.

The applicant submitted a Phase 11 Environmental Site Assessment prepared by Aargus dated June 2011. The report made the following recommendation;

*“Based on the results of this investigation it is considered that the risks to human health and the environment associated with soil and groundwater contamination at the site are low in the context of the proposed use of the site as medium density residential units and open space.*

*The site is therefore considered to be suitable for the proposed use subject to the following recommendations:*

- *It is recommended that an appropriate remedial / management strategy is developed, culminating in preparation of a Remedial Action Plan (RAP) in accordance with OEH guidelines for the removal of any underground ground storage tanks.*
- *A hazardous materials assessment should be carried out on the property prior to any demolition works being undertaken on site.*
- *Any soils requiring removal from the site, as part of the remediation and bulk excavation process, should be classified in accordance with the “Waste Classification Guidelines, Part 1: Classifying Waste” NSW DEC (2009).*

*If during any potential site works, significant odours and / or evidence of gross contamination not previously detected are encountered, or any other significant unexpected occurrence, site works should cease in that area, at least temporarily, and the environmental consultant should be notified immediately to set up a response to this unexpected occurrence.”*

Council’s Environmental Scientist has reviewed the documentation and raised no objection to the development, subject to relevant conditions. Therefore it is considered that the applicant has adequately demonstrated that the subject site, and the area of land known as Lot 278 in DP 1100292, proposed to be

dedicated to Council for the future expansion of Linear Park, can be made suitable to accommodate the intended (recreational use) and it satisfies the provisions of SEPP No. 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 applications. The applicant has submitted a SEPP 65 assessment of the proposed development along with a design verification statement prepared by Krikis Tayler Architects dated 28 April 2011, 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 (DRP) has considered the proposed development prior to the lodgment of the application on two occasions, on 17 February 2011 and again on 31 March 2011. The subsequent meeting sought to provide amended plans that responded to the initial concerns raised by the DRP relating to floor space ratio (FSR) excessive building height and the relationship of the proposal to surrounding development. The DRP at their meeting of 31 March 2011 provided support to the amended pre-DA subject to further refinement of the design with regard to aesthetics and amenity of the development. The plans now before the JRPP have incorporated the recommendations made by the DRP.

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 that has been identified for significant re-development in accordance with the Mascot Station Precinct Development Control Plan (DCP 30). 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.

The surrounding built form context 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 13 storey heights with podium level commercial premises upon which is erected residential towers. The development proposes to occupy the subject site with a built form that is contextually appropriate, adding to the active and appropriate setting for the site with the establishment and dedication of a public reserve in accordance with the requirements of the DCP. 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 approved 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, and the site directly to the west No. 214-220 Coward Street, was recently granted Development Consent No. 10/314 to construct a similar mixed use development with a building height ranging from 6 to 13 storeys.

Council's Design Review Panel has considered the proposed development that is now before the Panel on two occasions, prior to the lodgment of the application. The following DRP comments in relation to "scale" were made after consideration of amended plans on 31 March 2011:

*"the reduction in height (and bulk) of the eastern wing (by 2 storeys is an improvement and better suits the emerging scale in John Street and in relation to nearby developments.*

*The maximum 6 storey height of the façade fronting John Street is acceptable as it suits the topography and would provide an effective end (at Linear Park) and relate well with the approved 5 storey height of the adjoining development to the west."*

The proposed development at No. 208-210 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, and the 13

storey building height approved under DA 10/314 for the adjoining building at No. 214-220 Coward Street which is currently under construction.

### **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 13 storey residential tower element extending vertically above, with the building height reduced to the middle of the site, 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 that is now before the Panel on two occasions, prior to the lodgment of the application. The following DRP comments in relation to "built form" were made after consideration of amended plans on 31 March 2011:

*"The height and massing modification are acknowledged. The edges facing John Street and Linear Park are now more consistent with the emerging character of the streetscape.*

*The reduction in height of the eastern wing improves the relationship to the existing redevelopments to the west. The pattern of site planning, massing and spatial linkage between Bourke Street and Linear Park is continued up to the eastern wing which provides an ending/containment and also importantly addresses the future Linear Park to the east."*

The building form is expressed with a defined base, middle and upper component with modern elements to the front facades 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 on Level 7 (rooftop of level 6) of the building fronting John Street, 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 that is now before the Panel on two occasions, prior to the lodgment of the application. The following DRP comments in relation to "density" were made after consideration of amended plans on 31 March 2011:

*"The maximum permissible FSR of 2.5:1 under the currently planning controls are still significantly exceeded by the amended Pre-DA scheme.*

*This numerical density would still result in a large development in bulk and height, but it is acknowledged that the amended proposal is more acceptable because of the reduction in height of the eastern wing which addresses some of the urban design issues raised previously.”*

The development also proposes 2 commercial units on the ground floor with a total gross floor area of 233sq.m. A total of 148 residential units are proposed, comprising 23 x 1 bedroom units, 12 x 1 bedroom + study units, 111 x 2 bedroom units and 2 x 3 bedroom units.

It is made known to the Panel that the unit (dwelling) sizes measured in metres squared and of the available internal floor area of each dwelling unit within the development is calculated exclusive of balcony space and all units meet Council’s minimum unit sizes controls Minimum Apartment Sizes, as contained in Control C25 of the Mascot Station Precinct DCP, and exceed the “rule of thumb” apartment sizes contained in the Residential Flat Design Code (RFDC):

<b>Unit Type</b>	<b>MSP DCP</b>	<b>SEPP 65 (RFDC) Note: Rule of Thumb</b>	<b>Proposed</b>
Studio	60sq.m	38.5sq.m	-
1 bedroom	75sq.m	50sq.m	75-88sq.m
2 bedroom	100sq.m	70sq.m	100-125sq.m
3 bedroom	130sq.m	95sq.m	143sq.m

In summary, the number of units provided within the building is considered to be appropriate given that sufficient landscaping, car parking, private balconies, appropriate internal layouts and setbacks have been 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 (RFDC) recommends that at least 60% of the proposed units shall achieve flow through ventilation with the proposal indicating 62% of proposed units able to achieve cross flow ventilation. The applicant has confirmed that all habitable spaces are adequately ventilated.

The RFDC recommends that at least 70% of all proposed units and balconies shall achieve 2 hours of direct sunlight during the period 9.00am and 3.00pm at mid-winter in dense urban areas. The proposal indicates that 65% of proposed units will receive at least 2 hours sunlight during mid-winter to balconies. This is considered acceptable given that the development can meet the requirements of BASIX.

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

### **Principle 6: Landscape**

Council's Design Review Panel has considered the proposed development that is now before the Panel on two occasions, prior to the lodgment of the application. The following DRP comments in relation to "landscape" were made after consideration of amended plans on 31 March 2011:

*"A comprehensive landscape design has been provided including the street frontage and nature strips and the triangle of land to be dedicated.*

*The landscape design appears to be acceptable and should accord with the Council's public domain plan for landscaping in the streets."*

A landscape plan has been submitted with the development application. 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 landscape plan demonstrates that a quality landscaped setting for the proposed development will provide a significant level of amenity for future occupants and the adjoining properties, with street planting to enhance the streetscape, and commensurate with the building size and bulk. As such 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. In addition, 809sq.m of communal open space is to be provided on the ground level and Level 7 (rooftop of level 6), which equates to 30% of the development site (which excludes land required for road widening and public reserve dedication).

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, and therefore the development is 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 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 for the Mascot Station Precinct. The applicant proposes a moderate mix of unit types, both in terms of layout and number of bedrooms that are likely to provide an appropriate style of dwelling for a variety of demographics. On this basis, the proposed development is considered to contribute to the social mix of the locality and provide housing that will enhance and provide for the local population.

### **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 the proposed painted precast panels masonry, brickwork, glazed finishes, and articulation contribute to the overall contemporary 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 satisfies 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 a residential flat building, 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 residential and commercial activities is not inconsistent 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,*
- (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 as follows:

- (a) 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.
- (b) The proposal will provide for a mix of residential development and commercial development in the form of two (2) commercial units located on the ground floor, which will contribute to the generation of employment in the Mascot Station Precinct.
- (c) 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.
- (d) The development has been designed to achieve comply with BASIXs and will incorporate a number of energy conservation measures.
- (e) The development has implemented practice stormwater management principles to the design of the stormwater drainage system for the development.
- (f) 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 support 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 4.44:1. 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 the circumstances of this case and it is recommended that the SEPP 1 Objection be supported.

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

Clause 13 and 13A of the LEP have been considered in the assessment of the Development Application. 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 a highly trafficked road, but not an RTA classified road.

An Environmental Noise Impact Report dated 10 May 2011 prepared by Day Design Pty Ltd, was submitted with the application. Council's Health and Environmental Services Department have reviewed the report and have 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 Noise Impact Assessment Report together with AS 2021-2000 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 that 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 proposed buildings, which exceeded this maximum height, and therefore the application was referred to Sydney Airports Corporation Limited (SACL) for consideration on 8 August 2011. SACL by letter dated 20 October 2011 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 296 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 proposed basement car parking levels is via the approved vehicular entry points into the adjoining basement at No. 214-220 Coward Street Mascot, under Development Consent No. 10/314 approved by the Joint Regional Planning Panel on 16 December 2010. The application was accompanied by a Traffic Impact Assessment prepared by Thompson Stanbury Associates, Ref No. 11-048 dated May 2011. The report concludes 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;*

The application was accompanied by a Traffic Impact Assessment prepared by Thompson Stanbury Associates, Ref No. 11-048 dated May 2011. The report concludes that the traffic generation resultant from the development is not considered to have a significant impact 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 scale of the proposed development is similar to several of the mixed developments located in close proximity to the site, particularly along Coward Street and Church Avenue. It is considered that the proposal will complement the future character of 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 Pedestrian Wind Environment Statement dated 18 May 2011 prepared by Windtech Consultants 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, and provides recommendations for treatment to the development, including strategic tree planting and screening to parts of the building. These recommendations have been imposed upon the development as conditions of consent.

Shadow diagrams have been submitted with the application that demonstrate overshadowing arising from the development is not considered to result in an adverse impact to the immediate locality or on 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 essentially for residential purposes has been designed 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.*

As discussed earlier in the report provisions of SEPP No. 55 have been considered in the assessment of the development application. The applicant submitted a Phase 11 Environmental Site Assessment prepared by Aargus dated June 2011. The report concludes that the subject site, and including the area of land known as Lot 278 in DP 1100292, proposed to be dedicated to Council for the future expansion of Linear Park, is considered to be suitable for the proposed use

(recreational) subject to the further recommendations, which have been imposed upon the development as conditions of consent. Council's Environmental Officer has reviewed the report and has provided conditions of consent relating to:

- the submission of a Remedial Action Plan prior to the issue of the Construction Certificate;
- the submission of a Validation and Monitoring Report and a Site Audit Statement prior to the commencement of works on the site.

These conditions have been imposed upon the development and are contained in the Schedule of Consent Conditions section of this report.

*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 No. 37881M\_03 dated 28 September 2011, was received by Council 29 September 2011. The BASIX Certificate indicates 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 applications as the site seeks consent for excavation to a depth of 10-12m below ground level, which is approximately RL 0.8m AHD.

The development was accompanied by a Geotechnical Investigation Report dated 23 June 2011 prepared by Asset Geotechnical. The report advised that “groundwater was encountered at about 3m-5.5m below ground level” and that “from the results of this investigation, it is assessed that the basement level will be about 5m below the observed groundwater level”.

As the development involves works to the basement level that will (during construction) transect the watertable, the proposal was referred to the NSW Office of Water as Integrated Development in accordance with the *Water Management Act 2000*. The NSW Office of Water issued their General Terms of Approval on 29 September 2011. Appropriate conditions, including the General Terms of Approval, 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. As such the proposed development is considered to satisfy the provisions of Clause 28 of BLEP 1995.

*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 below 2 metres AHD require the submission of an acid sulfate soils management plan.

An Acid Sulfate Soils Assessment dated June 2011 prepared by Aargus was undertaken for the development. The assessment concludes:

*“Acid sulfate soils (ASS) and potential acid sulfate soils (PASS) were not detected at any depth up to 7.0 BGL.”*

As such the proposed development is considered to satisfy the provisions of Clause 30A of BLEP 1995.

#### *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 applications were referred to Sydney Water with regard to water supply and wastewater on 8 August 2011. In a letter dated 30 August 2011, Sydney Water raised no objection to the proposed development, subject to conditions one of which is the upgrade the water and waste mains.

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. As such the proposed development is considered to satisfy the provisions of Clause 38 of BLEP 1995.

#### Mascot Station Precinct Development Control Plan (DCP)

##### *Background*

The Mascot Station Precinct DCP was originally adopted by Council on 19 December 2001 and became effective on 2 July 2002. It was amended in June 2004.

In 2005 a review of the Mascot Station Precinct DCP was undertaken by Sutherland Koshy on behalf of Council. It was completed in May 2005. The Review Report was prepared for City of Botany Bay with the following objectives:

1. To conduct a desktop review of the Mascot Station Precinct DCP and the Public Domain Manual (PDM) documents.
2. To workshop the issues with Council staff.
3. To identify the shortcomings in the Development Control Plan (DCP) and the Public Domain Manual (PDM).
4. To prepare design schemes for 6 nominated sites in the precinct, based on current DCP controls, illustrating the possible outcome of the current controls, and to recommend changes to the DCP and the PDM.
5. To explore the relationship between the precinct and its surrounds, and recommend strategies for change.
6. To prepare a review report recommending amendments to the DCP and the PDM, and any other related instruments.

The review recommended a number of changes to the DCP, including that new maximum floor areas be calculated for all sites in the Precinct and be included in the DCP to reflect desired outcomes for different sites.

However, Section 74C(2) of the EP&A Act requires that only one DCP made by the relevant planning authority may apply in respect of the same land (i.e. one DCP per site). If this provision is not complied with, then all DCP's that apply to the same land will be rendered invalid. This provision took effect from 30 September 2005, and so any subsequent DCP that does not comply with this provision will have no effect. Therefore the recommendations of the review could not be implemented through an amendment to the Mascot Station Precinct DCP.

On 19 July 2006, Council resolved to commence preparation of a (draft) Comprehensive Local Environmental Plan and to notify the Department of Planning (DoP) of its intentions to do so. In response the DoP notified Council by letter dated 24 November 2006 that it may proceed with the preparation of the draft Botany Bay Local Environmental Plan 2011 (draft BBLEP 2011). The Department has placed Council on a priority list for the preparation of the new comprehensive LEP. Council is required to submit the Draft BBLEP 2011 to the Department of Planning for gazettal under Section 68 of the EP&A Act 1979 by December 2011.

One of the requirements from the DoPI was the preparation of a Planning Strategy. Council subsequently appointed SGS Economics and Planning to carry out the Botany Bay Planning Strategy 2031, which was completed on 13 March 2009. One of the recommendations of the Strategy is Action 5.3.1 Develop a retail core and town centre around the Mascot Station. The Strategy recommended a FSR of 3:1 as well as a reduction of parking rates to lower costs for commercial development; facilitate podium and shared parking arrangements.

The draft East Subregional Strategy indicates that the City of Botany Bay has a dwelling target of 6,500 new dwellings for the period 2001-2031. With respect to the housing target the Strategy indicates that it is only practical to include a target of 3800 new dwellings in the pending LEP review (Council's Comprehensive LEP) with the remaining to be assessed at the time of the next

LEP review. The Strategy concludes that to realise the State Government target it will be necessary to restructure strata subdivision, improve public transport to the centres within the LGA and improve public domain.

Neustein Urban together with David Lock Associates and Taylor Brammer Landscape Architects were subsequently commissioned by the City of Botany Bay under Planning Reform Funding from the Department of Planning to translate recommendations of the Botany Bay Planning Strategy 2031, prepared by SGS Economics and Planning in 2009, into LEP Standards (FSR, height and zone) and urban design controls for five study areas within the Botany Bay Local Government Area which were identified by Council with the aim to develop LEP and urban design controls that will assist the City of Botany Bay to meet its subregional targets for housing and employment.

The Neustein Urban Study examined the means by which the BBPS sought to provide for the housing and employment targets. 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 Mascot Town Centre. The Neustein Urban study recommended a FSR of 3:1 and a height of 44 metres.

However, an increase in the residential and employment capacity of the Mascot Station Town Centre Precinct (west) will only be possible if traffic and transport issues are resolved. The Neustein Urban Study therefore recommended the next step in the LEP and DCP making process be a Transport Management and Accessibility Plan (TMAP); and the preparation of a Master Plan and a Public Realm Plan of the Precinct, to identify suitable provision for open space, an appropriate pedestrian network, lively and creative open spaces and streets. Both of these studies are underway.

It is acknowledged that the DA does not comply with the provisions of the DCP. The DCP is in need of review and revision and hence the work done to date by Council under the Botany Bay Planning Strategy and the LEP Standards & Urban Design Study. Both studies recommended higher FSRs given that the public transport system being the New Southern Railway that runs under the Precinct and the location of the Mascot Station entrance in the centre of the Precinct.

The current DCP requirements require lot consolidation (Control C4), land dedication in terms of road widening (Control C39) and open space (Control C42) for this site. Council also requires the construction/embellishment of the road widening and the public open space as conditions of consent for development within the Precinct. The DA complies with these controls (as well as Council's policy on road and open space construction/embellishment), which have a great public benefit to the overall Precinct.

Groundwater is a major issue within the Precinct. The original DCP adopted in 2001 indicated that basement parking was possible but that the following factors create a number of redevelopment constraints:

- *The required stormwater drainage and absorption may be difficult to achieve.*
- *Basement parking may be difficult to implement due to the location of the water table on any particular site.*
- *Waterproof membranes may be required for any basement parking areas to prevent seepage into these structures due to groundwater movements over time.*
- *There is a high possibility that groundwater may be exposed during building excavations, particularly after high rainfall events, which may necessitate dewatering of the site.*
- *Checks of water quality may be necessary to determine whether the ground waters at each site are contaminated or not.*
- *There is the potential for structural damage to buildings, and geotechnical and flooding issues associated with rising water tables. There may also be groundwater issues related to the importation of fill. This fill may be required to raise ground levels to achieve desired gradients for stormwater drainage.*

The 2004 amendment to the DCP included advice from the then Department of Infrastructure, Planning and Natural Resources that the Department will not permit permanent de-watering for a development because it does not consider permanent de-watering to be in accordance with the principles of Ecologically Sustainable Development (ESD). The Department further advised that before proceeding with any temporary dewatering on the site, the legal occupier/owner of the site must apply for and obtain a bore licence under the provisions of the Water Management Act (2000). If a technical consultant is retained to assist with the development by the legal occupier/owner of the subject land then the consultant may apply for the licence on behalf of the owner. The Department, in principle, may approve temporary dewatering on the development site during construction. However, this will require that the final design of basement areas be 'waterproofed' or 'fully tanked' to prevent ingress of groundwater. Such preventative design precludes the need for permanent dewatering systems and complies with the aforementioned ESD principles.

This has increased the costs of development in the Precinct, a consideration that was not taken into account by Council when setting the 2001 FSRs. The DA seeks to construct three (3) levels of basement car parking in the ground. This has added to the costs of the development and impacts on the viability of the development.

Control C25 – Minimum Apartment Sizes requires developments containing apartments within a development shall achieve the following minimum apartment sizes:

- Studio - 60 sqm*
- 1 bedroom - 75 sqm*
- 2 bedrooms - 100 sqm*
- 3 bedrooms - 130 sqm*

It should be noted that Clause 30A of SEPP 65 (Design Quality of Residential Flat Development) applies and prevails over the minimum unit size requirements contained in the above control. Notwithstanding the provisions of the SEPP, the unit sizes meet Council’s DCP controls, which as previously pointed out are in excess of the SEPP provisions for unit sizes.

Control C58 Residential Car parking Requirements requires the following minimum residential parking requirements:  
 Studio or 1-bedroom apartments – 1 space.  
 2 or more bedroom apartments – 2 spaces.

Visitor parking - 1 car space per seven (7) dwellings – consideration will be given to a reduction in visitor parking for developments containing greater than a total of 55 dwellings.

Compliance with these two (2) controls increases the floor area. With respect to apartment sizes, compliance with the Council’s minimum unit sizes adds an extra 20% to the floor area when compared to a development complying with Clause 30A of SEPP 65 (Design Quality of Residential Flat Development).

Compliance with DCP Controls

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

<b>Requirement</b>	<b>Comment</b>	<b>Complies</b>
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 applications propose a total FSR of 4.44:1 across the entire site. 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 instance, as discussed in detail in the sections above.	<b>No – Refer to SEPP 1 Objection to Clause 12A of Botany LEP 1995 within this report</b>
C15 Public Facility Dedications	As the site is affected by public facility dedication, the original site area (inclusive of the land required for the	Yes

Requirement	Comment	Complies
	<p>John Street widening) has been utilised for the purposes of determining floor space ratio.</p> <p>The dedicated of the north-eastern portion of the site to Council to provide for the expansion of Linear Park is also proposed under the application.</p>	
C16 Maximum Building Height = 6 storeys	<p>A building height of 6-13 storeys is proposed.</p> <p>The building fronting John Street is 6 storeys in height (a.g.l.)</p> <p>The building fronting Coward Street is 13 storeys in height (a.g.l.)</p>	<b>Yes/No – Refer Note 1 below</b>
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 55.25%	<b>No –Refer Note 2 below</b>
C25 Minimum apartment sizes:  Studios 60m <sup>2</sup> 1 bedroom 75 m <sup>2</sup> 2 bedrooms 100m <sup>2</sup> 3 bedrooms 130m <sup>2</sup>	<p>All units within development comply with, or exceed, the specified minimum unit sizes.</p> <p>Proposed minimum apartment sizes are as follows:</p> <p>1 bedroom &amp; 1 bedroom + study 75-88m<sup>2</sup> 2 bedrooms 100-125m<sup>2</sup> 3 bedrooms 143m<sup>2</sup></p>	Yes
C26 Unit mix - maximum 25% studio/one bedroom apartments	<p>One bedroom = 35 units (24%)</p> <p>Two bedrooms = 110 units (75%)</p> <p>Three bedrooms = 2 units (1%)</p>	Yes
C26A The minimum internal widths are as follows: Cross over units: 4m (excluding garage) Single level	<p>141 out of 148 (95%) of the residential units in the development comply with the minimum width for the cross over units and single level units.</p> <p>Seven (1) one bedroom units (located in levels 2-8) propose a minimum width of</p>	<b>Yes/No – Refer Note 3 below</b>



Requirement	Comment	Complies
unit/dwelling: 6m excluding garage	between 4.2m-6m which does not comply with the DCP control, however conforms with the RFDC.	
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  <u>Up to 4 storeys:</u> <ul style="list-style-type: none"> <li>• 12 metres between habitable rooms/balconies;</li> <li>• 9 metres between habitable/balconies and non-habitable rooms; and</li> <li>• 6 metres between non-habitable rooms.</li> </ul> <u>5 – 8 storeys:</u> <ul style="list-style-type: none"> <li>• 18 metres between habitable rooms/balconies;</li> <li>• 13 metres between habitable rooms/balconies and non-habitable rooms; and</li> <li>• 9 metres between non-habitable rooms.</li> </ul>	<u>Up to 4 storeys:</u> <ul style="list-style-type: none"> <li>• Minimum building separation of 13.7-13.995m for levels 1-4 between habitable/habitable rooms.</li> <li>• Min building separation of 9m between habitable/non-habitable rooms for levels 1-4.</li> </ul> <u>5-8 Storeys</u> <ul style="list-style-type: none"> <li>• The majority of the development complies with the minimum 18m building separation between habitable rooms, with exception to two (2) western most units between levels 5-6 on each building fronting Coward Street and John Street, which have a balcony to habitable room separation distance of between 13.995m-15.505m. However the western most units on the John Street building have highlight windows on their southern elevation. As such privacy loss between buildings is considered to be negligible.</li> <li>• A minimum of 13.8-15.5 metres (habitable room to non-habitable room) separation is provided between all buildings on all levels.</li> <li>• A minimum of 9m is provided</li> </ul>	Yes  <b>Yes/No – Refer Note 4 below</b>

Requirement	Comment	Complies
	between non-habitable rooms of buildings on all levels.	
C27 – C31 Submission of concept landscape plans, landscaping requirements, paving, trees and street trees	A concept landscape plan has been submitted to accompany the development applications 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.	<p>The proposal incorporates a combined area of 809m<sup>2</sup> of communal open space, which is provided at ground floor level and on Level 7 (rooftop of Level 6) of the building fronting John Street.</p> <p>Altogether, communal open space will comprise of 30% of the development site, which exceeds the requirements of this control.</p> <p>Approximately 376sqm shall be provided as deep soil planting in raised planter areas, which equates to 14% of the actual development site.</p>	Yes
C33 Private open space= 12m <sup>2</sup> /unit with minimum 3 metre width	All proposed units are provided with a balcony/terrace exceeding the minimum 12m <sup>2</sup> requirement and have a minimum depth of 3 metres.	Yes
C34 Landscaped Setback  6m Coward Street  3m John Street	<p>The proposed setbacks to the walls of the development are:</p> <p>6m Coward Street</p> <p>3m to John Street (re-aligned)</p> <p>The development proposes a nil setback to the western boundary in order to correlate with the recently approved building at No. 214-220 Coward Street Mascot, once constructed.</p>	Yes
C34A – underground parking is to be configured to allow for deep soil zones – parking to be	Provision has been made for 376sq.m landscaping in raised platforms above the basement structure, which equates to 14% of the development site.	Yes

Requirement	Comment	Complies
provided under the building footprint only		
C34B – underground stormwater tanks not to be located within landscaped areas	The stormwater detention basin is located below the building footprint in the north-western corner of the site along the John Street site boundary	Yes
C35 Landscape setback to comprise 50% lawn and 50% plantings	The Coward Street and John Street setbacks to the development will comprise an appropriate combination of lawn and planting, with street trees proposed.  In addition, additional planting will be undertaken within the area dedicated for the expansion of Linear Park to the north-east of the site.	Yes
C38 Compliance with Landscape DCP	Construction landscape plans have been submitted to accompany the development applications 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 internal site levels are built in accordance with Council's road design levels.	Yes
C44 Compliance with Energy Efficiency DCP	<u>Energy Efficiency</u> A BASIX Certificate has been submitted with the application which indicates 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.  <u>Solar Access</u> 62% of the units achieve a minimum of 2 hours solar access to their living areas	Yes  <b>No – Refer Note 5</b>

Requirement	Comment	Complies
	<p>during the Winter Solstice.</p> <p>A detailed assessment in accordance with the solar access planning principles is provided under Note 3 below.</p>	
C45 Maximum building depth -18 metres	The proposed buildings have a maximum habitable depth of 18 metres with the exception to five (5) units with a depth of approximately 18.7m	<b>Yes/No – Refer Note 6</b>
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 62% of proposed units are able to achieve cross flow ventilation.	Yes
C47 Wind control	A Pedestrian Wind Environment Statement prepared by Windtech dated 18 May 2011 is considered satisfactory.	Yes
C48 Aircraft Noise	The development site is located within the 20 – 25 ANEF contour. An acoustic report has been submitted to accompany the development applications and it is recommended that the consent be conditioned to require compliance with the recommendations made within this assessment.	Yes
C49 Road traffic noise	An acoustic report has been submitted to accompany the development applications 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	<p>The applicant has submitted:</p> <ul style="list-style-type: none"> <li>• Phase 11 Environmental Site Assessment;</li> <li>• Geotechnical Report; and</li> <li>• Acid Sulfate Assessment.</li> </ul>	Yes

Requirement	Comment	Complies
	Council's Environmental Scientist has reviewed the documentation and raised no objection to the proposed development subject to conditions of consent.	
C54 Acid Sulfate Soils	The site is located within the Class 2 Acid Sulfate Soil Area and an Acid Sulfate Soils Assessment has been submitted with the Development Application.	Yes
C55 Groundwater requirements	The NSW Office of Water has granted concurrence to the proposed development subject to General Terms of Agreement issued to Council on 29 September 2011	Yes
C56/57/58/C62 Car parking: 1 space – studios/1 bed 2 space – 2 bed/3 bed 1 visitor space/7 units 1 space/60m <sup>2</sup> commercial Traffic study may be required.	<p>In accordance with the DCP, car parking is required at the following rates for the proposed development:</p> <ul style="list-style-type: none"> <li>• 1 space per 1 bedroom units and 1 bedroom + study units = 35 spaces required</li> <li>• 2 spaces per 2 and 3 bedroom units = 226 spaces required</li> <li>• 1 space / 60sqm commercial floor space = 4 spaces required</li> <li>• 1 visitor space per 7 dwellings = 22 spaces required</li> </ul> <p>The development thus requires a total of 287 car parking spaces.</p> <p>The proposed development provides car parking for a total of 296 vehicles over three (3) basement levels.</p> <p>The Traffic Impact Assessment prepared by Thompson Stanbury Associates dated May 2011, received by Council 25 May 2011, has been submitted to accompany the development application and this concludes that the concludes that the car parking provision is acceptable</p> <p>Council's Engineers have raised no objection to the proposal subject to conditions.</p>	Yes
C63/C64/65	Council's Engineers have raised no	Yes

<b>Requirement</b>	<b>Comment</b>	<b>Complies</b>
Internal vehicular access/design of parking areas	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 waste contractors, courier/passenger vehicles/vans, that 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 primary frontages are presented with a mixture of solid and transparent balustrades varying in length and depth to articulate building facades, whilst internal balconies feature varying depths to provide articulation and off-set private open space areas.	Yes
C78 Materials	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
C80 Integration of rooftop elements	No rooftop plant/equipment is proposed.	Yes
C81 Rooftop recreation areas	A communal open space area to Level 7 (rooftop of Level 6) of the building fronting John Street building is proposed with landscaping and appropriate shelter to encourage their usage.	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	Yes

Requirement	Comment	Complies
	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.	
C92 - 97 Accessibility- Separation of uses/active street fronts	<p>Separate entrances are proposed to residential and non-residential uses located at ground floor level.</p> <p>Pedestrians enter the site from both Coward Street and John Street via paths that are separate from the vehicle entry point.</p> <p>Vehicular access is provided solely from the vehicular entry and exit points on John Street approved under DA 10/314 at 214-220 Coward Street Mascot.</p> <p>A Disability Access Report prepared by Lindsay Perry dated 27 June 2011 received by Council 28 June 2011 has been submitted with the application. The report provides an assessment of the development against the Building Code of Australia 2010, the Disability Discrimination Act 1992, and Botany Council's Access Development DCP. Compliance with the recommendations outlined in the report will be required as a condition of consent.</p>	Yes
C98 - 104 Services	<p><b>Underground Cabling</b> – the consent will be conditioned to require that cabling be provided underground in accordance with relevant energy providers.</p> <p><b>Electricity</b> – Ausgrid raised no objection with the proposed development and has requested a condition that a substation be provided within the premises. The substation is to be paired with the substation required under DA 10/314 at 214-220 Coward Street. The substation will be located on John Street at the eastern end of the site at 214-220 Coward</p>	Yes

Requirement	Comment	Complies
	<p>Street.</p> <p><b>Water and sewerage</b> – 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.</p> <p><b>Stormwater</b> – Councils Development Engineer has reviewed the proposal and raise no objection subject to conditions.</p> <p><b>Fire Hydrants</b> – shall be provided and the development shall be appropriately conditioned for concealment.</p> <p><b>Waste Management</b> – Garbage collection areas are proposed from within the basement car parking areas and on Level 1 of the building fronting John Street. A garbage lift has been provided from Level 1 to Basement Level 1. These have been designed so that they are accessible to serve vehicles. The consent will be conditioned to provide a plan of Management for Waste.</p>	
C105- C107 Other controls	<p><b>Fencing</b> – No fencing is proposed along either frontage to Coward Street or John Street.</p> <p><b>Signage</b> – No signage is proposed and the development shall be appropriately conditioned to ensure a comprehensive signage strategy is proposed separately for the development, including commercial use signage.</p> <p><b>Storage</b> – 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.</p>	Yes

**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 6 storeys to the John Street frontage is



proposed which complies with this control. A building height of 13 storeys is proposed to the Coward Street frontage, it is this part of the development, which does not comply with the control.

The development applications have been referred to the Sydney Airport Corporation Limited (SACL) and 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 applications and provided the following comments in relation to scale and built form:

*“The height and massing modifications are acknowledged. The edges facing John Street and Linear Park are now more consistent with the emerging character of the streetscape.*

*The reduction in height of the eastern wing improves the relationship to the existing redevelopments to the west. The pattern of site planning, massing and spatial linkage between Bourke Street and Linear Park is continued up to the eastern wing which provides an ending/containment and also importantly addresses the future Linear Park to the east.”*

The development form will comprise of a “U” shaped building, rising from 6 to 13 storeys fronting John Street, Coward Street and Linear Park. The building facing John Street (north) is 6 storeys in height, the building facing Linear Park (east) is 6 rising to 13 storeys in height with the 13 storey component focused on the southern portion of the site (toward Coward Street), and the building fronting Coward Street (south) is 13 storeys above ground level, and contains a lower ground level, which is not discernable from the Coward Street elevation.

The AHD height of the 13 storey component is RL51.00. The building height has been designed to provide an appropriate visual relationship and transition in line with the existing developments along the streetscape.

The following table provides the varying heights of developments that have been approved in the Mascot Station Precinct:

<b>Address</b>	<b>Height Control (storeys)</b>	<b>Approved No. of Storeys</b>
214-220 Coward Street (Dual frontage)	7	7 - John Street 13 - Coward Street
222 Coward Street (Dual frontage)	7	6 - John Street 7 - Coward Street
230 Coward Street (aka 25 John Street) (Dual frontage)	7	6 - John Street 11 - to Coward Street
3-9 Church Avenue	6	8
13A Church Avenue	6	9

Address	Height Control (storeys)	Approved No. of Storeys
23-27 Church Avenue	6	7
10-14 Church Avenue & 619-629 Gardeners Road	6	6 – 13
635 Gardeners Road	6	4-6
1-5 Bourke Street	9	9-10
7 Bourke Street & 30-32 John Street	8	11
24-26 John Street	8	10
8 Bourke Road & 37 Church Avenue	9	13
149 O’Riordan Street	7	7
109 O’Riordan Street	6	7

The non-compliance to the building height is contained to the Coward Street frontage and the southern portion of the building fronting Linear Park, which are 13 storeys in height, with the John Street frontage proposing a height of 6 storeys, which is below the maximum height control. 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 prevalent built form along Coward Street providing a focal link to the Mascot Station Precinct DCP.

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 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 respectively, significantly adding to the strong visual corridor. The proposed development will thus fulfill the underlying objective and urban strategy of the DCP by virtue of its proposed height and 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 to a level required by the Residential Flat Design Code. 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 the Sydney Water easement, to the west is the recently approved mixed use development under DA 10/314 at 214-220 Coward Street. This building is now under construction.

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

### **Note 2: Maximum Site Coverage**

The maximum site coverage as required under the MSP DCP for the subject site is 55% of the total site area. The development proposes a site coverage of 55.25%, which represents a non-compliance of 0.25%.

The applicant has provided the following justification for the site coverage variation in the Statement of Environmental Effects dated May 2011:

*“The proposed development has a site coverage of approximately 55.25% of the site area (excluding the basement level 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 accommodation a combination of landscaping and paving, with additional landscaping provided along the street frontages and within the expansion of Linear Park.”*

The proposed site coverage variation is considered minor in nature by comparison against the site area 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 of providing 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: Minimum Unit Width**

Clause 26A of the MSP DCP establishes the minimum widths for units as follows:

- Cross over units: 4m (excluding garage)
- Single level unit/dwelling: 6m excluding garage (if applicable)

The development proposes 141 out of 148 (95%) of the residential units in the development comply with the minimum width for cross over units and single level units.

As such the proposed deviation from the DCP control relates only to the single level unit minimum width control of 6m, in which seven (7) of the one bedroom units (located in levels 2-8) do not comply. These units propose a

minimum width of between 4.2m-6m. The applicant has provided the following justification for the departure of seven (7) of the single level units from the minimum unit width.

*“There are seven 1 bedroom apartments (levels 2 to 8 inclusive) located in the south west corner that are proposed to have a width that varies from 4.2 metres wide at the north to 6 metres wide at the south. Although these apartments do not strictly conform to the minimum width requirements as set out in section 3.3.2 of DCP 35 and section 6.3.5 of the Mascot Station DCP, it is noted that these are flow through in configuration and conform to the minimum area requirement in the DCPs. Furthermore, the apartments are well configured and easily furnished. The apartment configuration proposed most closely resembles example apartment layout 03.02 (flow through configuration with 4 metre width) in the RFDC (please refer to attached extract), however, it is more generous in proportions. As the proposed apartment configuration exceeds the good practice example in the RFDC and conforms to other aspects of Council’s DCPs, it is requested that Council gives their favourable consideration to this relatively small non compliance.”*

The proposed deviation from the minimum unit width control is considered minor in nature by comparison against the number of units within the development that comply with the control. As above stated by the applicant, the proposed development exceeds the requirements demonstrated in good practice example for minimum unit widths contained in the RFDC. As such, the proposed deviation from the minimum unit width control contained under Clause 26A of the MSP DCP is considered acceptable.

#### **Note 4: Minimum Building Separation**

Clause 26 of the MSP DCP establishes the minimum building separations for development:

5 – 8 storeys:

- 18 metres between habitable rooms/balconies;
- 13 metres between habitable rooms/balconies and non-habitable rooms; and
- 9 metres between non-habitable rooms.

Note: As the development complies with the minimum building separation control for development 1-4 storeys in height, only the controls relating to buildings 5-8 storeys in height are discussed below.

The proposed development complies with the above 13m and 9m building separation distances. The non-compliance pertains to the 18m separation required between habitable rooms/balconies control.

The applicant has provided the following justification for the deviation from the minimum building separation control contained in the DCP.

*“Other than at the western end, the proposal does not have any apartments facing each other and in this circumstance, the south facades of the apartments at the western end of the north wing only have highlight windows. The northern and eastern wings of the building predominantly have circulation corridors fronting onto the courtyard and while these corridors do have windows, it is considered that these will not impact on the visual privacy of the apartments in the south wing that have a northern aspect. The RFDC recommends a minimum building separation of 13 metres between habitable and non habitable rooms up to 8 storeys. The north wing is proposed to be 7 storeys high when viewed from the courtyard. The proposal exceeds the minimum separation distances recommended by the RFDC. The minimum distance between the north and south wings is 9 metres at the north wing fire stair, however, this is not considered to be a room in the terms as referenced by the RFDC.”*

The DRP at their meeting of 31 March 2011 provided the following comments in response to building separation:

*“The separation distance of 15m across the central space should satisfy the objectives of the RFDC. It is understood that the treatment of the glazed wall to the corridor to John Street wing will protect the privacy of units to the Coward Street wing”.*

The majority of the development complies with the minimum 18m building separation between habitable rooms, with exception to two (2) western most units on levels 5-6 on each building fronting Coward Street and John Street, which have a balcony to habitable room separation distance of between 13.995m-15.505m. In order to comply with this requirement, the development has been designed so that the western most units on the John Street building have highlight windows on their southern elevation (facing the rear of the apartments on Coward Street). As such privacy loss between buildings is considered to be negligible. 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 both visual and acoustic privacy between dwellings.

#### **Note 5: Solar Amenity**

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 subject site has a north-south orientation, with north being the John Street and south being Coward Street. The development form will comprise of a “U” shaped building, ranging from 6 to 13 storeys fronting John Street, Coward Street and Linear Park. The building facing John Street (north) is 6 storeys in height, the building facing Linear Park (east) is 6-13 storeys in height with the 13 storey component focused on the southern portion of the site, and the

building fronting Coward Street (south) is 13 storeys above ground level, and contains a lower ground level, which is not discernable from the Coward Street elevation.

The development proposes 148 residential units in total and has been designed so that 92 units (62%) out of 148 units will comply with the minimum 2 hours solar access required by the DCP. This results in a non-compliance of 56 units (38%). The matter of solar access to the development is one that has been largely discussed early on in the design process of the application with Council's Design Review Panel (DRP).

The applicant has provided the following response with regard to the non-compliance of the development with the solar access requirements contained in the Energy Efficiency DCP:

*“62% of the apartments achieve 2 hours of sunlight to their living areas between 9am and 3pm during mid winter. However, this is largely due to the orientation of the site being slightly east of north and the desire to provide a strong and positive definition to Linear Park and the triangular parcel of land that is being dedicated to Council. As a result, the east facing apartments (which I personally believe are some of the best in the proposed development) only achieve 1 hour and 50 minutes of sunlight to their living areas between 9am and 3pm during mid winter. Notwithstanding this minor shortcoming, it is noted that these apartments (27 in total which represents 18% of the total number of apartments) have a clear aspect to the east and as a result will in fact start to receive sunlight into their living areas well before 9am. This information is set out in the SEPP 65 schedule that we prepared and is attached.*

*Furthermore this matter was discussed with the DRP during their review of the project and this minor shortcoming was considered satisfactory. Below is an extract of our submission to the DRP dated 21 February 2011.*

*“62% of the apartments proposed have living areas that receive two hours of direct sunlight between 9am and 3pm in the winter solstice. None of the apartments in the east wing achieve this criterion due to the orientation of the site being slightly west of north. These apartments which constitute a further 18% of the total achieve slightly less than the required two hours (approximately 10-15mins less). However, it is noted that the subject apartments will receive more than two hours of direct sunlight even on the winter solstice as the sun rises before 9am. It is suggested that the other design considerations that reinforce the desire to provide a strong and positive edge to Linear Park and to orient these apartments so as to take advantage of the outlook offered to the east are of such importance that the minor shortcoming of the RFDC recommendations should be supported.”*

The DRP at their meeting of 31 March 2011 made the following comments with regard to the applicant's submission above on solar access for the development:

- *“The non-compliance with the numerical minimum suggested by the RFDC for solar access to the units is understood to be minor according to the amended design response.*
- *The provision of natural light to both ends of the southern corridors is welcomed.*
- *The two storey units (at Lower Ground and Level 1) facing east and north have their lower (bedroom) level below existing ground level (by almost a full storey at the north-eastern corner)*  
*It appears that these units will provide an acceptable amenity in terms of daylight access.*
- *There is still concern regarding the amenity of the communal courtyard at the lower ground level. It is suggested that the top storey of the wing on John Street be setback to allow more sun and daylight into the space between the wings. For example a 3m setback would allow solar access to an extra storey of the Coward Street wing.*

The applicant provided the following response to the above issues raised by the DRP:

*“The comments and suggestions made by the DRP in respect to solar access into the ground floor courtyard were considered. The suggestion to cut back the top floor of the John Street (north) wing by 3 metres was considered. However, our analysis indicated that it would not have any impact on the amount of sunlight that would fall onto the courtyard during the winter solstice. It would increase the light penetration to a handful of north facing apartments in the south wing several levels above ground floor. However, given the adequate solar access to the apartments and the availability of other communal areas (level 7 terrace and park to be dedicated to Council), we did not implement this recommendation into the design as submitted with the DA. This was covered by commentary included in the SEE and we would request Council's favourable consideration of the Development Application with retention of Level 6 of the north wing in its current configuration.”*

In addition to the above comments, a detailed assessment of the development is has been undertaken in accordance with 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:

To the west of the subject site at No. 214-220 Coward Street (the abutting development), a 6-13 storey mixed use development has been approved under Development Consent No. 10/314, and is currently under construction. To the east of the site a vacant lot owned by Sydney Water which contains a corridor for below ground sewer mains.

The applicant has provided the following information on 10 November 2011, with regards to the proposed overshadowing upon the adjoining development to the west of the site at No. 214-220 Coward Street, Mascot.

*“We have prepared the attached 3D drawings shadow drawings (SK 23 to SK 25 inclusive), that compare the shadows cast on the eastern façade of 214 Coward Street both with and without the proposed development at 208 Coward Street. The additional overshadowing that results from the proposal is relatively minor and can be summarised as follows:*

<i>Time</i>	<i>Number of apartments affected by loss of direct sunlight to their living areas.</i>
<i>9am</i>	<i>5</i>
<i>10am</i>	<i>2</i>
<i>11am</i>	<i>2</i>

*There is no impact after 11am as the sun has moved around to the west façade.*

*In considering these results, it should be noted that the additional overshadowing is caused by the proposed John Street (north) wing of the proposed development at 208 Coward Street. The proposed north wing is consistent with other developments along John Street. Accordingly, the additional overshadowing of 214 Coward Street is not the result of an unusual or out of character mass or form proposed for the 208 Coward Street project. Any development of the 208 Coward Street site would likely include a north wing of approximately the same size, proportions and mass as that proposed.*

*The only aspect of the proposal for 208 Coward Street that could be considered as potentially different to what would be anticipated is the proposed zero lot line junction between 208 Coward Street and 214 Coward Street. The report prepared by Larissa Brennan includes shadow studies that indicated the differences that would result if a 6*



*metre gap (3 metre setback on each side from the common boundary) is introduced between the two buildings. As noted in the report prepared by Larissa Brennan, the benefit in terms of solar access that would result from this gap is negligible. We have reviewed this configuration in respect to solar access to the apartments in 214 Coward Street and would advise that it would reduce the overshadowing to one apartment at 9am only. There is no change to the number of apartments that would be overshadowed from 10am onwards.*

*In summary, we consider the small increase in the overshadowing of the apartments within the 214 Coward Street development to be acceptable and is no greater than would be expected from any reasonable development of the 208 Coward Street site.”*

The above rationale provided by the applicant is generally agreed with. The applicant has provided an alternative scheme involving a 3m setback to the development at No. 214-220 Coward Street, and a 3m setback to the development at No. 208-210 Coward Street, in order to demonstrate if there is any discernable difference in overshadowing impacts between the current application before the JRPP and that of the alternative scheme. As stated above, this exercise resulted in very little change to the degree of overshadowing created on No. 214-220 Coward Street by the proposed development. It is important to acknowledge that the site is located within the Mascot Station Precinct, which is identified as a high density mixed use commercial/residential area and accordingly, it is unreasonable to expect that adjoining properties will retain the exact degree of existing sunlight.

- ***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 evident by the lowest element of the building to the north of the site and the highest element of the building to the south of the site, and is considered to be appropriate in context given the location of the site within the Mascot Station Precinct. The design is considered to be optimal for the subject site, having been referred to the Design Review Panel on two (2) occasions prior to the development application being lodged with Council. As discussed above, the overshadowing impacts upon the adjoining property to the west, No. 214-220 Coward Street has been given significant consideration by the applicant during the design process of the development. It is considered that the current design before the JRPP is the best possible outcome for the site in terms of the suitability of the development in the locality, giving consideration to both existing and recently approved developments of a similar nature in the Mascot Station Precinct, and also will assist in achieving the employment and housing targets for the LGA as established in the Draft East Subregional Strategy.

- *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:

The applicant has addressed the issue of solar access to the development in regards to glazed areas:

*“The layout of the corridors affords high level of amenity with natural light and ventilation provided on every level. The northern and eastern corridors on every level are provided with large expanses of glass to allow natural light and ventilation into the space. The southern corridors, which occur on levels 2, 4, 8, 10 also have natural light and ventilation with a light lobby at its eastern and western ends while the corridor on level 12 has a light lobby at its eastern end only.*

*In response to the comments provided, it is proposed to provide increased natural light into the corridors by the provision of full height glazing to the south facing internal facade of the John Street (north) building and west facing internal facade of the Linear Park (east) Building.*

*An amended plan SK20 providing for additional natural light and ventilation is submitted with this report. It is requested that Council impose a condition requiring the plans to be amended to reflect the additional glazing shown on SK20 prior to the issue of the Construction Certificate.*

*The configuration of the corridors and unit entries affords high levels of natural light and ventilation into the communal corridors as indicated by the RFDC to increase amenity in circulation spaces.”*

The rationale provided by the applicant is generally agreed with. The applicant has undertaken amendments to the design of the development to provide increased natural light to the development in accordance with the comments made in the review of the development by Neustein Urban. The amended plan SK20 referred to above, submitted by the applicant on 10 November 2011 will be included in the approved documents in the Schedule of Consent Conditions section of this report.

- *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 development proposes communal open space for the development in two (2) main areas. The first area is provided at ground level in a central courtyard, and the second area being provided on Level 7, (rooftop of Level 6) of the building fronting John Street.

As discussed earlier in the report, Neustein Urban was engaged by Council to undertake a review of the development with regard to the proposed FSR, however the review also went on to cover other design aspects of the development, of note, the following comment was made by Neustein Urban with regard to the proposed communal open space on the ground floor of the development:

*“There is virtually no useable communal open space at or near ground floor”*

The applicant was given an opportunity to respond to the above comment by Neustein Urban, and on 10 November 2011, provided the following response to Council:

- *“At the ground level a central paved courtyard is proposed that provides a passive space with seating for residents to gather and use. This space will be protected during the hot summer months.*
- *To significantly enhance the social interaction of the residents, a generous communal open space is provided on the roof of the John Street building at Level 7. This space will provide a range of usage options by the provision of:*
  - *Two large landscaped spaces*
  - *BBQ facilities with pergola structure over*
  - *Seating areas*
  - *Toilet facilities*
  - *Internal communal room*
- *In addition to the above, the development provides a significant benefit by the dedication of land to the east of the building for a further expansion of Linear Park. This space will provide significant recreational opportunities for residents within and adjoining the development. The open space will achieve high levels of solar access in the morning till lunch time as demonstrated in the submitted shadow diagrams. It will also enhance solar access to the remainder of Linear Park by restricting development to approximately 16 metres away from*

*the existing eastern boundary of Linear Park where it meets John Street.*

- *Notwithstanding the comments provided on this application, it does provide useable areas of open space at ground and above ground level. The development also dedicates to Council a large useable area of public open space that will provide an extension to Linear Park. The provision of public open space provides a direct benefit to the wider community.”*

The above rationale made by the applicant has been considered and is generally accepted. However it should also be acknowledged that subject site has a north-south orientation, and as such any building above a single storey height will overshadow the area immediately to the south. The proposed development has been designed to adjoin and integrate with the approved development at No. 214-220 Coward Street, in that the western portions of the proposed building and the eastern portions of the building at No. 214-220 Coward Street will adjoin at each end.

The subject site also has frontage on its eastern boundary to a vacant lot owned by Sydney Water containing an underground sewer easement. This property is known as Linear Park (206A Coward Street), and it is proposed to construct a 6-13 storey building along this frontage, with the 13 storey component of the building at the southern end of the site, and dedicate a 431sq.m portion of the north-eastern portion of the site to Council for the purposes of the future expansion of Linear Park. As such, the building is proposed to form a “U” shape around these three site frontages. Given that each building has a minimum height of 6 storeys, it is inevitable that there will be a degree of solar access loss to the area of the site contained within the “U” shape.

As discussed earlier in the report the DRP at their meeting of 31 March 2011, raised concern with overshadowing upon the ground floor communal area, and suggested that the applicant amend the design to provide a 3m setback the top storey of the “wing” on John Street to allow more sun into the communal area and the Coward Street wing. The applicant undertook an analysis of the DRP recommendation, which concluded that the degree of overshadowing upon the communal open area on the ground floor remained unchanged, largely due to the orientation of the site; as such the design of the proposal has not been amended.

As previously discussed the development proposes two (2) options for communal open space enjoyment available to the future occupants of the proposed development. The first being, the communal area on the ground floor of the development, and whilst it is noted that this area does not receive a significant degree of solar access, it will provide a sheltered area which minimises wind exposure for occupants. The second area is the terrace on Level 7 (rooftop of level 6) the building fronting John Street, which will receive in excess of the minimum solar access requirements, contained in the DCP.

In addition, the development also proposed the dedication of Lot 278 in DP 1100292, known as No. 3 John Street, Mascot, to Council for the further

expansion of Linear Park which will be a public park, and therefore available for use by the occupants of the development for recreational purposes.

As such the provision of communal open space areas for the development is considered to have been satisfied as the two (2) options provided allow for variety of choice for future occupants of the development. It is therefore considered that the proposal can be supported in this instance.

- ***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. As discussed earlier in the report, the subject site is surrounded by recently approved mixed use developments and developments under construction which are of a similar nature, density, height and context to the proposed development. The adjoining property to the west at 214-220 Coward Street 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 6: Maximum Building Depth**

The DCP allows for a maximum building depth of 18 metres. The majority of the proposed units (143 units) have a maximum building depth of 18 metres with exception to five (5) units, which propose a building depth of 18.7m. This equates to 3% of units, which do not comply with the maximum building depth control contained in the DCP by a maximum of 700mm. It is considered that this deviation from the DCP control is nominal as 97% of the units proposed comply with the control and that adequate ventilation and sunlight access is achieved. As such, the proposal is considered acceptable in this regard.

#### Off Street Car Parking DCP

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

<b>Car Parking Rates</b>	<b>Required</b>	<b>Proposed under DA 11/67</b>
1 space per studio and 1 bedroom units	23 x 1 bedroom units 12 x 1 bedroom + study units = 35 spaces	35 spaces
2 spaces per 2 and 3 bedroom units	111 x 2 bedroom units = 226 spaces	226 spaces
1 space / 60sqm commercial floor space	233sq.m commercial floor area = 4 spaces	4 spaces
1 visitor space per 7 dwellings	148 residential units = 22 spaces	31 spaces
<b>TOTAL</b>	<b>287</b>	<b>296</b>

As discussed previously in the Executive Summary, the development proposes a three (3) level basement carpark, with access to this basement car park via the approved vehicular entry points onto John Street from the adjoining basement at No. 214-220 Coward Street Mascot which is currently under construction. The development at 214-220 Coward Street Mascot, was approved under Development Consent No. 10/314 by the Joint Regional Planning Panel on 16 December 2010.

A Traffic Impact Assessment prepared by Thompson Stanbury and Associates dated May 2011 was received by Council on 12 May 2011, and provides the following assessment:

*“This Practice has undertaken an assessment of the potential traffic and parking implications associated with a mixed commercial/residential development proposed for land at 208-210 Coward Street, Mascot. Based on this assessment, the following conclusions are now made:*

- *The development is proposed to be serviced by three basement parking levels forming an expansion of approved basement parking levels servicing No. 214 – 220 Coward Street immediately adjoining the subject site to the west. All vehicular connectivity between the proposed development and John Street is proposed to be provided via an approved but yet to be constructed vehicular access driveway servicing No. 214 – 220 Coward Street;*

- *The proposed off-street parking provision for No. 208 – 210 Coward Street suitably complies with the numerical requirements contained within Botany Council’s Mascot Station Precinct DCP;*
- *The total parking area servicing both developments within No. 208 – 210 and No. 214 – 220 Coward Street suitably accords with the numerical requirements contained within Botany City Council’s Mascot Station Precinct DCP;*
- *The proposed rationalisation of the access with the adjoining approved mixed use development at No. 214 – 220 Coward Street accords with the objectives of Council’s Mascot Station Precinct DCP;*
- *The proposed internal circulation and manoeuvring arrangements are capable of providing for safe and efficient vehicular movements during peak times;*
- *The surrounding road network operates with a good level of service during peak periods;*
- *Roads and Traffic Authority generation rates suggest that the proposed development will generate approximately 48 peak hour vehicle trips. This generation actually represents a net reduction in the traffic generating ability of the site when taking into consideration the existing site land-use yield;*
- *The combined developments at No. 208 – 210 and No. 214 – 220 Coward Street will generate approximately 25 net additional peak hour trips (or approximately 1 trip every 1 to 2 minutes). It is considered that the adjoining road network is capable of accommodating such a minor level of additional traffic during peak period.*

*Based on the contents of this report and the conclusions contained herein, we consider that there are no traffic related issues that should prevent approval of the subject application and we therefore recommend that action to Council.”*

Council’s Development Engineer reviewed the proposal and has provided the following comments with regard to the proposal:

*“According to Council’s DCP, 287 off-street parking spaces are required to be provided for the development and the total number of off-street parking spaces proposed is 296. As such, this is considered satisfactory.*

*The proposed basement car parking area will be shared with the development on 214-220 Coward Street. Council’s DCP requires total*

*of 565 off-street parking spaces for both the development and according to the information provided, total of 572 parking space have been provided and hence considered satisfactory.*

*However, the allocation of all the parking spaces shall be based on the following: -*

- *Minimum nine (9) off-street parking spaces allocated to commercial premises, with one (1) spaces per 60 sq m.*
- *Minimum one (1) parking space shall be allocated to each studio/ one-bedroom unit*
- *Minimum two (2) parking spaces shall be allocated to each two-bedroom / three-bedroom unit*
- *Minimum forty-one (41) parking spaces shall be allocated for visitor parking*

*Legal documents shall be prepared to ensure the basement car parking area will be linked with the development on 214-220 Coward Street and vice versa. In addition, minimum nine (9) off-street parking spaces from the development shall be allocated to 214-220 Coward Street.*

As recommended by Council's Development Engineer, to ensure that the proposed basement carpark at 208-210 Coward Street, can successfully operate with the approved basement carpark on the adjoining site at 214-220 Coward Street, approved under DA 10/314 and subsequent Section 96(2) Application No. 10/314/02, a condition of consent has been imposed for the formation of a Right of way (or similar) to be created between 208-210 and 214-220 Coward Street in order to establish legitimate (legal) vehicle access between these two developments prior to the issue of the Construction Certificate.

#### Aircraft Noise Development Control Plan

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

An Aircraft & Road Traffic Noise Intrusion Report prepared by Day Design Pty Ltd dated 9 May 2011 received by Council 25 May 2011 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 report will be required as conditions of the development consent.

#### Access Development Control Plan Premises Code



Accessible car parking has been provided at a rate of 1 space per 100 spaces in accordance with the DCP requirements. 296 car parking spaces are proposed for the development, three (3) of these car parking spaces are accessible spaces. The three (3) accessible spaces are provided on Basement Level 1. An accessible path of travel has been provided between the basement car park and the residential foyer by lift.

A Disability Access Report prepared by Lindsay Perry dated 27 June 2011, has been submitted with the development which provides an assessment against the Building Code of Australia 2010, the Disability Discrimination Act 1992, and Council's Access Development Control Plan. The report concludes: *"we consider that the drawings presented for assessment generally comply with the Building Code of Australia 2010 and the Disability Discrimination Act 1992, subject to correct detailing at the construction certificate. The proposed development is deemed to be capable of meeting these requirements through detailing at the construction certificate stage."*

Compliance with the recommendations outlined in the report will be required as a condition of consent through compliance with the provisions of the BCA and Council's Access DCP.

**(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 Applications. 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 submissions and the NSW Office of Water in a letter dated 29 September 2011 have raised no objection to the development in this respect, subject to conditions. 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 the construction of a 6 to 13 storey mixed residential and commercial development comprising 148 residential apartments, 2 ground floor commercial suites, 296 car parking spaces over 3 basement levels and associated landscaping works 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, and advertised in the local newspaper from the 26 July 2011 until 26 August 2011. No submissions were received in response to the notification/advertisement of the proposal.

A second round of notification was undertaken from 31 August 2011 until 14 September 2011. The second round of notification was required due to the erroneous omission of the adjoining properties to the south of the site in the initial round of notification. No submissions were received in response to the second round of notification/advertisement of the proposal.

**(e) The public interest.**

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

**Other Matters**

External Referrals

*NSW Office of Water*

The development application is Integrated Development in accordance with Part 5 of the *Water Management Act* as the development involves a temporary construction dewatering activity. As such the applications were referred to the NSW Office of Water on 8 August 2011. On 29 September 2011, the Department issued their amended General Terms of Approval for the development.

*Sydney Airports Corporation Limited (SACL) & Air Services Australia*

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 20 October 2011 approved the maximum height of the building to 51.0 metres AHD. A condition is proposed on the consents providing the height restrictions.

*Ausgrid (formerly Energy Australia)*

The development application was referred to Ausgrid for consideration on 8 August 2011. On 15 August 2011 as response was received from Ausgrid advising that following an investigation of the electrical loadings in the area, and in respect of the additional loading which will result from the proposed development, provision of an electricity substation will be required on site.

### *Sydney Water*

The development application was referred to Sydney Water for consideration on 8 August 2011. Correspondence received from Sydney Water dated 30 August 2011 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 (RTA)*

The development application was referred to the RTA for consideration on 8 August 2011. The application was considered at the RTA's SRDAC meeting of 7<sup>th</sup> September 2011. Correspondence received from Roads & Traffic Authority dated 14 September 2011 raises no objection to the proposed development, subject to recommendations, which will be required as conditions of consent.

### *NSW Police – Botany Bay Local Area Command*

The development application was referred to NSW Police Botany Bay Local Area Command, on 8 August 2011. Correspondence received from Mascot Police Local Area Command dated 24 August 2011 raised no objection to the proposed development, subject to recommendations relating to safety and security measures, which will be required as conditions of consent.

### Internal Referrals

The development application was referred to relevant internal departments within Council, including the Development Engineer, Landscape Officer, Environmental Officer, and Health Officer for comment and relevant conditions, following assessment by the nominated officer of this Council, have been inserted into the recommendation of the operational consent.

### Design Review Panel (DRP)

Council's Design Review Panel (DRP) has considered the proposed development prior to the lodgment of the application on two occasions, on 17 February 2011 and again on 31 March 2011. The subsequent meeting sought to provide amended plans addressing the initial concerns raised by the DRP relating to floor space ratio (FSR), building height and the relationship of the proposal to surrounding development. The DRP at their meeting of 31 March 2011 provided support to the amended pre-DA subject to recommendations for further refinement with regard to aesthetics and amenity of the development. The plans now before the JRPP have incorporated the recommendations made by the DRP.

### Voluntary Planning Agreement (VPA)

The applicant confirmed by letter dated 10 October 2011, that they are willing to enter into a Voluntary Planning Agreement (VPA) with Botany Bay City Council for the purpose of carrying out works in kind for land dedication and road widening works to John Street, any street improvements to the Coward Street frontage of the property and for the dedication of the land described as Lot 278 of DP 1100292 to Council for

public recreational use, and landscaping of this land. The exact wording and detail of the VPA are to form the subject of a separate offer 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:

- 148 units @ \$20,000.00 each = \$2,960,000.00

The Section 94 Contributions for the commercial component (233m<sup>2</sup>) 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 \$2,693.60
- Administration \$436.80
- Shopping Centre Improvements \$1,955.20
- Open Space & Recreation \$2,641.60
- Drainage \$72,372.06

Total \$80,099.26

#### *Section 94 Contributions Plan – Mascot Station Precinct:*

- Public Road Land Dedications \$12,449.00

Therefore a total Section 94 Contribution of **\$3,052,548.26** is required to be paid to Council prior to the issue of the Construction Certificate as conditioned under this consent.

### **Conclusion**

The Joint Regional Planning Panel, Sydney East Region (JRPP) is the consent authority for the development application. The development application 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 the Panel that the application, for the construction of a 6 to 13 storey

mixed residential and commercial development comprising 148 residential apartments, 2 ground floor commercial suites, 296 car parking spaces over 3 basement levels and associated landscaping works at 208-210 Coward Street, Mascot, be granted consent subject to the conditions in the attached schedule.

### **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 of 4.44:1 applied under this clause on the basis that:
  - (i) Clause 12A of Botany Local Environmental Plan 1995 is a development standard; and
  - (ii) The amended objection lodged by the applicant is well founded; and
- (b) Approve Development Application No. 11/67 for the construction of a 6 to 13 storey mixed residential and commercial development comprising 148 residential apartments, 2 ground floor commercial suites, 296 car parking spaces over 3 basement levels and associated landscaping works at 208-210 Coward Street, Mascot, subject to the Conditions imposed in the attached schedule.

**Premises: 208-210 Coward Street, Mascot**

**DA No: 11/67**

### **SCHEDULE OF CONSENT CONDITIONS**

#### **GENERAL CONDITIONS**

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

<b>Plans</b>	<b>Author</b>	<b>Date/Received</b>
Architectural Plan No’s: 0111 A00 01 0111 A01 01	Krikis Tayler Architects	Received by Council 29 April 2011

<b>Plans</b>	<b>Author</b>	<b>Date/Received</b>
0111 A02 01 0111 A03 01 0111 A04 01 0111 A05 01 0111 A06 01 0111 A07 01 0111 A08 01 0111 A09 01 0111 A10 01 0111 A11 01 0111 A12 01 0111 A13 01 0111 A14 01 0111 A15 01 0111 A16 01 0111 A17 01 0111 A18 01 0111 A19 01 0111 A20 01		
Shadow Diagrams 0111 A21 01 0111 A22 01 0111 A23 01 0111 A24 01 0111 A25 01	Krikis Tayler Architects	Received by Council 29 April 2011
External Finishes 0111 A26 01	Krikis Tayler Architects	Received by Council 29 April 2011
Landscape Plan 620.01 C 620.02 B	Tramonte Jensen	25 May 2011
Stormwater Drainage Plans 11AH117 D00 B 11AH117 D01 B	Australian Consulting Engineers Pty Ltd	19 July 2011

<b>Plans</b>	<b>Author</b>	<b>Date/Received</b>
11AH117 D02 A 11AH117 D03 A 11AH117 D04 A 11AH117 D05 B 11AH117 D06 B 11AH117 D07 A		
Survey Plan Ref No: 7712/10	H Ramsay & Co	Received by Council 29 April 2011
Photomontages: Coward Street John Street	Krikis Tayler Architects	Received by Council 19 May 2011
Architectural Dwg No. SK20	Krikis Tayler Architects	10 November 2011, received by Council 10 November 2011
GFA Standard Instrument Floor Plan Calculations	Krikis Tayler Architects	10 November 2011, received by Council 10 November 2011
GFA Botany LEP Floor Plan Calculations	Krikis Tayler Architects	10 November 2011, received by Council 10 November 2011
Solar Access Exercise Plan No.s SK 15 01 SK 16 01 SK 17 01 SK 18 01 SK 19 01	Krikis Tayler Architects	Received by Council 10 November 2011
Aerial Perspective Shadow Analysis SK 23 SK 24 SK 25	Krikis Tayler Architects	Received by Council 10 November 2011

<b>Documents</b>	<b>Author</b>	<b>Date/Received</b>
Statement of Environmental Effects	James Lovell & Associates	May 2011, received by Council 25 May 2011

<b>Documents</b>	<b>Author</b>	<b>Date/Received</b>
Design Verification Statement	Krikis Tayler Architects	28 April 2011, received by Council 29 April 2011
BASIX Certificate No. 373881M_03	NSW Planning	28 September 2011, received by Council 29 September 2011
Geotechnical Investigation	Asset Geotechnical	23 June 2011, received by Council 28 June 2011
Drains Model Data and Result Ref: 11AH117.D1	Australian Consulting Engineers Pty Ltd	5 May 2011, received by Council 19 July 2011
Environmental Noise Impact Report No. 4603-2	Day Design Pty Ltd	16 May 2011, received by Council 25 May 2011
Aircraft & Road Traffic Noise Intrusion Report Report No. 4603	Day Design Pty Ltd	9 May 2011, received by Council 25 May 2011
State Environmental Planning Policy No. 1	JLA Pty Ltd	June 2011 received by Council 28 June 2011
BCA Assessment Report	Barry Johnson & Associates Pty Ltd	Received by Council 8 July 2011
Acid Sulfate Soil Assessment	Aargus Australia	June 2011 received by Council 28 June 2011
Pedestrian Wind Statement	Windtech	18 May 2011 received by Council 25 May 2011
Disability Access Report	Lindsay Perry	27 June 2011 received by Council 28 June 2011
Residential Flat Design Code Analysis	Krikis Tayler Architects	28 June 2011 received by Council 28 June 2011
Phase 11 Environmental Site Assessment	Aargus Australia	June 2011 received by Council 28 June 2011
Traffic Impact Assessment Ref: 11-048	Thompson Stanbury Associates	May 2011, received by Council 25 May 2011



<b>Documents</b>	<b>Author</b>	<b>Date/Received</b>
Waste Management Report	Elephant's Foot Waste Contractors Pty Ltd	14 March 2011, received by Council 25 May 2011
Letter to Council - VPA	Krikis Tayler Architects	10 October 2011, received by Council 10 October 2011
Amended SEPP 1 Objection	LJB Urban Planning Pty Ltd	10 November 2011, received by Council 10 November 2011
GFA Area Schedule	Krikis Tayler Architects	9 November 2011, received by Council 10 November 2011
Kone Traffic Analysis Report Lift Performance	Kone Elevators Pty Ltd	8 November 2011, received by Council 10 November 2011
Response to Neustein Urban Planning Advice	LJB Urban Planning Pty Ltd	9 November 2011, received by Council 10 November 2011
SEPP 65 Schedule Page 1 to 5	Krikis Tayler Architects	9 November 2011, received by Council 10 November 2011
Letter to Council re: Stratum Subdivision	Krikis Tayler Architects	16 November 2011 received by Council 17 November 2011

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

2

- (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         | \$25,000.00    |
| (b) Development Control               | \$11,055.00    |
| (c) Section 94 Contribution           | \$3,052,548.26 |
| (d) Waste Levy                        | \$25,000.00    |
| (e) Inspection and Plans checking fee | \$5,000.00     |

4 This Consent relates to land in Lot 29 in DP 59063, Lot 30 in DP 939729, Lot G & H in DP 378846 and 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.

5

- (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. 11/67.
  - (vi) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 11/67.
  - (vii) Responsibilities regarding the maintenance of the car wash bay the Owners Corporation / building owner.
  - (viii) 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.
  - (ix) 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. 18(a) of this consent.
  - (x) 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.
  - (xi) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.
  - (xii) 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.
- (c) Consolidation of Lot 29 in DP 59063, Lot 30 in DP 939729, Lot G & H in DP 378846 into one (1) allotment.

6 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 development site and Lot 278 DP 1100292 and the width 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 (Coward Street and John Street) of the site and Lot 278 DP 1100292 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 any Occupation Certificate.
- (c) Replace all the existing above ground electricity and telecommunication cables to underground cables within the site and road reserve area fronting the site and Lot 278 DP 1100292 in accordance with the guidelines and requirements of the relevant utility authorities. The applicant shall bear all the cost of the construction and installation of the cables and any necessary adjustment works. These works and payments shall be completed prior to the issue of the Occupation Certificate.
- (d) 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.
- (e) 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.

7 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. 373881M\_03, dated 28 September 2011 for the development are fulfilled.

Note:

- (ii) 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

- (iii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.

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

- 8 The future use of the commercial units located on the ground floor of the development shall form the subject of a further development application to Council.
  
- 9 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.
  - (d) A Stratum Subdivision Application shall be lodged with Council to permit integration of the building at 214-220 Coward Street Mascot with the development at 208-210 Coward Street Mascot, both at basement level and that part of the building above ground level and including lot boundary re-definition.

**CONDITIONS IMPOSED BY EXTERNAL AGENCIES WHICH MUST BE COMPLIED WITH**

- 10 The proposed development is to comply with the General Terms of Approval dated 14 September 2011 issued by the Roads and Traffic Authority's (RTA). The conditions are outlined as follows:
  - (a) All vehicles are to enter and leave the site in a forward direction;
  - (b) The number of car parking spaces should be provided to Council's satisfaction;
  - (c) The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay

dimensions) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002 for heavy vehicle usage;

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

11 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) Pumped water (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:
    - (1) 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.
    - (2) 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.
    - (3) 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.

- (4) 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.
- (5) 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 any 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 pumped water (tailwater) that is not to be reinjected, must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority. The method of disposed pumped water (i.e. street drainage to the stormwater system or discharge to sewer) and written permission from the relevant controlling authority must be presented to the NSW Office of Water in support of the licence application.
  - (vii) Discharge of any contaminated pumped water (tailwater) that is to be reinjected must comply with the provisions of the *Protection of the Environment Operations Act 1997*. The quality of any pumped water (tailwater) that is to be 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 pumped water (tailwater) to remove any contamination.
    - The measures to be adopted to prevent redistribution of any contamination in the groundwater system. Any reinjection proposal that is likely to further spread contamination within the groundwater system will not be allowed and the project will need to be modified.
    - The means to avoid degrading impacts on the identified beneficial use of the groundwater. Any reinjection that is likely to lower the identified beneficial use of a groundwater system will not be allowed and the project will need to be modified.
  - (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).

12 The proposed development is to comply with the General Terms of Approval dated 20 October 2011 issued by Sydney Airport Corporation Limited (SACL). The conditions are outlined as follows:

- (a) The PROPERTY DEVELOPMENT at 208-210 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 the Civil Aviation Safety Authority.
- (b) In this instance, I, Peter Bleasdale, as an authorised person of the Civil Aviation Safety Authority (CASA), under instrument Number: CASA 229/11, and in my capacity as Airfield Design Manager, have no objection to the erection of this structure to a height of 51.0 metres above Australian Height Datum (AHD).
- (c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
- (d) Should you wish to exceed 51.0 metres above Australian Height Datum (AHD), a new application must be submitted.
- (e) 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.
- (f) **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.**

- (g) SACL advises that approval to operate construction equipment (i.e. 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, i.e. 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 i.e. construction cranes, intended to be used in the erection of the proposed structure/activity;
  - (iv) the period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.
- (h) 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. For further information on Height Restrictions please call Michael Turner on (02) 9667 9218.
- (i) 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.
- (j) 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”.
- (k) The area in which the proposed development is located is in the vicinity of Sydney (KS) Airport.
- (l) To minimise the potential for bird habitation and roosting, the proponent must ensure that non-bird attracting plant species are used in any landscaping design.
- (m) Any landscaping design must minimise the attractiveness for foraging birds, i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted.
- (n) All trees to be planted shall not be capable of intruding in to the Obstacle Limitation Surface when mature.

13 The proposed development is to comply with the conditions provided by Sydney Water dated 30 August 2011. The conditions are outlined as follows:

- (a) Water

- (i) The 150mm drinking water main fronting the proposed development in Coward Street does not comply with the Water Supply Code of Australia (Sydney Water Edition –WSA 03-2002) requirement for minimum sized mains for the scope of development. The drinking water main needs to be upsized to a 200mm drinking water main from point ‘A’ to point ‘B’ (‘B’ is 2 metres past the point of connection) and ‘A’ is to be connected to the new 200mm drinking water main constructed under Case Number 122912 PW.
- (b) Wastewater
  - (i) The current wastewater system has sufficient capacity to service the proposed development. The wastewater main available for connection is the 225mm main located to the south of the site. The developer is to design and construct a wastewater main (connecting to this 225mm main), which will provide a point of connection at least 1m inside the property boundary.
- (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.

14 The proposed development is to comply with the recommendations provided by NSW Police Botany Bay Local Area Command, dated 24 August 2011. 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.
  - (d) With an increase in demand for building materials it is crucial even in the construction stage of the development that these cameras are installed as soon as power is available to the site as a deterrent to thieves.
  - (e) 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.
  - (f) 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.**
  - (g) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
  - (h) 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.
  - (i) 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.
  - (j) 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.
  - (k) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.

- (l) 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.
- (m) 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.
- (n) 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.
- (o) 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.
- (p) 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
- (q) 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.
- (r) 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.
  - (i) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations

- (ii) Signage needs to be provided to assist occupants to identify fire suppression equipment, eg extinguishers, fire hoses etc.
- (s) 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>.
- (t) 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 housing and **quality locks** should be used to prevent access. Simple steel mesh covers and small padlocks will NOT suffice as adequate security.
- (u) 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.
- (v) 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.
- (w) 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.

- (x) Thieves regularly target balconies to gain access into units. It is recommended that appropriate bolt action locks (into the floor) are installed on all sliding doors in conjunction with the standard latch lock.
- (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.

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

- 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 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.
- 17 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 **\$3,052,548.26** is required as follows:
  - (a) 148 units x \$20,000.00: \$2,960,000.00
  - (b) Mascot Station Precinct Section 94 Contributions Plan – a contribution of \$ determined as follows:
    - (i) Public Open Space/ Public Road and Improvements \$12,449.00

- (c) City of Botany Bay Section 94 Contributions Plan 2005-2010 a contribution of \$80,099.26 determined as follows:
- |       |                              |             |
|-------|------------------------------|-------------|
| (i)   | Community Facilities         | \$2,693.60  |
| (ii)  | Administration               | \$436.80    |
| (iii) | Shopping Centre Improvements | \$1,955.20  |
| (iv)  | Open Space & Recreation      | \$2,641.60  |
| (v)   | Drainage                     | \$72,372.06 |

The Section 94 Contribution of **\$3,052,548.26** is to be paid to Council prior to the issue of the Construction Certificate.

18

- (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.

19

- (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.

20

- (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.

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

- (a) NSW Department of Environment, Climate Change and Water (DECCW) ‘Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites’; and
- (b) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The RAP shall incorporate any findings in any Preliminary or Detailed Site Investigations for the site, it shall clearly state proposed cleanup objectives, and demonstrate how the site can be made suitable for the proposed use.

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

22 Prior to the issue of the Construction Certificate, further geotechnical investigation report shall be submitted to Council for review. The report shall be 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.

23 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.

24 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.

25 Prior to issue of any 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 of the following area that will be impacted by the development.

- John Street
- Coward Street
- Sydney Water Southern Western Suburbs Ocean Outfall Sewer (SWSOOS)

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

- (a) A copy of the dilapidation report together with the accompanying photographs shall also be given to all immediately adjoining properties owners and public utility authorities, and a copy lodged with Principal Certifying Authority and the Council. The report shall be agreed by all affected parties 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 construction works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all immediate adjoining properties owners, and a copy lodged with Principal Certifying Authority.
- (c) Any damage to buildings, structures, public infrastructure, lawns, trees, 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 construction works cause rise to public safety and/or workplace safety; works shall halt until absolute safety is restored.

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

- 26 Prior to issue of any 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 fronting the site and Lot 278 DP 1100292, with underground cables to relevant authorities requirements.
  - (b) Design and construct kerb and gutter: -
    - (i) for the full Coward Street frontage of the site and;
    - (ii) for the full John Street frontage of the site and Lot 278 DP 1100292 after the dedication of road.
  - (c) Design and reconstruct road pavement directly in front of the site and Lot 278 DP 1100292 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) and Lot 278 DP 1100292 in accordance with the current Council's approved public domain landscape plans.
- (e) Design and provide line marking and all necessary signage on Coward Street and John Street to RTA's requirements.
- (f) 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 2.4m long grated gully pit on John Street.
- (g) Design and provide appropriate street lighting to the street frontage of the site to cables to relevant authorities requirements.
- (h)
  - (i) Landscaping and civil works on Lot 278 DP 1100292; and,
  - (ii) Landscaping and embellishment of the proposed public parkland area in the north-eastern section of the site. A detailed landscape construction plan should be submitted and shall include, but not be limited to, areas of paving, landscaping and tree planting utilising a variety of decorative plans as well as large canopy trees, furniture and lighting and shall address the interface and connection with the residential development to the west, the future linear park to the east and the John Street public domain. Landscaping and embellishment shall be installed by the Applicant at their expense and in accordance with the Council approved landscape plan.
- (i) 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 Ausgrid'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.

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. Documentary evidence of the lodgement of this Development Application shall be submitted to the Principal Certifying Authority. It is recommended that the proposed design shall correspond show 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.

- 27 Prior to the issue of the Construction Certificate, 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.
- 28 The construction plans of the car parking area shall be revised to include provision of vehicle queuing area between the vehicular control point and the property boundary in accordance with AS2890.1. The minimum length of queuing area shall be sufficient to accommodate twelve (12) cars. Location of the vehicular control point (e.g. roller door/gate) shall be shown on the construction plan. This shall be certified by a suitably qualified engineer and submitted to Principal Certifying Authority.
- 29 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.
- 30 Prior to the issue of any 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 Australian Consulting Engineers, Job No. 11AH117,
- Drawing No. D00, Rev B, dated 18 May 2011,
  - Drawing No. D01, Rev B, dated 17 May 2011,
  - Drawing No. D02, Rev A, dated 27 Apr 2011,
  - Drawing No. D03, Rev A, dated 20 Apr 2011,
  - Drawing No. D04, Rev A, dated 21 Apr 2011,
  - Drawing No. D05, Rev B, dated 18 May 2011 and
  - Drawing No. D06, Rev B, dated 18 May 2011,

With the following issues to be complied with and shown on the plans: -

- (a) The stormwater drainage system from the roof and balcony of the building to the On-site detention (OSD) system shall be shown on the stormwater management plans. All stormwater runoff from the roof area and balcony shall be directed to the system.
- (b) The layout of the basement parking area and OSD system shown on the stormwater management plans shall correspond with the architectural plan. The location of the discharge control pit shall be revised accordingly.

- (c) The storage volume and the orifice of the OSD system shall be revised to address the following: -
  - (i) The landscape courtyard area (communal space) in the centre of the site shall not be drained into the OSD system. Stormwater runoff from this area shall be regarded as area bypassing the OSD system.
  - (ii) The permissible site discharge rate shall be based on the peak flow rate of 1 in 5 year ARI storm event, which the pre-development condition of the site shall be assumed as “State-of-Nature” condition (i.e. the entire site is totally grassed/pervious). The submitted DRAINS model data and result shall be revised accordingly.
- (d) The emergency overflow of OSD systems shall be shown on the plans to ensure any overflow from the OSD system will be conveyed to the public streets via surface overland flow.
- (e) The entry point of the fire-exit on the north-western corner of the site shall be raised to minimum 300mm above the street level in order to prevent stormwater inundation from the street to the basement parking area.
- (f) The proposed kerb inlet pit on John Street shall be relocated to the new kerb line. The kerb. The minimum length of the lintel shall be 2.4m.
- (g) Grated boundary pit (minimum 600mm x 600mm) shall be provided to the stormwater drainage system prior to discharging stormwater into the new kerb inlet pit on John Street.
- (h) Additional access grates shall be provided to each corner of the OSD tank.
- (i) In order to protect the buildings from stormwater inundation, the OSD tank shall be water-tight.
- (j) The outlet pipes of the OSD system and the GPT shall be minimum 300mm diameter.
- (k) Rainwater tanks shall be provided with a minimum 5,000 L capacity and shall service any landscape systems.
- (l) 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.

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.

- 31 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 stormwater drainage (including OSD system) and

basement pump-out system shown on the construction plans have been designed to comply with current Australian Standards and Council's requirements.

- 32 Prior to the issue of Construction Certificate, Right of Carriageway shall be created between the subject development site and the development site on 214-220 Coward Street (under DA10/314 and DA11/27) to allow vehicular access between both sites. The Right of Carriageway shall be over the entire development sites on both 208-210 Coward Street and 214-220 Coward Street. The plan showing the location of Right of Carriageway shall be lodged with Council. Proof of registration shall be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.
- 33 Prior to the issue of Construction Certificate, the applicant shall obtain written approval from Sydney Water and submitted to the Principal Certifying Authority to ensure any structure erected adjacent to the Southern Western Suburbs Ocean Outfall Sewer (SWSOOS) complies with Sydney Water's requirements.
- 34 Prior to the issue of Construction Certificate, easement for car parking shall be created over the subject development site in favour of development on 214-220 Coward Street (under DA10/314 and DA11/27). The easement for car parking shall cover minimum nine (9) off-street parking spaces of the development site. The plan showing the location of easement shall be lodged with Council. Proof of registration shall be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.
- 35 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.
  - ensure pedestrian and vehicular access fronting John Street and Coward Street of the site and Lot 278 DP 1100292 to be maintained at all times. No closure of any road reserve will be permitted without Council's approval.
  - 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.

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

- All traffic (including worker’s vehicles) generated from construction activities shall enter and leave the site in a forward direction via John Street ONLY. No vehicles shall be allowed to enter and exit the site via John Street.
- Construction building materials shall be stored wholly within the site.
- All vehicles (including worker’s vehicles) associated with the construction activities shall only park within the site only.
- Vehicle and Pedestrian access along John Street and Coward Street shall not be obstructed.
- Locations of site office, accommodation and the storage of major materials related to the project shall be within the site.
- Protection of adjoining properties, pedestrians, vehicles and public assets shall be implemented at all times.
- Location and extent of proposed builder’s hoarding and Work Zones, if there is any, shall be shown on the plan.
- Tree protection management measures for all protected and retained trees shall be implemented at all times.

37 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.

38 The development shall make provision for the following car parking allocations:

<b>Car Parking Rates</b>	<b>Required</b>
1 space per studio and 1 bedroom units	35 spaces
2 spaces per 2 and 3 bedroom units	226 spaces
1 space / 60sqm commercial floor space	4 spaces
1 visitor space per 7 dwellings	21 spaces (Note: this includes provision for parking for those persons with a disability)



Car wash spaces	2
<b>TOTAL REQUIRED</b>	<b>287</b>
<b>TOTAL PROVIDED</b>	<b>296</b>

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.

- 39 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 issue of the Construction Certificate.
- 40 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.
- 41 The landscape plans by *Tramonte Jensen620.01-02, Issue C & B, dated May 2011*, 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) All new street tree plantings in Coward Street are required to be Golden Robina to continue the existing planting theme between O'Riordan Street and Laycock Street.
  - (b) Pavement banding details, tree pit/planter dimensions, edge treatment and finishes surrounding the existing and proposed Coward Street street trees shall be in accordance with Council's specifications *SS01, Issue B, July 2010*. The specification shall be incorporated into the revised, detailed landscape documentation.
  - (c) The Coward Street setback treatment is to include revised plantings of an alternative evergreen tree species and understorey to provide landscape individuality to the development.
  - (d) An additional 2 street trees shall be provided in the John Street road verge between the driveway and the Sydney Water easement. Rigid polyethylene sheet type tree root barriers are to be installed alongside the kerb and footpath edge at a depth of 900mm and 150mm inward of

edges. All trees shall be planted in a one (1) metre square timber edged and mulched bed with Roottrain watering system installed.

- (e) Increased planter box dimension and additional trees within the ground level communal open space area to maximise landscaping over paved areas.
- (f) Provide details and specifications for podium planter boxes indicating internal treatment to planter boxes, waterproofing, drainage etc, to ensure satisfactory construction.
- (g) The planting design for the roof garden Level 7 (rooftop of level 6) should include other perennials for variety in the planting design. Plants are to be tolerant of the wind, heat and dry conditions. Species such as Westringia or Raphiolepis may be more tolerant than Murraya and Abelia. Other species include Sedums, Aloes, Yucca, Lavender, Rosemary and coastal/wind tolerant plants.
- (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, pergolas and privacy screening elevations and materials. Details of other landscape elements - furniture, internal/landscape lighting etc.
- (i) A decorative treatment eg. mosaic to the carpark exhaust shafts located within the communal open space area is required.

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.

- 42 Any fire hydrant and booster assembly valve required must be housed within the external ground floor façade of the building structure only and shall be enclosed and screened with decorative 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 thereby compromising the appearance and amenity of the streetscape. This matter is to be resolved prior issue of a Construction Certificate.

**CONDITIONS WHICH MUST BE SATIFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS**

43

- (a) After completion of all remediation works as required under Condition No. 21 of this Consent, a copy of the Validation and Monitoring Report prepared by suitably qualified contaminated land consultant

shall be submitted to Council prior to the commencement of building works.

The validation report shall be prepared in accordance with the EPA Guidelines, *Consultants Reporting on Contaminated Sites*, and shall certify the suitability of the site for the proposed development and shall:

- (i) describe and document all works performed;
  - (ii) include results of validation testing and monitoring;
  - (iii) include validation results of any fill imported on to the site;
  - (iv) show how the objectives of the Remedial Action Plan (RAP) have been met;
  - (v) show how all agreed clean-up criteria and relevant regulations have been complied with; and
  - (vi) include clear justification as to the suitability of the site for the proposed development and the potential for off-site migration of any residual contaminants.
- (b) To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 shall be submitted to Council clearly demonstrating that the site is suitable for the proposed development.

Any conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a s96 application pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to ensure that they form part of the consent conditions.

44

- (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) <<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.
- 45 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.
- 46
- (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.
- 47 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))

### **CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT**

- 48 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.
- 49 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.
- 50 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<sub>10</sub> 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<sub>10</sub> 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 04:00 pm

No Construction to take place on Sundays or Public Holidays.

**(c) Silencing**

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

- 51 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.
- 52 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.
- 53 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.
- 54 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 Principal 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.

55 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.

56

- (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.

- (e) The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
- (f) Construction 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.
- (g) 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.

57 All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages: -

- Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening
- Prior to placement of concrete (kerb and gutter and footpath)
- Prior to construction and placement of road pavement materials
- Final inspection

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

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

- (a) 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.

59 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.

60

- (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, piling, 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.

- 61 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.
- 62 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.

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

- 63 Any damage not shown in the dilapidation report submitted to Council before site works have commenced, as required under Condition No. 25 of this consent, 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.
- 64 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.
- 65 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.
- 66 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 car parking areas (including queuing area, commercial/retail and visitor parking area), driveways and vehicular access paths have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1 and AS2890.6 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.
- 67 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.

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.

- 68 Prior to the issue of Final Occupation Certificate, the redundant vehicular crossing, together with any necessary works shall be removed and the footpath, nature strip and kerb and gutter shall be reinstated in accordance with Council's specification.
- 69 Prior to issue of Final Occupation Certificate, all civil works in public domain area (including pavement reconstruction, kerb and guttering, footpath paving, street lighting, stormwater construction, landscaping, line marking and signage) shall be completed to Council's satisfaction. The following documentation shall be submitted to Principal Certifying Authority attesting this condition has been appropriately satisfied.
- Written confirmation / completion certificate reserve shall be obtained from Council's engineer.
  - Inspection report (formwork and/or final) for the works on road reserve obtained from Council's engineer.
  - A copy of the approved public domain civil works plans showing Work-as-Executed details (together with an electronic copy) prepared by a registered surveyor.
- 70 Prior to the issue of Final Occupation Certificate,
- (a) 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.
  - (b) The obtainment of a Stratum Subdivision as forecast in the letter provided by Krikis Tayler Architects dated 16 November 2011, received by Council 17 November 2011.
- 71 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.
- 72 Prior to the issue of any Occupation Certificate:
- (a) Proof of registration of the Right of Carriageway between the subject development site and the development site on 214-220 Coward Street (under DA10/314 and DA11/27) shall be submitted to the Principal Certifying Authority; and,

- (b) Proof of registration of the easement for car parking over the subject development site in favour of development on 214-220 Coward Street (under DA10/314 and DA11/27) shall be submitted to the Principal Certifying Authority
- 73 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.
- 74 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 Principal Certifying Authority prior to occupation of the premises.
- 75 Prior to the issue of any Occupation Certificate:
- (a) A minimum of *two hundred and eighty-seven (287)* off-street car parking bays shall be provided to the development in accordance with Mascot Station Precinct Development Control Plan. All parking bays shall be line marked and non-residential parking bays shall be freely available at all times during business hours for visitors and users of the commercial/retail premises; and,
- (b) A minimum of *nine (9)* off-street car parking bays from the development shall be allocated to the residential units on 214-220 Coward Street (under DA10/314 and DA11/27). These parking bays shall be line marked and freely available at all times to the residential units allocated.
- 76 Prior to the issue of Final Occupation Certificate, maintenance schedule of the on-site detention system shall be prepared by a qualified engineer and submitted to Principal Certifying Authority and a copy to Council for record purpose.
- 77 Prior to the issue of the Occupation Certificate:

- (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.

78 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.

79 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.

80 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.

- 81 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 4.44:1 (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.
- 82 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.
- 83 All internal pedestrian areas and pathways within the setbacks shall be unit paved/tiled.
- 84 All public domain/footpath improvement works shall be installed in accordance with Council specifications by the Applicant at their expense. All improvements shall be constructed and complete prior to the issue of a Final Occupation Certificate.
- 85 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.
- 86 The Development is to be constructed to meet the requirements detailed in the Aircraft & Road Traffic Noise Intrusion Report, prepared by Day Design Pty Ltd dated 9 May 2011, received by Council 25 May 2011, and the Environmental Noise Impact Report prepared by Day Design Pty Ltd dated 16 May 2011, received by Council 25 May 2011.
- (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.
- 87 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.
- 88 The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.
- 89
- (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  $L_{aeq, 15 \text{ minute}}$  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).
- 90
- (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. 63 to 90 (inclusive) are pre conditions to the issue of an Occupation Certificate.

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

- 91 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.

92 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).

93 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.

- 94 The landscape 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.
  
- 95 New street trees shall be maintained by the Owner/Strata Corporation for 24 months after planting. Maintenance includes watering twice weekly for a period of 4 months min. (or until established) and after that at a frequency to sustain adequate growth, bi-annual feeding with a suitable fertilizer, weed removal and replenishment of the mulched base, but does not include trimming or pruning the trees under any circumstances. Any trees that fail to thrive shall be replaced by the owner/strata corporation to Council's satisfaction at their expense
  
- 96 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. 11/67 dated as 29 April 2011 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

# APPENDIX No. 1

Photomontages of proposed development at No. 208-210 Coward Street.



**VIEW FROM JOHN STREET**  
COWARD STREET RESIDENTIAL

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