

## JOINT REGIONAL PLANNING PANEL (Sydney East Region)

<b>JRPP No</b>	2011SYE089
<b>DA Number</b>	DA11/135
<b>Local Government Area</b>	City of Botany Bay
<b>Proposed Development</b>	<p>Grant Development Application No. 11/135 a “Deferred Commencement Consent” for works in the following two (2) stages:</p> <ul style="list-style-type: none"> <li>• <u>Stage 1</u> – Demolition of existing buildings and clearing of the surface of the site at 103-105 O’Riordan Street, Mascot, to allow the installation of groundwater monitoring bores to address the issues identified in the General Terms of Approval from the NSW Office of Water dated 29 September 2011; and,</li> <li>• <u>Stage 2</u> - The excavation at the site and construction of the twelve storey residential building containing 50 apartments and three levels of basement car parking for 94 car spaces, at 103-105 O’Riordan Street, Mascot.</li> </ul>
<b>Street Address</b>	103-105 O’Riordan Street, Mascot
<b>Applicant</b>	PBD Architects and Project Managers Pty Ltd.
<b>Owner</b>	Legman Pty Ltd.
<b>Number of Submissions</b>	<p><u>First Round</u>: Thirty six (36) submissions including:</p> <ul style="list-style-type: none"> <li>• One (1) submission on behalf of the executive committee for the Sublime building (109-113 O’Riordan Street) containing 110 units.</li> </ul> <p><u>Community Consultation Period</u>: Seven (7) submissions and one (1) petition containing 139 signatures, received by Council on 11 January 2012.</p> <p><u>Second Round</u>: Three (3) submissions in addition to the objection lodged by the Executive Committee of the Sublime building (109-123 O’Riordan Street, Mascot) during the Community Consultation Period</p>
<b>Recommendation</b>	Deferred Commencement Consent
<b>Report by</b>	Rodger Dowsett, Director Planning and Development

**ASSESSMENT REPORT AND RECOMMENDATION****103-105 O'RIORDAN STREET, MASCOT – INTEGRATED DEVELOPMENT -  
MULTI UNIT RESIDENTIAL**

**File No:** 11/135

**Responsible Officer:** Mr Rodger Dowsett - Director of Planning and  
Development

**Date of Preparation:** 4 April 2012

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**DA No:** 11/135

**Application Date:** 18 July 2011

**Property:** 103-105 O'Riordan Street, Mascot

**Lot/DP No:** Lot A in DP 90605 and  
Lot 1 in DP 91734

**Details:** Grant Development Application No. 11/135 a “Deferred  
Commencement Consent” for works in the following two (2)  
stages:

- Stage 1 – Demolition of existing buildings and clearing of the surface of the site at 103-105 O’Riordan Street, Mascot, to allow the installation of groundwater monitoring bores to address the issues identified in the General Terms of Approval from the NSW Office of Water dated 29 September 2011; and,
- Stage 2 - The excavation at the site and construction of the twelve storey residential building containing 50 apartments and three levels of basement car parking for 94 car spaces, at 103-105 O’Riordan Street, Mascot.

**Applicant:** PBD Architects and Project Managers

**Applicant Address:** 302/50 Holt Street, Surry Hills NSW 2010

**Builder:** To Be Advised

**Principal Certifying Authority:** To Be Advised

**Property Location:** Western side of O'Riordan Street between Gardeners Road to the north and Church Avenue to the south.

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<b>Zoning:</b>	10(a) -Mixed Uses Commercial/Residential Botany Local Environmental Plan, 1995
<b>Present Use:</b>	Vacant Warehouse
<b>Classification of Building:</b>	Class 2 - residential flat building Class 7a – car park Class 10b - fence
<b>Value:</b>	\$14,439,763.00
<b>Drawing No:</b>	Refer to Condition No. 1

### **SUMMARY OF REPORT**

<b>Recommendation:</b>	“Deferred Commencement” Consent
<b>Special Issues:</b>	JRPP, Integrated Development, Residents’ Consultative Committee, SEPP 1 Objection to FSR, Maximum Building Height.
<b>Public Objection:</b>	<p><u>First Round:</u> Thirty six (36) submissions including:</p> <ul style="list-style-type: none"><li>• One (1) submission on behalf of the executive committee for the Sublime building (109-113 O’Riordan Street) containing 110 units.</li></ul> <p><u>Community Consultation Period:</u> Seven (7) submissions and one (1) petition containing 139 signatures, received by Council on 11 January 2012.</p> <p><u>Second Round:</u> Three (3) submissions in addition to the objection lodged by the Executive Committee of the Sublime building (109-123 O’Riordan Street, Mascot) during the Community Consultation Period.</p>
<b>Permissible:</b>	Yes

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

#### **Executive Summary**

Council received Integrated Development Application 11/135 seeking consent for the redevelopment of the land in accordance with the current zoning of Botany Local Environmental Plan 1995. The initial application sought approval for the demolition of the existing building and the construction of a twelve storey residential building containing 53 apartments and three levels of basement car parking for 94 car spaces.

Amendments were made to the proposal on 28 October 2011, 21 November 2011 and 15 December 2011, which included the progressive shift of the building to the north-east portion of the site and an increase in the private open space availability to each residence. This resulted in a revised layout and unit mix. Further amendments were sought and the applicant submitted amended plans in sketch form on 9 February 2012. The proposed development in its sketch form seeks approval for demolition of the existing building and the construction of a twelve storey residential building containing 50 apartments and three levels of basement car parking for 94 car spaces.

The site is zoned 10(a) Mixed Uses - Commercial/Residential pursuant to Botany Local Environmental Planning Policy 1995. The proposal falls within the definitions of “residential flat building” and is permissible in this zone with development consent.

The floor space ratio (FSR) of the proposed development is 3.5:1, however the proposal as modified by ‘deferred commencement’ consent condition will attain an FSR of 3.17:1 when calculated in accordance with the Botany Local Environmental Plan 1995 (BLEP 1995). This exceeds the maximum allowable FSR of 2:1 for the subject and accordingly a State Environmental Planning Policy No. 1 Objection has been submitted to address the departure.

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 will require dewatering activity during the construction phase to accommodate basement car parking facilities. As such the application was referred to the NSW Office of Water who issued their General Terms of Approval on 29 September 2011. In their letter of concurrence, the Office of Water advised Council that the basement must be constructed as a fully tanked structure to prevent the need for permanent or semi-permanent pumping of groundwater seepage from below-ground areas, and they also recommended that the consent be staged to permit demolition of existing buildings and clearing of the surface of the site under Stage 1 to allow monitoring of groundwater, with Stage 2 permitting excavation and construction of the proposed development. The consent has been staged as required and a condition imposed in respect of the basement construction.

The application was referred to Council’s Design Review Panel for pre-application consideration. It has been considered the proposal satisfactorily addressed the recommendations of the Design Review Panel.

The application was notified for a 30 day period from 9 August 2011 to 9 September 2011 in accordance with Council’s Notification Development Control Plan No.24 together with the Integrated Development Provisions under the *Environmental Planning and Assessment Act 1979*.

A total of thirty six (36) submissions, including a submission on behalf of the Executive Committee for the Sublime Building (109-123 O’Riordan Street) containing 110 units objecting to the initial development were received following the first public exhibition process. The key issues raised in the objections include traffic and parking impact, building height and design/character, density (floor space ratio), loss of views, privacy impacts, loss of property value and loss of sunlight.

The Council as the Planning Authority resolved to hold a meeting with the residents from the adjoining residential flat building to the south (109-123 O’Riordan Street) in relation to the

application and the subject site on 5 October 2011 based on the identification of the loss of solar access and building height as being the major issues.

An amended traffic report and shadow plans were also submitted to take into consideration the development at 619-629 Gardeners Road and 12-14 Church Avenue which had since been approved when this application was lodged with Council. Amended plans and additional information were submitted to Council were then sent to the Executive Committee of the Owners Corporation at 109-123 O'Riordan Street (Sublime Building) for comment. Following further discussions with the Executive Committee, it was agreed that Council would engage an independent Solar Access Consultant to review the solar access impacts of the proposed development.

It should be noted by the Panel that the Sublime Building is the adjoining development to the south of the development site.

A subsequent meeting with the Executive Committee of the Sublime Building and Council's Independent Consultant was held on 23 November 2011 to discuss the amended proposal which included the shifting of the building to the north to reduce the solar access impact and the cumulative impact of the recently approved development at 619-629 Gardeners Road and 12-14 Church Avenue. This development stands to the west of the development site.

Following the issues discussed at the Residents Consultative Meeting on 23 November 2011, the Applicant submitted amended plans and additional information on 20 December 2011 in relation to a further shift of the building to the northern tip of the subject site and the subsequent floor plate alterations, an amended SEPP 1 Objection and an economic analysis. These amended plans are the subject of this development assessment and were renotified for a period of fourteen (14) days from 25 January 2012 until 9 February 2012.

A further three individual submissions were received in addition to the previous submission lodged by the Executive Committee of the Sublime building during the community consultation process.

The matters raised by members of the local community during the second round of notification have been considered in the assessment and subject to amendments made together with imposition of conditions of consent as recommended, impacts on adjoining properties and the locality are considered to be minimised and satisfactory in terms of policy requirements and objectives.

During the Community consultation period, it was agreed that a further design amendment shall be investigated to reduce the overshadowing impact upon the Sublime building. On this basis, the applicant submitted a revised scheme in sketch form showing a reduced floor plate of Levels 5 to 11 that forms the basis of a Deferred Commencement Consent.

The proposal has a Capital Investment Value of greater than \$10 million the Joint Regional Planning Panel, Sydney East Region (JRPP) is the consent authority for the development applications. On 1 October 2011, the EP&A Act 1979 was amended to increase the capital investment value to greater than \$20 million, however the application was submitted prior to this amendment.

The development application in its amended form has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act and is

recommended for a “Deferred Commencement Consent” and subject to conditions of consent, with such consent being separated into the two stages as required by the NSW Office of Water. The two stages are as follows:

- Stage 1 – Demolition of existing buildings and clearing of the surface of the site at 103-105 O’Riordan Street, Mascot, to allow the installation of groundwater monitoring bores to address the issues identified in the General Terms of Approval from the NSW Office of Water dated 29 September 2011; and,
- Stage 2 - The excavation at the site and construction of the twelve storey residential building containing 50 apartments and three levels of basement car parking for 94 car spaces, at 103-105 O’Riordan Street, Mascot.

The following table depicts the progression of the proposed development during the assessment process:

<b>Proposal</b>	<b>No. of Units</b>	<b>Car Parking</b>	<b>Separation Distance to 109-123 O’Riordan Street</b>	<b>Shadow Impact to north facing units of 109-123 O’Riordan Street</b>
Issue A – Original Application (dated 18 July 2011)	53	94	<u>Up to 4 storeys:</u> Minimum 9.8m  <u>5 – 8 storeys:</u> Minimum 10.2m  Does not comply with the minimum building separation distances required under the Residential Flat Design Code.	Insufficient information provided. The submitted shadow analysis did not take into consideration the cumulative impact of the now approved development at 619-629 Gardeners Road and 12-14 Church Avenue.
First Amendment (dated 28 October 2011)	55	96	<u>Up to 4 storeys:</u> Minimum 12m  <u>5 – 8 storeys:</u> Minimum 12.48m  Does not comply with the minimum building separation distances required under the Residential Flat Design Code.	10 units do not achieve the minimum 2 hours solar access required.

Proposal	No. of Units	Car Parking	Separation Distance to 109-123 O’Riordan Street	Shadow Impact to north facing units of 109-123 O’Riordan Street
Second Amendment (dated 21 November 2011)	55	96	<u>Up to 4 storeys:</u> Minimum 12m  <u>5 – 8 storeys:</u> Minimum 12.48m  Does not comply with the minimum building separation distances required under the Residential Flat Design Code.	10 units do not achieve the minimum 2 hours solar access required.
Third Amendment (dated 15 December 2011)	55	94	<u>Up to 4 storeys:</u> Minimum 16.2m.  <u>5 – 8 storeys:</u> Minimum 17.3 metres  Does not comply with the minimum building separation distances required under the Residential Flat Design Code.	4 units do not achieve the minimum 2 hours solar access required.
Sketch Proposal (dated 6 February 2012)	50	94	<u>Up to 4 storeys:</u> Minimum 16.7m.  <u>5 – 8 storeys:</u> Minimum 21m.  Complies with the minimum building separation distances required under the Residential Flat Design Code.	All units achieve minimum 2 hours solar access required.

Table 1.

### Site Description

The subject site is located on the western side of O’Riordan Street between Gardeners Road to the north and Church Avenue to the south. The Sydney Water Corporation drainage reserve lies directly west of the site. This strip of land will eventually be under Council’s care, control and management and known as Linear Park. The site is formed by the following two allotments that make up a total site area of 1,475.2m<sup>2</sup>.

The legal description of the land as a parcel of two (2) lots is as follows:

- Lot 1 in DP 91734 being 103 O’Riordan Street, Mascot
- Part Lot A in DP 90605 being 105 O’Riordan Street, Mascot

The site is generally triangular in shape with a total frontage to O’Riordan Street of approximately 64.5m and a boundary to the future Linear Park of approximately 67.04m. The site is generally flat with a maximum fall of approximately 770mm from north to south and 180mm from east to west across the site. There currently exists on the southern section of the site (105 O’Riordan Street), a part one part two storey warehouse building that is now vacant. The northern section of the site (103 O’Riordan Street) remains vacant.

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

The properties surrounding the site are 109-123 O’Riordan Street to the south, which accommodates a part 6 part 7 storey residential apartment building. To the east, on the opposite side of O’Riordan Street are single and two storey dwellings and a single storey industrial and commercial building. Immediately to the west is the Sydney Water Corporation drainage reserve and further to the north west is an Ausgrid substation. On the opposite side of the drainage reserve are mixed use towers varying from 6 to 13 storeys in height that are currently under construction. To the north, on the opposite side of Gardeners Road within the Sydney City Council area are bulky goods retail sites.

### Site Photos



Figure 1. The existing warehouse on the subject site at 103-105 O’Riordan Street, Mascot



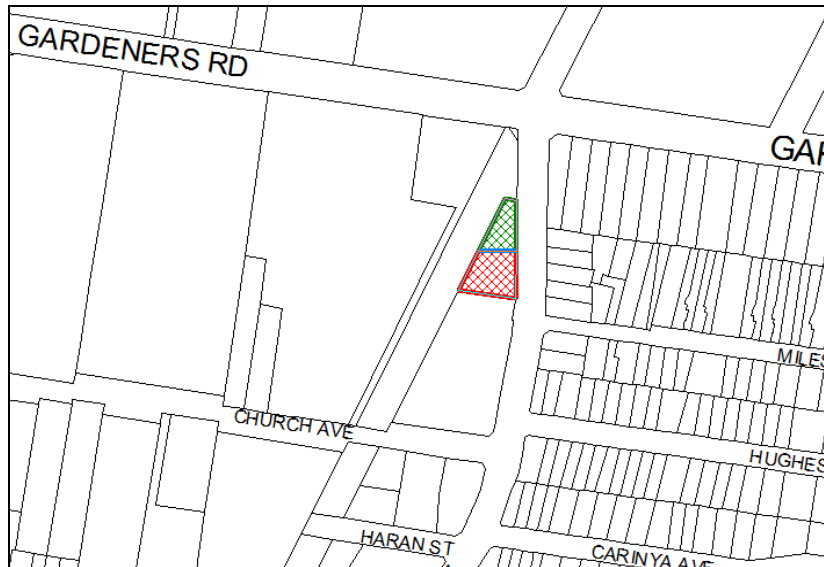


Figure 2. The adjoining residential flat building to rear at 109-123 O'Riordan Street, Mascot (Sublime building).



Figure 3. The north facing units of the Sublime building as viewed from the proposed Linear Park.

## Locality Plan



### Site and Development History

Development Consent No. 10/236 was approved on 6 October 2010 for minor building façade alterations including the replacement of 3 windows, replacement of the metal roller door with a glass door and proposed front planter boxes.

A Notice of Intention to give an Order was issued on 23 May 2003 for the use of the premises for a purpose that is prohibited, that is as a builder's depot.

Town Planning Consent No. 63\_T\_112 was approved on 26 August 1963 for the use of 105-107 O'Riordan Street for detailed steel fabrication and sheet metal work.

### Description Of Development

The development application seeks consent for the demolition of the existing part one part two storey industrial building and the construction of a twelve storey residential building containing 55 apartments and three levels of basement car parking including 94 parking spaces.

The proposed 55 apartments comprise the following:

- 18 x Studio apartments
- 1 x One bedroom apartments
- 6 x One bedroom plus study apartments
- 30 x Two bedroom apartments

The proposed 94 car parking spaces are allocated in the following manner:

- One bed/studio apartments: 25 car spaces
- Two bedroom apartments: 60 car spaces
- Visitor Spaces: 8 spaces including a dual carwash/visitor space
- Car Wash Bay: 1 space

The following table provides a summary of the proposed building:

Level	Unit	Type	Internal Area (m <sup>2</sup> )	Terrace/Balcony (m <sup>2</sup> )	Car Space	Storage (m <sup>3</sup> )
G/F	1	1 Bed	76.8	61.5	1	34.5
	2	1 Bed + Study	79.6	33.9	1	54.7
	3	1 Bed + Study	89.8	73.7	1	49.5
	4	2 Bed	100	22.3	2	11.6
1/F	5	2 Bed	104.4	48.3	2	8.9
	6	Studio	61	19.8	1	7.9
	7	2 Bed	101	21.1	2	16.4
	8	Studio	60	12	1	10.8
	9	2 Bed	100	22	2	11.8
2/F	10	2 Bed	104.4	48.3	2	15.1
	11	Studio	61	19.8	1	7.9
	12	2 Bed	101	21.1	2	20.1
	13	Studio	60	12	1	15.1
	14	2 Bed	100	22	2	17.8
3/F	15	2 Bed	104.4	48.3	2	18.9
	16	Studio	61	19.8	1	7.9
	17	2 Bed	101	21.1	2	18.8
	18	Studio	60	12	1	15.1
	19	2 Bed	100	22	2	16.5
4/F	20	2 Bed	104.4	48.3	2	18.4
	21	Studio	61	19.8	1	83
	22	2 Bed	101	21.1	2	39.6
	23	Studio	60	12	1	10.8
	24	2 Bed	100	22	2	11.1
5/F	25	2 Bed	104.4	33	2	11
	26	Studio	61	15.8	1	9.2
	27	2 Bed	101	13.2	2	21.2
	28	Studio	60	12.8	1	21.9
	29	2 Bed	100	13.2	2	18.1
6/F	30	2 Bed	104.4	33	2	19.1
	31	Studio	61	15.8	1	7
	32	2 Bed	101	13.2	2	17.2
	33	Studio	60	12.8	1	23.2
	34	2 Bed	100	13.2	2	17.8
7/F	35	2 Bed	104.4	33	2	19.1
	36	Studio	61	15.8	1	7.6
	37	2 Bed	101	13.2	2	16.4
	38	Studio	60	12.8	1	20.2
	39	2 Bed	100	13.2	2	13.7

Level	Unit	Type	Internal Area (m <sup>2</sup> )	Terrace/Balcony (m <sup>2</sup> )	Car Space	Storage (m <sup>3</sup> )
8/F	40	2 Bed	104.4	33	2	49.7
	41	Studio	61	15.8	1	12.2
	42	2 Bed	101	13.2	2	22.1
	43	Studio	60	12.8	1	21.9
	44	2 Bed	100	13.2	2	31.7
9/F	45	2 Bed	104.4	33	2	49.7
	46	Studio	61	15.8	1	12.2
	47	2 Bed	101	13.2	2	37
	48	Studio	60	12.8	1	20.2
	49	2 Bed	100	13.2	2	31.7
10/F	50	1 Bed + Study	81	44.1	1	41.2
	51	1 Bed + Study	75	16.9	1	40
	52	2 Bed	105.7	30.3	2	79.4
11/F	53	1 Bed + Study	81	27.6	1	55.2
	54	1 Bed + Study	75	12.7	1	43
	55	2 Bed	105.7	21.8	2	79.4

Table 2.

The Applicant, following discussions with Council, has submitted sketch plans SK01, SK02, SK03 and SK04 showing a reduced floor plate of Levels 5 to 11. The amended proposal reduces the number of units by five, resulting in 50 units. Compliance with the submitted sketch plans is proposed by way of 'Deferred Commencement Condition'.

The unit mix for the amended proposal (in sketch format) is as follows:

- 18 x Studio apartments
- 7 x One bedroom apartments
- 25 x Two bedroom apartments

The following table contains a brief assessment of the proposal against the key planning controls based on a total of 50 units as required by the proposed Deferred Commencement Condition of Consent (Sketch Proposal).

Control	Required	Proposal	Complies
<b>FSR</b>	2:1 (2,950.4m <sup>2</sup> )	<u>Botany LEP 1995</u> <i>Sketch Proposal:</i> 3.17:1 (4,676.4m <sup>2</sup> - for plans amended by Deferred Commencement Condition)  <i>Original Proposal as amended:</i> 3.5:1 (5,170m <sup>2</sup> )	<b>No – Refer to SEPP 1 Objection submitted.</b>
<b>Height</b>	Maximum 6 Storeys	<u>Mascot Station DCP – Sub Precinct No.1</u> 12 storeys	<b>No – Refer to Mascot Station DCP</b>
<b>Site Coverage</b>	55%	100% including basement 37% for the building only, excluding the basement	<b>No – Refer to Mascot Station DCP</b>
<b>Car Parking</b>	Studios/1 bed = 1 space 2 bed = 2 space 1 visitor space/7 units 2 car wash bays  Therefore, a total of 96 spaces are required for the original proposal.  The sketch proposal requires a total of 84 car parking spaces.	94 spaces allocated in accordance with Mascot Station DCP (for the original proposal as amended): <ul style="list-style-type: none"><li>• 85 residential</li><li>• 8 visitors</li><li>• 1 car wash bay</li></ul> Note: condition proposed requiring 1 visitor spaces to be shared with car wash bay  The Sketch Proposal does not seek to alter the basement car park.	Yes
<b>Deep Soil</b>	Deep Soil Zones to be provided in boundary setback areas	The proposed development does not include any deep soil zones. However, deep soil planting with depths of 3m is provided to the southern portion of the subject site.	<b>No – Refer to Mascot Station DCP .</b>

Table 3.

**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 applications.

The subject application is classified as Integrated Development in accordance with the *Water Act 1912* as the development involves a temporary construction dewatering activity for the proposed basement car parking.

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 applications were referred to the NSW Office of Water. In a letter dated 9 August 2011, the NSW Office of Water issued their General Terms of Approval on 29 September 2011. The General Terms of Approval are attached to the schedule of consent conditions.

In addition to the temporary dewatering, the NSW Office of Water advised Council that the basement must be constructed as a fully tanked structure to prevent the need for permanent or semi-permanent pumping of groundwater seepage from below-ground areas. Furthermore, The Office of Water recommended that the consent be Staged to permit demolition of existing buildings and clearing of the surface of the site under Stage 1 to allow monitoring of groundwater and to allow groundwater quality testing before any dewatering is to occur, with Stage 2 permitting excavation and construction of the proposed development.

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 2:1 or 2,950.4sqm 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 (55 Units)</b>	<b>Deferred Commencement FSR (50 Units)</b>
2:1 (2,950.4sqm)	3.5:1 (5,170sqm)	3.17:1 (4,676.38sqm)

Table 4.

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

**1. *Is the 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:

- (a) 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.*
- (b) To allocate floor space ratios to each sub-precinct which are commensurate with the permitted building heights within the MSP.*
- (c) 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.*
- (d) To provide sufficient development incentives to compensate for the dedication of land for public facilities on identified development sites.*

Even though there is no specific objectives for FSR applicable to the subject site, it is located in the area specific Mascot Station Precinct DCP (MSP DCP) which 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 the objectives of the MSP DCP that is to establish controls that encourage good quality urban design, a high level of residential amenity and environmental sustainability that maximises the relationship and proximity to the Mascot Rail Station.

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

- (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 has addressed the following criteria:

- (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?*

*The LEP does not include objectives for the FSR control; however the Mascot Station Precinct DCP provides objectives relating to floor space ratio. 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 1 of the Mascot Station Precinct.*

*This sub-precinct is expected to contain in part new residential buildings and therefore will have compatibility with the existing residential area east of O’Riordan Street. This sub-precinct is generally intended to be a scale transition zone between development on the eastern side of O’Riordan Street and other mixed residential and commercial development within the precinct.*

*The built form is to maintain a strong connection with O’Riordan Street while establishing a practical relationship with the open space linear spine, located immediately to the west. In this regard the built form is to be designed, in part, to buffer road traffic noise emanating from O’Riordan Street.*

*The site enjoys the benefit of being the eastern gateway into the Mascot Station Precinct. Its location near the junction of O’Riordan and Gardeners Road makes this site highly visible and represents a unique opportunity to provide a strong design and architectural statement as you enter the changing and emerging precinct.*

*However, the site is significantly constrained by its triangular shape that tapers significantly to the north. Given the site constraints and the importance of this site the current floor space ratio controls do not provide sufficient incentive to encourage redevelopment of this site.*

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

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

*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 current proposal before Council is below the max height envisaged in the draft LEP. As the draft LEP has not been exhibited by Council at the time of writing this report, it is not a matter for consideration under the Act. However the basis by which the draft LEP was prepared as part of Council’s Strategic Planning is of relevance.*

*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.*

*The building height which results in additional floor space beyond the standard is considered appropriate for this site as it marks the eastern most entry into the Mascot Station Precinct. It is a transition site between the industrial areas to the north and low density residential areas to the east.*

*The site is clearly a defining location between the older industrial and residential areas of Mascot and the move towards high density residential living which is the future character of the Precinct.*

*The site represents an opportunity to provide a landmark building that frames the future Linear Park. The DCP contemplated the electricity substation on the Gardeners Road frontage as a corner site to be addressed by an accentuated building form. The substation was not consolidated with the adjacent site as contemplated in the DCP and as such, it is unlikely that this site will be developed.*

*The subject site represents an opportunity to provide an accentuated building form that addresses the corner and importantly the gateway into the Mascot Station Precinct.*

*Due to the triangular shape of the site, the footprint of the building tapers towards the north resulting in a narrow building form. The building has a strong base podium that steps into a tower element. It is the overall height of the building that enables this transition in building form resulting in a strong base that combined with the dense landscape provides a human scale. The middle of the building then sets back from the podium. The top of the building further sets back providing two levels of penthouse units that lighten the top of the building providing an appropriate overall balance.*

*The buildings configuration and overall form is appropriate given its height, and this achieves the intent of a gateway and prominent building as you enter the precinct.*

*The overall height will have no adverse impact on adjoining buildings or those in the surrounding area for the following reasons:*

- *The height maintains approximately 2 hours of solar access to the building to the south when measured between 9am to 3pm mid winter.*

*This is with the exception of unit 6 which will achieve approximately 1hr 50min which as a result of this development will achieve higher levels of solar access than it currently enjoys.*

- *The height maintains solar access to the dwellings on the eastern side of O’Riordan Street. Overshadowing is limited to the late afternoon sun.*
- *The height will have no impact on views from surrounding buildings in the area. Due to the narrow width of the site and the subsequent building footprint iconic views to the city for all buildings within Church Ave will be maintained.*

*For the reasons and justification stated above, it is concluded that the additional floor space is appropriate to achieve the desired character of the area*

*Furthermore, the Minutes of the Urban Design Review Panel confirm that the building as proposed is 12 storeys in height, which in visual terms would not be unreasonable in relation to potential future development on the west side of the future park, and with other development in the general area.*

*The development referred to by the Panel adjacent to the site included buildings to a height of 13 storeys which was recommended for approval by Council and approved by the JRPP on 3.8.11.*

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.*

*This is not applicable to the subject site.*

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

*This is not applicable to the subject site.*

***(b) The underlying objective or purpose is not relevant to the development;***

*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.*

***(c) The underlying objective or purpose would be defeated or thwarted if compliance was required with the standard;***

*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, compliance with the floor space ratio would not make the development of this site economically viable.*

*Specifically, increased cost for development on this site includes:*

- *Remediation – The land is contaminated due to the former industrial uses. The site needs to be made suitable for residential uses.*
- *Water Table – Due to the height the water table in the Mascot area, dewatering is required and a tanked basement. The alternative to dewatering would be above ground carparking which would not be appropriate given the prominence and high visibility of this site.*
- *Acid Sulphate soils – Evidence of ASS has been found on the site. Excavated materials will need to be managed on site prior to disposal of reuse in a controlled manner.*
- *Sydney Water Easement – the close proximity of the site to the Sydney Water Main provides additional restrictions during construction with limits on the vibration levels due to the fragile structure.*
- *Proximity to substation – the location of the Energy Australia Substation places additional constraints on the construction methodology.*
- *Limited Access – Due to the location of the site, proximity of the site to Gardeners Road and the nature of O’Riordan Street site access will be difficult and restricted.*
- *Ground Anchors – Ground anchors will be required and consent negotiated with both the RTA and Sydney Water.*
- *Services – upgrading of the water main which is required as a result of this development, and will benefit the surrounding area.*
- *Undergrounding power cables – required as part of the development*

*A letter from the owner providing further information regarding the increased costs associated with the development of this site has been submitted to Council verifying the above.*

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

***(d) The development standard has been virtually abandoned or destroyed by Council’s own actions.***

*The development standard has not been abandoned or destroyed. However, it is noted that Council, in its draft LEP which is yet to be placed on public exhibition and is therefore not a matter for consideration, proposes to increase the FSR permitted on this site. This proposed increase is in recognition that higher FSR are appropriate on land within the Mascot Station Precinct.*

*Notwithstanding the status of the draft LEP, the strategic planning studies undertaken by Council are relevant considerations. 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 be fully compliant.*

The letter submitted by the applicant referenced above raises the additional costs involved in developing the subject site including,

- The irregular shape of the site;
- The close proximity to the electrical substation and Sydney Water main;
- Requirement of a tanked underground basement car park;
- Land contamination and remediation;
- Minimum unit sizes as required by Council's controls, and
- Undergrounding of power cables.

As discussed in point 2, the application has established four objectives to a floor space ratio control. These objectives are consistent with the objectives of the MSP DCP. The development in its sketch form 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 2:1 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 3.5:1.

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 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 redeveloped. It should be noted that the Mascot Station Precinct (MSP) 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. 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 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 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. Neustein Urban recommended a FSR of 3:1 and a height of 44m (approximately 12 storeys) for the Precinct

In addition to the strategic matters addressed above, following the recommendations made by the Neustein Urban Study, Olsson and Associates architects were engaged in June 2011 by Botany Bay City Council and the Department of Planning to prepare a Master Plan and Public Domain Strategy for the Mascot Station Town Centre Precinct. Olsson and Associates provided LEP recommendations for the Precinct which proposed a maximum FSR of 3.2:1 and a height of 44 metres (approximately 13 Storeys) in order to comply with SEPP 65 – Design of Residential Flat Buildings. The floor space ratio sought by the sketch

proposal discussed further in this report, is 3.17:1 and thus, complies with this recommendation.

It should also be noted that Council and the Joint Regional Planning Panel (JRPP), over time have approved development 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 (JRPP Application)	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 (JRPP Application)	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	2:1	3.46:1	6 September 2009
8 Bourke Road & 37 Church Avenue	3.3:1	4.24:1	13 May 2009
208-210 Coward Street (JRPP Application)	2.5:1	4.44:1	5 December 2011

Table 5.

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 EP&A Act 1979.

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

*“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 consistent the changing nature of the precinct.*

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

The SEPP 1 objection contends that compliance with the 2:1 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 as amended, has addressed the aims of the DCP and that it has considered the potential redevelopment of the locality.

The proposed exceedance in FSR of any proposed development on this site is not inconsistent with the adjoining developments approved surrounding Church Avenue and in particular 619-629 Gardeners Road and 12-14 Church Avenue 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 and is considered as a gateway site in the locality.

Further, the development in sketch form is compliant with the Residential Flat Design Code in respect of solar impact upon adjoining lands and building separation distance requirements.

The proposal, subject to the adoption of the design of the Deferred Commencement Condition, 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 EP&A Act 1979.

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 addresses the questions as follows:-

*“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.”*

*“The public interest would not be served by requiring compliance with the Floor space ratio controls for the following reasons:*

- The proposed development results in the removal of an existing factory/warehouse building which is not compatible with the changing nature of the locality or the adjacent residential use. Its removal will assist in achieving the primary objective of the zone by providing compatible land uses which is in the public interest;*
- The site is a strategically important site as the eastern most entry into the Mascot Station Precinct. The site is clearly a defining location between the older industrial and residential areas of Mascot. The site represents an opportunity to provide a landmark building that frames the future Linear Park. The DCP contemplated the electricity substation on the Gardeners Road frontage as a corner site to be addressed by an accentuated building form. The substation was not consolidated with the adjacent site as contemplated in the DCP and as such, it is unlikely that this site will be developed and achieve the intent of the DCP.*
- The proposed development will result in the undergrounding of the adjacent power lines which will enhance the pedestrian environment resulting in a significant visual enhancement of the streetscape which is in the public interest;*
- The proposed development will encourage the use of existing infrastructure, and provide appropriate incentives to stimulate the redevelopment of surrounding land;*
- 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 a residential area.*
- The proposed development achieves an excellent 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.”*



*It is concluded that the non-compliance with the floor space ratio control contained in Clause 12 of Botany Bay LEP 1995 is acceptable in the circumstances of this case for the following reasons:*

*The non-compliance enables compliance with the objects and purpose of the Environmental Planning & Assessment Act 1979*

*Design responds to the site constraints and Council's Strategic Planning studies that identify the opportunity for increased FSR in the Mascot Station Precinct.*

*Achieves high levels of residential amenity for the proposed development and maintains compliant levels of solar access to adjoining buildings.*

*Design achieves generous unit areas in accordance with Council's high requirements which contribute to a higher Floor Space Ratio.*

*Compliance with objectives of the FSR controls for the MSP.*

*The non-compliance is not contrary to any matter of state or regional planning significance.*

*Compliance with the standard is considered unreasonable and unnecessary in the circumstances of this application.*

*The variation to the development standard is in the public interest as the site is a strategically important site; the development responds to the site constraints, provides an exceptional design response and maintains a high level of residential amenity.*

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 be zoned B4, to have a maximum floor space ratio of 3:1 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. As mentioned above, following the recommendations made by the Neustein Urban Study, Olsson and Associates architects were engaged in June 2011 by Botany Bay City Council and the Department of Planning to prepare a Master Plan and Public Domain Strategy for the Mascot Station Town Centre Precinct. Olsson and Associates provided LEP recommendations for the Precinct which proposed a maximum FSR of 3.2:1 and a height of 44 metres (approximately 13 Storeys) in order to comply with SEPP 65 – Design of Residential Flat Buildings.

The proposed development in its amended form seeks an FSR 3.5:1 and a height of 12 storeys. The original concept design of the development has been supported by the Design Review Panel, and the proposed development is consistent with the LEP Standards and Design Study.

It should be noted that an updated SEPP 1 Objection was lodged to Council on 1 March 2012 to reflect the amended proposal in sketch form that will be subject of a Deferred Commencement Condition. The sketch 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 for Sketch proposal</b>
2:1	3.17:1

Table 6.

As mentioned above, Olsson and Associates architects were engaged in June 2011 by Botany Bay City Council and the Department of Planning to prepare a Master Plan and Public Domain Strategy for the Mascot Station Town Centre Precinct. Olsson and Associates provided LEP recommendations for the Precinct which proposed a maximum FSR of 3.2:1 and a height of 44 metres (approximately 13 Storeys) in order to comply with SEPP 65 – Design of Residential Flat Buildings. These recommendations were adopted by Council on 25 January 2012.

The proposed development in sketch form seeks an FSR 3.17:1 and a height of 12 storeys. As mentioned above, the original concept design of the development has been supported by the Design Review Panel, and the sketch proposal is consistent with the LEP Standards and Design Study.

The proposed departure in FSR is not considered to be inconsistent with State and Regional Planning Policies. In addition, the draft Botany LEP 2011 which has received the Section 65 Certificate from the Department of Planning on 26 March 2012 (and has been made publicly available on Council's website) allows an FSR of 3:1 for the subject site. However as the Draft LEP has not yet been exhibited, the JRPP can only consider this as information, as to Council future intent to the redevelopment of the area.

It is also considered proposed development is consistent with the surrounding development, it has allowed for a satisfactory level of amenity for adjacent properties if these are redeveloped for residential purposes in the future. The controls encourage the redevelopment of older commercial/industrial used land that exists within the medium density residential area to improve the level of amenity for existing residents. The subject development is considered satisfactory in this regard.

As discussed above and further in this report, the proposed development in sketch form reduces the floor plates of Floors 5 to 9, resulting in a FSR of 3.17:1.

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 3.17:1.

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

In accordance with the requirements of the SEPP, a BASIX Certificate has been submitted for the building 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 site was previously used for steel fabrication and sheet metal work that was granted consent on 26 August 1963 and later used as a builders depot without Council consent.

The development application has been accompanied by a contamination report prepared by Douglas Partners dated July 2011.

The report concludes that the soils on the site are considered suitable for the proposed development provided a portion of the site is remediated during excavation for the proposed basement.

The proposed development was referred to Council's Environmental Scientist and Council's external consultant, Envirorisk for comment. Comments were received on 22 November 2011. Council's Environmental Scientist and external consultant did not raise any objections to the proposed development and considered that the site can be made suitable for the proposal subject to conditions. These conditions have been imposed as part of the conditions of consent.

The proposed development was also referred to the NSW Office of Water in regards to groundwater on 9 August 2011; the NSW Office of Water issued their General Terms of Approval on 29 September 2011. The General Terms of Approval are attached to the schedule of consent conditions.

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 PBD Architects and Project Managers, to verify that the plans submitted were drawn by a Registered Architect and achieve the design quality principles set out in Part 2 of SEPP No. 65.

Council's Design Review Panel has considered the proposed development prior to the lodgment of the application on 16 June 2011 as a pre-DA.

The current plans which are the subject of this assessment have addressed the concerns raised by the Design Review Panel through reduction of FSR from 4:1 down to 3.5:1, with a further FSR reduction to 3.17:1 as conditioned from the plans of the proposed Deferred Commencement Consent, along with other significant design changes to accommodate the concerns of the nearby residents.

In performing a detailed assessment, it is considered that the proposed development in its amended form 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 surrounding built form context consists of mixed residential and commercial development of similar height and density to that of the subject proposal. A mixed use development of twelve storeys has been recently approved to the west of the subject site.

The subject site is located within proximity of the intersection of O'Riordan Street and Gardeners Road and is considered to be the gateway site of the Mascot Station Precinct. To the east of the subject site is the proposed linear park.

The proposed development will provide a highly articulated built form to the gateway site and continue the residential streetscape along O'Riordan Street.

Immediate context consists generally of contemporary style residential architecture with some retail and industrial uses.

The building is well setback from the southern boundary and includes a landscaped area capable of deep soil planting to allow for an appropriate transition and separation to the existing residential flat building to the south to minimise overshadowing and privacy impacts.

The proposal will replace the now vacant warehouse building with a built form that is more contextually appropriate. On this basis, it is considered that the proposed use of the subject site for the purposes of a residential flat building is consistent with its context.

### **Principle 2: Scale**

Surrounding development vary from single storey residences, industrial buildings and residential developments of up to 13-storeys. To the south of the site is the Sublime Development at 109-123 O'Riordan Street, which is a part 6 part 7 storey residential

apartment building. To the east, on the opposite side of O’Riordan Street are single and two storey dwellings and a single storey industrial and commercial building. Immediately to the west is the Sydney Water Corporation drainage reserve and further to the north west is an Ausgrid substation. On the opposite side of the drainage reserve are mixed use towers varying from 6 to 13 storeys in height that are currently under construction. To the north, on the opposite side of Gardeners Road within the Sydney City Council area are bulky goods retail sites.

The proposed development responds to the physical constraints of the site and relates to the future Linear Park and the intersection of O’Riordan Street and Gardeners Road.

The ground floor of the building has been raised for privacy, security and general amenity of apartments on this level. The proposed design has utilized massing and detailing, building elements, textures, materials and finishes to contribute to the scaling of the building.

Council’s Design Review Panel has considered the proposed development in its original form prior to the lodgment of the application and provided the following comment in relation to scale:

*“Acceptable in principle subject to development resolving interface with neighboring properties”*

The proposed development in its amended form has addressed the southern façade through the use of highlight windows and privacy screens to the balconies to minimise any visual privacy impact. The proposed building has been shifted to the northern corner of the site to increase the separation distance to the Sublime development and therefore maintain minimum 2 hours solar access to the north facing units

The amended plans of the Deferred Commencement Condition address the scale of buildings through massing and façade detail and by incorporating architectural elements that are commensurate to the scale of the overall development, taking into consideration the size of the land and its surrounding context.

### **Principle 3: Built Form**

The development form will comprise a base podium for Ground floor to Level 4, Level 5 to Level 9 will form the second tier whilst Level 10 and 11 will form the third tier.

The second and third tiers provide further setbacks from all boundaries.

Horizontal and vertical segments have been implemented on all elevations to articulate the massing of the development whilst the proposed materials and finishes and landscaped areas provide visual interest. 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.

### **Principle 4: Density**

Council’s Design Review Panel has considered the proposed development prior to the lodgment of the application and made the following comment:

*“As proposed at 4:1 this is very significantly in excess of the current 2:1 FSR planning control. This could only be considered favourable in this context if it can be demonstrated that adverse amenity impacts on neighbouring properties are within reasonable limits. It appears likely that modifications to the building form and density will be needed to satisfy this concern.”*

The current plans that are the subject of this assessment have addressed the concerns raised by the Design Review Panel through the reduction of the FSR to 3.5:1 and most notably, a shift of the building to the north to minimize adverse amenity impacts to neighbouring properties, particularly solar access to the adjoining development to the south. The applicant has submitted amended plans in sketch form which further reduces the FSR to 3.17:1 to further improve the building separation distance and solar amenity to the adjoining development to the south (109-123 O’Riordan Street)

In the sketch form a total of 50 apartments are proposed and comprise 18 x studio apartments, 7 x 1 bedroom apartment and 25 x 2 bedroom apartments which is the subject of a Deferred Commencement Condition. The number of units provided within the building is appropriate given that sufficient landscaping, car parking, private open space, appropriate internal layouts, and setbacks are integrated into the design. The site is adequately serviced by public transport and community facilities and therefore, the density is considered appropriate.

**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 43.6% of proposed units able to achieve cross flow ventilation. However, there is opportunity for the implementation of a condition requiring the introduction of openable windows that will result in 83.6% of units achieving flow through ventilation without impacting upon the amenity of the future residents and the residents of the adjoining development to the south.

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 70% 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. BASIX Certificates have been submitted with the application that demonstrates the development is capable of meeting thermal, energy, and water efficiency targets. Further, rainwater tanks will be constructed for the retention of stormwater to be re-used for irrigation of communal landscape areas and car wash bays.

**Principle 6: Landscape**

The proposed development provides private open space balconies/courtyards to all units and communal open space areas that can achieve deep soil planting. A landscape plan has been submitted with the applications which 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.

The design has incorporated the future linear park through its aspect and entrances to linear park from the ground floor communal area.

Council’s Landscape Officer has reviewed the proposal and provided conditions of consent relating to the 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

and provide a buffer between the adjoining site to the south. The proposed landscape planting is commensurate with the building size and bulk; hence it is considered that the proposal is consistent with this design quality principle.

#### **Principle 7: Amenity**

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

Private recreational areas are provided in the form of balconies off the living areas and are supplemented by communal landscaped areas to ensure an overall quality of living for future occupants.

The proposed development complies with Council's minimum unit size requirements of the MSP DCP as stated in Table 2 of this report.

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 safe direct pedestrian access from O'Riordan Street. The building entrance is clearly identifiable with adequate casual surveillance from the east facing units and the existing development on the eastern side of O'Riordan Street. Pedestrian and vehicular entries are separated and well defined. The basement car park will be secure and allow for internal access directly into the building. 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 a range of 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 identified for higher density development. 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.

Note:

As discussed above, sketch plans have been submitted and are proposed by way of Deferred Commencement Condition which have amended the design through a reduced floor plate of Levels 5 to 11. The revised layout results in a reduced floor space ratio of 3.17:1 and a 'slimmer' form that reduces the solar impact upon the adjoining residential flat building to the south. It is considered that the submitted sketch plan proposal is consistent with the aims and objectives of the policy and the amendments result in reduced impact upon the amenity of the adjoining residential flat building to the south, further satisfying the comments made by the Design Review Panel.

**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 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 residential flat building 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, and*
- (e) *to encourage best practice stormwater management in the zone, and*
- (f) *to capitalise on the location of transport facilities in or near the zone.*

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

The design of the proposal contributes positively to the streetscape and public domain through a design incorporating appropriate massing, built form and landscaping to the



street frontages and site boundaries. The development has been designed to comply with BASIX and will incorporate a number of energy conservation measures and suitable stormwater management. The location of the site is such that it is also easily accessed via road, rail and bus transport links. As stated previously the Mascot Station Precinct is well served by public transport providing significant 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 2:1. The development in its amended form is proposed with an FSR of 3.5:1. Under the Deferred Commencement Condition, the FSR will be reduced to 3.17:1.

The applicant has submitted a SEPP 1 Objection, as discussed earlier in the report, which demonstrates that the proposed FSR will result in a development that achieves the capacity of the site and suitably responds to the surrounding local character. The SEPP1 objection is considered to be well founded and the variation to FSR is therefore considered acceptable in this instance.

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

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

A Noise Impact Assessment Report submitted by the Applicant and prepared by Acoustic Logic Consultancy, dated 21 June 2011 Rev 1, and has been submitted with the application. Council’s Health and Environmental Services Department has confirmed that compliance with the aircraft noise requirements contained in AS2021-2000, and the relevant acoustic requirements for traffic noise, can be achieved with the installation of acoustic treatment devices within the development as detailed in the report. Compliance with the measures contained in the Noise Impact Assessment Report together with AS 2021-2000 for aircraft noise and AS 3671-1989 for Traffic Noise 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 proposes buildings above this maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration. SACL had identified the proposed development as possible affecting their ‘navaid’ systems and referred the application to Airservices Australia for assessment. SACL in a letter dated 6 February 2012, raised no objection to the proposed maximum height of 47.82m 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 94 off-street parking spaces in accordance with the Mascot Station Precinct DCP requirements and this is considered adequate to cater for the proposed development.

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

The design of the car park is such that appropriate Australian Standards are met and all vehicles can enter and exit the site in a forward direction. Vehicle access to the site is proposed from O’Riordan Street in a left-in and left-out manner. An amended Traffic Impact Assessment prepared by ML Traffic Engineers dated March 2012 has concluded that the provision for servicing, including loading/unloading is satisfactory for the nature of the development.

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

Plant and equipment associated with the functioning of the building have been located in the basement level and also on the roof of the building with a 1.5m high metal batten screen. A garbage room with a compactor is located on the ground floor to enable bins to be taken directly to the pick up point. A garbage chute is located on all floors.

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

The amended Traffic Impact Assessment prepared by the Applicant’s Consultant, ML Traffic Engineers dated March 2012 has been submitted to accompany the development application to include the cumulative impacts of the now approved development at 619-629 Gardeners Road and 12-14 Church Avenue and concludes that the traffic generation resultant from the development will not significantly affect the performance of nearby intersections nor increase delays and queues given the scale of the development. Furthermore, a condition of consent was placed on the development at 619-629 Gardeners Road and 12-14 Church Avenue to provide a traffic survey once the majority of units were sold so as to ascertain what traffic upgrades are required in the locality. The amended plans provide for a loading bay facility that has been considered 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 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 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 applications demonstrating that a distinctive landscape setting for the proposed development will provide a high level of amenity for future occupants and adjoining properties. Council's Landscape Architect has reviewed the proposal and provided conditions requiring the submission of a detailed landscape construction plan.

- (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 Gardeners Road, 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.

- (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 prepared by Windtech Consultants dated 12 July 2011 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.

As mentioned above, Council engaged an independent solar access consultant to review the solar access impacts of the proposed development. The submitted sketch plans which form the Deferred Commencement Consent were also reviewed by Council's Independent Consultant who confirmed that the north facing apartments of the Sublime building achieve minimum 2 hours solar access.

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.

The Applicant's Acoustic Consultant, Acoustic Logic in a report dated 21 June 2011 stated that noise emissions for the subject site were undertaken however, further detail in relation to noise emissions from the proposed development and in particular the mechanical services shall be subject to conditions of consent to ensure compliance with relevant standards. The proposed development has encompassed articulation and landscaping in its design in keeping with the adjoining developments to ensure that any potential of noise reflection from aircraft and traffic is minimised.

- (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.*

The development application has been accompanied by a contamination report prepared by Douglas Partners dated July 2011.

The report concludes that the soils on the site are considered suitable for the proposed development provided a portion of the site is remediated during excavation for the proposed basement.

The proposed development was referred to Council's Environmental Scientist and Council's external consultant, Envirorisk for comment. Comments were received on 22 November 2011. Council's Environmental Scientist and external consultant did not raise any objections to the proposed development and considered that the site can be made suitable for the proposal subject to conditions. These conditions have been imposed as part of the conditions of consent.

The proposed development was also referred to the NSW Office of Water in regards to groundwater on 9 August 2011; the NSW Office of Water issued their General Terms of Approval on 29 September 2011. The General Terms of Approval are attached to the schedule of consent conditions.

*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 Assessment has been submitted with the application indicating that the proposal meets the water saving target of 40%, energy saving target of 20%, and the thermal comfort requirements of the SEPP (BASIX) 2004. As such, the proposal is considered to adequately address the requirements of this clause.

*Clause 28 – Excavation and filling of land*

Clause 28 of the LEP has been considered in the assessment of the development applications as the site seeks consent for excavation to a depth of approximately - 0.48metres AHD. This is approximately 8.6 metres below the existing ground surface level.

As the development involves works to the basement level that may (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.

*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.

The Development Application has been accompanied by a Geotechnical Report prepared by Douglas Partners dated July 2011 which states that Potential Acid Sulfate Soils are present on site however, as they are not currently producing acid but will once exposed to oxygen, the report has recommended that an Acid Sulfate Soils Management Plan is submitted prior to the commencement of work. Therefore, a condition has been imposed and shall form part of this consent.

*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. In a letter dated 7 February 2012, Sydney Water raised no objection to the proposed development and advised that they will further assess the impact of the development when the proponents apply for a Section 73 Certificate.

Concept stormwater plans were submitted with the application, which have been reviewed by Council's Development Engineer. Council's Engineer has provided conditions of consent with regard to the provision of stormwater drainage for the development.

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

##### 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 (ie: 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 2012 (draft BBLEP 2012).

The Council's Section 64 Report on the draft Botany Bay LEP 2011 was forwarded to the Department of Planning and Infrastructure on 2 August 2011. Council received a Section 65 Certificate in late November 2011 but sought changes to the conditions imposed by the Department of Planning & Infrastructure. Council at its Meeting held 25 January 2012 adopted a number of changes to the Draft Botany Bay LEP 2012 and has now requested a revised Section 65 Certificate from the Department of Planning & Infrastructure.

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 (approximately 13 Storeys).

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 Domain Plan of the Precinct, to identify suitable provision for open space, an appropriate pedestrian network, lively and creative open spaces and streets.

Following the recommendations made by the Neustein Urban Study, Olsson and Associates architects were engaged in June 2011 by Botany Bay City Council and the Department of Planning to prepare a Master Plan and Public Domain Strategy for the Mascot Station Town Centre Precinct. Olsson and Associates provided LEP recommendations for the Precinct which proposed a maximum FSR of 3.2:1 and a height of 44 metres (approximately 13 Storeys) in order to comply with SEPP 65 – Design of Residential Flat Buildings.

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 FSR's 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.

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 which was not taken into account by Council when setting the 2001 FSRs. The Development Application seeks to construct three 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.

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% approximately 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 Sub-precinct No. 1 under the DCP. As mentioned above, the Applicant has submitted sketch plans showing a reduced floor plate of Levels 5 to 11. The amended proposal reduces the number of units by five, resulting in 50 units. Compliance with the submitted sketch plans is proposed by way of 'Deferred Commencement Condition'. The following is an assessment of the application against the provisions of the DCP:

Requirement	Comment	Complies
C13 Demonstrate no potential sterilisation of land	The location and nature of the proposed development site is that it will still permit the appropriate development of adjoining sites.	Yes
C14 Floor Space Ratio Max – 2:1	The proposed FSR is 3.5:1. However, this is reduced to 3.17:1 by way of a Deferred Commencement Condition This exceeds the maximum gross floor area by 1,725.9m <sup>2</sup> .  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 within this report.</b>
C16 Maximum Building Height = 6 storeys	A building height of 12 storeys is proposed	<b>No – Refer to Note 1</b>
C18 Airport related building heights – buildings over 15.24 metres in height shall be referred to the Sydney Airport Corporation Limited (SACL)	SACL had identified the proposed development as possibly affecting their 'navaid' systems and referred the application to Airservices Australia for assessment. SACL raised no objection to the proposed maximum height of 47.82m AHD, subject to conditions to be imposed on any consent.	Yes
C19 Height Modulation/Height Transition Maximum building height of three (3) storeys for that part of the site that fronts O'Riordan Street	The proposed development has a twelve (12) storey form to O'Riordan Street with the base podium level comprising the ground floor to third floor.  The proposal in sketch form increases the base podium level to include the ground floor to fourth floor.	<b>No – Refer to Note 1</b>
C23 Maximum site coverage = 55%	The development proposes a site coverage of 37.7% excluding the basement garage.  However, the basement garage is proposed to be built to all boundaries therefore resulting in a site coverage of 100%	<b>No – Refer to Note 2</b>

Requirement	Comment	Complies
C25 Minimum apartment sizes: Studios 60m <sup>2</sup> 1 bedroom 75 m <sup>2</sup> 2 bedrooms 100m <sup>2</sup>	All units within the proposed development comply with, or exceed, the specified minimum unit sizes.	Yes
C26 Unit mix - maximum 25% studio/one bedroom apartments	Studio/One bedroom = 25 units (45.5%) Two bedrooms = 30 units (54.5%)  The proposal in sketch form reduces the total number of units to 50 comprising: Studio/One bedroom = 25 units (50%) Two bedrooms = 25 units (50%)	<b>No – Refer to Note 3</b>
C26A The minimum internal widths are as follows: Cross over units: 4m (excluding garage) Single level unit/dwelling: 6m excluding garage	All units comply with the minimum internal widths.	Yes
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>Up to 4 storeys:</u> The proposed development has a minimum building separation distance of 16.2m to the adjoining residential flat building to the south (109-123 O’Riordan Street).  The proposed development in sketch form increases the building separation to 16.7m.	Yes

Requirement	Comment	Complies
<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>5 – 8 storeys:</u> Minimum 17.3 metres (habitable room to balcony) separation is provided between the proposed building and the adjoining residential flat building to the south (109-123 O’Riordan Street).  The proposed development in sketch form increases the building separation to 21m.  <b>Note 1:</b> Refer to Table 10 for detail.  <b>Note 2:</b> The building separation distances for 9 Storeys and above have not been included as the residential flat building to the south (109-123 O’Riordan Street) is a maximum 7 storeys in height.	Yes
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. Conditions of consent shall be imposed requiring the resubmission of an amended landscape plan.	Yes – Condition to comply
C32 Communal open space = 20% of development site and 25% of this area shall be deep soil planting.	The proposal incorporates 448m <sup>2</sup> of communal open space representing 30.4% of the development site, which exceeds the requirements of this control.  Approximately 76.4m <sup>2</sup> shall be provided as deep soil planting with a minimum soil depth of 3m, which equates to 17% of the communal open space area.	Yes  <b>No – Refer to Note 4</b>
C33 Private open space= 12m <sup>2</sup> /unit with minimum 3 metre width	All proposed units are provided with a minimum 12m <sup>2</sup> balcony/terrace; however they do not achieve the minimum depth of 3 metres. The proposed development in sketch form will be conditioned to comply with Council’s private open space requirements.	<b>No – Refer to Note 4</b>
C34 Landscaped Setback O’Riordan Street - 6m Side and Rear - 3m	The proposed setbacks to the walls of the development are: O’Riordan Street – 1.7 metres minimum Side boundary to the south – 13 metres Side boundary to the north – 9.2 metres Rear setback to Linear Park – 0m	<b>No – Refer to Note 4</b>
No part of a building	The proposed basement garage is built to	

Requirement	Comment	Complies
or above ground structure (including basement car park) is to encroach into the front, side and rear building setback zone.	all site boundaries.	
C34A – underground parking is to be configured to allow for deep soil zones – parking to be provided under the building footprint only	The basement car park extends beyond the building footprint and extends to all site boundaries. The deep soil planting areas provide for 3m depth. However, as these areas are above the basement car park, no deep soil zones as per the DCP definition are provided.	<b>No – Refer to Note 4</b>
C34B – underground stormwater tanks not to be located within landscaped areas	The proposed development was referred to Council’s Development Engineer for comment. A condition of consent shall be imposed requiring the submission of revised stormwater management plans.	No – Conditioned to comply
C34C – Deep Soil Zones to be provided in boundary setback areas.	The proposed development does not include any deep soil zones. However, deep soil planting with depths of 3m is provided to the southern portion of the subject site.	<b>No – Refer to Note 4</b>
C35 Landscape setback to O’Riordan Street design to comprise 50% lawn and 50% plantings	The O’Riordan Street setback to the development will comprise mostly planting.	<b>No – Refer to Note 4</b>
C38 Compliance with Landscape DCP	Landscape plans have been submitted to accompany the development application and have been reviewed by Council’s Landscape Architect who raised no objection to the proposal. Appropriate conditions of consent shall be imposed.	Yes
C40 Finished ground levels	Council’s Development Engineer has 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	Yes

Requirement	Comment	Complies
	are built in accordance with Council's road design levels.	
C44 Compliance with Energy Efficiency DCP	BASIX Certificates and associated thermal comfort certificates have been submitted with the application. A condition shall be imposed that a revised BASIX Certificate for the sketch design is submitted. The development satisfies the solar amenity controls with respect of solar access to the proposed development and the adjoining properties.  70% of the units within the development achieve in excess of 2 hours solar access.	Yes
C45 Maximum building depth -18 metres	The proposed building has a maximum habitable depth of 20 metres (exclusive of any balcony space).	<b>No – Refer to Note 5</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 63.6% of proposed units are able to achieve cross flow ventilation. The proposed development in sketch form indicates that 66% of units are able to achieve cross flow ventilation.	Yes
C47 Wind control	A Wind Environment Assessment prepared by Windtech dated July 12 2011 is considered satisfactory.	Yes
C48 Aircraft Noise	The development site is located within the 20 – 25 ANEF contour. A Noise Impact Assessment has been submitted to accompany the development application and it is recommended that the consent be conditioned to require compliance with the recommendations made 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	The consent is proposed to be conditioned	Yes

Requirement	Comment	Complies
Internal noise transmission to comply with BCA	to require compliance with the BCA.	
C51 Contamination	A Contamination Assessment Report was submitted with the development application. Council's External Environmental Scientist Consultant raised no objection to the proposed development, subject to appropriate conditions being placed on the development consent including the preparation and implementation of a Remediation Action Plan.	Yes
C54 Acid Sulfate Soils	The site is located within the Class 2 Acid Sulfate Soil Area and an Acid Sulfate Soils Assessment Report was submitted with the development application. The consent shall be conditioned to require an Acid Sulfate Management Plan.	Yes Conditional
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 Carparking: Studios/1 bed = 1 space 2 bed = 2 space 1 visitor space/7 units 2 car wash bays  Traffic study may be required.	<p>In accordance with the DCP, the proposed development requires a total of 94 car parking spaces. However, the proposed development in sketch form has decreased the number of units whilst retaining there is no change proposed to the basement car park.</p> <p>Therefore, car parking is required at the following rates:</p> <ul style="list-style-type: none"> <li>• 1 space per studio / 1 bedroom units = 25 spaces required</li> <li>• 2 spaces per 2 bedroom units = 50 spaces required</li> <li>• 2 car wash bays per development site</li> <li>• 1 visitor space per 7 dwellings = 7 spaces required</li> </ul> <p>The proposed development in sketch form thus requires a total of 84 car spaces. The proposal provides car parking for a total of 94 vehicles over three basement levels,</p>	Yes

Requirement	Comment	Complies
	<p>therefore complying with Council's requirements.</p> <p>The amended Traffic Impact Assessment prepared by ML Traffic Engineers and dated March 2012 has been submitted to accompany the development application and this concludes that the car parking provision is acceptable.</p> <p>Council's Engineers have raised no objection to the proposal subject to conditions.</p>	
C63/C64/65 Internal vehicular access/design of parking areas	<p>Off street parking will be accessible from a left in left out only access from O'Riordan Street.</p> <p>There is sufficient queuing area within the site and a separate loading area and waste bin area has been proposed. The pedestrian entrances and exists are separate from the vehicular access way.</p> <p>There is sufficient area for delivery vehicles to enter and exit the site in a forward direction.</p> <p>Council's Engineers have raised no objection to the proposal subject to conditions.</p>	Yes
C68-72 Loading/Unloading facilities, location/aesthetics	<p>Loading / unloading is expected to be undertaken by waste contractors, courier/passenger vehicles/vans, which are to utilise the loading bay area and will be capable of entering and exiting the site in a forward direction.</p> <p>A landscaped setback strip will adjoin the loading area to screen loading activities.</p>	Yes
C74 Views to Linear Park	The proposed development allows for wide angled views into Linear Park	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. The balconies project at varying lengths to provide further	Yes

Requirement	Comment	Complies
	articulation to the building and create visual interest.	
C78 Materials	A materials sample board has been submitted to accompany the development application. The design of the development is such that it incorporates a combination of contrasting materials and elements so to provide visual interest to the buildings.	Yes
C79 Entries	The entrance into the development has been designed so to be clearly identifiable from the street yet integrated into the overall appearance of the development.	Yes
C80 Integration of rooftop elements	The proposal includes plant/equipment to the rooftop with a 1.5m high screen.	Yes
C82-C88 Crime prevention	<p>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.</p> <p>The proposed development has been referred to Mascot Police Local Command Area for detailed assessment against Crime Prevention Through Environmental Design (CPTED) principles, with their comments and recommendations to be incorporated into the consent.</p>	Yes
C94 - 97 Accessibility- Separation of uses/active fronts street	<p>Vehicular access is provided solely from O’Riordan Street and pedestrian access is separated from the vehicular access points.</p> <p>Unit 3 has individual entry from Linear Park. However, due to the topography of the site and the basement garage, the remainder of ground floor units do not have separate entry.</p>	Yes
C98 - 104 Services	<p><b>Underground Cabling</b> – the applicant has provided a written agreement dated 28 October 2011 to provide underground cabling in accordance with relevant energy providers.</p> <p><b>Electricity</b> – Ausgrid raised no objection to the proposed development subject to the provision of an electrical substation. This will be required as a condition of consent.</p>	Yes



Requirement	Comment	Complies
	<p><b>Water and sewerage</b> – Sydney Water raised no objection to the proposed development.</p> <p><b>Stormwater</b> – Councils Development Engineer has reviewed the proposal and raised 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> – The garbage storage room is located on the ground floor with the bins to be wheeled to the loading bay for garbage collection.</p>	
C105- C107 Other controls	<p><b>Fencing</b> – No fencing is proposed along O’Riordan Street.</p> <p><b>Storage</b> – The proposed sketch design does not seek to alter the storage areas within the basement. There is opportunity for further storage areas to be provided within the units. Storage area details within the units shall be submitted to Council and form part of a condition of consent.</p>	<p>Yes</p> <p>Conditioned to Comply</p>

Table 7.

**Non-Compliances***Note 1: Maximum Building Height*

The maximum building height as required under the DCP for the subject site is 6 storeys. The proposed development will have a maximum building height of 12 storeys.

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

*“It is considered that the proposed building height achieves the objectives of the height control and provides an appropriate form on this site.*

*This site marks the eastern most entry into the Mascot Station Precinct. It is a transition site between the industrial areas to the north and low density residential areas to the east.*

*The site represents an opportunity to provide a landmark building that frames the future Linear Park. The DCP contemplated the electricity substation on the Gardeners Road frontage as a corner site to be addressed by an accentuated building form. The substation was not consolidated with the adjacent site as contemplated in the DCP and as such, it is unlikely that this site will be developed.*

*The subject site represents an opportunity to provide an accentuated building form that addresses the corner and importantly the gateway into the Mascot Station Precinct.*

*Due to the triangular shape of the site, the footprint of the building tapers towards the north resulting in a narrow and highly exposed northern blade feature. The building has a strong base podium that steps into a tower element. It is the overall height of the building that enables this transition in building form resulting in a strong base that combined with the dense landscape provides a human scale. The middle of the building then sets back from the podium and is accentuated by the blade feature to the north. The top of the building further sets back providing two levels of penthouse units that lighten the top of the building providing an appropriate overall balance.*

*The buildings configuration and overall form is appropriate given its height, and this achieves the intent of a gateway and prominent building as you enter the precinct.*

*The overall height will have no adverse impact on adjoining buildings or those in the surrounding area for the following reasons:*

- *The height maintains compliance with the solar access provisions for the building to the south as clearly demonstrate in the following section of this report. All north facing units achieve in excess of 2 hours solar access.*
- *The height maintains solar access to the dwellings on the eastern side of O’Riordan Street. Overshadowing is limited to the late afternoon sun..*
- *The height will have no impact on views from surrounding buildings in the area. Due to the narrow width of the site and the subsequent building footprint iconic views to the city for all buildings within Church Ave will be maintained.”*

The development application has 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.

SACL had identified the proposed development as possible affecting their ‘navaid’ systems and referred the application to Airservices Australia for assessment. SACL raised no objection to the proposed maximum height of 47.82m AHD, subject to conditions to be imposed on any consent. Council’s Design Review Panel has considered the proposed development prior to the lodgment of the application and provided the following comments in relation to scale and built form:

*“Acceptable in principle subject to development resolving interface with neighboring properties.*

*The building as proposed is 12 storeys in height, which in visual terms would not be unreasonable in relation to potential future development on the west side of the future park, and with other development in the general area.*

*The building is modeled to provide a five-storey base component, and is articulated in plan in a way which relates comfortably to O’Riordan Street and the linear park.*

*At the northern end it is narrower and carefully modeled to respond to the form of the site and its prominent entry location. The central blade element as shown is considered to be excessively assertive.*

*The building form in itself is satisfactory in appearance, but will need to be modified to avoid adverse amenity impacts on nearby existing and possibly future residential development, as discussed below under 'Amenity'."*

The original development form comprises a 12 storey building consisting of a defined podium element from the Ground floor to Level 3. The amended proposal in its sketch form increases the podium element to include the Ground floor to Level 4.

The height of the building is concentrated to the northern end to minimize amenity impacts to the adjoining property to the south. The central blade element has been reduced to address the Design Review Panel's concern.

The height of the 12 storey component is RL47.82. The building height has been designed to provide an appropriate visual relationship and transition in line with the existing developments in the locality and in particular, the recently approved development to the west.

The proposed design seeks to maintain an appropriate scale to the street level through the ground level podium structure accommodating being the predominant visual element, with the residential tower presenting as a continuation of the prevalent built form within 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 1 – O'Riordan Street, identified as follows:

*This sub-precinct is generally intended to be a scale transition zone between development on the eastern side of O'Riordan Street and other mixed residential and commercial development within the precinct.*

*The built form is to maintain a strong connection with O'Riordan Street while establishing a practical relationship with the open space linear spine, located immediately to the west. In this regard the built form is to be designed, in part, to buffer road traffic noise emanating from O'Riordan Street.*

It is important to note that future development of the adjacent planned open space area identified as Linear Park in the DCP is currently in a concept form and discussions with Sydney Water are being undertaken. As such, the development has been designed to utilise the adjoining Sydney Water Land through links via the communal open space areas and the west facing apartments will have a relationship with the land and overlook the land. Once the land is established in the future as public domain space, significant casual surveillance will be available to the park. Further, the proposed development will fulfill the underlying objective and urban strategy of the DCP by virtue of its height, scale and improved streetscape amenity.

The podium and tower elements have been shaped and positioned to provide internal separation between apartments and adjoining buildings to ensure amenity is achieved. As mentioned above, the proposed height and overall built form is compatible with the recently approved development on the opposite side of Linear Park to the west, existing mixed development in the precinct and the emerging character of the area as it undergoes redevelopment.

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

*Note 2: Site Coverage*

The maximum site coverage as required under the DCP for the subject site is 55% of the total site area. The development proposes an above ground site coverage of 37.7% however, the basement car park is built to all boundaries.

The proposed site coverage variation is considered acceptable given the physical constraints of the site and the ability for deep soil planting to the communal open space areas at the southern and northern portions of the site. 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 variation is considered appropriate in this context.

*Note 3: Unit Mix*

Control C26 of Section 6.3.5 – *Apartment Sizes and Mix* of DCP 30 states that the combined total of studio units and one bedroom apartments shall not exceed 25% of the total number of apartments within any single development.

The total number of studio and one bedroom apartments proposed within the development is 45.5% of all apartments, being 25 apartments out of 55 proposed apartments. It is noted that some of the studio and one bedroom apartments also contain a study.

The amended proposal in sketch form has reduced the number of apartments to 50 with 50% being studio and one bedroom units and 50% being 2-bedroom units.

All of the proposed apartments comply with the minimum size and width requirements in the DCP. Further, all apartments shall be conditioned comply with the private open space area requirements and the development achieves the minimum solar access and cross ventilation requirements.

As the subject site is well serviced by public transport, the proposed apartment mix is considered appropriate. Whilst the proposal does not meet all of the DCP requirements, the development does in fact comply with SEPP 65 in all other respects. The proposal is therefore considered satisfactory in this regard.

*Note 4: Landscaping and Private Open Space*

In accordance with the DCP, a minimum 25% of the communal open space is to be deep soil plating and located in the boundary setback areas, of which, 50% is to be lawn and 50% to be planting.

As mentioned above, the proposed basement garage is proposed to all boundaries however, deep soil planting is achievable in portions of the communal open space areas.

Council's Landscape Architect has reviewed the concept landscape plan submitted with the original proposal and has recommended that a revised landscape plan be submitted in accordance with conditions that shall be imposed as part of the consent.

In accordance with the DCP, the private open space areas are to be a minimum 12sqm in area and 3m in width. All private open space areas comply with the minimum area requirement however, there are non-compliances with the minimum width requirement. The submitted plans indicate that the balconies are of a useable dimension for a table and chairs and are therefore, considered acceptable in this instance.

The amended proposal in sketch form shall be conditioned to comply with the minimum area requirements for private open space.

The DCP requires a minimum 6m landscaped setback to O’Riordan Street and a 3m landscaped setback to the side and rear boundaries.

The proposed setbacks to the walls of the development are:

- O’Riordan Street – 1.7 metres minimum
- Side boundary to the south – 13 metres
- Side boundary to the north – 9.2 metres
- Rear setback to Linear Park – 0m

The proposed development in its amended form has been shifted further north and with a lesser setback to O’Riordan Street than originally sought in an attempt to reduce the overshadowing impact upon the Sublime development. In doing so, there is a non-compliance with the minimum setback requirements to O’Riordan Street and the future Linear Park.

The proposal has been designed to address Linear Park and has incorporated direct access from the communal open space. The west facing units have the private open space areas facing Linear Park to provide casual surveillance. It is considered that the western façade has been adequately articulated with a base podium component to reduce the impact of bulk and scale when viewed from Linear Park.

As mentioned above, the non-compliance with the front setback to O’Riordan Street is a result of the shift of the building to minimise overshadowing to the Sublime Building at 109-123 O’Riordan Street. The submitted landscape concept plan has incorporated planting along the street frontage to create a buffer whilst the façade has been adequately articulated so as to reduce the impact of bulk and scale when viewed from O’Riordan Street. Therefore, the proposal is considered acceptable in this instance.

*Note 5: Maximum Building Depth*

In accordance with the DCP, the maximum depth of a building shall be 18 metres (exclusive of any balcony space) in order to optimise natural lighting and ventilation. The amended proposal in its sketch form provides the following building depths:

- Ground Floor to Level 4: 20m
- Levels 5 to Level 9: 18m
- Levels 10 and 11 – 17m

As mentioned above, the amended proposal indicates that 66% of the units will achieve cross flow ventilation and 70% shall receive in excess of 2 hours solar access. A BASIX Assessment was prepared for the original proposal that confirmed the development could comply with the water and energy saving and thermal comfort requirements of BASIX. The overall design is considered to allow ample solar access and natural ventilation. As such, the proposed variation is supported in this case.

The amended proposal in sketch form shall be conditioned to comply with the minimum number of units to achieve cross flow ventilation and for the submission of an updated BASIX Certificate.

*Note 6: 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 shadow analysis undertaken by Council's independent consultant for the amended design in sketch form demonstrate that the proposal complies with relation to adjoining properties solar access.

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

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

Comment: The site is located within the Mascot Station Precinct, identified as a high density mixed use commercial/residential area and accordingly, it is unreasonable to expect that adjoining properties will retain existing sunlight. The properties surrounding the site are 109-123 O'Riordan Street to the south, which accommodates a part 6 part 7 storey residential apartment building. To the east, on the opposite side of O'Riordan Street are single and two storey dwellings and a single storey industrial and commercial building. Immediately to the west is the Sydney Water Corporation drainage reserve and further to the north west is an Ausgrid electrical power substation. On the opposite side of the drainage reserve, west of the subject site, are mixed use residential towers varying from 6 to 13 storeys in height that are currently under construction (See Table 5).

The shadow analysis indicates that the adjoining developments will continue to receive a minimum of 2 hours sunlight during winter solstice.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

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

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

Comment: The solar analysis prepared by Council's Independent Consultant shows that the north facing units at 109-123 O'Riordan Street will achieve a minimum of 2 hours sunlight between 9am-3pm during winter solstice. The

level of solar access to these areas is considered proportionate to the level of glazed area.

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

Comment: The adjoining building to the South (at 109-123 O’Riordan Street) has recessed windows. The shadow analysis was taken to be sunlight reaching the glazed area and therefore, including the private open space. It should be noted that as the balconies are recessed, the overhang from the upper floors shadow the private open space area.

- *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. A condition shall be imposed requiring planting to be deciduous to ensure any overshadowing is minimised.

- *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 on Mascot train station. In accordance with the current zoning 10(a) mixed use commercial/residential under the Botany LEP 1995, a multi storey mixed development varying from 6 to 13 storeys is currently being constructed at the property to the west.

### **Off Street Car Parking DCP**

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

<b>Car Parking Rates</b>	<b>Required</b>	<b>Proposed</b>
1 space per studio and 1 bedroom units	25 spaces	25 spaces
2 spaces per 2 bedroom units	60 spaces	60 spaces

<b>Car Parking Rates</b>	<b>Required</b>	<b>Proposed</b>
1 visitor space per 7 dwellings	8 spaces	7 visitor spaces  1 dual car wash bay and visitor space
Car Wash Bays	2 car wash bays	1 car wash bay  1 dual car wash bay and visitor space
<b>TOTAL</b>	<b>95</b>	<b>94 (including a dual car wash bay and visitor space)</b>

Table 8.

An amended Traffic Impact Assessment prepared by ML Traffic Engineers dated March 2011 has been submitted to accompany the development application in its amended form, and provides the following assessment:

*“The proposed development complies with Council’s parking requirements for the residential tenants and residential visitors. Ninety four car spaces have been provided within the basement carpark and is in excess of Council’s parking requirements.*

*The proposed development provides for ten bicycle storage spaces.*

*In addition the proposed development is located within a six minute walk of Mascot train station and there are bus services on O’Riordan Street and Gardeners Road.”*

The rationale of the Traffic Engineer is generally agreed with. The proposed development complies with the requirements of the Off Street Car Parking DCP.

The proposed development in sketch form that will form part of a Deferred Commencement Condition requires the following car parking rates:

<b>Car Parking Rates</b>	<b>Required</b>
1 space per studio and 1 bedroom units	25 spaces
2 spaces per 2 bedroom units	50 spaces
1 visitor space per 7 dwellings	7 spaces
Car Wash Bays	2 car wash bays
<b>TOTAL</b>	<b>84</b>

Table 9.



The sketch proposal does not seek to alter the basement car park as originally proposed. Therefore, there is a surplus of 10 car parking spaces that are able to be used as additional visitor car parking spaces or the excess area may be utilised to satisfy the Deferred Commencement Condition relating to the preparation of a revised stormwater management and disposal system.

#### **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.

A Noise Impact Assessment Report prepared by Acoustic Logic Consultancy, dated 21 June 2011 has been submitted with the applications. 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 Noise Impact Assessment Report will be required as conditions of the development consent.

#### **Access Development Control Plan Premises Code**

Accessible car parking has been provided exceeding the required rate of 1 space per 100 spaces. Four (4) accessible car parking spaces have been provided on basement level 1 to service the three (3) adaptable housing units and one shall be used as a visitor space. An Adaptable Housing Report prepared by Accessibility Solution (NSW) Pty Ltd. dated 13 July 2011, has been submitted with the development which provides an assessment against the Building Code of Australia 2011, SEPP 65, Council's Development Control Plan 35 and Australian Standards AS1428.1 (2009) and AS4299(1995). 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 application. It is considered that the proposal will have no significant adverse environmental, social or economic impacts on the locality.

Consideration of traffic and parking impacts, solar amenity and other matters raised by the members of the community have been addressed below in response to the submissions received from the Community [Refer to Section 79C(d)].

In addition to this, consideration has been provided below for view loss as a separate and detailed analysis has been provided by the Applicant in response to resident concerns.

As the proposed development exceeds the height limit, the Applicant has conducted a view analysis for the Sublime Building (103-109 O'Riordan Street) in comparison to hypothetical 6 storey development and the proposed development. The views seen from the Sublime Development at the upper floors is a distant view of the CBD skyline to the north and to the east and west are district views.

The view analysis prepared by the Applicant dated 28 October 2011 assesses the reasonableness of view loss to this property as a result of the proposed development. The report has had regard to the case law established by *Tenacity Consulting v*

Warringah [2004] NSWLEC 140 (pars 23-33) which has established a four-step assessment of view sharing. The Report has found the following:

*“Concern was raised by residents on 109-123 O’Riordan Street in relation to loss of views. It is noted that the existing building extends to a height consistent with the neighbours third floor and extends the entire depth of the site with no setback from the southern boundary. The removal of this building will allow natural light and a feeling of space to the lower levels which currently have an outlook to a blank wall on the boundary.*

*The design and form of the building has considered the potential impact on views from 109 – 123 O’Riordan Street. The design has responded in a number of ways including:*

- *The building tapers towards the north.*
- *The southern end of the building is splayed on its east and west sides to open up views towards the east and west*
- *The separation between the buildings has been increased*

*The building at 109 -123 O’Riordan Street is built within three metres of its northern boundary and extends the majority of the northern boundary.*

*Due to the orientation of the site, a 6 storey building would have the same impact as the proposed 12 storey building in terms of views. Due to the excessive length of 109-123 O’Riordan and the narrow form of the proposed building, it will maintain views towards the north east and north west, irrespective of the height of the building. A 6 storey building with a deeper base would have a greater impact on the district views achieved by the neighbours.*

*Due to the current planning controls, there is an expectation that views from 109-123 O’Riordan Street would be affected by any development on the subject site.”*

During the community consultation period, a hypothetical 6 storey model was prepared for comparison to the amended proposal. It was agreed that a 6 storey model would have more impact upon view loss than the amended proposal as the building separation distances required would be less than a 12 storey building. The proposed development in sketch form has increased the building separation distances to the Sublime development as follows:

<b>Levels</b>	<b>Minimum Building Separation Distance (Sketch Plans)</b>	<b>Building Separation Distance required under the Residential Flat Design Code</b>
Ground Floor	16.24m	12m
Levels 1 – 3	16.7m	12m
Levels 4 - 7	21m	18m
Levels 8 - 11	21.705m	18m

Table 10.

Based on the above assessment, which there is no reason to dispute, the view loss impacts would have already attributed to height limit imposed by Council’s control of a 6 storey height limit. The proposed development even though is 12 storeys is slender

in profile above Level 4 and has maintained the north eastern and north western view aspects of the skyline of the units located in the easterly and westerly aspects of the building of the Sublime Building and is considered within reason and satisfactory with regard to the Planning Principles contained within *Tenacity Consulting v Warringah* [2004] NSWLEC 140.

It should also be noted that the deferred commencement condition would see Levels 5 to 9 being modified to be reduced in width, which will further improve the views from the north facing units of the Sublime Building. The proposed development is considered reasonable and has been designed to provide a faire share of view retention and should be supported in this instance.

**(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 subject to “deferred commencement” consent.

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

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

These matters have been considered in the assessment of the development applications. In accordance with Council’s Notification Policy (Development Control Plan No. 24), the original development application (First Round) was notified to surrounding property owners and occupants, advertised in the local newspaper and a notice erected upon the subject site from the 9 August 2011 to 9 September 2011. A total of thirty six (36) submissions including a submission on behalf of the executive committee for the Sublime building (109-113 O’Riordan Street) containing 110 units objecting to the initial development were received following the first public exhibition process.

**First Notification Period**

The following is a summary of the issues raised in the submissions:

**Overshadowing**

- *The proposed development has not considered the cumulative impact of the approved development at 619-629 Gardeners Road and 12-14 Church Avenue.*
- *Significant shadows will be cast to the north facing units of the Sublime building that currently enjoy full solar access.*

**Height of buildings and scale of development**

- *The proposed development exceeds the maximum height of six storeys as designated within the Mascot Station Precinct DCP and fails to achieve a scale transition zone between development on the eastern side of O’Riordan Street and new development within the precinct.*

- *The proposed development provides a large building which dominates and dwarfs the surrounding buildings. A building of this scale is out of character and out of context with the surrounding area. The proposal should be of a similar scale to the Sublime development at 109-123 O’Riordan Street, Mascot.*

#### Traffic & Parking

- *The proposed development has not considered the cumulative impact of the approved development at 619-629 Gardeners Road and 12-14 Church Avenue.*
- *The proposed development will increase demand for street parking.*
- *The development will encourage vehicles exiting the site to turn right into Miles Street.*
- *Traffic impacts associated with the development will be excessive and will adversely impact upon the function of the local road network.*

#### Loading Bay/Design of Driveway

- *The proposed driveway does not provide sufficient queuing area on site.*
- *There is no loading bay provided. The proposed use of Church Avenue for removalists trucks and garbage collection from O’Riordan Street is considered unacceptable.*

#### Landscaping and Open Space

- *The proposed development does not provide sufficient open space.*

#### SEPP 1 Objection

- *The SEPP 1 Objection is not well founded. The proposed FSR of 3.9:1 is inconsistent with the LEP, urban strategy and floor space ratio and height provisions of the Mascot Station Precinct DCP.*
- *The SEPP 1 Objection incorrectly relies on the Draft LEP as it has yet to be placed on public exhibition.*

#### Wind Tunnel Effect

- *The proposed development will create a wind tunnel effect that is extremely undesirable for residents of the Sublime building, the future Linear Park and pedestrians along O’Riordan Street.*
- *The submitted wind report provided no wind tunnel testing. Given the size of buildings, such an assessment is necessary.*
- *The proposal has not provided a cumulative wind impact report.*

#### Building Separation

- *The design of the proposed development does not provide adequate separation between its southern façade and the balcony areas of the northern façade of 109 – 123 O’Riordan Street and does not comply with the provisions of the DCP in this respect.*

### Building Design

- *The blank wall on the southern façade contributes to the loss of amenity to the Sublime building by creating a poorly articulated façade devoid of visual interest and present poorly to the public domain.*

### Building Setbacks

- *The proposal fails to comply with the 6m setback requirement to O’Riordan Street as detailed in the Mascot Station DCP.*
- *The basement car park encroaches into the front setback zone, resulting in the inability to provide deep soil planting areas along the street frontage.*
- *The proposal fails to comply with the 3m setback to Linear Park.*

### Security

- *The submitted plans do not clearly indicate whether there will be a fence between the subject site and the adjoining site to the south.*

### Construction impacts

- *The subject site requires dewatering and could destabilise the adjoining land.*
- *The site is too small to accommodate trucks during construction without obstructing traffic.*
- *Excavating three levels down will cause problems for the adjoining sites.*
- *Construction will affect nearby and adjacent residents by way of dust noise, appropriate hours, asbestos and traffic disturbance.*

### Noise Impacts

- *The proposed development will reflect noise into the Sublime building.*

### Energy Efficiency

- *The submitted plans do not clearly indicate how cross flow ventilation is achieved for the proposed development.*
- *The proposed development will reduce the energy efficiency of the Sublime building due to excessive overshadowing.*

### Privacy

- *Privacy impacts will be created between residents of existing buildings and the new proposed apartments.*

### Waste Management

- *The proposal indicates that waste bins shall be collected from O’Riordan Street which is considered unacceptable.*

### View Loss

- *Existing views of the city skyline from the sublime building will be lost. This will have a significant impact on the value of properties and the enjoyment of those properties.*

### Property Values

- *There is concern that the value of properties near the site will be reduced as a result of the impacts of the development, in particular overshadowing, privacy, view loss and traffic impacts.*

In light of the above issues being raised, Council furnished the Applicant with the above summary of issues and formed a Residents Consultative Committee with the adjoining residential flat building to the south at 109-123 O’Riordan Street (Sublime Building) based on the identification of the loss of solar access being the major issue.

### **Residents Consultative Committee**

The first meeting was held on the 5 October 2011 between the Executive Committee of the Sublime Building (109-123 O’Riordan Street). The meeting was held to discuss the main issues arising from the objections particularly, the rationale for varying height and floor space ratio controls and traffic impact. At the conclusion of the meeting, the residents were advised that amendments to the design were being sought in light of the abovementioned issues raised in the submissions and that they would be advised when Council was furnished with an alternative design concept for consideration by residents. Further, Council advised that it would engage independent consultants to review the submitted documents if necessary.

Amended plans were submitted to Council, which were then sent to the Executive Committee of the Sublime Building for comment. The submissions made in response to the amended proposal included the following:

### Traffic Impact

- *Traffic Impact Assessment did not include the impact of the approved development at 619-629 Gardeners Road and 12-14 Church Avenue.*

### Built Form

- *The proposed development is not in character with the streetscape.*
- *The proposed development does not comply with building separation requirements.*

### Overshadowing

- *The overshadowing impact to the Sublime building and properties on the eastern side of O’Riordan Street, Miles Street, Hughes Avenue and Carinya Avenue is unacceptable and decreases the energy efficiency of those properties.*
- *The submitted shadow appraisal is inaccurate.*

### Notification

- *Inadequate notification of amended plans and documentation*

### SEPP 1 Objection

- *The amended SEPP 1 Objection incorrectly relies on the Draft LEP and has miscalculated the proposed gross floor area.*
- *The SEPP 1 Objection makes reference to the economic viability of developing the subject site however, an economic analysis has not been submitted.*

A Second Consultative Committee meeting was held on 23 November 2011 to discuss the amended plans and issues raised. Based on the significant degree of concern raised in respect of overshadowing it was agreed that Council would engage and Independent Solar Access Consultant to review the proposed development. Those present at the meeting included Council Officers and Council's Independent Consultant, the applicant's town planner and architect and the residents of the Sublime Building. In addition to the issues raised regarding the amended plans, privacy concerns and the possible postponement of the JRPP meeting were discussed. The meeting was valuable to concerned residents as it enabled them to view shadow modelling from the proposed development via Council's Independent Consultant.

At the conclusion of the meeting, the residents were advised that the Applicant would be asked to give consideration to a 6-storey model to compare overshadowing impacts, the SEPP 1 Objection would be reviewed and that a possible postponement of the JRPP meeting date would be considered to adequately address the issues raised.

On this basis, the Applicant then submitted the revised development scheme that is the subject of this development application. The revised scheme was sent to the Executive Committee of the Sublime Building for comment. Several submissions made in response to the previous amendments were resubmitted including a petition with 139 signatures. The additional issues raised in response to the revised scheme include:

### Traffic Impact Assessment

- *The revised traffic report did not correctly include the approved development at 619-629 Gardeners Road and 12-14 Church Avenue.*

### Notification

- *Inadequate time to respond to amended plans*
- *Lack of consultation with the wider community*

### SEPP 1 Objection

- *Reliance on the Draft LEP and Neustein Urban Study 2010*

A third Consultative Committee meeting was held on the 17 January 2012 to discuss the amended plans that are the subject of this development application. Those present at the meeting included Council Officers, Council's Independent Consultant and the residents of the Sublime Building. The main topics of discussion were solar access, view loss and conditions during construction.

Council's Independent Consultant presented the shadow models for the amended design and also a hypothetical 6 storey model for comparison. The general consensus was that whilst the amended design improved solar access to the Sublime Building, there were still 3 units that were slightly below the 2 hour minimum requirement. It was also agreed that whilst the 6 storey model improved solar access to the higher levels of the Sublime building, the lower levels were heavily impacted upon due to the

lesser building separation requirements and that the view loss would be more significant as the 6 storey model would allow for a greater width.

The Panel is also advised that any subsequent meeting of the Consultative Committee, the existing shadow impacts from the site would be modelled and that such modelling would form the basis of design modifications to the development site which in effect gave rise to the sketch plans.

The residents also raised issue with conditions of consent relating to construction activity and in particular, concerns about the basement construction. Council Officers were able to explain the standard conditions of consent and basic method of constructing a basement to ensure the groundwater is appropriately contained. It was agreed that a further design amendment shall be investigated to reduce the overshadowing impact upon the Sublime Building.

The amended design that was the subject of the third consultative committee was renotified for a fourteen day period from 25 January 2012 until 9 February 2012. Three submissions were received with the main concern being traffic generation and demand for street parking.

On this basis, the applicant submitted a revised scheme in sketch form showing a reduced floor plate of Levels 5 to 11.

A fourth Consultative Committee meeting was held on 20 February 2012 to discuss the submitted sketch design that would form part of a 'Deferred Commencement Condition'. Those present at the meeting included Council Officers, Council's independent consultant and the residents of the Sublime Building. Council's independent consultant presented the shadow model for the sketch design and also of the existing warehouse on site for comparison. It was generally agreed that solar access to the Sublime Building has been improved and that all of the north-facing units now achieve the minimum 2 hour solar access requirement. The reduced floor plate also increased the building separation of Levels 5 to 11 and resulted in a reduced building width and thus, the view corridors from Sublime were improved. It was agreed that the residents of the Sublime building would not need to resubmit their objection with attached petition.

### **Second Notification Period**

The proposed development in its amended form was notified for a period of fourteen (14) days from 25 January 2012 until 9 February 2012. A total of three (3) submissions were received as a result of the exhibition of the amended development scheme (Second Round) which raised concerns reading traffic generation and street parking strains on the nearby locality, the encouragement of vehicles to make illegal right hand turns and the overall bulk and scale of the development. As mentioned above, the previous objections lodged by the residents of the Sublime building will be considered in the second round of notification also.

### **Overshadowing**

- *Significant shadows cast to the north facing units of the Sublime building that currently enjoy full solar access.*
- *Inaccurate shadow appraisal report*

### **Comment:**



Council engaged the services of a suitably qualified architect to undertake an independent review of the submitted solar access and overshadowing plans/documents. Concerns were raised in relation to the accuracy of the submitted plans/documentation. As a result, Council's Independent Consultant undertook a shadow model of the proposal in its original form and found that the submitted solar access and overshadowing plans/documents were generally correct. As discussed above, Council's Independent Consultant undertook shadow modelling of the proposal in its amended form that is the subject of this development assessment and found that the proposed changes had less overshadowing impacts to the north facing apartments of the Sublime building. However, it was found that 3 units still did not achieve the minimum 2 hours of solar access.

Council's Independent Consultant also undertook a shadow analysis of the submitted sketch plans that will form part of a 'Deferred Commencement' Condition and concluded that all the north facing units will receive a minimum 2 hours direct sunlight between the hours of 9am to 3pm with the exception of Unit 4 which remains unchanged. Furthermore, all proposed units will achieve more than 2 hours solar access.

Therefore, the proposed development is considered acceptable in this instance.

#### Height of buildings and scale of development

- *The proposed development exceeds the maximum height of six storeys as designated within the Mascot Station Precinct DCP and fails to achieve a scale transition zone between development on the eastern side of O'Riordan Street and new development within the precinct.*
- *The proposed development provides a large building which dominates and dwarfs the surrounding buildings. A building of this scale is out of character and out of context with the surrounding area. The proposal should be of a similar scale to the Sublime development at 109-123 O'Riordan Street, Mascot.*

#### Comment:

This matter has previously been considered in the detailed assessment of SEPP 65 and Council's MSP DCP. The height of the proposed development is considered satisfactory in the context of the site and the area and is in keeping with other development in close proximity as outlined in Table 5 of this report.

#### Traffic & Parking

- *The proposed development has not considered the cumulative impact of the approved development at 619-629 Gardeners Road and 12-14 Church Avenue.*
- *The proposed development will increase demand for street parking.*
- *The development will encourage vehicles exiting the site to turn right into Miles Street.*
- *Traffic impacts associated with the development will be excessive and will adversely impact upon the function of the local road network.*

#### Comment:

These matters have been discussed previously in this report. The amended Traffic Impact Assessment prepared by the Applicant's Consultant, ML Traffic Engineers dated March 2012 has been submitted to accompany the development application to include the cumulative impacts of the now approved development at 619-629 Gardeners Road and 12-14 Church Avenue and concludes that the traffic generation resultant from the development will not significantly affect the performance of nearby intersections nor increase delays and queues given the scale of the development. Furthermore, a condition of consent was placed on the development at 619-629 Gardeners Road and 12-14 Church Avenue to provide a traffic survey once the majority of units were sold so as to ascertain what traffic upgrades are required in the locality.

The proposed development was referred to Roads and Maritime Services (formerly the RTA) and Council's development and traffic engineers. There was no objection made to the proposal subject to the imposition of conditions of consent including the implementation of a median strip along O'Riordan Street to ensure egress from the subject site is left only.

The sketch proposal does not seek to alter the basement as originally proposed and therefore, the parking provisions exceed Council's requirement. The proposal in sketch form is considered acceptable in this instance.

#### Loading Bay/Design of Driveway

- *The proposed driveway does not provide sufficient queuing area on site.*
- *There is no loading bay provided. The proposed use of Church Avenue for removalists trucks and garbage collection from O'Riordan Street is considered unacceptable.*

#### Comment:

The proposed development in sketch form does not seek to alter the loading area and driveway as proposed in the amended design. The vehicle entrance has been located furthest away from the intersection of O'Riordan Street and Gardeners Road to reduce any potential impacts of queuing on O'Riordan Street. The driveway allows for two-way traffic and therefore is considered to provide sufficient queuing area on site.

A loading area has been proposed and designed for a medium rigid vehicle. Waste bins shall be taken to the loading bay for collection.

As discussed above, the application has been referred to RMS and Council's Development and Traffic Engineers who have not raised an objection to the proposal in this regard.

#### SEPP 1 Objection

- *The SEPP 1 Objection is not well founded. The proposed FSR of 3.9:1 is inconsistent with the LEP, urban strategy and floor space ratio and height provisions of the Mascot Station Precinct DCP.*
- *The SEPP 1 Objection incorrectly relies on the Draft LEP as it has yet to be placed on public exhibition*

The SEPP 1 Objections submitted in support of the proposed development in its amended form and the sketch proposal have been assessed previously in this report.

It should be noted that the SEPP1 objection was amended to take out the reference to the draft Local Environmental Plan and that Council have not relied upon the draft Local Environmental Plan provisions, as it has not been placed on public exhibition to date.

As mentioned above, following the recommendations made by the Neustein Urban Study, Olsson and Associates architects were engaged in June 2011 by Botany Bay City Council and the Department of Planning to prepare a Master Plan and Public Domain Strategy for the Mascot Station Town Centre Precinct. Olsson and Associates provided LEP recommendations for the Precinct which proposed a maximum FSR of 3.2:1 and a height of 44 metres (approximately 13 Storeys) in order to comply with SEPP 65 – Design of Residential Flat Buildings. The floor space ratio sought by the sketch proposal is 3.17:1 and thus, complies with this recommendation.

#### Wind Tunnel Effect

- *The proposed development will create a wind tunnel effect that is extremely undesirable for residents of the Sublime building, the future Linear Park and pedestrians along O’Riordan Street.*
- *The submitted wind report provided no wind tunnel testing. Given the size of buildings, such an assessment is necessary.*
- *The proposal has not provided a cumulative wind impact report.*

#### Comment:

In relation to wind affects from the development, the Applicants Wind Consultant submitted a Pedestrian Wind Statement dated 12 July 2011 which concluded:

*“The proposed development includes several trees and shrubs within the outdoor areas of the site. These trees and shrubs will assist in providing adequate ground level wind conditions for pedestrians within and around the site. The effective use of building setbacks and blade walls in the design of the subject development also assists in mitigating adverse wind effects for most of the various private balconies and terraces. However, to provide adequate wind conditions for all private balconies and terraces, a general recommendation is made that impermeable balustrades are used on the perimeter of these areas.*

*With the addition of impermeable balustrades to the perimeter of the various private balconies and terraces, and with the inclusion of trees and shrubs in the layout as proposed, adequate wind conditions can be expected for all outdoor trafficable areas within the development site. Furthermore, the proposed development is not expected to have any adverse impact onto the wind environment for the local surrounding area.”*

The mitigation strategies outlined in the Pedestrian Wind Statement dated 12 July 2011 recommends that impermeable balustrades to the perimeter of the various private balconies and terraces and landscaping of open space areas to achieve adequate wind conditions are considered acceptable.

The Pedestrian Wind Statement has provided details of the neighbouring surrounding buildings that were considered in the report including the mixed use development at 619-629 Gardeners Road and 12-14 Church Avenue, Mascot.

### Building Setbacks

- *The proposal fails to comply with the 6m setback requirement to O’Riordan Street as detailed in the Mascot Station DCP.*
- *The basement car park encroaches into the front setback zone, resulting in the inability to provide deep soil planting areas along the street frontage.*
- *The proposal fails to comply with the 3m setback to Linear Park.*

### Comment:

These matters have been discussed previously in this report. The proposed basement garage is proposed to all boundaries however, deep soil planting is achievable in portions of the communal open space areas.

Council’s Landscape Architect has reviewed the concept landscape plan submitted with the original proposal and has recommended that a revised landscape plan be submitted in accordance with conditions that shall be imposed as part of the consent.

The DCP requires a minimum 6m landscaped setback to O’Riordan Street and a 3m landscaped setback to the side and rear boundaries.

The proposed setbacks to the walls of the development are:

- O’Riordan Street – 1.7 metres minimum
- Side boundary to the south – 13 metres
- Side boundary to the north – 9.2 metres
- Rear setback to Linear Park – 0m

The proposed development in its amended form has been shifted further north and with a lesser setback to O’Riordan Street than originally sought in an attempt to reduce the overshadowing impact upon the Sublime development. In doing so, there is a non-compliance with the minimum setback requirements to O’Riordan Street and the future Linear Park.

The proposal has been designed to address Linear Park and has incorporated direct access from the communal open space. The west facing units have the private open space areas facing Linear Park to provide casual surveillance. It is considered that the western façade has been adequately articulated with a base podium component to reduce the impact of bulk and scale when viewed from Linear Park.

As mentioned above, the non-compliance with the front setback to O’Riordan Street is a result of the shift of the building to minimise overshadowing to the Sublime development. The submitted landscape concept plan has incorporated planting along the street frontage to create a buffer whilst the façade has been adequately articulated so as to reduce the impact of bulk and scale when viewed from O’Riordan Street. Therefore, the proposal is considered acceptable in this instance.

### Construction impacts

- *The subject site requires dewatering and could destabilise the adjoining land.*
- *The site is too small to accommodate trucks during construction without obstructing traffic.*
- *Excavating three levels down will cause problems for the adjoining sites.*
- *Construction will affect nearby and adjacent residents by way of dust noise, appropriate hours, asbestos and traffic disturbance.*

Comment:

As discussed above, 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. As such the application was referred to the NSW Office of Water who issued their General Terms of Approval on 29 September 2011. In their letter of concurrence, the Office of Water advised Council that the basement must be constructed as a fully tanked structure to prevent the need for permanent or semi-permanent pumping of groundwater seepage from below-ground areas, and they also recommended that the consent be staged to permit demolition of existing buildings and clearing of the surface of the site under Stage 1 to allow monitoring of groundwater, with Stage 2 permitting excavation and construction of the proposed development. The consent has been staged as suggested and a condition imposed in respect of the basement construction

The applicant submitted a Geotechnical Investigation and Dewatering and Acid Sulphate Soil Assessment report that stated it would be necessary to construct a cut-off wall around the perimeter of the proposed basement, prior to dewatering and excavation, to reduce the risk and amount of lowering the water table on adjacent sites.

The application was referred to RMS and Council's Development and Traffic Engineers who raised no objection to the proposal subject to the submission of a Construction Management Plan imposed as a condition of consent. The Plan shall indicate the size of construction vehicles, the access point to the site, access routes to and from the site and the frequency of movement. This plan shall be submitted to the Principal Certifying Authority, RMS and Council for approval.

Further, Council's development engineer has imposed a condition of consent requiring the submission of a dilapidation report for adjoining properties and public infrastructure to ensure that any damage resulting from the proposed development shall be restored by the applicant.

The development application was referred to Council's health department who raised no objection to the proposal subject to the imposition of conditions of consent relating to vibration, dust, noise, hours of work during construction and asbestos removal.

Energy Efficiency

- *The proposed development will reduce the energy efficiency of the Sublime building due to excessive overshadowing.*

Comment:

The proposed development in sketch form has reduced the floor plates of Levels 5 to 9 and in doing so, the north facing apartments to the Sublime building will receive a minimum 2 hours solar access during mid-winter in accordance with Council's requirements. The proposed development complies with minimum solar access requirements and is therefore, considered acceptable in this instance.

#### Acoustic and Visual Privacy

- *The proposed development will reflect noise into the Sublime building.*
- *Privacy impacts will be created between residents of existing buildings and those new proposed apartments.*

#### Comment:

The southern façade of the proposed residential flat building has been amended to provide articulation and has been setback in accordance with Residential Flat Design Code requirements to ensure that any adverse impact upon the amenity of adjoining properties are minimised. Any windows to the southern façade shall be either obscure glazed or have a minimum sill height of 1.7m and privacy screens are to be incorporated to any balcony with views to the Sublime building to minimise any adverse impact upon the visual privacy of the adjoining building to the south.

#### Waste Management

- *The proposal indicates that waste bins shall be collected from O'Riordan Street which is considered unacceptable.*

#### Comment:

The proposed development in its amended form has incorporated a loading bay that will be utilised as a waste collection area. The loading bay has been designed for a medium rigid truck.

#### View Loss

- *Existing views of the city skyline from the sublime building will be lost. This will have a significant impact on the value of properties and the enjoyment of those properties.*

#### Comment:

This matter has been addressed previously in the assessment of Section 79C(b) of the Environmental Planning and Assessment Act 1979. In summary while some views will be impacted, it was found that the proposal was not inconsistent with the 'planning principles' established by the Land and Environment Court of NSW and that the application did not warrant refusal based on this issue.

Furthermore, the sketch proposal has also decreased the width of the building to retain view corridors to the north west and north east.

### Property Values

- *There is concern that the value of properties near the site will be reduced as a result of the impacts of the development, in particular overshadowing, privacy, view loss and traffic impacts.*

### Comment:

As discussed above, the overshadowing, privacy, view loss and traffic impact issues are considered acceptable in regards to the sketch proposal. The proposed development is a permitted use in the zone. The proposal has undergone rigorous assessment. The extent of the development is considered satisfactory in the planning framework and considered to result in a well designed building that meets the developing context of the immediate area. Further it is stressed to the panel that dwelling sizes are compliant with Council's DCP and that all dwellings have a high level of amenity. It is also made known to the panel that unit sizes of the DCP have been consistently applied to all multi-unit development in Council's local government area.

### **(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 applications are 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. The applications were notified and advertised for a 30 day period from 9 August 2011 to 9 September 2011 in accordance with the legislative requirements for Integrated Development. The Department issued their amended General Terms of Approval on 29 September 2011.

##### *Sydney Airports Corporation Limited (SACL)*

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 proposes buildings above this maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration. SACL had identified the proposed development as possible affecting their 'navaid' systems and referred the application to Airservices Australia for assessment. SACL raised no objection to the proposed maximum height of 47.82m AHD, subject to conditions to be imposed on any consent.

##### *Ausgrid (formerly Energy Australia)*

Ausgrid was notified as adjoining landowners and as a service authority. Correspondence was received from Ausgrid dated 8 August 2011 requesting the provision for an electricity substation within the premises as a condition of consent. Further correspondence was received dated 12 September from Doug Sneddon Planning on behalf of Ausgrid requesting additional

information in relation to an Electric and Magnetic Fields Assessment and for the Acoustic Report to consider the impacts of potential substation noise. The requested additional information was sent to Doug Sneddon Planning on 9 November 2011 whom responded via email on 18 November 2011 and advised that the development complies with the relevant relevance levels.

#### *Sydney Water*

The proposal in its amended form was referred to Sydney Water with regard to water supply and wastewater. In a letter dated 7 February 2012, Sydney Water raised no objection to the proposed development and advised that they further assessment regarding the impact of the development will be undertaken when the proponents apply for a Section 73 Certificate.

#### *Roads & Maritime Services (Formerly Roads & Traffic Authority)*

Correspondence received from Roads & Traffic Authority dated 24 October 2011 raises no objection to the proposed development, subject to recommendations, which will be required as conditions of consent.

#### *Mascot Police Local Area Command*

Correspondence received from Mascot Police Local Area Command dated 10 October 2011 raised no objection to the proposed development, subject to recommendations, which will be required as conditions of consent.

#### *Sydney City Council*

Correspondence received from the City of Sydney Council dated 22 August 2011 raised points of consideration in relation to maximum building height and floor space ratio. These matters have been considered in the above assessment.

#### *NSW Fire Brigade*

Correspondence was not received from the NSW Fire Brigade.

### 7.2 Internal Referrals

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

### 7.3 Independent Reviews

#### *Solar Access/Overshadowing Plans*

Council engaged the services of a suitably qualified architect to undertake an independent review of the submitted solar access and overshadowing plans/documents. Concerns were raised in relation to the accuracy of the submitted plans/documentation. As a result, Council's Independent Consultant undertook a shadow model of the proposal in its original form and found that the submitted solar access and overshadowing plans/documents were generally correct. As discussed above, Council's Independent Consultant undertook shadow modelling of the proposal in its amended form that is the subject of this development assessment and found that the proposed changes had less overshadowing impacts to the north facing apartments of the Sublime building. However, it was found that 3 units still did not achieve the minimum 2 hours of solar access.

Council's Independent Consultant also undertook a shadow analysis of the submitted sketch plans that will form part of a Deferred Commencement Condition and concluded that all the



north facing units will receive a minimum 2 hours direct sunlight between the hours of 9am to 3pm with the exception of Unit 4 which remains unchanged. Furthermore, all proposed units will achieve more than 2 hours solar access.

#### *Environmental Scientist*

The proposed development was referred to Council's Environmental Scientist and Council's external consultant, Envirorisk for comment. Comments were received on 22 November 2011 which did not raise any objections to the proposed development and considered that the site can be made suitable for the proposal subject to conditions. These conditions have been imposed as part of the conditions of consent.

#### Design Review Panel (DRP)

A revised preliminary design concept resembling that scheme currently before Council was referred to the DRP, which met on 16 June 2011. The Panel made the following recommendation:

*The design is supported generally in relation to building form and character, but is likely to require significant modification in order to resolve amenity issues on the neighbouring residential property.*

The Panel had discussed the context, built form, safety and security and aesthetics of the proposed development and have considered it acceptable.

The following is the applicants response to each issue raised by the DRP:

	Issue	Applicants Response
1	<p><u>Context</u></p> <p>The site fronts O'Riordan Street to the east with the inevitable environmental issues of noise and pollution generated from this arterial road, and to the west abuts a reserve which in future years is intended to be a landscaped 'linear park'.</p> <p>It is located only some 50 metres from the major intersection with Gardener's Road and will be very prominent as the first building south of this junction on the west side of O'Riordan Street. There is an opportunity for a new building and landscape on this site, in combination with landscaping in the future park, to create a very attractive entry to Mascot.</p> <p>Future development on the opposite western side of the reserve could potentially be 12 storeys in height, and much recent development in the area to the</p>	Noted.

	Issue	Applicants Response
	south is of similar height. The current height control for the subject site is a maximum of 6 storeys and three storeys fronting O’Riordan Street, and the existing residential flats on the immediately adjoining site in O’Riordan Street are seven storeys.	
2	<p><u>Scale</u></p> <p>Acceptable in principle subject to development resolving interface with neighbouring properties.</p>	Noted. The form and extent of the southern component of the building was guided by a solar access and amenity analysis. The final building form maintains 2 hours of solar access to the building to the south and appropriate building separation and privacy measures.
3	<p><u>Built Form</u></p> <p>The building as proposed is 12 storeys in height, which in visual terms would not be unreasonable in relation to potential future development on the west side of the future park, and with other development in the general area.</p> <p>The building is modelled to provide a five-storey base component, and is articulated in plan in a way which relates comfortably to O’Riordan Street and the linear park.</p> <p>At the northern end it is narrower and carefully modelled to respond to the form of the site and its prominent entry location. The central blade element as shown is considered to be excessively assertive.</p> <p>The building form in itself is satisfactory in appearance, but will need to be modified to avoid adverse amenity impacts on nearby existing and possibly future</p>	<p>Noted</p> <p>Noted</p> <p>The blade element has been cut back approx 1m and has an improved relationship with the building. (Amended plans submitted to Council on the 28 October 2011 show that the blade element has been further reduced).</p> <p>Noted. Refer to discussion below.</p>

	Issue	Applicants Response
	residential development, as discussed below under 'Amenity'.	
4	<p><u>Density</u></p> <p>FSR of 4:1 significantly in excess of the current 2:1 FSR planning control.</p> <p>This could only be considered favourably in this context if it can be demonstrated that adverse amenity impacts on neighbouring properties are within reasonable limits.</p>	<p>Noted. The building form has been modified and it has been demonstrated that the building to the south achieves the required levels of solar access and maintains excellent levels of privacy.</p> <p>As mentioned previously in this report, the proposed development in sketch form has reduced the floor space ratio to 3.17:1.</p>
5	<p><u>Resource, energy and water efficiency</u></p> <p>Subject to BASIX Solar generated hot-water and rainwater collection and recycling should be included if possible.</p>	<p>BASIX assessment has been undertaken. Solar panels and rainwater tank are proposed on the roof.</p>
6	<p><u>Landscaping</u></p> <p>Landscaping to be integrated with the design of the future linear park and responds to the environmental issues related to the arterial road.</p> <p>Northern face of the building and landscape to provide an attractive symbolic entry to Mascot.</p>	<p>A detailed landscape scheme has been developed that introduces a range of landscape features, plantings and scales. As discussed above in the landscape section, a layering of species has been provided to maximise the opportunity for buffering of road noise and creation of useable internal communal landscaped spaces.</p> <p>The O'Riordan Street frontage incorporates terraced planting consistent with the neighbour to the south. The terraced planting allows for appropriate depth of 1 metre to enable substantial planting. The landscaping along O'Riordan Street will assist in buffering traffic noise to the apartments.</p> <p>The northern section of the site is a key component of the development that will be highly visible from the corner of Gardeners Road and O'Riordan Street. The landscaped</p>

	Issue	Applicants Response
		courtyard provides the setting for the building above. The relationship between the building and the courtyard and the layering of plantings is appropriate. Refer to detail provided above in landscape assessment.
7	<p><u>Amenity</u></p> <p>The proposal shall comply with the Residential Flat Design Code.</p> <p>Re-orientate bedroom windows away from O’Riordan Street.</p> <p>Entry arrangement and adjacent garbage room should be reconsidered.</p> <p>Desirable to have individual entry points for ground floor units.</p>	<p>83% of the units achieve in excess of 2 hours solar access in mid winter. All units would of complied however the south western corner of the building has been substantially cut back to maintain 2 hours of solar access to the units to the south. 75% of the units are cross ventilated.</p> <p>The proposed development in sketch form indicates that 66% of units are able to achieve cross flow ventilation.</p> <p>The primary orientation of all units is to the north, east and west. Only bathroom windows are oriented to the south.</p> <p>The entry corridor has been redesigned and has been expressed as an important element in the building with wider frontage and opportunity for social interaction with the introduction of a more spacious lobby with seating.</p> <p>Due to the location of the watertable the ground level is raised above footpath level and therefore individual entries cannot be achieved to all units. Individual access is provided from the park to unit 3.</p> <p>Natural light and ventilation is</p>

	Issue	Applicants Response
	<p>Natural light and ventilation should be provided to internal corridors/lift lobbies at each floor.</p> <p>Overshadowing and view loss to the adjoining property to the south and west are of concern.</p> <p>It would be desirable to set back the top two levels.</p> <p>The vehicle entry ramp shall be setback to allow for a planting strip to minimise noise impacts.</p>	<p>provided to the internal lobby on the ground level. The opportunity for natural light and ventilation on the upper levels was investigated however could not be accommodated within the building footprint due to the reconfiguration of units to maintain solar access to the south.</p> <p>The two upper levels have been setback back with larger terraces areas.</p> <p>The entry has been setback from the southern boundary to allow a 1 metre wide landscape strip.</p>
	<p><u>Safety and Security</u></p> <p>Should be resolved at detail design stage. See note under Social Dimensions</p>	Noted
8	<p><u>Social Dimensions</u></p> <p>Reduce social isolation for residents.</p> <p>Communal Courtyard to have suitable features, screening, access, security and visibility from the entrance.</p>	<p>Noted. The entry has been redesigned. The building encourages social interaction between the residents with numerous opportunities for passive and active interaction and play. These include:</p> <ul style="list-style-type: none"> <li>▪ Spacious main entry with seating</li> <li>▪ Semi enclosed forecourt communal area</li> <li>▪ Northern landscaped courtyard with seating portico and acoustic wall.</li> <li>▪ Southern landscaped area with seating.</li> </ul> <p>The spaces offer opportunity for a range of activities and interaction between the residents.</p>
9	<p><u>Aesthetics</u></p> <p>The building form and character</p>	Noted. Has been further developed.

	Issue	Applicants Response
	has potential to produce a good outcome.	

Table 11.

It should be noted that amended plans have since been received and are the subject of this development assessment. It is considered that the Applicant has addressed the concerns of the Design Review Panel in the revised development scheme currently before the Panel.

Note:

The applicant has submitted an amended proposal in sketch form that will form part of a Deferred Commencement Consent Condition. The sketch proposal has reduced the floor plate of Levels 5 to 9 to minimise overshadowing impacts and view loss to the adjoining residential flat building to the south (Sublime). The sketch proposal is considered to satisfy the comments made by the Design Review Panel.

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 proposed 50 residential units. As such, the calculations are as follows:

- 50 units @ \$20,000.00 each = \$1,000,000.00

**Conclusion**

The Joint Regional Planning Panel, Sydney East Region (JRPP) is the consent authority for the development application. The development application as amended 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 to the Panel that the application for the demolition of the existing part one part two storey industrial building and the construction of a twelve storey residential building containing 50 apartments and three levels of basement car parking including 94 parking spaces, at 103-105 O’Riordan 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:

- (1) Grant consent to the objection submitted under the provisions of State Environmental Planning Policy No. 1 – Development Standards to vary the provisions of Clause 12(A) of Botany Local Environmental Plan 1995 relating to maximum floor space ratio of 3.17:1 applied under this clause on the basis that:
  - i. Clause 12(A) of Botany Local Environmental Plan 1995 is a development standard; and
  - ii. The objection lodged by the applicant is well founded; and

- (2) Grant Development Application No. 11/135 a “Deferred Commencement Consent” under Section 80(3) of the Environmental Planning and Assessment Act 1979 for works in the following two (2) stages and subject to the Conditions imposed in the attached schedule:
- i. Stage 1 – Demolition of existing buildings and clearing of the surface of the site at 103-105 O’Riordan Street, Mascot, to allow the installation of groundwater monitoring bores to address the issues identified in the General Terms of Approval from the NSW Office of Water dated 29 September 2011; and,
  - ii. Stage 2 - The excavation at the site and construction of the twelve storey residential building containing 50 apartments and three levels of basement car parking for 94 car spaces, at 103-105 O’Riordan Street, Mascot with such consent not to operate until the following conditions are satisfied:

#### DEFERRED COMMENCEMENT CONDITIONS

- DC1 Prior to the operation of the development consent, the architectural plans shall be revised and submitted to Council to reflect the following sketch plans submitted relating to the reduced floor plates for levels 5 to 9:
- (i) SK01 – Typical Level 5-9 Plan.
  - (ii) SK02 – Penthouse Levels 10-11 Plan.
  - (iii) SK03 – O’Riordan Street (East) Elevation.
  - (iv) SK04 – West Elevation.
- DC2 Prior to the operation of the development consent, the architectural plans shall be revised and submitted to Council. The revised plans shall address the following issues: -
- (i) A minimum 94 parking bays shall be allocated in accordance with the following requirements: -
    - a) For residents: -
      - o 75 parking bays, distributed based on the following rate:
        - 1 parking bay for each one-bedroom unit; and,
        - 2 parking bays for two-bedroom unit.
      - o For visitors: -
        - 19 parking bays (including two (2) car wash bays);
- DC3 Prior to the operation of the development consent, plans showing the stormwater management and disposal system for the development shall be submitted to Council for approval. The detailed stormwater management plans (together with the design certification) shall address the following: -

- (i) The stormwater drainage system (including gutters, pits, pipes, downpipes, rainwater re-use system and On-Site Detention (OSD) system) shall be shown on the stormwater management plans. All stormwater runoff generated from the site (such as roof, driveway, landscaped area) shall be directed to the OSD system prior to discharging into public drainage system.
- (ii) Rainwater tanks with a minimum 5,000 L capacity shall be provided to the development and re-used for outdoor irrigation.
- (iii) All stormwater runoff (including surface runoff and runoff bypassing the OSD system) generated from the site shall pass through a pollution control device capable of removing litter and sediment (e.g. Gross Pollutant Trap, (GPT)) prior to entering Council's drainage system. Details of the pollution control device shall be shown on stormwater management plan.
- (iv) New kerb inlet gully pit (with lintel minimum 2.4m long) shall be provided to O'Riordan Street. Drainage manhole in the footpath area is not permitted.
- (v) Grated boundary pit (minimum 600mm x 600mm) shall be provided to the site stormwater drainage system prior to discharging stormwater into new kerb inlet gully pit.
- (vi) Drainage pipes connecting the new kerb inlet gully pit to the existing kerb inlet gully pit on O'Riordan Street shall be minimum 375mm diameter reinforced concrete pipes (RRJ). The pipe shall be provided under the kerb with minimum fall of 1%.
- (vii) The On-Site Detention (OSD) systems shall be designed to comply with the following:
  - a) Stormwater runoff generated from the development shall be detained on-site for all storm events up to and including 1 in 100 year ARI design storms and the permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed).
  - b) Computer modeling, such as DRAINS can be used to design the OSD system. Copy of the input data and results from the modeling shall be submitted to Council for review in order to verify the input parameters and layout of the model
  - c) Emergency overflow path of the OSD system 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. The extent of the overland flow path shall be shown on the stormwater management plans. Consideration shall be given to ensure stormwater in the emergency overland flow path will not be diverted into the buildings.



- d) Submerged outlet conditions shall be considered if the invert level of the orifice is below the top of the kerb at the discharge point.
  - e) Area bypassing the OSD system shall not exceed 25% of the site.
  - f) In order to protect the buildings from stormwater inundation, the OSD tanks/aboveground basins shall be water-tight.
- (viii) Pump-out system shall be provided to the basement car parking area in order to collect stormwater runoff from the driveway ramp. Subsoil drainage lines shall not be provided to the basement area if it is below to the groundwater table. The pump-out system shall be designed to comply with the following: -
- a) The volume of the pump-out storage tank shall be designed with a minimum storage capacity equivalent to the runoff volume generated from the area draining into the tank for the 1 in 100 year ARI 2-hours duration storm event.
  - b) Information of the selected pumps (eg brand, model numbers, performance curve and specifications) shall be submitted to Council to ensure the pump has adequate capacity. Each pump shall have a minimum capacity of 10L/s or shall be based on the flow rate generated from the 1 in 100 year ARI 5-minutes duration storm event of the area draining into the system, whichever is greater.
  - c) The pump-out system shall comprise with two (2) submersible type pumps. The two pumps shall be designed to work on an alternative basis to ensure both pumps receive equal use and neither remains continuously idle.
  - d) An alarm warning device (including signage and flashing strobe light) shall be provided for the pump-out system to advise the occupant of pump failure. The location of the signage and flashing strobe light shall be shown on the stormwater management plans
  - e) All underground parking structures shall be tanked, so that there is no intrusion of waters into the structure.

All drawings and specifications shall be prepared by a suitably qualified civil engineer experienced in stormwater drainage design and in accordance with Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', AS/NSZ 3500 and BCA requirements.

- DC4 The landscape areas shown on the 'Landscape Planting Plan – Ground Floor', dated 13th December 2011, shall be the subject of detailed landscape construction documentation (plans and specifications) that are to be submitted to and approved by Council. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP and conditions of consent. The detailed (construction level) plan shall include, but not be limited to:

- (i) A site plan showing building envelopes, paved areas and areas to be landscaped.

- (ii) A planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be a dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas.
- (iii) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking.
- (iv) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls with top of wall levels and proposed finishes.
- (v) Areas of paving, schedule of materials, edge treatments and sectional construction details.
- (vi) All fencing, privacy screening and pergolas – elevations, heights and materials.
- (vii) Details of other landscape elements such as furniture, pedestrian lighting, sculpture, etc. Provide sectional construction details and elevations.
- (viii) Planter box on slab sectional details. Planter box depths to be in accordance with Council's Landscape DCP.
- (ix) Street trees, footpaths, kikuyu turf naturestrip, and any other public domain requirements included in the Conditions of Consent shall be shown on the landscape plan.
- (x) Location of all stormwater and rainwater tanks, on site detention areas, and ensure deep soil availability for landscaping and tree planting is maximised. NOTE: detention tanks not permitted in street setbacks.
- (xi) Location of electrical kiosks and fire booster valves. Comply with conditions relating to their location and treatment.
- (xii) Specific amendments required to the design include:
  - a) Replacement of the *Ficus microcarpa* 'Hillii' with a smaller canopied species, and inclusion of deciduous trees within the northern communal open space.
  - b) Consideration of the suitability of selected tree species to grow on podium landscapes. E.g., *Corymbia maculata*.
  - c) Rationalisation of the path system and formalise garden areas within the southern communal open space areas.
  - d) Increase plant densities to ensure a dense coverage of planting in all planted areas.
  - e) Inclusion of a suitable evergreen tree species (min. 6-8 metres mature height) along the O'Riordan Street setback to provide year-round screening of the development. The private lawn areas along O'Riordan Street may be utilized to achieve a layering effect.

- f) Addition of public domain improvement works in accordance with Council's Mascot Station Precinct specification and conditions of consent.
- (3) That the deferred commencement consent be limited to a period of 18 months;
- (4) Note that once the 'Deferred Commencement' Conditions are satisfied that all draft conditions may need to change when the amended drawings required by the 'Deferred Commencement' Conditions are submitted.

**Premises: 103-105 O'Riordan Street, Mascot**

**DA No: 11/135**

### **STAGE 1 – DRAFT SCHEDULE OF CONSENT CONDITIONS**

**Stage 1 provides consent for the clearing of the surface of the site only to allow further testing of the site.**

### **GENERAL CONDITIONS**

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

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received by Council</b>
Survey Plan Ref: 34114DT Sheets 1-6	Lockley Land Title Solutions	18 July 2011
Cover Page DA00 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Site Analysis/Roof Plan DA01 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Basement Carpark Level 3 DA02 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Basement Carpark Level 2 DA03 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Basement Carpark Level 1 DA04 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received by Council</b>
Ground Floor Plan DA05 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Podium Level 1-3 Plan DA06 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Level 4 Plan DA07 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Typical Level 5-9 Plan DA08 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Penthouse Level 10 Plan DA09 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Penthouse Level 11 Plan DA10 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Roof Plan DA11 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
O’Riordan Street (East) Elevation DA12 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
North Elevation DA13 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
West Elevation DA14 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
South Elevation DA15 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Section DA16 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Art Wall Detail	PBD Architects Pty Ltd	18 July 2011

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received by Council</b>
DA18 – Issue A 18 July 2011		
Podium Level 1-3 Area Schedule DA20 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Typical Level 4-9 Area Schedule DA21 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Penthouse Level Area Schedule DA22 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Landscape Planting Plan	ATC Landscape Architects & Swimming Pool Designers	21 December 2011

<b>Documents</b>	<b>Author</b>	<b>Date Received</b>
Materials & Sample Board		18 July 2011
Statement of Environmental Effects (Dated July 2011)	LJB Urban Planning Pty Ltd	18 July 2011
Amended Assessment against Mascot DCP	LJB Urban Planning Pty Ltd	18 December 2011
Economic Analysis	Glupane Glupi Pty Ltd	18 December 2011
SEPP 1 Objection (Amended, dated 29 March 2012)	LJB Urban Planning Pty Ltd	29 March 2012
SEPP 65 Design Verification Statement	PBD Architects Pty Ltd	18 July 2011
Building Code of Australia Assessment Report	Peter Dix – Building Code Assistance	18 July 2011
BASIX Certificate with No. 387164M (Issued 15 July 2011)	NSW Department of Planning	14 February 2011
Assessor Certificate No. 64874086 (Dated 15 July 2011)	ABSA	18 July 2011
Adaptable Housing Report	Accessibility Solutions (NSW) Pty Ltd	18 July 2011
Site Based Stormwater Management Plan	Yeats Consulting Engineers	18 July 2011
Waste Management Plan	Elephant's Foot Waste Compactors Pty Ltd	18 July 2011
Pedestrian Wind Environment Statement (Dated 12 July 2011, Report No. WB148-01F02(rev 0) – WS Report).	Windtech	18 July 2011

Acoustic Report (Revision 0, dated 21/06/2011)	Acoustic Logic	18 July 2011
Acoustic Report - Response to Ausgrid	Acoustic Logic	5 December 2011
Traffic and Parking Impact Report (Ref: A1112705N Version 1b), Dated March 2012)	ML Traffic Engineers	8 March 2012
Carpark and Driveway Certification	ML Traffic Engineers	18 July 2011
Detailed Contamination Assessment (Dated July 2011)	Douglas Partners Pty Ltd	18 July 2011
Geotechnical Investigation and Dewatering and Acid Sulphate Soil Assessment (Dated July 2011)	Douglas Partners Pty Ltd	18 July 2011
Letter of Acceptance to provide underground power cables.	Glupane Glupi Pty Ltd	28 October 2011

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

2. The applicant must prior to the commencement of any works associated with Stage 1 of the consent pay the following fees:
 

(a) Builders Security Deposit	\$25,000.00
(b) Development Control	\$11,055.00
  
3.
  - (a) This Consent relates to land in Lots A and B in DP 392025, and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public domain works required by this consent.
  - (b) This component, Stage 1 of the Consent, only permits the demolition of existing buildings and clearing of the surface of the site to allow the installation of groundwater monitoring bores (if required) to address the technical documentation required by the General Terms of Approval issued by the NSW Office of Water on 29 September 2011.
  
4. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.

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

5. The following conditions form the General Terms of Approval dated 30 September 2011 by the NSW Office of Water and must be complied with:

General and Administrative Issues

- (a) Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) Suitable documents are to be supplied to the NSW Office of Water of the following:
  - (i) 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.
  - (ii) 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.
  - (iii) 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 pumped water.
  - (iv) Descriptions of the actual volume of pumped water (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 water to be reinjected.
  - (v) 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.

#### Specific Conditions

- (a) The design and construction of the structure must preclude the need for permanent dewatering.
- (b) The design and construction of the structure that may be impacted by any watertable must include a water proof retention system (i.e. a fully tanked structure) with adequate provision for future fluctuations of water table levels. (It is recommended that a minimum allowance for a water table 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.
- (c) Construction methods and material used in and for construction are not to cause pollution of the groundwater.
- (d) 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.
- (e) 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). 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.
- (f) 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 disposal of 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.
- (g) 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:



- (i) The treatment to be applied to the pumped water (tailwater) to remove any contamination.
  - (ii) 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.
  - (iii) The means to avoid degrading impacts on the identified beneficial use of the groundwater. Any reinjection proposal 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.
- (h) 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:
  - (i) 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.
  - (ii) 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.
  - (iii) Locations of settlement monitoring points, and schedules of measurement.

#### Formal Application Issues

- (a) 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.
- (b) Upon receipt of a Development Consent from City of Botany Bay Council, a fully completed licence application form, 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.
- (c) 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).

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

6. A Remedial Action Plan shall be prepared and implemented for the remediation of polycyclic aromatic hydrocarbons (PAHs) impacted soil at the site. The RAP needs to allow for the excavation, validation and off-site disposal of contaminated soil (in accordance with current NSW waste guidelines). In addition the RAP needs to provide provisions for the identification and remediation of any other contamination discovered during the course of the excavation works. Approvals from appropriate government departments where required shall be obtained and full details of the investigation and site remediation are to be submitted to and approved by Botany Bay City Council, in accordance with Section 80(A)2 of the Environmental Planning and Assessment Act 1979 prior to the commencement of any work being issued for the proposed development.
7. An Acid Sulfate Soil Management Plan shall be prepared by a suitably qualified and experienced environmental/geotechnical consultant and implemented to include provisions to address the following as a minimum:
  - (a) Prevent lowering of the groundwater table outside the basement footprint (during and following construction of the basement); and
  - (b) Treat materials excavated below the groundwater table within the basement footprint prior to off-site disposal.
8. Prior to the commencement of any work, 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:
  - All properties immediately adjoining the site
  - O’Riordan 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.)

- 9. Prior to the commencement of any work, 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.
- 10. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures" and the requirements of the NSW WorkCover Authority.
- 11. The demolisher shall:
  - (a) Lodge with Council, and at least forty-eight (48) hours prior to the commencement of work (due to the potential impact on Council’s infrastructure):-
    - (i) Written notice, indicating the date when demolition of the building is to commence.
    - (ii) This persons full name and address.
    - (iii) Details of Public Liability Insurance.
- 12. The following shall be compiled with:
  - (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:-
    - (i) stating that unauthorised entry to the work site is prohibited;
    - (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
    - (iii) the Development Approval number; and

- (b) any such sign is to be removed when the work has been completed
13. A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared for the demolition and site clearing works in accordance with 'Do It Right On-Site' Soil and Water Management for the Construction Industry (available from Council), NSW EPA's Managing Urban Stormwater: Construction Activities and Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004) and submitted to the Principal Certifying Authority prior to commencement of any works. 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 and for a minimum three (3) month period after the completion of the project (where necessary). 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.
14. 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:
- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
  - (b) Permit to place and/or store materials on footpaths, nature strips;
  - (c) Permit for roads and footways occupancy (long term/ short term)
  - (d) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
  - (e) Permit to place skip/waste bin on footpath and/or nature strip
  - (f) Permit to use any part of Council's road reserve or other Council lands
  - (g) 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.)
- (h) 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))
- 15.
- (a) Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited

certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

- (b) The statement must be in compliance with AS2601:1991 – ‘Demolition of Structures’, the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions which shall be implemented at relevant stages of demolition and construction and shall include:
    - (i) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
    - (ii) Induction training for on-site personnel;
    - (iii) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
    - (iv) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
    - (v) Disconnection of Gas and Electrical Supply;
    - (vi) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
    - (vii) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
    - (viii) Waterproofing of any exposed surfaces of adjoining buildings;
    - (ix) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
    - (x) Working hours, in accordance with this Development Consent;
    - (xi) Confinement of demolished materials in transit;
    - (xii) Proposed truck routes, in accordance with this Development Consent;
    - (xiii) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
    - (xiv) Sewer – If the property is affected by a common sewer this shall be appropriately managed to ensure no loss of service to other users.
16. A detailed Traffic Management Plan for the pedestrian and traffic management of the site during demolition and site clearing works shall be prepared and submitted to the relevant road authority (Council or Roads and Traffic Authority) for approval prior to commencement of any works. The plan shall: -
- (a) be prepared by a RTA accredited consultant.

- (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
  - (c) ensure pedestrian and vehicular access from O'Riordan Street is maintained at all times. No closure of any road reserve will be permitted without NSW Roads and Maritime Services (former Roads and Traffic Authority) and Council's approval.
  - (d) if required, implement a public information campaign to inform any road changes well in advance of each change.
17. Detailed Demolition Management Plan (CMP) shall be submitted to Council and the Principal Certifying Authority for approval prior to commencement of any works. The DMP shall address the following: -
- (a) All traffic (including worker's vehicles) generated from demolition and site clearing activities shall enter and leave the site in a forward direction ONLY.
  - (b) The overall length of the vehicle (including worker's vehicles) accessing the site shall be restricted to 12.5 metres (defined as Heavy Rigid Vehicle in AS2890.2). Trucks with trailers are not allowed to access the site.
  - (c) All vehicles (including worker's vehicles) associated with the demolition and site clearing activities shall only park within the site. No parking of these vehicles to be allowed on street.
  - (d) Frequency of truck movements associated with the demolition and construction activities shall be stated in the DMP.
  - (e) Under no circumstance shall any trucks be permitted to queue and wait on public places, public streets or any road related area (eg. footpath, nature strip, road shoulder, road reserve etc) prior to entering the site.
  - (f) Demolition and other materials shall be stored wholly within the site;
  - (g) Locations of site office, accommodation and the storage of major materials related to the project shall be within the site;
  - (h) Protection of adjoining properties, pedestrians, vehicles and public assets shall be implemented at all times;
  - (i) Location and extent of proposed builder's hoarding and Work Zones, if there is any, shall be shown on the plan;
  - (j) Tree protection management measures for all protected and retained trees shall be implemented at all times
18. Building plans must be lodged at Sydney Water Quick Agent for approval prior to commencement of works.
19. 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.
20. 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.

### **DURING WORKS**

21. This Consent does not permit onsite groundwater treatment or remediation. If this is required a separate development application is to be lodged with Council for consideration.
22. The approved Waste Management Plan shall be complied with at all times during demolition and site clearing works.
23. Throughout the demolition and site clearing period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.

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24. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- (a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.
  - (b) Protection of the Environment Operations Act 1997;
  - (c) Protection of the Environment Operation (Waste) Regulation
  - (d) DECC Waste Classification Guidelines 2008.
25. If any material containing asbestos is found on site during the demolition process the material is to be removed and disposed of in accordance with WorkCover requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.
26. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
27. No demolition materials shall be burnt or buried on the site.
28. Demolition and site clearing work shall be restricted to between the following hours:
- (a) Monday to Friday 07:00 am to 05:00 pm
  - (b) Saturday 07:00 am to 04:00 pm
- 29.
- (a) During demolition and site clearing works, the applicant / builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
  - (b) Existing structures and or services on this and adjoining properties shall not be endangered during any demolition and site clearing works associated with the project. The Applicant is to provide details of any stabilisation works required to adjacent developments to Council.
- 30.
- (a) All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
  - (b) The demolition and site clearing operations of the site shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
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- (c) 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 and Site Clearing Works, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion;
  - (d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer
  - (e) Shaker pads shall 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.
  - (f) Council nature strip shall be maintained in a clean and tidy state at all times during construction works.
31. During demolition and site clearing works, 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.
32. Any soil disposed of offsite shall be classified in accordance with the procedures in the Department of Environment and Climate Change Waste Classification Guidelines (2008).
33. Noise from demolition and site clearing activities associated with Stage 1 of the Consent shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
- (a) Demolition period of 4 weeks and under:
    - (i) The L10 sound pressure level measured over a period of not less than 15 minutes when the demolition site is in operating must not exceed the background level by more than 20dB(A).
  - (b) Demolition period greater than 4 weeks and not exceeding 26 weeks:
    - (i) The L10 sound pressure level measured over a period of not less than 15 minutes when the demolition site is in operating must not exceed the background level by more than 10dB(A).
  - (c) All possible steps should be taken to silence demolition site equipment.

34.

- (a) Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
  - (b) Vibration levels induced by the demolition activities shall not exceed 3mmsec peak particle velocity (ppv) when measured at the footing of any unoccupied building.
  - (c) The upper noise level from the demolition operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).
35. 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. 11/135 dated 18 July 2011 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

**THIS IS THE END OF STAGE 1.**

**The Conditions pertaining to Stage 1 of this Consent must be satisfied prior to commencement of Stage 2 of the Consent.**

**Premises: 103-105 O’Riordan Street, Mascot****DA No: 11/135****STAGE 2 – DRAFT SCHEDULE OF CONSENT CONDITIONS**

**This Stage relates to excavation works and construction of the residential development with associated basement carparking and landscaping.**

**GENERAL CONDITIONS**

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

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received by Council</b>
Survey Plan Ref: 34114DT Sheets 1-6	Lockley Land Title Solutions	18 July 2011
Cover Page DA00 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Site Analysis/Roof Plan DA01 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Basement Carpark Level 3 DA02 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Basement Carpark Level 2 DA03 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Basement Carpark Level 1 DA04 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Ground Floor Plan DA05 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Podium Level 1-3 Plan DA06 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Level 4 Plan DA07 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received by Council</b>
Typical Level 5-9 Plan DA08 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Penthouse Level 10 Plan DA09 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Penthouse Level 11 Plan DA10 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Roof Plan DA11 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
O’Riordan Street (East) Elevation DA12 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
North Elevation DA13 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
West Elevation DA14 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
South Elevation DA15 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Section DA16 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Art Wall Detail DA18 – Issue A 18 July 2011	PBD Architects Pty Ltd	18 July 2011
Podium Level 1-3 Area Schedule DA20 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Typical Level 4-9 Area Schedule DA21 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received by Council</b>
Penthouse Level Area Schedule DA22 – Issue D 15 December 2011	PBD Architects Pty Ltd	21 December 2011
Landscape Planting Plan	ATC Landscape Architects & Swimming Pool Designers	21 December 2011

<b>Documents</b>	<b>Author</b>	<b>Date Received</b>
Materials & Sample Board		18 July 2011
Statement of Environmental Effects (Dated July 2011)	LJB Urban Planning Pty Ltd	18 July 2011
Amended Assessment against Mascot DCP	LJB Urban Planning Pty Ltd	18 December 2011
Economic Analysis	Glupane Glupi Pty Ltd	18 December 2011
SEPP 1 Objection (Amended, dated 29 March 2012)	LJB Urban Planning Pty Ltd	29 March 2012
SEPP 65 Design Verification Statement	PBD Architects Pty Ltd	18 July 2011
Building Code of Australia Assessment Report	Peter Dix – Building Code Assistance	18 July 2011
BASIX Certificate with No. 387164M (Issued 15 July 2011)	NSW Department of Planning	14 February 2011
Assessor Certificate No. 64874086 (Dated 15 July 2011)	ABSA	18 July 2011
Adaptable Housing Report	Accessibility Solutions (NSW) Pty Ltd	18 July 2011
Site Based Stormwater Management Plan	Yeats Consulting Engineers	18 July 2011
Waste Management Plan	Elephant's Foot Waste Compactors Pty Ltd	18 July 2011
Pedestrian Wind Environment Statement (Dated 12 July 2011, Report No. WB148-01F02(rev 0) – WS Report).	Windtech	18 July 2011
Acoustic Report (Revision 0, dated 21/06/2011)	Acoustic Logic	18 July 2011
Acoustic Report - Response to Ausgrid	Acoustic Logic	5 December 2011
Traffic and Parking Impact Report (Ref: A1112705N Version 1b), Dated March 2012)	ML Traffic Engineers	8 March 2012
Carpark and Driveway Certification	ML Traffic Engineers	18 July 2011
Detailed Contamination Assessment (Dated July 2011)	Douglas Partners Pty Ltd	18 July 2011

Geotechnical Investigation and Dewatering and Acid Sulphate Soil Assessment (Dated July 2011)	Douglas Partners Pty Ltd	18 July 2011
Letter of Acceptance to provide underground power cables.	Glupane Glupi Pty Ltd	28 October 2011

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

2.

- (a) The Builders Damage Deposit and Tree Preservation Bond paid prior to commencement of works for Stage 1 shall be retained until after issue of the Final Occupation Certificate for Stage 2.
- (b) The applicant must prior to the issue of the approved plans pay the following fees:
  - (i) Development Control \$11,055.00
  - (ii) Section 94 Contributions \$1,000,000.00
  - (iii) Plan Checking Fee Detailed Construction \$3,000.00  
Management Plan (as required)
  - (iv) Waste Levy \$10,000.00

3.

- (a) This Consent relates to land in Lot A in DP 90605 and Lot 1 in DP 91734, and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public domain works required by this consent.
- (b) This component, Stage 2 of the Consent grants consent for excavation and construction works as recommended in the General Terms of Approval issued by the NSW Office of Water on 29 September 2011.

4.

- (a) All building work must be carried out in accordance with the provisions of the Building Code of Australia; and
- (b) The construction of below-ground (basement) areas must incorporate a water proofing system (i.e. any basement void is to be designed and constructed as a “fully tanked” structure) with adequate provision for future fluctuations of the water table level so that groundwater inflows do not occur.

Note: It has been identified by the NSW Office of Water that the proposed development may result in prolonged adverse impacts on groundwater resources if the required dewatering occurs on anything other than a temporary basis. Therefore, the proposal must not incorporate provision for

the permanent or semi-permanent pumping of groundwater seepage from below-ground areas.

- (c) The limitations of Building Code of Australia Performance Provision FP1.5 do not apply to the Class 7 part of the building.
5. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (No. 387164M) for each dwelling in the development are fulfilled.
- Note: Relevant BASIX Certificate means:
- (a) 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
  - (b) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
  - (c) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
6. All internal pedestrian walkways and paved areas shall be unit paved. Large areas of asphalt or concrete are not permitted. The driveway crossover shall be constructed of plain broom finished concrete.
7. The consent given does not imply that works can commence until such time that:
- (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
    - (i) The consent authority; or,
    - (ii) An accredited certifier; and,
  - (b) The person having the benefit of the development consent:
    - (i) Has appointed a principal certifying authority; and
    - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
8. As this development involves an excavation below the water table these works are subject to a Council Drainage Charge for discharge of site dewatering to storm water and as such are required to submit an application to Council. A copy of a current bore license for dewatering is required to be submitted with this application. Unauthorised discharge to council road or stormwater system may result in a fine.

**CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY**

9. The following conditions form the General Terms of Approval dated 29 September 2011 by the NSW Office of Water and must be complied with:

**General and Administrative Issues**

- (a) Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) Suitable documents are to be supplied to the NSW Office of Water of the following:
  - (i) 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.
  - (ii) 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.
  - (iii) 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 pumped water.
  - (iv) Descriptions of the actual volume of pumped water (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 water to be reinjected.
  - (v) 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.

#### Specific Conditions

- (f) The design and construction of the structure must preclude the need for permanent dewatering.
- (g) The design and construction of the structure that may be impacted by any watertable must include a water proof retention system (i.e. a fully tanked structure) with adequate provision for future fluctuations of water table levels. (It is recommended that a minimum allowance for a water table 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.
- (h) Construction methods and material used in and for construction are not to cause pollution of the groundwater.
- (i) 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.
- (j) 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). 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.
- (k) 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 disposal of 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.
- (l) 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:
  - (i) The treatment to be applied to the pumped water (tailwater) to remove any contamination.
  - (ii) 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.

- (iii) The means to avoid degrading impacts on the identified beneficial use of the groundwater. Any reinjection proposal 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.
- (m) 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:
  - (i) 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.
  - (ii) 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.
  - (iii) Locations of settlement monitoring points, and schedules of measurement.

#### Formal Application Issues

- (n) 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.
  - (o) Upon receipt of a Development Consent from Council of the City of Botany Bay, a fully completed licence application form, 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.
  - (p) 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).
10. The proposed development is to comply with the General Terms of Approval dated 20 April 2011 issued by Sydney Airport Corporation Limited (SACL). The conditions are outlined as follows:

#### Height Restrictions

- (a) The PROPERTY DEVELOPMENT at 103-105 O'RIORDAN 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, Peter Bleasdale of the Civil Aviation Safety Authority (CASA), under Instrument Number: CASA 229/11, has advised that CASA “have no objections to the proposal to a maximum height of 47.82m AHD.”
  - (c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae etc.
  - (d) Should you wish to exceed 47.82 metres above Australian Height Datum (AHD), a new application must be submitted.
  - (e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.
  - (f) SACL advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
  - (g) 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.
  - (i) For further information on Height Restrictions please contact Ms Lynne Barrington on (02) 9667 9217.
  - (j) 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.
  - (k) 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”.
11. The proposed development is to comply with the recommendations provided by NSW Police Botany Bay Local Area Command, dated 10 October 2011. The conditions are

outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:

Passive Surveillance

- (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 CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas which are difficult to supervise.
  - (i) Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas.
  - (ii) 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) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
- (f) 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.
- (g) 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.
- (h) Public laundries, garbage disposal areas and other communal spaces should not be located in a building's '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.
- (i) Uneven building alignments, inset doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.
- (j) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime.

### Lighting

- (k) 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.
- (l) 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).
- (m) 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.
- (n) 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.

### Territorial Reinforcement

- (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.
  - (i) Warning, trespasser will be prosecuted
  - (ii) 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.
- (s) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
- (t) Signage needs to be provided to assist occupants to identify fire suppression equipment, eg extinguishers, fire hoses etc.

### Space Management

- (u) 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.emerency.nsw.clov.au> or Emergency Management Australia <http://www.emasiov.au>.

- (v) 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.

#### Access Control

- (w) The door and door frames to these premises should be of solid construction.
- (x) 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.
- (y) 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 inside 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.
- (z) 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.
- (aa) A boom gate should be installed within the underground car park located immediately after the roller door entrance. This will hold residents in the vicinity of the roller door to ensure no unauthorised persons enter after them. The boom gate will rise when the roller door is completely closed and allow the residents vehicle to move on.
- (bb) 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.
- (cc) 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.

12. The proposed development is to comply with the recommendations provided by Ausgrid. The conditions are outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:
  - (a) Following an investigation of electrical loadings in the area, including which might be expected for the proposed development, the provision of accommodation for an electricity substation within the premises is required.
13. The proposed development is to comply with the recommendations provided by the Roads and Traffic Authority (now known as Roads and Maritime Services), dated 24 October 2011, at the applicants cost. The conditions are outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:
  - (a) The design and construction of the gutter crossing on O'Riordan Street shall be in accordance with RTA's requirements. Details of these requirements should be obtained from RTA's Project Services Manager, Traffic Projects Section, Parramatta (telephone 8849 2496).
  - (b) The redundant driveways shall be removed and replaced with kerb and gutter to match existing.
  - (c) A raised central concrete median with the minimum width of 0.9 metre shall be provided in front of the proposed access. The proposed median shall be sufficiently long to prohibit the right turn movements in/out of the subject site.
  - (d) The proposed raised central concrete median along O'Riordan Street shall be designed to meet RTA's requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with the RTA's Road Design Guide and other Australian Codes of Practice.
  - (e) The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above works and as required by the various public utility authorities and/or their agents.
  - (f) "No Stopping" restrictions shall be provided along the frontage of the subject site.
  - (g) The certified copies of the civil design plans for the above works shall be submitted to the RTA for consideration and approval prior to the release of construction certificate by Council and commencement of road works.
  - (h) The RTA fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.
  - (i) The developer may be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the Works Authorisation Deed (WAD) will need to be executed prior to the RTA's assessment of the detailed civil design plans.

- (j) The Occupation Certification for the proposed development shall not be released until the raised central concrete median island in O'Riordan Street is fully constructed and operational to RTA satisfaction.
- (k) The developer is to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to the RTA for assessment. The developer is to meet the full cost of the assessment by the RTA.

This report would need to address the following key issues:

- (i) The impact of excavation/rock anchors on the stability of O'Riordan Street and detailing how the carriageway would be monitored for settlement.
- (ii) The impact of the excavation on the structural stability of O'Riordan Street.

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

- (l) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RTA for approval, prior to the commencement of any works.

The above details should be forwarded to:

Sydney Asset Management

Roads and Traffic Authority

PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before the RTA's approval is issued. With regard to the Civil Works requirement please contact the RTA's Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

- (m) All vehicles are to enter and leave the site in a forward direction.
- (n) A Demolition and Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control shall be submitted to Council prior to the issue of a construction certificate.
- (o) A Road Occupancy Licence should be obtained from the RTA for any works that may impact on traffic flows on O'Riordan Street during construction activities.
- (p) The proposed development should be designed such that road traffic noise from O'Riordan Street is mitigated by durable materials, in accordance with EPA criteria for new land use developments (The Environmental Criteria for Road Traffic Noise, May 1999).
- (q) All traffic control during construction must be carried out by accredited RTA approved traffic controllers.



- (r) All works/regulatory signposting associated with the proposed development are to be at no cost to the RTA.
- (s) 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.
- (t) Disabled car parking spaces are to conform to Australian Standards AS 2890.6:2009.
- (u) The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. A plan should be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- (v) The proposed turning areas are to be kept clear of any obstacles, including parked cars, at all times.
- (w) Site distance at access driveway is to be to AS 2890.1-2004 Figure 3.3, to ensure safe pedestrian and vehicle movements.

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

14.

- (a) The payment of \$1,000,000.00 in accordance with Council's Section 94 Contributions Plan 2005-2010, such contribution to be paid to Council prior to the issue of the Construction Certificate as follows:
  - (i) Community Facilities \$108,000.00
  - (ii) Administration \$4,000.00
  - (iii) Transport Management \$55,000.00
  - (iv) Open Space \$833,000.00

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

15. Prior to the issue of the Construction Certificate, the Applicant is to submit documentary evidence to the Principal Certifying Authority that the required Licence under the Water Act, 1912 has been obtained.

16. Plans submitted with the Construction Certificate shall demonstrate compliance with the following:

- (a) All residential unit size excluding balconies as minimum must be as followings:

- (i) 1 bedroom = 75m<sup>2</sup>
- (ii) 2 bedroom = 100m<sup>2</sup>
- (b) All residential units shall have a private open space area of 12m<sup>2</sup>.
- (c) Shoring details for the proposed basement construction shall be provided showing that access to adjacent properties is not required during excavation and construction works unless written agreement has been reached with the adjacent land owner allowing access and use of their land;
- (d) Any timber products shall be plantation, recycled or regrowth timbers grown on Australian Farms or State Forest plantations (and not rainforest or old-growth forest timbers);
- (e) The floor to ceiling area in the laundry, kitchen and bathroom areas shall be tiled to minimise surface and subsurface damage from water overflow and penetration;
- (f) The plumbing for each dwelling within a building is separated and contained so as to prevent noise transmission to other dwellings;
- (g) Four (4) of the dwellings shall be 'adaptable units' as required by Council's Multi Unit Housing and Residential Flat Building Development Control Plan No. 35. Such units shall be designed in accordance with AS 4299 and Council's DCP 35 (Section 3.3.13);
  - (i) A minimum of 50% of the storage requirements contained in Council's DCP No. 35 for Multi Unit Housing and Residential Flat Buildings shall be provided within the unit as required by DCP 35, and the remainder shall be provided in the basement.

Note: The storage requirements are:

- 1 bedroom apartment = 8m<sup>3</sup>
  - 2 bedroom apartment = 10m<sup>3</sup>
  - 3 bedroom apartment = 12m<sup>3</sup>
- (ii) The storage areas located in the basement shall be constructed using solid frame construction (e.g. sheet metal, not mesh) and each storage area shall be provided with a proper key lock that complies with Australian Standard AS:4145:1993. In addition, these isolated storage areas shall be monitored by CCTV cameras at all times.
- (h) A storage area of adequate dimensions shall be provided for the garden maintenance equipment;
- (i) Common walls separating one unit from another shall be constructed from solid masonry materials and not lightweight construction as required by Council's DCP 35, with such details shown on the plans submitted with Construction Certificate.
- (j) Maximum height of side / rear fence shall be restricted to 1.8 metres, and where such fencing is to be erected on or adjacent the common allotment boundary written consent of the adjacent owner(s) required;
- (k) Access gates shall be hung to swing inward;
- (l) Any palisade fencing located internally to the site shall have a maximum height of 1.5m height

17. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
- 18.
- (a) The Applicant shall engage a suitably qualified public artist, with experience in designing within an urban setting, to progress the conceptual interpretation, detailed design and construction of the Council gateway wall for the site, which shall be located on the corner of Gardeners Road and O’Riordan Street. The wall together with Council’s City Identity Structure shall be in proportion to the space so as to ensure visual impact and so that its presence is not diminished by the built element, and details to be submitted to Council prior to the issue of a Construction Certificate.
- The wall shall have conceptual grounding and meaning within the context of the locality and should draw on the past and present industrial history of the area as well as consider the changing nature of land use in the precinct.
- The wall should be interactive, allowing the public to engage with the piece. It may be partially connected to the built form for integration. Appropriate materials would be Coreten steel, other metal types used in various forms, perforated/punched metal, powdercoated steel, metal cables/wire, concrete. Timber, sandstone and brick would not be suitable. The element shall be of robust, vandal resistant materials and finishes. The artwork/sculpture is to be illuminated to enhance its setting and impact in the public domain.
- (b) The following matters shall be complied with to ensure that the artwork is satisfactory and in accordance with the requirements of Condition 18(a):
- (i) A site plan shall be provided to, and approved by, Council showing the location of the wall;
- (ii) The size and location of the wall shall be determined in conjunction with the Architect, Landscape Consultant and Council’s Landscape Architect, to ensure that its scale is appropriate within the landscape and built context.
- (iii) The concept design shall be submitted to, and approved by, Council;
- (iv) The wall shall be maintained in good order and appearance at all times, this includes removal of graffiti, repairs and refreshing surfaces.
- (c) The Wall with the Council’s City Identity Structure is be erected prior to the issue of the occupation certificate.
19. Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.

20. All plumbing stacks, vent pipes, stormwater downpipes, balcony drainage and the like shall be kept within the building and suitably concealed from view. This condition does not apply to the venting to atmosphere of the stack above roof level. Details shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.
21. The landscape areas shown on the 'Landscape Planting Plan – Ground Floor', dated 13th December 2011, shall be the subject of detailed landscape construction documentation (plans and specifications) that are to be submitted to and approved by Council. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP and conditions of consent. The detailed (construction level) plan shall include, but not be limited to:
- (a) A site plan showing building envelopes, paved areas and areas to be landscaped.
  - (b) A planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be a dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas.
  - (c) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking.
  - (d) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls with top of wall levels and proposed finishes.
  - (e) Areas of paving, schedule of materials, edge treatments and sectional construction details.
  - (f) All fencing, privacy screening and pergolas – elevations, heights and materials.
  - (g) Details of other landscape elements such as furniture, pedestrian lighting, sculpture, etc. Provide sectional construction details and elevations.
  - (h) Planter box on slab sectional details. Planter box depths to be in accordance with Council's Landscape DCP.
  - (i) Street trees, footpaths, kikuyu turf naturestrip, and any other public domain requirements included in the Conditions of Consent shall be shown on the landscape plan.
  - (j) Location of all stormwater and rainwater tanks, on site detention areas, and ensure deep soil availability for landscaping and tree planting is maximised. NOTE: detention tanks not permitted in street setbacks.
  - (k) Location of electrical kiosks and fire booster valves. Comply with conditions relating to their location and treatment.
  - (l) Specific amendments required to the design include:
    - (i) Replacement of the *Ficus microcarpa* 'Hillii' with a smaller canopied species, and inclusion of deciduous trees within the northern communal open space.

- (ii) Consideration of the suitability of selected tree species to grow on podium landscapes. E.g., *Corymbia maculata*.
- (iii) Rationalisation of the path system and formalise garden areas within the southern communal open space areas.
- (iv) Increase plant densities to ensure a dense coverage of planting in all planted areas.
- (v) Inclusion of a suitable evergreen tree species (min. 6-8 metres mature height) along the O’Riordan Street setback to provide year-round screening of the development. The private lawn areas along O’Riordan Street may be utilized to achieve a layering effect.
- (vi) Addition of public domain improvement works in accordance with Council’s Mascot Station Precinct specification and conditions of consent.

22.

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

23.

- (a) Prior to the issue of the Construction Certificate, the measures required in the Noise Impact Assessment Report prepared by Acoustic Logic Consultancy dated 21 June 2011 shall be undertaken in accordance with the provisions of AS2021-2000: Acoustics – Aircraft Noise Intrusion – Building Siting and Construction to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021-2000 shall be incorporated into the construction of the building;
- (b) Prior to the issue of the Construction Certificate, a compliance report from a suitably qualified acoustic consultant shall be submitted to Council indicating any required noise mitigation measures to the approved dwelling, as detailed in the NSW Road Noise Policy 2011 in accordance with AS 3671-1989 – Acoustic – Road Traffic Intrusion.
- (c) Items (a) and (b) above are to be incorporated into the detailed Construction Certificate plans.

24. The applicant shall submit to the Principal Certifying Authority prior to the issuing of the Construction Certificate details of plans showing that the car wash bay meets the following requirements. The car wash bay(s) must:

- (a) Have adequate parking and washing floor space, turning area, and water supply;
- (b) Minimise water use with appropriate devices (such as a gun-type nozzle which closes when released and a timer operative valve; collection and use of rainwater).
- (c) Have a water supply cut out/fail-safe mechanisms provided to ensure that mechanical failure; drainage blockage or lack of maintenance cannot result in wastewater surcharge into the stormwater system.
- (d) Be designed to ensure that over spray, drift of water or detergent does not cause a nuisance to persons, vehicles, residences, other buildings, neighbouring properties or the environment,
- (e) Be designed to ensure that spillages and wastewater is not discharged to the stormwater system or surrounding environment.
- (f) Be located so that washing can occur with minimal disturbance to other residents.
- (g) Ensure that noise emissions from the car wash down bay does not exceed 5dB(A) above the background noise levels at any time, as measured at the nearest residential property boundary and install noise effective barriers.
- (h) Be suitably identified.
- (i) Have good ventilation and good lighting.
- (j) Discharge to the sewer via appropriate pre-treatment
- (k) All car wash bays that discharge to sewer must meet the following requirements:
  - (i) The floor must be sealed and graded to an internal drainage point, so that all wastewater and surface spillage is directed and drains to the approved treatment and disposal point.
  - (ii) The wash bay is to be roofed and bunded so that all uncontaminated stormwater from the roof areas and uncovered areas, are directed away from the bay
  - (iii) The roof to the wash bay roof must be a minimum height of 2.5 m.
  - (iv) A bund must be constructed and maintained around the perimeter of the bay. The bund is to be protected from the entry of external surface waters, by either; a minimum 2% change in grade; or combination of a minimum 2% grade change and a grated drainage system.
  - (v) All uncontaminated stormwater/rainwater must be directed to the dedicated stormwater drainage systems.
  - (vi) The collection pit shall be a minimum of 1000 litres.
  - (vii) A Permission to Discharge Trade Wastewater certificate issued by Sydney Water must be obtained prior to the approval of the development.

- (a) A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the basement car parking area to ensure any visitors to the site can gain access to the visitor parking located within the basement car park. The details of the intercom system shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.
  - (b) A single master TV antenna is to be installed to service the development and provision made for connection to each dwelling unit within the development. Details shall be submitted to the Principal Certifying Authority prior to the release of a Construction Certificate.
- 26. 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. Details to be submitted to the Private Certifying Authority prior to the release of the Construction Certificate.
- 27. 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 prepared by a suitably qualified civil engineer experienced in stormwater drainage design and submitted to Principal Certifying Authority for approval. The construction plans shall be generally in accordance with the approved stormwater management plans and Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', AS/NSZ 3500 and BCA requirements.
- 28. 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.
- 29. Prior to the issue of any Construction Certificate, the applicant shall obtain a compliance certificate for the design of stormwater management system of the development from an Accredited Certifier (stormwater management facilities design compliance).
- 30. 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.
- 31. Prior to the issue any Construction Certificate, geotechnical investigation report shall be submitted to Council for review. The report shall prepared by a qualified geotechnical engineer and shall address the following:

- (a) The assessment of the temporary (during construction) and permanent impacts by the development on: -
    - (i) the existing water table, with the inclusion of flow net calculations and diagrams
    - (ii) the footings and buildings of the neighbouring properties and
    - (iii) the impact of excavation/ shoring on the stability of O’Riordan Street
    - (iv) the structural stability of road pavement on O’Riordan Street
  - (b) 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, or the future redevelopment of adjacent sites which may comprise basement car parking structures.
32. The required fire booster assemblies or other similar services required must be located in an unobtrusive location away from vehicle and pedestrian and vehicle entrances to the property and the main street setback, and shall be softened by screening treatments and/or landscaping so as not to reduce visual amenity of the development or the streetscape. The location of, and screening treatment surrounding the utility shall be shown on the plans submitted with the Construction Certificate and is required to be approved by Council’s Landscape Architect prior to its installation.
- 33.
- (a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the “e-developer” icon or telephone 13 20 92.
  - (b) 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 Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design. The Section 73 Certificate must be submitted to the Principle Certifying Authority prior to the Construction Certificate being issued.
34. Prior to issue of any Construction Certificate, the applicant shall provide details to Council for the civil works associated with the development to be carried out in public domain area (including road reserve area). All costs associated with the design and construction shall be borne by the applicant. The civil works in the public domain area shall include the following: -
- (a) Replace the existing above ground electricity and telecommunication cables on O’Riordan Street frontage of the site with underground cables to relevant authorities requirements.
  - (b) Design and construct kerb and gutter for the full O’Riordan Street frontage of the site.



- (c) Design and construct footpath paving and the landscaping in the road reserve area along the entire O’Riordan Street and Gardeners Road frontages of the site.
- (d) Design and construct the vehicular crossing fronting O’Riordan Street
- (e) Design and construct a concrete median on O’Riordan Street to Roads and Maritime Service (RMS) requirements. The median shall extend to minimum ten (10) metres south from the site,
- (f) Relocate the existing State/Permanent Survey Mark (SSM/PSM) on O’Riordan Street
- (g) Design and provide line marking and all necessary signage on O’Riordan Street to RMS’s requirements.
- (h) Design and construct stormwater drainage system from the site to the new kerb inlet gully pit and then to the existing Council’s drainage pit in O’Riordan Street. This work shall include construction of a new 2.4m long grated kerb inlet gully pit on O’Riordan Street.

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.

- 35. Prior to the issue of the Construction Certificate, the applicant shall submit documentary evidence to the Principal Certifying Authority that the required Section 138 Consent under the Roads Act, 1993 has been issued by NSW Roads and Maritime Services (former Roads and Traffic Authority) and Council for all the construction works in O’Riordan Street road reserve.
- 36. Prior to the issue of Construction Certificate, the existing State/Permanent Survey Mark (SSM/PSM) on O’Riordan Street shall be relocated and reinstated to the specification of the Land and Property Management Authority. A copy of the Location Sketch Plan of PM/SSM including reduced level (AHD) shall be prepared by a registered Surveyor and submitted to Council. The degree of horizontal and vertical accuracy shall be acceptable to the Land and Property Management Authority.
- 37. Prior to the issue of the Construction Certificate, construction plans shall be revised and submitted to Principal Certifying Authority. The revised construction plans shall address the following issues: -
  - (a) Total of ninety-four (94) off-street parking bays shall be provided to the basement car parking area. Minimum seventy-five (75) of these parking bays shall be allocated to residents and eight (19) shall be dedicated as visitor parking bays (including the two (2) car wash bays).
  - (b) The width of curve ramps between each basement shall be designed to comply with AS2890.1
  - (c) Swept paths of Medium Rigid Vehicle (MRV) shall be shown on the construction plans to demonstrate the proposed driveway, turning area and

- loading area of the development can accommodate the turning movements of this vehicle.
- (d) Vehicle queuing area between the vehicular control point (e.g. roller door/gate) and the property boundary shall be provided in accordance with AS2890.1. The minimum length of queuing area shall be sufficient to accommodate three (three) cars. Location of the vehicular control point shall be shown on the construction plan and certified by a suitably qualified engineer.
  - (e) The width of the vehicular crossing at the property boundary shall be widened to accommodate the turning movement of Medium Rigid Vehicle (MRV) entering and leaving the site.
38. Prior to the issue of the Construction Certificate, design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying loading area, vehicle queuing area fronting vehicular control point, vehicle access path, vehicle turning area and car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2 and AS2890.6
39. 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.
40. 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.
41. A detailed Construction Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to Principal Certifying Authority, Roads and Maritime Service (RMS) and Council for approval. The plan shall: -
- (a) be prepared by an accredited qualified person.
  - (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
  - (c) indicate: -
    - (i) construction vehicle access points of the site;
    - (ii) the largest construction vehicle accessing the site;

- (iii) the construction vehicles access routes from and to the site and;
    - (iv) frequency of construction vehicles movements
  - (d) ensure no construction vehicles to be allowed travel on local streets
  - (e) ensure the access to adjacent buildings and pedestrian and vehicular access fronting O’Riordan Street to be maintained at all times. No closure of any road reserve will be permitted without RMS and Council approval.
- 42. Detailed Construction Management Plan (CMP) shall be submitted to Principal Certifying Authority, Roads and Maritime Service (RMS) and Council for approval.
  - (a) The CMP shall address the following: -
    - (i) All vehicles (including worker’s vehicles) associated with construction activities shall enter and leave the site in a forward direction ONLY.
    - (ii) All vehicles (including worker’s vehicles) associated with the construction activities shall only park within the site. No parking of these vehicles to be allowed on Miles Street.
    - (iii) Construction building materials shall be stored wholly within the site
    - (iv) Vehicle and pedestrian access along O’Riordan Street shall be maintained at all times.
    - (v) Locations of site office, accommodation and the storage of major materials related to the project shall be within the site
    - (vi) Protection of adjoining properties, pedestrians, vehicles and public assets shall be implemented at all times
    - (vii) Location and extent of proposed builder’s hoarding and Work Zones, if there is any, shall be shown on the plan
    - (viii) Tree protection management measures for all protected and retained trees shall be implemented at all times
  - (b) Plan checking fee of \$1,000 shall be paid to Council.
- 43. 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.
- 44. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:
  - (a) Waste and recycling for commercial users shall be in a separate room from the storage of waste and recycling for residential users.

- (b) The rooms for the storage of garbage and recyclable materials shall be:
  - (i) fully enclosed;
  - (ii) adequately ventilated;
  - (iii) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
  - (iv) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.
  - (v) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
- 45. The following requirements apply to telecommunication facilities in the building:
  - (a) Appropriate access and space within the plant area of the building shall be provided for telecommunication carriers or other providers of broad-band access by ground or satellite delivery.
  - (b) Appropriate ducting and cabling shall be provided for telecommunication carriers or other providers for telecommunication access and broad-band cabling to each apartment of the building.

The details of (a) and (b) above shall be submitted for the approval of the certifying authority, prior to issue of a Construction Certificate for the building under the Environmental Planning and Assessment Act 1979.
- 46. In order to maximise visibility in the basement car park, the ceiling shall be painted white. Details submitted to the Principal Certifying Authority prior to release of the Construction Certificate.
- 47. On-site bicycle storage area shall conform to the current version of Council's guidelines for design of off-street parking facilities and bicycle rail to be designed in accordance with the current version of AS 2890. Details to be submitted to and approved by the Principal Certifying Authority prior to release of the Construction Certificate.
- 48. 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 shown on the Construction Certificate plans and any supporting documentation for the endorsement of the Principal Certifying Authority, prior to the release of the Construction Certificate.

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

49. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
- (a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
  - (b) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
    - (i) The additional load on the system; and
    - (ii) The relocation and/or adjustment of the services affected by the construction.
  - (c) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
50. Prior to the commencement of works, the applicant must inform Council, in writing, of:-
- (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
  - (b) The name and permit number of the owner-builder who intends to do the work.
  - (c) The Council also must be informed if:-
  - (d) A contract is entered into for the work to be done by a different licensee; or
  - (e) Arrangements for the doing of the work are otherwise changed.
51. The erection of the building shall not impart a noise or vibration nuisance to the land the buildings and the inhabitants of the surrounding locality and for this purpose the following criteria shall be observed
- Where pile driving is carried out anywhere on the site, the ground vibration when measured at the closest point at or within the ground floor and/or at any elevated floor of any commercial/industrial building which is technically in good order shall not exceed a peak particle velocity of 10mm/sec. For buildings with existing defects, having visible cracks the maximum peak particle velocity shall not exceed 5mm/sec.
- Where pile driving is carried out anywhere on the site, the ground vibration measured at the closest point at or within the ground floor and/or at any elevated floor of any commercial building shall be measured as peak velocity and shall not exceed Curve 4 of BS6472 - 1984. With respect to workshop premises the vibration levels induced by the pile driving shall not exceed Curve 8 of the above standard and Curve 2 for residential premises.
- In accordance with the New South Wales Environmental Protection Authority, Environmental Noise Control Manual, where there is the likelihood of annoyance from noise associated with the pile driving the L10 noise levels shall not exceed 65dB (A) or the background noise level by more than 10dB (A). These levels shall be measured external to the facade of any commercial or industrial premises. For residential

premises the noise levels shall not exceed 10dB(A) above background. Measurements to be taken at the residential boundary line.

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

52. There shall be no loss of support to the Council's nature strip area as a result of the construction within the site. Details prepared by a practicing Structural Engineer of how this support will be maintained during the demolition works shall be submitted to Council prior to the commencement of works.
53. Prior to commencement of works, the developer must submit to the Principal Certifying Authority an acoustic report covering the potential noise impacts from demolition and construction at the site. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants), and shall address the following matters:
- (a) All potentially noisy activities are to be identified,
  - (b) The duration of all potentially noisy activities are to be identified,
  - (c) Detail noise mitigation measures to minimise community disturbance and to meet the following conditions,
  - (d) Recommendations to inform the community of the type and duration of essential noisy activities, and
  - (e) Compliance with other relevant conditions of this consent.
- 54.
- (a) As this development involves an excavation below the water table these works are subject to a Council Drainage Charge for discharge of site dewatering to storm water. As such a formal application is to be submitted to Council prior to the commencement of any excavation works.  
  
Note: Council will not give permission for contaminated ground water to be discharged into its stormwater system.
  - (b) To discharge groundwater into the Council's stormwater system the applicant must supply the following:
    - (i) An Application to Council for permission to discharge water from site dewatering to Council's stormwater drainage system. The application must be made in writing to Council estimating volume and number of days involved and must be accompanied by a current dewatering license from the NSW Office of Water.
    - (ii) A copy of a current bore license from the NSW Office of Water for dewatering.

- (iii) For water to be permitted to go to stormwater the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Freshwater. As such, a report prepared by 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) If the groundwater is not suitable for direct disposal to the stormwater, any proposed treatment methods must be noted and accompanied by relevant documentation demonstrating the processes involved as well as engineering evidence of its applicability. (Note that Council reserves the right to refuse any proposed treatment methods. In the advent Council does not have the technical expertise to review a treatment method an independent third party review may be requested. The proponent will be required to pay for these works.).
55. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
56. Prior to commencement of any excavation or construction 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: -
- (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
  - (b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
  - (c) Permit for roads and footways occupancy (long term/ short term)
  - (d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve
  - (e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
  - (f) Permit to place skip/waste bin on footpath and/or nature strip
  - (g) Permit to use any part of Council's road reserve or other Council lands
  - (h) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area
  - (i) (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.)
- (j) Permit to establish “Works Zone” on public roads adjacent to the development site, including use of footpath area.
  - (k) (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 Engineering Services for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s))
57. Any soil disposed of offsite shall be classified in accordance with the procedures in the NSW EPA Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes (1999).
58. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into 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.
59. The applicant shall arrange with NSW Road and Maritime Services (RMS) for any required Road Occupancy Licence prior to commencement of any road works.
60. 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: -
- (a) Initial pre-construction on-site meeting with Council’s engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
  - (b) Prior to placement of concrete (kerb and gutter and footpath);
  - (c) Prior to construction and placement of road pavement materials; and
  - (d) Final inspection.
- Note:** Council’s standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.



61.

- (a) A detailed Traffic Management Plan for the pedestrian and traffic management of the site during demolition, excavation and construction shall be prepared and submitted to the relevant road authority (Council or Roads and Traffic Authority) for approval prior to commencement of any works. The plan shall: -
  - (i) be prepared by a RTA accredited consultant.
  - (ii) 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.
  - (iii) if required, implement a public information campaign to inform any road changes well in advance of each change.
- (b) 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.
- (c) During construction, all works and measures shall be implemented in accordance with approved Traffic Management Plan at all times.

### **DURING WORKS**

62. The proposed development shall comply with the following:

- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - (i) Stating that unauthorised entry to the work site is prohibited;
  - (ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
  - (iii) The Development Approval number; and
  - (iv) The name of the Principal Certifying Authority including an after hours contact telephone number.
- (b) Any such sign is to be removed when the work has been completed.

63. If the work involved in the construction of a building:

- (a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
- (b) involves the enclosure of a public place:
  - (i) a hoarding or fence must be erected between the work site and the public place.

- (ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
    - (iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
    - (iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
  - (c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
64. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.
65. During construction works, the applicant / builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
66. To prevent contaminated soil being used onsite, all imported fill shall be certified VENM material and 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.
67. During excavation and construction, the applicant shall ensure that all works and measures are being implemented in accordance with the following plan Approved for Stage 2 works:
- (a) Approved Soil and Water Management Plan;
  - (b) Approved Construction Traffic Management Plan and;
  - (c) Approved Construction Management Plan
68. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
69. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.

70. The operations of the site shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
71. The operation shall not give rise to offensive odour or other air impurities in contravention of the Protection of the Environment Operations Act 1997. The Principle contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- (a) Covering excavated areas and stockpiles,
  - (b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
  - (c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,
  - (d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
  - (e) All loads entering or leaving the site are to be covered,
  - (f) The use of water sprays to maintain dust suppression,
  - (g) Keeping excavated surfaces moist.
72. Building plans must be lodged at Sydney Water Quick Agent for approval prior to commencement of works.
- 73.
- (a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards, and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
  - (b) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
  - (c) 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.
74. The following shall be complied with during construction and demolition:

- (a) Construction Noise
    - (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
  - (b) Level Restrictions
    - (i) Construction period of 4 weeks and under:
      - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
    - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
      - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
  - (c) Time Restrictions
    - (i) Monday to Friday 07:00am to 06:00pm
    - (ii) Saturday 07:00am to 04:00pm
    - (iii) No Construction to take place on Sundays or Public Holidays.
  - (d) Silencing
    - (i) All possible steps should be taken to silence construction site equipment.
75. The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA Environmental Noise Control Manual.
76. Excavation and construction works shall comply with the following:
- (a) The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's or RTA's road reserve is required then separate applications are to be made at Council's Customer Services Department.
  - (b) 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.
  - (c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
  - (d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer

- (e) Shaker pads shall 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.
  - (f) Council nature strip shall be maintained in a clean and tidy state at all times during construction works.
77. 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.
78. During Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
79. All works carried out on the road reserve shall be inspected and approved by Roads and Maritime Service (RMS) and Council's engineer. Documentary evidence of compliance shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages: -
- (a) Initial pre-construction on-site meeting with RMS and 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
  - (b) Prior to placement of concrete (vehicular crossing, median, kerb and gutter and footpath)
  - (c) Prior to backfilling of proposed stormwater drainage system in the road reserve
  - (d) Final inspection
- Council's inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for any additional inspections undertaken by Council.
- 80.
- (a) Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

- (i) Erection of public infrastructure being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
- (b) Each toilet provided:
  - (i) Must be standard flushing toilet; and,
  - (ii) Must be connected:-
  - (iii) To a public sewer; or
    - (1) If connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
    - (2) 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.

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

81.

- (a) All existing aboveground service cables, including power lines, telecommunications cables and other similar services (“overhead service cables”) in the streets adjacent to and within the confines of the development site shall be placed underground at no cost to the Council in the following manner:
  - (i) Overhead service cables on the O’Riordan Street frontage to be undergrounded, starting from the existing pole “A” to existing pole “D” as shown on Plan No. 4 and No. 5 dated 14 June 2011 prepared by Lockley Land Title Solutions.
  - (ii) Existing street lights located within the footpath reserve along the O’Riordan Street frontage being street lights identified as being located on pole “A” to existing pole “D” as shown on Plan No. 4 and No. 5 dated 14 June 2011 prepared by Lockley Land Title Solutions, shall be replaced with new street lights in accordance with the requirements of Australian/New Zealand Standard AS/NZS 1158-1997 “Public Lighting Code” and the requirements of the Roads and Traffic Authority.

All of the works required by this condition must be completed prior to the issue of any Occupation Certificate.

- (b) Prior to issue of any Occupation Certificate, approval shall be obtained from Council and the responsible utility authority for street lighting. Detailed street lighting design and construction plans, prepared by a suitably qualified person, shall be submitted to Council for approval. The design shall be in accordance with AS 1158 and to Energy Australia’s requirements. Alterations/additions to street lighting shall be carried out by the responsible utility authority for lighting, or to the satisfaction of that authority, and all capital contributions associated with the installation of the lighting shall be

borne by the applicant. The proposal shall include details of all fixtures being proposed and underground power reticulation shall be allowed for in the design. P2 lighting design category shall be provided to all street frontages of the site.

82. Prior to the issue of any Occupation Certificate:

- (a) A minimum of 94 off-street car parking bays shall be provided to the development and allocated as follows:
  - (i) 75 car spaces to be allocated to residential dwellings at the following rate:
    - (1) 1 per 1 bedroom dwelling = 25 spaces
    - (2) 2 per 2 or more bedroom dwelling = 50 spaces
  - (ii) 19 car spaces to be dedicated as visitor parking bays (Note: including two (2) car wash bays); and,
- (b) All parking bays shall be clearly numbered and line marked.

83.

- (a) Prior to the issue of any Occupation Certificate, construction of the stormwater drainage system (including OSD systems and pump-out 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/NZS 3500 and BCA requirements.
- (b) Documentation from a qualified civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system (including OSD systems and pump-out system) has been constructed generally in accordance with the approved stormwater drainage construction plan(s) and accepted practice.

84. Prior to the issue of any Occupation Certificate, the applicant shall obtain compliance certificates for the construction and compliance of the stormwater management system. The certificate shall be obtained from the following categories of Accredited Certifier: -

- (a) Accredited Certifier (stormwater management facilities construction compliance)
- (b) Accredited Certifier (stormwater compliance)

85. 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.

86. The crossing shall be minimum 6 metres wide at the property boundary and at 90° to the kerb and gutter in plain concrete. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant prior to issue of the Final Occupation Certificate.
- 87.
- (a) Prior to issue of Final Occupation Certificate, the following civil works in public domain and road reserve area shall be completed to Council's satisfaction: -
    - (i) Construct new footpath (in accordance with the Mascot Station DCP) and reconstruct the existing kerb and gutter along the O'Riordan Street and Gardeners Road frontages of the site in accordance with Council's standard drawing,
    - (ii) Replace the existing above ground electricity and telecommunication cables on O'Riordan Street frontage of the site with underground cables to relevant authorities guidelines and requirements.
    - (iii) Design and provide appropriate street lighting to the O'Riordan Street frontage of the site in accordance with the relevant authorities requirements.
  - (b) All the works shall include but not limited to the following: -
    - (i) Reconstruction of road pavement, including road sealing with AC10 hotmix;
    - (ii) Construction/reconstruction of kerb and gutter (including kerb return), kerb ramp, footpath and street landscaping;
    - (iii) Construction of vehicular crossing;
    - (iv) Installation and provision of all traffic control signage and line marking associated with the works; and,
    - (v) Any relocation and adjustment of public utility services within the road reserve.
88. Prior to the issue of Final Occupation Certificate, the following documentation shall be submitted to Council and Principal Certifying Authority attesting this condition has been appropriately satisfied.
- (a) Written confirmation / completion certificate obtained from Council's engineers
  - (b) Inspection reports (formwork and final) for the works on public domain and road reserve area obtained from Council's engineer
  - (c) A copy of the approved engineering construction plans showing Work-as-Executed details (together with an electronic copy (DWG format)) for all the civil works on public domain and road reserve area. The plan shall be prepared by a registered surveyor.



89. The applicant is responsible for the installation and protection of all regulatory / parking / street signs fronting the site during construction. Any damaged or missing street signs as a consequence of the construction works associated with the development shall be replaced at full cost to the applicant Prior to the issue of the Construction Certificate.
90. Prior to issue of a Final Occupation Certificate:
- (a) A second Dilapidation Report, including a photographic survey shall 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.
  - (b) 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.
91. Prior to the issue of the Occupation Certificate the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in Condition 23 have been carried out and certify that the construction meets the above requirements and the indoor sound levels of AS2021-2000 and AS 3671-1989. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australia Acoustical Consultants).
92. The storage areas required in accordance with Condition 16 of Stage 2 shall be secure and provided with a proper key lock that complies with Australian Standard AS:4145:1993 as required by the NSW Police prior to issue of the Occupation Certificate.
93. Prior to issue of the Occupation Certificate, as required by Council's DCP 35:
- (a) Mailboxes shall be provided to all units in accordance with Australia Post standards;
  - (b) The name and address of the premises shall be displayed in a visible position;
94. 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 3.17:1 (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.

95. Prior to the issue of the Construction Certificate 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.
96. 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, resident and visitor parking area), loading area, driveways and vehicular access paths have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS 2890.2 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.
97. 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.
98. 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.
99. 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.
100. Prior to the issue of any Occupation Certificate, new vehicular crossing including layback and/or gutter and any associated road restoration shall be constructed in accordance with Council's requirements. The applicant shall make a separate application to Council's Customer Service Counter for the construction/ reconstruction of vehicular crossing (either by Council or own forces) to the vehicular entry point of the site as shown on the submitted approved plan.
- The crossing shall be able to accommodate the turning movement of Medium Rigid Vehicle (MRV) entering and leaving the site and at 90o to the kerb and gutter in plain concrete. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant.
101. Prior to issue of Final Occupation Certificate, all civil works in public domain area (including kerb and guttering, footpath paving, stormwater drainage system 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.
- (a) Written confirmation / completion certificate obtained from Roads and Maritime Services (RMS) and Council.

- (b) Inspection reports (formwork and final) for the works associated with the civil works construction obtained from RMS and Council.
  - (c) A copy of the approved engineering construction plans of the civil works showing Work-as-Executed details (together with an electronic copy) prepared by a registered surveyor.
102. Prior to the issue of Final Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels shown upon the approved plans, with relation to drainage, boundary and road reserve levels, have been strictly adhered to.
103. The Council nature strip shall be suitably repaired and/or replaced in accordance with Council Specification at the completion of construction work and at the Applicant's expense prior to the issue of the Construction Certificate.
104. Prior to the issue of the Construction Certificate street tree planting works shall be shown on the submitted landscape plans, and shall consist of the following, and be in accordance to Council's Landscape DCP (No.32):
- (a) Nine (9) x *Corymbia maculata* (Spotted Gum), 3-4 metres in height with a minimum pot size 400 litre, shall be installed in the O'Riordan Street naturestrip at 8 metre centres as per Council's specification.
  - (b) Four (4) x *Lomandra longifolia* 'Tanika', 150mm pot size to be installed in each individual tree pit along O'Riordan Street.
  - (c) The trees shall be planted in an area measuring 1 metre square, backfilled with imported soil/compost, water holding additive and fertiliser, aeration and irrigation pipe, and mulched with leaf mulch to a depth of 100mm. The trees are to be staked in accordance with Council's Landscape DCP and NATSPEC recommendations.
  - (d) Timber edging (32x100mm with 50x50mm stakes) shall be installed in the form of a 1-metre square tree pit surround for each street tree.
  - (e) The trees shall be sourced from a reputable supplier that grows to NATSPEC.
  - (f) Rigid polyethylene sheet type tree root barriers shall be installed adjoining all pavement surfaces and kerb and gutter edge for all new street trees for a depth of 900mm, located 150mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the root ball are not permissible. The Applicant is required to contact Council's Landscape Architect for an inspection of root barriers located within the public domain prior to backfilling and turfing.
  - (g) A Dial-Before-You-Dig enquiry is required before all tree plantings and other groundbreaking works.
  - (h) The Applicant is required to contact Council's Landscape Architect for an inspection of new trees prior to the maintenance period commencing.
  - (i) The new street trees shall be maintained by the Applicant / Owner / Strata for the duration of the 5-year landscape bond period. Maintenance includes twice

weekly watering in the first 3 months and weekly watering thereafter (or as required), feeding, and weed removal. Maintenance does not include trimming or pruning of trees.

105. Prior to the issue of the Construction Certificate the public footpath in O’Riordan Street and Gardeners Road shall be upgraded, providing new paved footpath 1.5 metres wide abutting the property boundary. Paving shall be as follows and constructed in accordance with Council’s Mascot Station Streetscape Specification.
- (a) HEADER / BANDING: Adbri Masonry Havenslab (400x200x50mm, Honed Oatmeal with river gravel aggregate) header course and banding (5 metre centres). Pavers shall be laid on 30mm (+ / - 5mm) mortar bed over 75mm thick concrete base.
  - (b) INFILL: Adbri Masonry Havenslab (400x200x50mm, Honed Ebony with bluestone aggregate) infill. Pavers shall be laid on 30mm (+ / - 5mm) mortar bed over 75mm thick concrete base.
  - (c) No variations to paver selections are permitted.
106. Prior to the issue of the Construction Certificate:
- (a) An experienced Landscape Contractor shall be engaged to undertake the landscaping and footpath pavement work and shall be given a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
  - (b) The contractor shall be engaged weekly for a minimum period of 13 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.
107. Prior to the issue of the Construction Certificate to ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required to be installed in all landscape areas by a suitably qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Underground detention tanks shall include provisions for approved mains filling via an electronic float cut-off switch, allowing partial filling. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
108. Prior to the issue of the Construction Certificate:
- (a) Planter boxes constructed over a concrete slab shall be built so as to ensure soil depths strictly in accordance with Council’s Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes. Turfed areas require a min. 5% cross fall.

- (b) A “hob” shall be constructed on the inside of the planter to ensure there is no water seepage between the floor and walls of the planter to external paved areas.
- (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. All internal sealed finishes are to be sound and installed to manufacturer’s directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling.
- (d) Drainage cell must be supplied to the base and sides of the planter 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 and which complies with AS 4419 and AS 3743. Install drip irrigation. Pop-ups may be provided to lawn areas provided they use recycled water.
- (e) Planter boxes shall be finished externally with a suitable paint or render to co-ordinate with the colour schemes of the building.
- (f) All planter boxes / podium landscapes must have a minimum depth of 1.0 metres.

109.

- (a) In order to ensure that the required on-site detention, infiltration and rainwater reuse systems 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, infiltration and rainwater reuse systems. 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, infiltration and rainwater reuse systems, 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.
- (b) 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.
- (c) That car parking for the residential part is not to be to sublet or used for any other purpose, this is to be included as positive covenant and restriction on the use of the land on the title for any strata subdivision.

110. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the issue of the Occupation Certificate.
111. Prior to the issue of any Occupation Certificate a maintenance schedule shall be submitted to the Principal Certifying Authority for approval as to the ongoing maintenance and upkeep of the finishes and materials to the building. This shall include, but not be limited to the following:
- (i) The exterior of the buildings being painted at least once in every ten year period;
  - (ii) The externally visible windows of the buildings being washed once every year; and
  - (iii) The metal screens and any fencing to the building and site being protected against fading/discolouration and warping.
- 112.
- (a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.
  - (b) Condition No.'s 18(c), 81-111 are pre-conditions prior to the issue of the Occupation Certificate.

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

113. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for 9 months after planting. Maintenance includes twice weekly watering in the first 4 months, then weekly thereafter to sustain adequate growth, weed removal round the base and replenishment of 100mm depth organic mulch base. Maintenance does not include trimming, pruning or shaping of the trees under any circumstances at any time during the maintenance period or outside this period.
114. The landscape contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time monthly maintenance is required.
115. The ongoing maintenance of the Council nature strips surrounding the site shall be undertaken by the occupiers/ owners or body corporate. Maintenance includes mowing, watering, removal of weeds and rubbish and maintaining an even coverage of grass at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees located on the road verge/ nature strip at any time. Pruning work etc is undertaken by Council only.

116. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired in accordance with the maintenance schedule submitted to Council to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
117. All vehicles shall enter and exit the site in a forward direction and are restricted to left in and left out onto O’Riordan Street only.
118. Vehicles making deliveries and/or or loading and unloading shall comply with the following requirements: -
  - (a) Vehicles accessing the site shall be limited to Medium Rigid Vehicle (MRV) or smaller as defined by AS 2890.2. No vehicles larger than B99 vehicles (as defined by AS2890.1) shall be permitted to access basement car parking area.
  - (b) All loading and unloading activities associated with the site (including garbage collection) shall take place wholly within the dedicated loading/unloading area.
  - (c) 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 etc)
119. All parking bays and loading/unloading area shown on the approved architectural plans shall be set aside for parking and loading/unloading purpose only and shall not be used for other purposes, e.g. storage of goods.
120. Vehicle turning areas shall be kept clear at all times and no vehicles is permitted to park in these areas.
121. The drip irrigation system required to be installed prior to issue of the Occupation Certificate shall be maintained in effective working order at all times.
122. Any air conditioning units shall comply with the following requirements:
  - (a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
  - (b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- (i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
    - (ii) Before 7 am or after 10 pm on any other day.
  - (c) The transmission of vibration to any place of different occupancy above the requirements of AS2670, Australian Standard AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction. Australian Standard AS2107 2000: Recommended Design Sound levels and Reverberation levels for Building Interiors.
  - (d) Any air-conditioning unit shall comply with the City of Botany Bay's General Noise Criteria detailed in Condition 105 below.
123. The proposal shall comply with the City of Botany Bay's General Noise Criteria is as follows:
- (a) The operation of all equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
  - (b) The operation of all equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40dB(A) night time.
  - (c) The operation of all equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
  - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 'Offensive noise' as defined in the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Noise Control) Regulation 2000, (See advisory notes).
124. The approved Waste Management Plan for the site prepared by Elephants Foot Waste Compactors Pty Ltd (Dated 12th July 2011) shall be complied with at all times during demolition works, construction works, and use of the premises.
125. The Owners Corporation or building owner shall be provided with at least one copy of the waste management plan. The approved Waste Management Plan shall be complied with at all times.
126. All waste and recycling containers shall be stored in the designated waste storage area. The waste containers shall not be over filled and the lids kept closed at all times except when material is being put in them. The Owners Corporation or building owner shall be responsible for the following:
- (a) Where waste and recycling containers need to be moved to the street,



- (b) Movement of the waste and recycling containers to the footpath for collections, and the return of waste and recycling containers to the waste storage area,
  - (c) Refuse containers are to be returned to the waste storage area on the same day as the refuse is collected,
  - (d) Refuse containers are not to be left on the street for longer than 24 hours.
  - (e) Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers.
  - (f) Providing and maintaining signage and information to uses to encourage recycling.
127. All waste and recycling containers shall be stored in the designated waste storage area. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The occupier shall be responsible for cleaning the waste storage area, equipment, and waste collection containers.
128. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or like vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.
129. A development application shall be lodged with Council for the provision of satellite dishes that are not exempt at the premises.
130. The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces identified by the NSW Police in Condition 12, shall be monitored by CCTV cameras at all times.
131. Roller shutters to windows and doors are not permitted if visible from street.
132. The name of the development, street numbers and unit numbers shall be clearly displayed with such numbers being in contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval prior to the release of the Construction Certificate.
133. 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. 11/135 dated as 18 July 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