Joint Regional Planning Panel

(Sydney East Region)

Meeting Date:11 October 2012

JRPP Number:	2012SYE045
DA Number:	11(274)
Local Government Area:	Botany Bay
Proposed Development:	Demolition of existing structures and construction of 113 residential apartments, retail / commercial show rooms, associated car parking, loading facilities and landscape treatment.
Street Address:	182-196 O'Riordan Street, Mascot
Applicant:	Krikis Tayler Architects
Number of Submissions:	Six (6) objections including one petition comprising nineteen (19) signatories
Recommendation:	Approval – Deferred Commencement
Report by:	Rodger Dowsett, Director Planning and Development, City of Botany Bay

Precis

Council received DA 11/274 on 22 December 2011. The application sought approval for the demolition of existing structures and construction of 108 residential apartments, arranged as two separate building forms over podia containing commercial showrooms, associated basement parking and loading facilities at the property known as 182-196 O'Riordan Street, Mascot.

The development application (DA) was presented to Council's Design Review Panel (DRP) on 29 February 2012. The subsequent report of the DRP resulted in a series of amendments to the scheme. Substitute plans and other supporting information were received by Council on 10 May 2012.

The key amendments to the proposal included:

- increase in yield from 108 apartments to 113 apartments;
- reduction in the footprint of the southern building to increase the separation between the proposed building and the existing residential flat building to the east;
- refinement of the façade treatment of both buildings in an effort to reduce their apparent bulk and achieve a more slender vertical emphasis;
- reduction in the footprint of the uppermost levels of both buildings and simplification of roof forms; and
- inclusion of external elements designed to afford protection from the sun – sun hoods and screens – which have been integrated into the façade treatment.

The additional dwelling yield and other modifications to the scheme resulted in an increased capital investment value to $21,000,000 which, pursuant to the requirements of State Environmental Planning Policy (State and Regional Development) 2011, requires referral of the application to the Joint Regional Planning Panel (JRPP) for determination.

The application was registered with the JRPP on 12 July 2012.

The DA was publicly exhibited and adjoining property owners were notified by mail. The exhibition commenced on 22 May 2012 and concluded on 22 June 2012. A total of six (6) submissions, including a petition comprising 19 signatories were received. The issues raised in these submissions are discussed in the body of the report.

In response to the concerns raised by residents during the exhibition period in relation to height, bulk and scale, overshadowing, loss of privacy, traffic impacts, waste management and parking, a Community Consultative Committee Meeting with the residents was convened by Council officers on 16 August 2012.

The outcomes of that meeting, together with further detailed assessment by Council officers and advice received from various agencies and government authorities resulted in the applicant making further modifications to the scheme, including:

- change in the apartment mix (total number of 113 units remains unaltered);
- more detailed shadow impact analysis, including 3D modelling;
- reconfiguration of vehicular access to create a one-way traffic flow through the basement car park with ingress from King Street only and egress to High Street;
- supplementary traffic and parking assessments to reflect the altered vehicular access arrangements;
- minor adjustments to the internal layouts of certain apartments to improve access to natural light and ventilation;
- minor modifications to windows, including provision of privacy screens; and
- amended landscape plan which reflects the changes to the access arrangements.

The documentation pertaining to these changes and requests for additional information was received by Council on 22 August 2012 and 29 August 2012. This material was forwarded to the JRPP Secretariat on 23 August and 30 August 2012.

Due to concerns raised by residents at the Community Consultative Committee Meeting, Council agrees to engage a solar access consultant to check the accuracy of the analysis as submitted with the DA. An independent consultant was subsequently engaged and the results of the review revealed that the 3D computer modelling and analysis were accurate and that solar access to the adjoining properties was within acceptable limits.

As part of the State Environmental Planning Policy 65 (SEPP 65) assessment, Council commissioned the same consultant to examine the accuracy of the performance of the proposed development in terms of solar access and cross ventilation. Whilst compliance with the cross ventilation requirements was confirmed, a significant non-compliance with the solar access provisions was revealed - only 51% of dwellings could achieve the 3 hours solar access required by SEPP 65. This was found to be largely due to the inclusion of large recessed balconies off the primary living areas which comply with Council's DCP requirements for private open space but inhibit the achievement of sun on glazing to the living areas.

On 25 September 2012 the applicant submitted further information which demonstrated modifications to some 22 apartments which would enable both the North and South buildings to improve compliance with the SEPP 65 solar access standards. The modifications are predominantly contained within the previously proposed external building envelope, with the exception of one apartment on Level 7 of the North Building which now includes a minor "pop-up" roof extension containing a clerestory window.

The flow-on effects associated with these amendments are a marginal increase in GFA (to 3.32:1) and some minor reductions in the balcony sizes to some of the affected apartments (which does not present a compliance issue). In relation to the minor increase in GFA it is noted that all additional floor area is contained within the building envelope as proposed.

The proposed floor space ratio (FSR) of 3.32:1 exceeds the allowable FSR of 1:1 (0.5:1 base FSR plus up to 0.5:1 additional for sites with an area in excess of 2,500m^2) within the Residential 2(b) zone. The development application was accompanied by a State Environmental Planning Policy No. 1 (SEPP 1) Objection which seeks a variation to Clause 12(2) of Botany Local Environmental Plan 1995 in relation to the permitted FSR for the site.

It is considered that the proposed development is a well-conceived response to all the relevant planning controls and strategies, constraints and opportunities presented by the site.

Accordingly, it is considered that the development standard relating to the maximum FSR development for the site as contained within Clause 12(2) of the Botany LEP, should be varied in the circumstances to allow the development to attain a floor space ratio of 3.32:1.

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

It should be noted that the Aquifer Interference Policy was released on 13 September 2012. Preliminary advice from the Office of Water indicates that the Policy will have implications for the proposed development, as there are activities proposed that will most likely classify as 'aquifer interference' and as a consequence, the NSW Office of Water will have requirements that will need to be addressed.

The Office of Water has indicated that the specific implications of the new Policy are currently being determined and at the time of preparing this report, was not in a position to issue concurrence and the general terms of approval.

Accordingly, development consent cannot be issued until such time as concurrence and the general terms of approval are issued by the NSW Office of Water.

The recommendation is for approval as a Deferred Commencement consent.

Officer Recommendation

It is recommended that the Joint Regional Planning Panel, as the Consent Authority in this instance, resolve, subject to:

(i) receipt of concurrence from the NSW Office of Water; and
(ii) no objections to the proposed traffic and access arrangements being raised by Roads and Maritime Services

THAT:

1. DA 11/274 for the demolition of existing structures on the site and the construction of 113 residential apartments contained in two (2) separate buildings, six (6) small retail / commercial show rooms located at ground floor in both buildings on the O'Riordan Street frontage, basement car parking for 205 cars, associated loading facilities and landscape treatment at the property known as 182-196 O'Riordan Street, Mascot be approved as a deferred commencement consent subject to the following:

<u>RailCorp</u>

2. The applicant shall prepare and provide to RailCorp for approval / certification the following items:

   (i) Final Geotechnical and Structural Report / drawings that meet RailCorp's requirements. The Geotechnical Report must be based on actual borehole testing conducted closest to the rail corridor.
   (ii) The type, location and depth of foundations as well as their design stresses are to be provided. The foundation loads are to be outside the rail tunnel's zone of influence.
   (iii) Final Construction methodology with construction details pertaining to structural support during excavation based on the Geotechnical Report. The applicant is to be aware that RailCorp will not permit any rock anchors / bolts (whether temporary or permanent) within its land or easements.
   (iv) Final cross sectional drawings showing ground surface, rail tracks, sub-soil profile, proposed basement excavation and structural design of sub ground support adjacent to the Rail Corridor. All measurements are to be verified by a Registered Surveyor.
   (v) Detailed Survey Plan (prepared by a Registered Surveyor) showing the relationship of the proposed development with respect to RailCorp's land and infrastructure.
   (vi) A Structural Engineer's Report on the effects of the development on the rail tunnel.

   Note: Any conditions issued as part of RailCorp's approval / certification of the above documents will also form part of the consent conditions that the applicant is required to comply with.

<u>Stormwater Management</u>

3. The applicant shall revise the On Site Detention (OSD) system to ensure stormwater runoff generated from the development can 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).

   This consent is not to operate until such time as the revised Stormwater Management Plan is submitted to and approved by Council.

Pursuant to Clause 95(3) of the Environmental Planning and Assessment Regulation 2000, the period of the deferred commencement shall be twelve (12) months.

4. That the Joint Regional Planning Panel support the request for a variation to the maximum floor space ratio standard contained in Clause 12 of Botany Local Environmental Plan 1995, having regard to the justification provided in the Objection made pursuant to SEPP 1 made by the applicant.

5. That objectors be notified of the Joint Regional Planning Panel's decision.

Report Background

SITE DESCRIPTION

The subject site to which the development application relates is formed by the following allotments, in their legal descriptions as follows:

- Lots 5-15 in DP 864234;
- Lot G in DP 356472; and
- Lot 1 in DP 317539

The combined area of the above lots is 3,693m^2.

The site has frontage to O'Riordan Street (46m), King Street (32m) and High Street (33m).

The site is generally level with a slight cross fall of approximately 2m from north to south.

Roads and Maritime Services (RMS) owns an adjacent site approximately 19m wide along the O'Riordan Street frontage which is reserved for road widening. Whilst this land does not form part of the site subject site, the applicant has agreed to enter into a VPA to embellish the road reserve.

EXISTING AND SURROUNDING DEVELOPMENT

Mascot is located in a prominent position within the Botany Bay LGA as it abuts the airport, contains Mascot Station (part of the Airport Link railway line) and has access to the major regional and State road networks.

The suburb currently comprises a range of land uses including industrial/airport related, residential and retail. These uses are clearly segmented - with industrial uses predominantly located in the area defined by O'Riordan Street, the Alexandra Canal, Gardeners Road and the airport. The linear retail strips situated along Botany Road and Gardeners Road and the residential uses occupy the remaining parts of the suburb.

Existing housing stock in the suburb is dominated by dwelling houses, interspersed with a number of pockets of medium density housing.

Council recognises that O'Riordan Street in the vicinity of the subject site will undergo a transition, which will result in a new urban character due to its close proximity and

gateway link to and from the Airport. The site is located to the south of Mascot Station Town Centre Precinct which is a key growth centre in the City of Botany Bay and is currently experiencing increased residential and employment densities.

Adjoining Development

The site is located on the eastern side of O'Riordan Street between King and High Streets, approximately 300 metres to the north of the entry to the Domestic Airport precinct. Development immediately adjacent to the site comprises:

- To the North (opposite side of King Street) - an area of mixed industrial / commercial buildings, predominantly 2 storeys in height, with on grade parking and loading;
- To the South (opposite side of High Street) is an area of one and two storey cottages;
- To the East are two parcels of land which contain strata titled residential flat buildings, as follows:
    - the building at No. 107 High Street comprises a series of garages at ground level with 3 levels of apartments above. It observes setbacks from the common boundary with the subject site ranging between 2.7m and 7.5m; and
    - the existing building at No. 318 King Street observes a setback of 2.7m from the common boundary. It comprises 10 apartments with garages at ground level and 2 levels of apartments above.
- Immediately to the West of the site is an area of land reserved for road widening which is owned by Roads and Maritime Services (RMS). It is currently used for parking of caravans and campervans.

THE PROPOSAL

The development application seeks consent for the demolition of existing structures and construction of 113 residential apartments contained in two (2) separate buildings, six (6) small retail / commercial show rooms distributed across the ground floor in both buildings on the O'Riordan Street frontage, associated basement car parking, loading facilities and landscape treatment at the property known as 182-196 O'Riordan Street, Mascot.

The specifics of the proposal are detailed in the following paragraphs.

General Arrangement

Figure 1 below illustrates the siting of the proposed development within the site.

The built form is arranged as two separate tower elements over podia containing some six (6) retail / commercial tenancies, with a total GFA of 473m^2. The commercial / retail tenancies are oriented to O'Riordan Street to provide activation at ground level.

The Northern Building addresses both King Street and O'Riordan Street and achieves a height of 9 storeys or 26 metres (RL 37, measured to the top of the lift overrun). The Southern Building, with a height of 14 storeys or 43.25 metres (RL 51) addresses both High Street and O'Riordan Street.

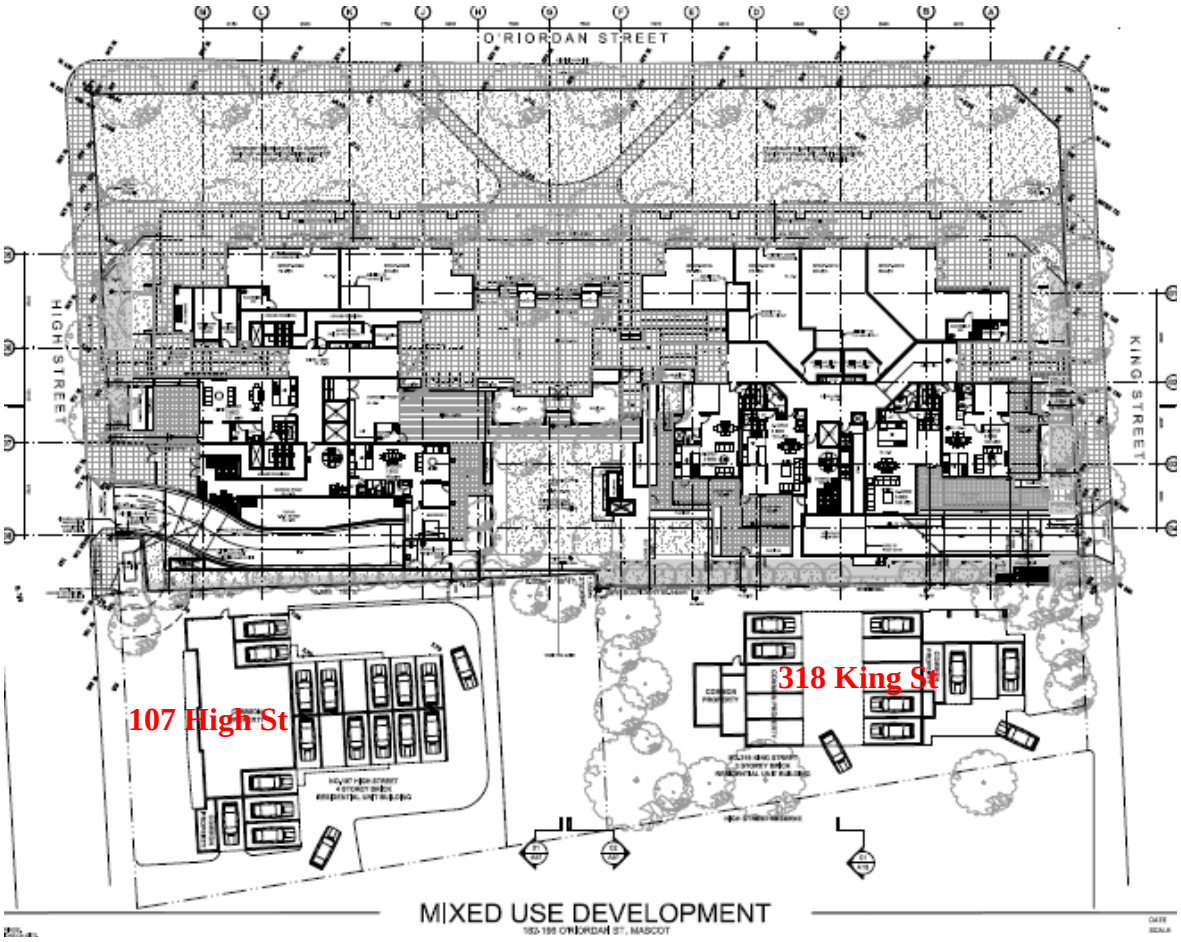

Figure 1Site plan

The two buildings are constructed over a shared two level basement car park which provides parking for a total of 205 cars. All ingress to the basement will be via a 3.5 metre wide driveway from King Street (located approximately 40m from the intersection with O'Riordan Street) and all egress via a 5.0 metre wide driveway to High Street. The car park allows for modest areas of deep soil on the north, south and eastern perimeters of the site, facilitating buffer planting and preservation of trees on adjacent sites.

The tower elements are separated by a common open space within the mid zone of the site which broadly corresponds with the open space between the existing residential apartment buildings to the east of the site and facilitates a visual / landscape connection to the High Street Reserve to the east.

The form and siting of the buildings provide an activated commercial presence to O'Riordan Street, whilst forming a protective buffer to the residential component and common open space located in the centre of the site.

Pedestrian access to the residential towers is achieved via King and High Streets. The lobbies provide through-access from the streets as well as from the central common open space. This arrangement provides a discrete "address" for each building as well as creating a positive relationship to and activation of the landscaped communal open space within the development.

<u>Northern Building</u>

This building comprises a two-storey podium constructed to the O'Riordan Street property boundary and 7 levels above contained within the tower element – total 9 storeys.

The entries to the retail / commercial spaces will be directly from O'Riordan Street which serves to activate this frontage. A commercial lift is located centrally between the north and south podia and provides access from the basement car park.

Figure 2 Northern Building, streetscape elevation to King Street (Southern Building at rear)

The commercial / retail tenancies are double height spaces. Four (4) two storey residential apartments sit behind these tenancies, occupying the eastern part of the building. These dwellings are designed to provide live / work accommodation. Access to these dwellings is achieved either directly from the King Street lobby or from a landscaped internal pedestrian pathway within the eastern edge of the site, which links the King Street frontage to the central landscaped space within the site.

At Level 2, the tower element of the Northern Building steps back 4.0 metres from the edge of the podium on the O'Riordan Street frontage. This arrangement serves to distinguish the residential from the non-residential components and provides a buffer from the O'Riordan Street. Apartments on Level 2 enjoy have access to large terraces, significantly increasing the quantum of private open space available to them.

The tower element comprises a total of seven (7) residential levels. The typical floors of the Northern Building comprise six (6) apartments per floor:

- two (2) x north facing;
- three (3) x north – west; and
- two (2) x north east facing.

Level 8 occupies a reduced footprint and incorporates the upper level of 2 x 2 storey apartments, as well as communal facilities including a communal room and roof terrace / barbeque area.

The residential lobby is a through-design with access and presence to King Street (creating an "address" for the building) and also from the central landscaped space. All typical apartments are accessed via lift from the ground floor lobby or via the lift from the basement car park.

The Northern Building contains a total of 40 apartments as follows:

12 x 1 bedroom
22 x 2 bedroom

6 x 3 bedroom (four of which are live / work dwellings on the ground floor)

Southern Building

This element of the proposal adopts a similar arrangement to the building on the northern part of the site. It aligns with the O'Riordan Street frontage and comprises a two storey podium occupied by retail / commercial space which addresses and is accessed from O'Riordan Street, with a tower element comprising 12 levels of residential apartments above – total 14 storeys.

The residential tower element is stepped back from the O'Riordan Street frontage in a similar manner to the Northern Building. Level 13 occupies a reduced footprint, creating a tapering of the tower form. This level comprises the upper level of the three (3) x 2 storey apartments access on Level 12 below. The lift overrun and other plant and equipment is also incorporated within Level 13.

The typical floor of the tower element features six, single level apartments, arranged as follows:

- 3 x facing north;
- 1 x facing north-east;
- 1 x facing north-west; and
- 1 x south facing.

Portions of the northern and southern facades of the residential tower element continue to ground level, where 1 x single level and 1 x two storey apartment offer live / work accommodation. The 2 storey apartment is accessed directly from High Street, whilst access to the single level apartment is achieved via the central landscaped open space.

Figure 3 Southern Building, streetscape elevation to High Street

The lobby for the residential tower is a through-design with access to High Street creating the "address" for the building; and secondary access from the central landscaped space. All typical apartments are accessed from the common lobby by lift or via the lift from the basement car park.

The ground level of the Southern Building includes a residents' common meeting room which is accessed from the ground floor lobby. This facility opens out onto the central landscaped open space.

The upper levels of the building (Levels 12 and 13) are terraced back from the north and the south to provide a slightly tapered effect and to provide larger terrace areas for the

three top level apartments. The top level apartments are accessed at Level 12 below, thereby reducing the lift overrun and the overall height of the building.

The Southern Building contains a total of 73 apartments as follows:

1 x studio
24 x 1 bedroom
46 x 2 bedroom
2 x 3 bedroom

PLANNING CONSIDERATIONS

The proposed development has been assessed under the provisions of the Environmental and Planning Assessment Act, 1979. The matters below are those requiring the consideration of the Joint Regional Planning Panel.

Section 79C (1) Matters for Consideration - General

Provisions of Environmental Planning Instruments (S.79C(1)(a)(i))

Environmental Planning and Assessment Act 1979 – Integrated Development

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

The Aquifer Interference Policy was released on 13 September 2012. This Policy:

1. clarifies the requirements for obtaining water licences for aquifer interference activities under NSW water legislation; and
2. establishes and objectively defines considerations in assessing and providing advice on whether more than minimal impacts might occur to a key water-dependent asset.

Importantly, this Policy will assist proponents of aquifer interference activities in preparing the necessary information and studies to be used by the Minister in the assessment of project proposals that have some level of aquifer interference.

Furthermore, this Policy will form the basis of the assessment and subsequent advice provided by the Minister (or the NSW Office of Water) at the various stages of an assessment under the *Environmental Planning and Assessment Act 1979*.

Preliminary advice from the Office of Water indicates that the Policy will have implications for the proposed development, as there are activities proposed that will most likely classify as 'aquifer interference' and as a consequence, the NSW Office of Water will have requirements that will need to be addressed.

It is likely that concurrence will be reliant on the development being constructed with a fully 'tanked' (watertight) basement as indicated in the preliminary geotechnical report and reiterated within the supplementary geotechnical report. The Office of Water expects that this requirement will be adopted by the applicant for all stages of the development, not just for this initial application stage.

The predictions in the modelling report suggest that over 100 ML will be extracted from the site over the modelled six month dewatering period. The Office of Water is expected to require the applicant to obtain a Water Access Licence (WAL) to authorise the take of the total volume of groundwater, and it is likely that this will need to be purchased from another licensee. There may also be specific approvals required for the works used in the dewatering activity, but this has yet to be determined by the Office of Water.

In view of the preceding comments it is apparent that development consent cannot be issued until such time as concurrence and the general terms of approval are issued by the NSW Office of Water.

State Environmental Planning Policy (Infrastructure) 2007

Clause 85 of the SEPP (Infrastructure) 2007 requires that development applications for development within 25 m of the rail corridor with ground penetrations greater than 2 m to be referred to RailCorp for review and concurrence.

In correspondence dated 3 August 2012 RailCorp confirmed that concurrence is granted in accordance with clause 86(1) of the SEPP (Infrastructure) 2007 subject to:

(i) Council imposing a deferred commencement condition on any consent issued in respect of this application; and
(ii) the inclusion of a range of operational conditions in any consent issued.

The terms of the deferred commencement condition relate to the applicant providing specific information to RailCorp for approval / certification including additional geotechnical and structural documentation, detailed surveys which illustrate the relationship of the proposed development to RailCorp's land and infrastructure together with construction methodologies and details pertaining to structural support during excavation.

The conditions requested by RailCorp have been included as conditions of consent.

State Environmental Planning Policy (SEPP) 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 Botany Local Environmental Plan 1995 the site is zoned Residential 2(b) and Council may only consent to the erection of a building if the FSR does not exceed 0.5:1 in accordance with Clause 12(2).

Notwithstanding the provisions of Clause 12(2), the Council may consent to the carrying out of residential development on land within Zone 2(b) to a maximum FSR of 1:1 where it is in the opinion that the proposed development will satisfy objectives under Clause 12(2).

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

Requirement under Clause 12(2) of Botany LEP 1995	**Proposed FSR** **(calculated in accordance with definition under Botany LEP 1995)**	**Proposed FSR** **(calculated as per definition in the Standard Instrument)**
1:1 (3,693m^2)	3.32:1 (12,273m^2)	2. 97:1 (10,966m^2)

The DA was accompanied by an objection under SEPP 1 which sought a variation to permit an FSR of 3.3:1. However as described previously in this report, the modifications to the apartments in order to achieve an acceptable SEPP 65 outcome for solar access has resulted in a minor increase in GFA (72m^2), which corresponds to a negligible increase in FSR to 3.32:1. The applicant has not been requested to update the SEPP 1 Objection on the basis that it is only a negligible increase in FSR and the additional floor area occurs wholly within the building envelope as originally proposed.

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

1. Is the requirement a development standard?

The planning control in question is a development standard in the Botany Local Environmental Plan 1995, Clause 12, which specifies the FSR for the subject site as 1:1 (comprising 0.5:1 base rate + 0.5:1 additional for sites in excess of 2,500m^2).

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 specify objectives for FSR controls. The SEPP 1 Objection acknowledges this and states the following:

> *For the purpose of this assessment, the objectives for Floor Space Ratio controls under the Residential Flat Design Code will be considered. The objectives are:*
>
> - *To ensure that development is in keeping with the optimum capacity of the site and the local area.*
> - *To define allowable development density for generic building types*
> - *To provide opportunities for modulation and depth of external walls within the allowable FSR*
> - *To promote thin cross section buildings, which maximise daylight access and natural ventilation*
> - *To allow generous habitable balconies.*

The LEP does not include objectives for the FSR control however the proposed development is consistent with the objectives for FSR controls established by the Residential Flat Code as follows:

- *The density of apartments is within the capacity for the area as identified by the Metropolitan Plan for Sydney 2036.*
- *The proposed building typology is reflective of the trend towards increased density in this area, evident by the surrounding context and opportunities for urban renewal of older developments. The distribution of floor space provides for a lower building to the north and higher building form to the south. This building typology is reflective of the transition in building height across the site maintains a floor space that achieves visual privacy and solar access to the existing dwellings to the east and south of the site.*
- *The building forms are highly articulated to create a building modulation that respects the adjacent properties and creates substantial visual interest to all facades.*
- *The development achieves excellent levels of residential amenity through the design of the floor plates. 75% of the dwellings achieve in excess of 3 hours solar access in mid winter,*
- *87% achieve in excess of 2 hours solar access in mid winter and 65% are naturally cross ventilated.*
- *The configuration allows for a generous communal open space with deep soil landscaping at the eastern side of the site and deep soil landscaping along the north, south and eastern boundaries. All units are provided with generous balconies that exceed the minimum requirements of Council and create useable external spaces associated with the internal living area.*

It is therefore considered that the development and increased floor space maintains compliance with the objectives for that control under the Residential Flat Design Code.

Officer Comment: Despite the fact there are no specific objectives for FSR set out in Botany LEP 1995, the applicant has satisfactorily demonstrated consistency with the

objectives for FSR set out in SEPP 65. On balance, it is considered that the proposed development demonstrates quality urban design, residential amenity and environmental sustainability.

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

This may be found if:

(a) The proposal meets the objectives of the development standard notwithstanding its non-compliance with the standard. In this instance one must determinate the objectives of the standard and if not expressly stated in the LEP what are the inferred objectives?

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

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

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

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

The development achieves compliance with the bonus floor space provisions under the LEP. The site area exceeds the minimum required to seek the bonus and complies with the further requirements.

Compliance with the requirements of the Bonus floor space provisions is provided as follows:

a) the proposed development will satisfy the primary objective of the zone,

The primary objectives of the 2(b) zone is:

The primary objective is to provide for the redevelopment and use of housing, other than detached housing, in appropriate locations, together with community and service uses of a type and scale appropriate to the enjoyment of such housing.

The existing non-residential uses will be removed to allow for the new development which will provide a mixed use development incorporating local shops, residential uses and home office apartments. This application will enable the redevelopment of this site for an appropriate form of housing with local conveniences at the ground level that will not adversely impact on surrounding residents or the amenity of the area. Its scale is appropriate for this location.

b) the scale of the proposed development, if above 2 storeys in height, is compatible with the scale of existing residential development in the locality,

The existing area contains a mix of housing forms, types and densities. This area is undergoing a transition towards a new urban character. The Design Review Panel considered the proposal at Pre- DA stage and in relation to the context of the site concluded the following:

O'Riordan Street in this locality planned to undergo a transition to a new urban character due to is close proximity and gateway link to and from the Airport. The subject site forms a threshold between this desired future character and the existing built form character to the east and south.

The proposed development is a response to this future character and to the existing subdivision pattern including the small scale residential development to

the south and the medium scale residential development to the east especially the adjoining 3 storey residential flat buildings.

The building envelopes proposed are obviously much larger (height and footprint) than the adjoining existing development and other existing developments in this setting. However, given the future planning for the locality, this may not be unreasonable. The building envelopes proposed are generally suitable for the desired future context and could provide an acceptable outcome in terms of urban form and visual and amenity impact.

The scale of the development will facilitate and encourage the redevelopment of the surrounding area. The scale recognises the changing form of buildings along O'Riordan Street and the siting of the buildings minimise the impact to adjoining properties.

The facades of both buildings have been refined to reduce their apparent bulk and achieve a more slender vertical emphasis.

The building forms respond positively to their existing and desired future context. The podium and residential building components are of a scale which is commensurate with their use and combine to create an integrated and successful composition.

c) the architectural character and design of the proposed development does not adversely affect existing residential development in the locality,

The architectural character and design of the building has been specifically modulated to add visual interest and reduce the overall form of the buildings. The configuration of the buildings on the site provides a substantial landscaped area at the eastern side of the North Building creating a landscaped interface with the existing residential flat building at 318 King Street.

Landscaping is used to soften the site surrounds and in particular contribute to the privacy of units, both within and beyond the site.

The buildings are separated by a common open space within the mid zone of the site which corresponds with the open space between the existing residential apartment buildings to the east of the site and enables a future landscape connection and possible pedestrian link to the High Street Reserve to the east.

The position, orientation and heights of the buildings have been designed in consideration of the existing residential uses to the east and south. As demonstrated in the accompanying Statement of Effects, the development achieves appropriate separation between the proposed building and adjacent dwellings, incorporating highlight windows and fixed louvres to maintain privacy.

d) the provision of off-street parking for residents and visitors adequately meets the needs of the development,

The development fully complies with Council's requirements for car parking.

I. the provision of on-site car parking does not dominate or detract from the appearance of the proposed development or the streetscape,

Access to the site is via a vehicular entry to the south of the site off High Street. The entry comprises two lanes allowing for separate lanes for entry and exit. The vehicular driveway provides access to two levels of basement parking.

The car park entry is integrated as part of the building; the ramp is enclosed and features a landscaped planter on top, improving the visual amenity to neighbouring apartments at 107 High St.

The design of the entry utilises horizontal architectural treatments which ties in with the remainder of the building design when viewed from High Street.

The parking arrangements are considered appropriate and will not adversely impact the existing streetscape.

e) the provision of private and communal open space on the site is adequate for the proposed development,

Each dwelling is provided with a suitable area of private open space that is directly accessible from the living area in accordance with DCP 35. In addition, in excess of 979m2 of the site area is occupied by communal open space, representing 27% of the site area. 30% of this area is provided as deep soil landscaped zones.

The buildings have been arranged to provide a central landscaped podium that provides access to the respective buildings, the local shops along the O'Riordan Street frontage and the generous area of communal landscaping. The central landscaped podium aligns with the existing open space between apartment buildings to the east of the site and enables a future landscaped connection and possible pedestrian link to the High Street Reserve to the east.

A communal room and roof terrace / barbeque area is proposed on the rooftop of the north building, offering city skyline and district views and adding to the range of residents' amenity.

The ground level of the south building incorporates a residents' community meeting room which opens onto a deck area with pergola. This will offer the residents a place to meet and socially interact with other residents within the building. This space is directly accessible to the main area of communal open space between the buildings.

In addition, the design incorporates space within each residential lobby for the placement of seating which will enhance resident amenity and encourage social interaction of the residents.

It is therefore considered that the provision of communal and private open space within the development is appropriate.

I. the proposed development includes landscaping that screens and softens the visual effect of the buildings on the site, and creates useable and comfortable open space areas,

Deep soil landscaping has been provided within the north, south and east setbacks of the site.

Landscaping is used to soften the site surrounds and in particular contribute to the privacy of apartments, both within and beyond the site.

A landscaped buffer is proposed on the east side of the site, featuring an area of deep soil landscaping which will provide a dense landscaped space and enable successful retention of trees on adjoining sites.

The central communal open space offers significant planting depth to sustain areas of lawn and decorative planting as well as tree planting. A combination of hard and soft surfaces enables a variety of passive and semi passive recreation activities. Landscaping will also help define the common area circulation paths and contribute to privacy for adjacent apartments.

Private open spaces at ground level feature various low level planters which offer the opportunity for decorative as well functional kitchen gardens. Upper level terraces

and balconies are sized to enable residents to create similar landscaping with planters.

Species selection is based upon selection of robust species with low demand for water and maintenance.

The landscape scheme allows for useable / active and passive areas of communal open space for the enjoyment of the residents.

f) the environmental amenity of the proposed development and of the immediate locality includes measures to confine or reduce noise and to maintain privacy,

Careful consideration has been given to maintaining privacy and the building design accommodates this via a range of measures including physical separation, the use of fixed and operable privacy screens and highlight windows.

The separation distances proposed ensure the adjoining properties maintain their acoustic and visual privacy.

g) the proposed development ensures adequate sunlight, ventilation and privacy to its residents, to residents of adjoining development and to users of nearby public and private open space,

The development achieves high levels of energy efficiency. In addition to meeting the requirements of BASIX, 65% of the apartments are cross ventilated to allow the natural flow of air through the apartments. 75% of the units will achieve in excess of 3 hours of solar access in mid winter and 87% of the units will achieve in excess of the required 2 hours of solar access in mid winter.

All adjacent properties achieve a minimum of 2 hours solar access between 9am to 3pm in mid winter.

h) the proposed development makes provision for the adequate absorption of stormwater, and includes deep root zones for tree planting,

In excess of 30% of the open space on site area is provided as deep soil landscaping. This will enable water absorption and significant tree planting.

The alignment of the deep soil zones and in particular the eastern deep soil zone will enable the successful retention of trees on adjoining sites.

i) the proposed development incorporates pedestrian links at points where they are most prominently and safely connected to the existing street and pedestrian network, and

The position of the central landscaped podium aligns with the landscape setback of the adjoining residential buildings to the east. The configuration of the buildings on the site provides for a possible through site link to the east, connecting with High Street Reserve.

The development provides clear and legible pedestrian access to and within the site. Both buildings have large double height lobbies at the ground level that are directly accessed from the adjoining streets and also from within the central landscaped podium.

All typical apartments are accessed from the common lobby by lift or via the lift from the basement car park. In addition, individual entry is provided to all ground level apartments.

j) the proposed development provides a safe and secure environment for its residents.

All the units on the ground level have individual access from the High or King Street frontages or from the communal open space. This will enhance the sense of security and passive surveillance of the surrounding private and public areas.

All entry points to the buildings are clearly defined and include security controlled access for the safety of residents.

On the basis of the above assessment, the development meets the requirements of subclause (2) and therefore this SEPP 1 objection seeks to justify the non-compliance with the 1:1 FSR.

Officer Comment: Having regard to these objectives, it is noted that Mascot is located within the Sydney City to Airport Corridor identified in the Metropolitan Plan for Sydney 2036 and is within the environs of the Sydney Airport Specialised Centre nominated in the Metropolitan East Sub-Regional Plan. This close proximity to the Airport has precipitated significant change in the type and density of development in the western part of Mascot in an area which had historically been focused on industrial and commercial development.

The proposed building typology is consistent with the trend towards increased density in this area, as evidenced by recent development on under-utilised sites. The distribution of floor space has been arranged to present a lower building on the northern part of the site and higher building form to the south. This arrangement provides a transition in building height across the site and achieves visual privacy and solar access to the existing dwellings to the east and south of the site.

The building forms are highly articulated to create a modulation that acknowledges the form and nature of residential development on the adjoining properties to the east and south east and endeavours to create detailed and visually interesting facades.

The development achieves residential amenity through the design of the floor plates. Following independent SEPP 65 analysis it is apparent that:

- 51% of the total dwellings achieve in excess of 3 hours solar access in mid winter;
- 70% of dwellings in the Northern Building and 74% of dwellings in the Southern Building achieve in excess of 2 hours solar access in mid winter; and
- 65% of the total dwellings are naturally cross ventilated.

The arrangement of the built form allows for a central communal open space with areas of deep soil adjacent to the north, south and eastern boundaries.

All apartments are provided with balconies, terraces or private courtyards that exceed Council's minimum requirements (DCP 35) and create usable external spaces associated with the internal living area.

Even though there are no specific objectives for FSR, the development and increased floor space is generally consistent with the objectives for FSR set out in the Residential Flat Design Code and with the desired future character for redevelopment of the area as contemplated in the Draft BBLEP. On this basis it is considered that the proposed development will provide a good quality design outcome and a high level of residential amenity within the context of a highly urbanised environment.

4. Is the objection well founded?

As noted by the applicant:

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.

As stated above, 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.

The subject development provides a high quality residential development that enables the orderly and economic development of land in a manner that is appropriate in the 2(b) zone. The form of housing offers large spacious units complaint with Council's high minimum unit areas which are well in excess of what is considered reasonable in the Residential Flat Design Code. Council's high minimum unit areas have a significant impact on the resultant floor space ratio.

The additional floor space results in no additional significant adverse impact to adjoining properties in regards to residential amenity, overshadowing or visual outlook. To strictly apply the standard, in the absence of any tangible impact, would be unreasonable and without basis.

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

Officer Comment: Clause 12 of the Botany LEP states that Council may consent to the erection of a building in excess of the FSR requirement up to 1:1 if Council is of the opinion that the proposed development satisfies the zone objectives, and if the scale of the proposed development is compatible with the scale of existing residential development in the locality and the desired future character of the locality.

Clause 12(6) only allows a maximum FSR of 1:1 however the subject application seeks to exceed this FSR standard. It is considered that the proposal is generally consistent with the underlying objectives identified in points (2) and (3) above. The SEPP 1 Objection contends that compliance with the 1:1 FSR development standard is unreasonable and unnecessary in the circumstances of the case with respect to the aims and objectives of SEPP 1 and the relevant matters for 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 in Clause 12(2) of the Botany LEP 1995 should be varied in the circumstances to allow the development to attain a floor space ratio of 3.32:1. As noted earlier in this report, the proposed FSR is consistent with the maximum FSR of 3:1 for the site under Council's Draft BBLEP 2012. Clearly the Draft LEP anticipates a higher FSR and greater density of development on this site and under the existing planning controls.

In arriving at the view that the objection was reasonable it is appropriate to consider the proposal in the broader context of development in this locality.

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, (Answered via Question 3)**
- **(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, town and villages for the purposes of promoting the social and economic welfare of the community and a better environment; and**
  - **(ii) the promotion and coordination of the orderly and economic use and development of land.**

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

The Applicant has addressed this text in the Objection made pursuant to State Environmental Planning Policy No 1 - Development Standards, as follows: -

The objects of the Act are:

(a) to encourage:

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

(ii) the promotion and co-ordination of the orderly and economic use and development of land,

(iii) the protection, provision and co-ordination of communication and utility services,

(iv) the provision of land for public purposes,

(v) the provision and co-ordination of community services and facilities, and

(vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and

(vii) ecologically sustainable development, and

(viii) the provision and maintenance of affordable housing, and

(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

As stated above, 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.

The subject development provides a high quality residential development that enables the orderly and economic development of land in a manner that is appropriate in the 2(b) zone. The form of housing offers large spacious units complaint with Council's high minimum unit sizes which are well in excess of what is considered reasonable in the Residential Flat Design Code. Council's high minimum unit areas have a significant impact on the resultant floor space ratio.

The additional floor space results in no additional significant adverse impact to adjoining properties in regards to residential amenity, overshadowing or visual outlook. To strictly apply the standard, in the absence of any tangible impact, would be unreasonable and without basis.

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

Officer Comment: The SEPP 1 objection contends that compliance with the 1:1 FSR standard is unreasonable and unnecessary in the circumstances of the case with reference to the objectives of SEPP 1 and floor space controls and the objectives associated with the achieving bonus floor space under Clause 12(6) of Botany LEP 1995. It is considered that the proposed development has addressed those matters.

Furthermore, it is noted that the proposed breach of the FSR control in this instance is not inconsistent with recent development in the locality that has either been approved or which is currently under consideration by Council in O'Riordan Street and King Street (see table below):

Table 1 – FSR of Surrounding Developments

Address	FSR	Status
210 O'Riordan Street, Mascot	7.28:1	Approved
342 King Street, Mascot	3.46:1	Pending
289 – 293 King Street, Mascot	2.9:1	Pending
185 O'Riordan Street, Mascot	4.46:1	Approved

It would be considered inappropriate for development on this site to be held to strict compliance with the FSR standard as it would not complement the scale and form of emerging future development in this locality or the scale and density of development anticipated by Council's Draft LEP, which proposes an FSR of 3:1 for this site.

The site is situated in an excellent location for high density development at the gateway to the Mascot Station Town Centre Precinct and on the Airport Corridor.

Furthermore, the proposed development represents the orderly and economic use and development of the subject land that will achieve an appropriate development of the site in accordance with the envisaged redevelopment of this locality. In this regard, variation of the development standard is necessary in order to attain the objectives specified in Section 5(1)(i) and (ii) of the EP&A Act.

6. (a) whether or not non-compliance with the development standard raises any matter of significance for State or Regional environmental planning;

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

Where it is proposed to support a departure from the FSR standard, Council is required to ensure that the departure from the standard will raise no matters that will have State or regional significance.

The SEPP 1 Objection addresses these matters as follows:

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

- *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 proposed development results in the removal of non-residential uses that detract from the visual amenity of the area. The removal of these uses and construction of the proposed buildings will provide generous landscaped spaces and increased setback to O'Riordan Street 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 a mix of uses and forms and the juxtaposition of buildings represent a state of transition. The proposed development will promote*

the desired future character of the area and provide a non-residential interface to O'Riordan Street.

- *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.*
- *The development will result in an increased setback to the current alignment of O'Riordan Street to enable the future road widening. The development seeks to embellish the O'Riordan Street alignment and provide a landscaped space that will improve the visual amenity of the area. The eastern row of London Plane trees has been aligned to the east of the future kerb alignment of O'Riordan Street to enable their long term retention.*
- *The position of the central landscaped podium aligns with the landscape setback of the adjoining residential buildings to the east. The configuration of the buildings on the site provides for a possible through site link to the east, connecting with High Street Reserve which would be in the public interest.*

Officer Comment: The proposed development on the subject site is consistent with Council's expectations for development and the desired future character of this locality. It also assists Council in achieving its residential and employment targets as identified in the Draft East Sub Regional Strategy.

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

- The proposed development is a well mannered design form that fits well into the existing and anticipated future O'Riordan Street streetscape, which is typically trending towards mixed residential and commercial development of a similar height and density to that of the subject proposal.
- As previously described in this report, the proposed FSR (3.32:1) is directly comparable in scale with other surrounding and recently approved/constructed developments, for example:
    - 210 O'Riordan Street has an approved FSR of 7.28:1 and height of 50.9m AHD;
    - 342 King Street is currently under consideration by Council with an FSR of 3.46:1 and height proposed at 48.0m AHD;
    - 289-293 King Street is currently under consideration by Council with an FSR of 2.9:1 and height proposed at 50.5m AHD; and
    - 185 O'Riordan Street has an approved FSR of 4.46:1 and height of 50.0m AHD.
- The proposed development is also consistent with the density of development anticipated under Council's Draft BBLEP 2012, which establishes an FSR of 3:1 for the subject site.
- The proposal to redevelop the site for a mixed apartment/commercial building is also consistent with State Government urban consolidation initiatives, as outlined in the Sydney Metropolitan Plan for Sydney 2036. It also assists in achieving the

residential targets for the City of Botany Bay as required by the Draft East Subregional Strategy.

- The proposed development provides a high quality development, which exhibits a high standard of architecture and excellent residential amenity. The design adopts strong urban design principles that ensure the proposal is consistent in scale and form with anticipated future development in this locality. It will also provide a significant public benefit in terms of public domain works on the adjacent area of road widening owned by RMS as well as the adjacent streets.

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

Accordingly, it is considered that the development standard relating to the maximum FSR development for the site as contained within Clause 12(2) of the Botany LEP, should be varied in the circumstances to allow the development to attain a floor space ratio of 3.32:1.

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

In accordance with the requirements of SEPP (BASIX), the applicant provided a BASIX Certificate with the development application. BASIX Certificate No. 426720 prepared by AGA Consultants dated 7 May 2012 and received by Council on 10 May 2012. The Certificate satisfies the provisions of SEPP BASIX and forms part of the documents recommended for approval with this development application.

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

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

Environmental investigations undertaken by the applicant indicated that the site had been used as a car and motorhome / campervan rental business. At least one underground storage tank was suspected of being located on the site (north eastern corner) adjacent to a cleaning / workshop area. Elevated concentrations of petroleum hydrocarbons which exceeded the adopted assessment criteria were identified in various soil samples. Asbestos was also identified in one soil sample taken from the north western part of the site.

The applicant submitted an Environmental Site Assessment prepared by Environmental Investigations and dated 20 April 2012. The report includes a range of recommendations so that the site can be made suitable for the proposed mixed commercial / residential use.

The applicant also submitted a Remediation Action Plan prepared by Environmental Investigations and dated 20 April 2012.

Council's Environmental Scientist has reviewed the documentation and raised no objection to the development subject to the inclusion of relevant conditions on any consent issued.

Having regard to the above, it is considered that the applicant has adequately demonstrated that the subject site can be made suitable to accommodate the proposed development pursuant to the provisions of SEPP No. 55.

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

SEPP 65 aims to improve the design quality of residential flat development in New South Wales. The policy recognises the significance of residential flat development and aims to improve the built form and sustainability of development and to satisfy the demand for appropriate development in the social and built form context.

The provisions of SEPP 65 have been considered in the assessment of the development application.

Council's Design Review Panel (DRP) considered the proposed development at its meeting on 29 February 2012. The Panel provided comments in the context of the ten design quality principles for residential flat development.

As indicated previously in this assessment, the feedback from the Panel resulted in a series of amendments to the scheme which was accompanied by a SEPP No. 65 assessment of the proposed development along with a design verification statement prepared by Krikis Tayler Architects dated 27 April 2012, to verify that the plans submitted were drawn by a registered architect and the manner in which the proposed development will achieve the design quality principles set out in Part 2 of SEPP 65.

Further modifications to the scheme were made by the applicant and submitted to Council on 22 and 29 August 2012. These included:

- more detailed shadow impact analysis, including 3D modelling to more clearly demonstrate the likely impact on adjoining residential properties to the east of the site;
- reconfiguration of vehicular access to create a one-way traffic flow through the basement car park with ingress from King Street only and egress to High Street;
- supplementary traffic and parking assessments to reflect the altered vehicular access arrangements;
- minor adjustments to the internal layouts of certain apartments to improve access to natural light and ventilation; and
- amended landscape plan which reflects the changes in the access arrangements.

The findings of an independent analysis of the solar access and ventilation commissioned by Council have resulted in further modifications to the proposal to achieve an improved outcome in terms of SEPP 65 amenity standards. A submission to this effect was received by Council on 25 September 2012 which details modifications to a total of 22 apartments. The changes are predominantly confined to internal layouts, minor reductions in balcony depths and in one instance, the installation of a "pop-up" roof extension (Level 7, North Building) containing a clerestory window. There is a minor increase in GFA associated with the modifications, however all additional floor area is contained within the building envelope as proposed.

In performing a detailed assessment, it is considered that the proposed development, in the form now presented for consideration by the JRPP 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 below and where relevant, include the specific comments raised by Council's Design Review Panel together with a commentary of the manner in which they have been addressed in the current proposal.

Principle 1: Context

The design responds to the particular qualities and characteristics of the locality and context and generally accords with the desired future character of this area in terms of building form and scale, as contemplated by the Draft Botany Bay LEP 2012.

In the broad composition of development along O'Riordan Street, it is considered that the proposed buildings will contribute to diversity and activation and the inclusion of the series of small retail / commercial tenancies at ground floor will serve the needs of the local community.

The Design Review Panel acknowledged that:

> *"The building envelopes proposed are obviously much larger (height and footprint) than the adjoining existing development and other existing developments in this setting.* ***However, given the future planning for the locality, this may not be unreasonable.*** *The building envelopes proposed are generally suitable for the desired future context and could provide an acceptable outcome in terms of urban form and visual and amenity impact"* (our emphasis)

Principle 2: Scale

Existing development in this locality comprises predominantly residential uses to the east and south, ranging in height from single storey to a maximum of four (4) storeys. Commercial / light industrial uses of varying scale predominate to the north of the site and west of O'Riordan Street, although it is noted that more recent development in this locality achieves a significantly greater scale.

This area is clearly in a state of transition (which will be fostered by the controls set out in the Draft Botany Bay LEP 2012), with a range of more recent developments in the O'Riordan Street corridor achieving heights / scale in the order of 7 – 9 storeys. It is also noted that a series of recent development applications for sites in O'Riordan Street and King Street (in close proximity to the subject site) have either been approved or are currently being considered by Council which contemplate heights of up to 50.9 metres. As indicated by the DRP, it is considered that the proposed scale of the development is consistent with that contemplated for future development in this locality.

The key building elements are aligned to the O'Riordan Street frontage of the site. The tower elements step back above two storey podia which read as two separate buildings in the landscape, sited on the northern (King Street) and southern (High Street) sides of the property, being 9 and 14 storeys respectively which, when viewed in the context of the proposed height and FSR controls for this site under the provisions of the Draft LEP, the scale of the proposal is considered acceptable.

Principle 3: Built Form

The Design Review Panel was generally supportive of the proposal in terms of the built form and noted that:

- *The presentation and activation to the three street frontages at ground level is paramount for the design success of the proposal.*
- *The current design at ground (footpath) level should provide good visual amenity and pedestrian (barrier free) access.*
- *Pedestrian and vehicular access and circulation is well resolved.*
- *The two storey podium is supported in principle as it provides a human scale at the street frontages but it needs further design development and refinement to strengthen it visually to provide a more solid base. It is suggested that the awning could be lowered to provide a better scale and improve weather protection.*
- *The awning could be extended to provide some protection over the pedestrian ramps to the residential entries. The awning design could be visually more substantial and should be fully integrated with the façade designs.*
- *It is suggested that the top storey (or two storeys) as well as the roof top elements could be better differentiated through a visually lighter architectural treatment. A setback from the main façade could also be considered.*

In response to the Panel comments, the podium has been refined. The north, south and mid zone corners of the podium have been stepped back to open vistas towards the residential lobbies and to lead towards the central common open space (refer Drawing No.A06 Issue 05).

The awning has been lowered to provide a more pedestrian scale and improve weather protection. The awning has also been extended and combines with the building undercrofts to provide weather protection to the pedestrian entry paths and ramps to the residential lobbies. The revised awning design detailed on the Elevations (Drawing No. A17 Issue 04) is visually more substantial and is integrated with the podium structure.

The facades of both the podia and the residential elements of the towers have also been refined. The top levels of both buildings feature diminished footprints and a simplified floating roof form. The application of lighter pre-finished metal cladding to significant portions of the top levels differentiates them from the more solid appearance of the main façade planes and serves to cap the buildings successfully.

The compositions of the main facades have been developed through grouping of components and greater expression of vertical elements to achieve a more slender appearance which diminishes apparent bulk. The relationship between the two buildings is reinforced through the application of similar façade elements, materials and finishes.

Whist the amended built form exceeds the scale and form of development permitted under Botany LEP 1995, it is generally in accordance with the envelopes and density and the desired future character contemplated under the Draft BBLEP 2012 and accords with the comments of the DRP. The built form of the proposed development is therefore considered satisfactory.

Principle 4: Density

The Panel raised some concern about the proposed FSR, as follows:

> *It is understood that the FSR for the site is 3:1 under the draft LEP 2012.*
>
> *The submission states that the proposal has been designed to suit the desired future character and form to accord with the draft LEP yet would result in a non-compliant FSR of 3.3:1. Even though this is a precinct planned to undergo a transition, it is difficult to support this non-compliance because of the existing interface to the east and the consequential effect in terms of visual impact and overshadowing to the east and south.*
>
> *The FSR should not exceed the maximum allowed by the draft LEP 2011 unless it can be demonstrated that substantial public benefit would be gained as a result of the development.*

In this regard it is noted that the proposal achieves an FSR of 2.95:1 when measured in accordance with the definitions of gross floor area / FSR included in the Standard Instrument and thus complies with the maximum FSR control of 3:1 in Draft BBLEP 2012.

In terms of overshadowing of adjoining properties to the east and south, the shadow analysis reveals that all adjoining dwellings will achieve a minimum of 2 hours solar access between 9am and 3pm in mid winter.

It is also noted that under the provisions of Draft BBLEP 2012, the adjoining properties to the east - Nos. 318 King Street and 107 High Street, together with the properties on the southern side of High Street, will be rezoned B5 Business Development with a maximum height limit of 44 metres. This change in zoning and increase in permissible height under Council's future planning controls can reasonably be expected to change the character of development in this locality.

Principle 5: Resources, energy and water efficiency

The proposal incorporates a 2,000 litre rainwater tank for use in landscaped areas.

Whilst the proposal does not include the use of solar or photovoltaic panels, the roof design is capable of future application of these elements.

The proposal incorporates external protection elements such as sun hoods and screens, as an integral part of the façade design.

The proposal also complies with minimum cross ventilation requirements of the Residential Flat Design Code.

Principle 6: Landscape

The landscape concept comprises three (3) primary elements, as follows:

(i) Streetscapes

The O'Riordan Street frontage adjoins an area reserved for future road widening, resulting in a setback of some 19 metres from the existing traffic lanes. This future road widening area is proposed to be landscaped by the applicant predominantly as a grassed area with a double row of London Plane trees, which is a continuation of an existing planting theme elsewhere in O'Riordan Street. The applicant has indicated that the inner row of trees (ie. those closest to the proposed development) have been sited to enable them to be retained in the O'Riordan Street verge once RMS completes its road widening.

The grassed area will be bisected by a series of paths arranged on the diagonal to accommodate pedestrian desire lines to / from O'Riordan Street.

It should be noted that this area cannot be included in the deep soil calculations as it is outside the site boundaries. However, the applicant has confirmed that it is willing to enter into a Voluntary Planning Agreement (VPA) with Botany Bay City Council for the purpose of carrying out the public domain works, including landscaping, lighting, seating, pathways and the undergrounding of the power lines, on the adjacent land reserved for road widening and owned by RMS. The terms of the VPA will be separately negotiated with Council. In addition a long term licence agreement will need to be entered into with RMS to facilitate the embellishment of this area.

It is understood from discussions with RMS that the O'Riordan Street road widening is not likely to be implemented in the short-medium term (at least for the next 10 years). Council is of the opinion that an appropriate landscape treatment of this area would have significant benefits in this locality both in terms of creating amenity, outlook and a physical buffer to the high traffic levels on O'Riordan Street. The landscaping will not only provide improved amenity to the future residents of the proposed development, but will contribute a well-designed green space in what is a highly urbanised area.

The applicant will also be required under the terms of the aforementioned VPA to prepare a Public Domain Improvement Plan to implement a range of additional public domain works across all site frontages and for a specified distance beyond the site boundaries. The Plan is required to be prepared in accordance with Council's City Identity Program.

The anticipated outcome of the combined works within the road widening area and the public domain works adjacent to and in the vicinity of the site is a significantly improved streetscape in a locality which is at the gateway to the airport and to the newly evolving Mascot Station Town Centre Precinct.

A central point of access in the O'Riordan Street frontage between the two proposed buildings provides access to a paved public plaza area which in turn provides access to the

residential entry lobbies and also affords access to the communal courtyard (for sole use of residents) on the eastern side of the site.

The landscape treatment to the King Street frontage incorporates an entry lobby to the Northern Building, set back behind a densely planted area incorporating a series of canopy trees and understorey planting. Private courtyards to ground floor apartments on the eastern side of this building entry incorporate lower shrub planting and pergolas.

The ingress driveway to the basement parking levels is located adjacent to the eastern property boundary, separated by a 3m wide landscape strip which includes 1.4m wide planting strip and 600mm wide pedestrian path which affords access to courtyard apartments and the communal open space in the centre of the site.

The High Street frontage provides a similar planted area which incorporates canopy trees and understorey planting flanking either side of the street level entry to the southern residential tower.

An existing electricity substation is located adjacent to the eastern property boundary on the High Street frontage and has been incorporated into the landscaped area (having regard to Ausgrid's access requirements). The eastern landscape setback varies in width from 1m in the centre of the site to 5m adjacent to the substation and is planted out with canopy trees and understorey shrubs and grasses. The egress driveway from the basement emerges between the substation and the planted area which defines the building entry.

(ii) Communal Courtyard

The central part of the site accommodates two spaces – one designed to serve the communal open space needs of residents. The other space is a more public plaza / terrace which is located between the ground floor commercial / retail tenancies and will be accessible to both the residents of the proposed development as well as the general public.

The communal open space solely for resident use is located on the eastern side of the site and includes an area of raised timber deck for seating, central grassed area, deciduous shade trees and a series of perimeter paths to ground floor apartments.

Whilst the courtyard is built on structure, the slab has been set down sufficiently to provide appropriate soil depth to support the planting of canopy trees.

The proposed community room (for use by residents) is located in the ground floor of the southern building and opens out onto the courtyard.

The combined usable area of the communal courtyard is approx. 700m^2 which equates to approx. 19% of the site area.

An additional communal open space (51m^2) is provided as a roof terrace on Level 8 of the Northern Building, bringing the total communal open space provision to 20.3%. Appropriate conditions will be included in any consent issued which require the provision of appropriate landscape and shade treatments.

(iii) Ground Floor Private Courtyards

The ground floor apartments are provided with courtyard areas as an extension of internal living spaces. These spaces will be planted and paved to create private open space for the occupants and will be physically separated and secure from public paths and communal areas.

Having regard to the above, the proposed landscape treatment and the treatment of the public and private spaces within the development are considered to be appropriate in the context of the site.

Principle 7: Amenity

The Design Review Panel made the following comments in this regard:

- *The shadow diagrams submitted indicate a substantial impact.*
- *The central common open space would be mostly overshadowed during the winter months. This is unfortunate but is a factor of the orientation of the site and the proposal.*
- *The shadow diagrams also indicate a substantial afternoon impact on the adjoining residential flat buildings to the east but appear to comply with the minimum 2hrs at mid winter requirement.*
- *Incorporate integrated sub and rain protection to all unprotected window openings.*
- *The proposed awnings need to provide adequate protection from sunlight to the western commercial frontages.*
- *Provide some natural light into the upper car park level through the podium roof.*
- *Noise impact from O'Riordan Street is an issue, which needs to be addressed in the design development including implementation of the recommendations of an acoustic report (some reconfiguration of internal planning may be required). It is highly desirable to ensure that on this busy road acceptable acoustic conditions will be achieved within the habitable rooms, at the same time allowing for adequate natural ventilation.*

In response to these comments, the applicant has reduced the footprint of the Southern building to increase the separation between the eastern face of the building and the western face of the existing residential flat building at 107 High Street. This reduced the overshadowing impact to this property. It is noted that independent analysis of the overshadowing impact has confirmed that adjoining properties will achieve minimum solar access requirements should the proposed development be granted approval. This aspect is discussed in further detail later in this report.

The proposed buildings also maintain suitable solar access to existing properties to the south of the site on High Street. In this regard it is be noted that these properties are to be rezoned to B5 Business Development under Draft LEP 2012, which would significantly change the land use character of this area.

The facades of both buildings have been refined to reduce their apparent bulk and achieve a more slender vertical emphasis. The treatment of the top levels of both buildings was modified with the roof forms being simplified.

Principle 8: Safety and Security

The Panel identified some minor issues in this regard, as follows:

> *The proposal generally complies subject to ensuring passive surveillance along the ground level frontages (child proof transparent fencing may be needed). The proposed active frontages at street level would ensure adequate passive surveillance and good visibility to and from the proposal. However, the pedestrian entry path along the boundary on the eastern side may be problematic without a secure entrance, and certainly good night lighting will be essential.*

The amended plans have addressed the passive surveillance / fencing issue through the use of palisade fencing.

Lighting will be installed in accordance with Australian Standards. This has been incorporated as a condition of consent.

The proposal has taken into account safer by design principles in the design of communal areas and landscaping. The NSW Police undertook a 'Safer by Design' analysis of the proposal and have recommended a number of conditions of consent aimed at enhancing the safety and security of the development.

Principle 9: Social Dimensions

The proposed development yields a total of 113 apartments, comprising:

- 1 x studio apartment
- 36 x 1 bed apartment
- 68 x 2 bed apartments
- 8 x 3 bed apartments

This apartment mix responds to the needs of the local community by providing for diversity in the type and affordability of the units.

The building forms and their arrangement on the site define a central gathering space with ready access to active retail / commercial uses providing a quasi public place for residents and local workers.

The small retail and commercial tenancies proposed on the ground floor of the development are of a scale which could reasonably be expected to accommodate uses which serve the daily needs of local residents and workers in the immediate vicinity.

A separate communal open space is provided at ground level on the eastern side of the site for residents to enjoy in addition to their own private open space. This area is fenced and gated and is for use by residents only.

It is considered that the surrounding community structure and the comprehensive range of facilities and services available in the local government area provide an appropriate social context for the proposed development.

Principle 10: Aesthetics

The Panel indicated that it generally supports the proposed selection of external materials, textures and finishes palette to suit the context.

Officer's Comment:

Having regard to the previous discussion, it is considered that the proposed development represents an appropriate design response to the opportunities and constraints offered by the site and its setting and is consistent with the design quality principles outlined in Part 2 of SEPP 65.

Residential Flat Design Code (RFDC)

The following table provides an assessment of the proposed development against the guidelines set out in the RFDC.

Relevant Guidelines	Compliance
Part 1 – Local Context	
Building Height • *Ensure future development responds to desired future scale and character of street and local area and allow reasonable daylight access to all developments and public domain.*	**Complies:** It is considered that the development has been designed in cognisance of the likely future scale of development in this part of Mascot, particularly in terms of the public domain defining buildings, and proposed building height.

Relevant Guidelines	Compliance
	The siting and built form ensures that solar / daylight access to adjoining (existing) residential properties, the public domain and private and communal open space complies with Council's minimum requirements.
Building Depth • *Maximum internal plan depth should be 18 metres from glass line to glass line.*	**Non-Compliance:** The North Building has a maximum depth of 35.5 metres glass line to glass line and the South Building 30 metres. It is noted however, that the habitable parts of each dwelling are generally confined to an area no more than 9.5m from an external glass line. A large proportion of the apartments occupy corner locations which provide good natural light and cross ventilation. The single aspect apartments all exceed 7metres in width which facilitates penetration of natural light and provides opportunities for natural ventilation. Balcony dimensions vary across the frontage of each apartment however compliance with Council's DCP 35 (which requires a minimum 3m depth) creates a deeper articulation zone beyond the glass line. Having regard to the above, this arrangement is considered to be satisfactory.
Building Separation • *Suggested dimensions within development, for internal courtyards and between adjoining sites for buildings:* *Buildings over 25m (9 storeys and above)* – *24m between habitable rooms / balconies* – *18m between habitable rooms / balconies and non habitable rooms* – *12m between non habitable rooms*	**Minor Non-Compliance:** <u>Within the Proposed Development</u> The proposed development satisfies the minimum separation distances between habitable rooms / balconies and non-habitable rooms (18m) and the separation of 12m between non-habitable rooms. However there is a minor non-compliance with the minimum 24m between habitable rooms / balconies, as follows: Ground 23.28m Level 1-7 23.28m Level 8 29.27m (complies) This marginal non-compliance is considered acceptable as it will have negligible impacts.
Street Setbacks • *Should establish desired patterns along street, also recognising scale transition, privacy, surveillance and street landscape character.*	**Complies:** The proposed buildings observe appropriate setbacks to King and High Sts and the future alignment of O'Riordan St, consistent with the future street character of this locality.

Relevant Guidelines	Compliance
Side and Rear Setbacks • *Minimise impact on light, air, sun, privacy, views and outlook for neighbouring properties.*	**Complies:** The Northern Building observes setbacks in excess of 12m to the adjoining residential flat building at 318 King Street. **Minor Non-Compliance:** The Southern Building observes setbacks in excess of 12m to the majority of windows and balconies in the adjoining residential flat building at 107 High Street, however there are a limited number of instances where the setback is reduced to 6.8m (in one instance) and 9m in several other instances. However, it is noted that various architectural devices, including physical screens (to Level 1 terrace area) and a combination of highlight windows and obscure glass, are employed to mitigate any impact on the privacy of the adjoining properties. The varying setbacks exhibited by the proposed development allow for an appropriate balance between light, air, sun and outlook for adjoining properties. It is noted that the setbacks facilitate compliance with minimum solar access requirements for the adjoining properties. Having regard to the above, this marginal non-compliance is considered acceptable as it will have negligible impacts.
Part 2 – Site Design	
Site Configuration *Deep Soil Zones* • *To assist in management of water table, water quality amenity and large scale landscaping25% of open space should have deep soil*	**Non-Compliance:** 258m^2 of the site (7%) qualifies as deep soil. In response to Council concerns about the amount of deep soil provided as part of the proposed development, the applicant submitted (on 25 September 2012) a series of sketch plans which illustrate modifications to the design of the basement wall alignment in the vicinity of the eastern property boundary to increase the area of deep soil. An assessment of the landscape plan in light of the proposed amendments indicates that approx. 20% (117m^2) of the communal open space area will now provide sufficient soil depths to support larger trees. In addition, to supplement the planting on-site, the applicant will be required to implement landscaping and embellishment works within the future road widening reserve along O'Riordan Street (which occupies an area in the order of 1,700m^2). On this basis the extent of deep soil planting proposed, particularly given the highly urbanised context of the site, is considered acceptable.

Relevant Guidelines	Compliance
Landscape Design • *Improve amenity of open space with landscape design which provides appropriate shade from trees or structures, accessible routes through site and between buildings.* • *Contribute to streetscape character visually softening bulk of large development for the person on the street.* • *Provide a sufficient depth of soil above paving slabs to enable growth of mature trees.*	**Complies:** The landscaping proposal for the site will provide appropriate shade and public amenity and provide areas with sufficient depth to accommodate mature trees.
Open Space • *Area of communal open space required should generally be at least between 25 and 30% of site area.* • *Provide private open space for each apartment capable of enhancing residential amenity, in the form of a balcony, deck, terrace, garden, yard, courtyard and/or roof terrace.* • *Minimum recommended area of private open space for each apartment at ground level or on a structure, such as on a podium, is 25m^2; minimum preferred dimension is 4m.*	**Minor Non-Compliance**: Approximately 20.3% of the site is provided as a communal open space for residents in the form of a central landscaped open space between the towers at ground level (approx. 700m^2) and a communal terrace / barbeque area on the roof of the Northern Building (51m^2). The minor non-compliance in communal open space is offset by the provision of a 19m wide landscaped verge within the RMS land along the O'Riordan Street frontage of the site. In view of the highly urbanised context of the site, together with the large balconies provided to each unit and the fact that the quantum of communal open space complies with Council's DCP 35 requirements (which requires 20%). The proposal is therefore considered acceptable in this instance. **Complies:** Each unit has access to a private courtyard, terrace or balcony, accessed via the primary internal living area. **Complies.** All ground floor units have private courtyard areas in excess of 30m^2.
Orientation • *Optimise solar access to residential apartments within development and adjacent development.* The RFDC *Rules of Thumb* require a minimum of 70% of dwellings to receive at least 3 hours of direct sun to glazing of living areas and to private open space on June 21. The *Rules of Thumb* do make provision for a concession to	**Complies.** <u>Within the Proposed Development</u> The number of units with at least 2 hours direct sunlight onto the glazing of living spaces between the hours of 9.00am and 3.00pm in mid-winter is: Northern Building 28 units (70%) Southern Building 54 units (74%) Further discussion in this regard is provided

Relevant Guidelines	Compliance
reduce this to 2 hours in a densely built up urban context.	later in this report. <u>Solar Access to Adjoining Properties</u> The applicant has demonstrated that all adjoining dwellings will achieve a minimum of 2 hours solar access between 9.00am and 3.00pm in mid winter.
Planting on Structures • *Encourage establishment and healthy growth of trees in urban areas.*	Council's Landscape Architect has raised concerns about the quantum of landscape area and will require further detail regarding planting on structures and soil depths on podium. The additional information will be required to be provided prior to issue of the construction certificate and can be included as a condition of consent.
Stormwater Management • *Reduce volume impact of stormwater on infrastructure by retaining on site.*	**Complies.** An on-site detention system is to be provided.
Site Amenity Safety • *Ensure residential flat developments are safe and secure for residents and visitors and contribute to safety of public domain.*	**Complies**: The design provides for a clear definition between public and private spaces and communal areas and allows for passive surveillance of both the public and private domain surrounding the buildings. This arrangement will ensure that the site is safe and secure for occupants and visitors and users of the public domain.
Visual Privacy • *Provide reasonable levels of visual privacy externally and internally, during day and at night and maximise outlook and views from principal rooms and private open space is without compromising visual privacy.*	**Complies**: Good levels of visual privacy are provided externally and internally through the orientation of rooms, placement of windows and use of landscape or architectural screening devices. Outlook and views from living areas and balconies will be optimised without compromising visual privacy due to the orientation of living areas and balconies.
Site Access *Building Entry* • *Create entrance which provides a desirable residential identity for development, orient visitor and contribute positively to streetscape and building facade design.*	**Complies**: Clearly identifiable and landscaped residential entry zones are provided at ground floor on High and King Streets. This arrangement creates a discrete identity for each tower and easy orientation for residents and visitors. These residential entries lead to the residential lift lobbies & provide through access to the

Relevant Guidelines	Compliance
	communal landscaped open space in the centre of the site.
Parking • *Minimise car dependency but provide adequate car parking for building's users and visitors.* • *Integrate location and design of car parking with design of site and building.*	**Complies**: Adequate on-site parking for the building's users and visitors is proposed. Car dependency may reasonably be expected to be reduced by virtue of the proximity of the site to Mascot Station (approx. 600m to the north) and the bus services operating along Botany Road (nearest bus stop approx. 700m to the east of the site) which provide regular services to other parts of the eastern suburbs and the City. **Complies**: The on-site parking is provided over 2 levels and is integrated into the overall site design.
Pedestrian Access • *Promote residential flat development that is well connected to street and contributes to accessibility.* • *Barrier free access to at least 20% of dwellings.*	**Complies**: The site is well connected with the surrounding streets and pedestrian network through clearly identifiable address points and pedestrian paths within and through the site. **Complies**: At least 20% of the units afford barrier free access.
Vehicle Access • *Integrate adequate car parking and servicing access without compromising street character, landscape or pedestrian amenity and safety.* • *Generally limit width of driveways to 6m maximum.*	**Complies**: Car parking and servicing access have been integrated without compromising the street character, landscape setting or pedestrian amenity and safety. **Complies**: The driveway from King Street has a width of 4.5m across the public footpath. The egress driveway to High Street is 5m wide.
Part 3 – Building Design	
Building Configuration *Apartment Layout* • *Single aspect apartments should be limited in depth to 8m from a window.* • *Back of a kitchen should be no more than 8m from a window.*	**Non-Compliance:** A total of 33 apartments are single aspect. The majority (27 units) occur in the Southern Building, whilst the remaining 6 units are located on the western side of the Northern Building. The maximum depth of the single aspect units is 12m. It is noted that none of the single aspect apartments are less than 7 m wide and in the majority of cases are between 9 and 10 m wide. This ensures that these dwellings will have adequate outlook and access to natural light, on this basis the non-compliance is considered to be satisfactory. **Complies.** The maximum distance between the back wall of a kitchen and a window is approximately 9.5m. Whilst all windows are

Relevant Guidelines	Compliance
• *Width of through apartments over 15m deep should be 4m or greater to avoid deep narrow apartment layouts.* • *Affordable housing to be considered including small units & minimum sizes*	operable and each apartment has access to generous balconies, it is noted that all the apartments will be air conditioned in order to provide an acceptable level of amenity, given the potential exposure to aircraft noise. **Complies.** None of the apartments within the proposed development has a width less than 6 metres and all single aspect apartments are greater than 7 m wide. **Complies.** Various unit sizes are proposed with the highest proportion being 2 bedroom units. It is considered that this mix will allow for an acceptable degree of housing affordability, in line with current market trends.
Apartment Mix • *Provide a diversity of apartment types.*	**Complies:** An acceptable mix of Studio, 1 bedroom + study, 2 bedroom and 3 bedroom units is proposed.
Balconies • *Provide all apartments with private open space.* • *Ensure balconies are functional and integrated with overall architectural design.* • *Provide primary balconies for all apartments with a minimum depth of 2m.*	**Complies:** All units will have a principal private balcony / terrace / courtyard that is integrated into the overall architectural form. All private open spaces are accessed from the primary internal living spaces and whilst they vary in depth, all include substantial / usable sections which are at least 3m deep in accordance with the requirements of Council's DCP 35. A number of units also have a secondary balcony, six units have a private roof terrace at Level 1, two units in the Northern Building have roof terraces at Level 8 and three units in the Southern Building have roof terraces.
Ceiling Heights • *2.7m for habitable rooms in residential flats.*	**Complies:** The minimum ceiling height for all habitable rooms is 2.7m.
Flexibility • *To promote 'long life, loose fit' buildings and encourage adaptive re-use to save embodied energy expended in building demolition.*	**Complies:** The design caters for inbuilt adaptability through a structural grid that would allow for some degree of future modification to the internal layout.
Ground Floor Apartments • *Contribute to streetscape and active safe streets by designing front gardens or terraces while ensuring privacy.*	**Complies:** The design incorporates a series of ground floor apartments which address either High Street or King Street which include small private front yards oriented towards the streets.

Relevant Guidelines	Compliance
Internal Circulation • *In general, where units are arranged off a double loaded corridor, the number of units accessible from a single core / corridor should be limited to 8.*	**Complies**: The Northern Building has one lift which provides access to / from the basement parking, ground floor and all residential levels. On ground level there are 4 x 2 storey units, all of which have individual entries from the ground floor. No access to these apartments is available from Level 1. Levels 2-7 have 6 units accessible from the single lift core. Level 8 does not provide access to the 2 storey apartments (Level 7 and 8), but provides access to the communal rooftop open space and facilities. The Southern Building is serviced by two lifts which provide access to / from the basement, ground floor and all residential levels. Each residential level accommodates 6 units.
Mixed Use • *Support integration of appropriate retail and commercial uses with housing, create more active lively streets and urban areas, encouraging pedestrian movement, service needs of residents and increase employment base, designed to maintain residential amenities and preserves compatibility between uses.*	**Complies**: The retail/commercial uses are not known at this point. It is anticipated that these ground level tenancies will complement the residential component and will also serve to create an active street frontage, encourage pedestrian movement, and depending on the future use of these tenancies, may potentially assist in meeting the service needs of residents.
Storage • *6m3 per studio or 1 bedroom unit.* • *8m3 per 2 bedroom unit.* • *10 m3 per 3 bedroom unit*	**Complies**: Storage is provided as follows: • Studio apartment $6m^3$ • 1 bed apartment $8m^3$ • 2 bed apartment $10m^3$ • 3 bed apartment $12m^3$
Building Amenity *Acoustic Privacy - Ensure high level of amenity by protecting privacy of residents within residential flat buildings both within the apartments and in private open spaces.*	**Complies**: The proposed method and materials of construction will provide adequate acoustic privacy to achieve the BCA requirements in relation to noise transmission.
Daylight Access • *Living rooms and private open space for at least 70% of apartments should receive a minimum of 3 hours direct sunlight between 9 am and 3 pm mid winter. 2hours acceptable in dense precincts* • *Limit number of single aspect apartments with southerly aspect to maximum 10% of*	**Satisfactory**. The number of units with at least 2 hours direct sunlight onto the glazing of living spaces between the hours of 9.00am and 3.00pm in mid-winter is: Northern Building 28 units (70%) Southern Building 54 units (74%) Further discussion in this regard is provided later in this report. **Minor non-compliance**: A total of 13 (11%) of

Relevant Guidelines	Compliance
total.	apartments in the development have a single, southerly aspect. This arrangement is considered to be satisfactory, having regard to the minimum width (7m) of these apartments, which provides adequate access to natural light and ventilation.
Natural Ventilation • *Building depths, which support natural ventilation typically range from 10 to 18 m.* • *60% of residential units should be naturally cross ventilated.* • *25% of kitchens within a development should have access to natural ventilation.*	Noted – refer previous comment. **Complies.** 65% of the apartments achieve natural cross ventilation. **Satisfactory.** Whilst none of the kitchens have direct access to a window and the maximum distance between the back wall of a kitchen and a window is approximately 9.5m, it is noted that all the apartments will be air conditioned in order to provide an acceptable level of amenity, given the potential exposure to aircraft noise.
Building Form *Facades* • *Promote high architectural quality in residential flat buildings, ensure new developments have facades which define and enhance public domain and desired street character and that building elements integrated into overall building form and facade design.*	**Complies**: The facade design is of a high architectural quality and establishes an appropriate built form, character and streetscape for the urban context of the site.
Roof Design • *Provide quality roof designs, which contribute to overall design and performance of residential flat buildings, integrate as part of overall design.*	**Complies**: The proposed roof forms are integrated with overall design and provide an appropriate 'top' to the buildings.
Building Performance *Energy Efficiency* • *Reduce the necessity for mechanical heating and cooling reducing reliance on fossil fuels and minimize greenhouse gas emissions.*	**Complies**: The installation of energy efficient plant, equipment and appliances will assist in reducing energy usage. Cross ventilation and appropriate choice of glazing and shading devices will reduce the need for mechanical heating and/or cooling. However it should be noted that the site is located between the 25 and 30 contours on the Aircraft Noise Exposure Forecast (ANEF) chart. In order to provide appropriate levels of internal amenity the apartments will be air conditioned.
Water Conservation • *Reduce mains consumption of potable water and quantity of urban stormwater runoff.*	**Complies**: A number of water conserving measures such as the collection and reuse of rain water for use in landscaped area and the installation of water efficient fixtures and fittings will reduce the consumption of potable water.

Botany Local Environmental Plan 1995 (LEP)

Clause 10 – Zoning

The subject site is zoned Residential 2(b) under the provisions of the LEP.

The strip of land adjacent to the western property boundary (outside the boundary of the subject site) is zoned 5(a) Special Uses Road Widening. The applicant has agreed to enter into a Voluntary Planning Agreement (VPA) to undertake landscaping and embellishment works in this area. This is subject to a separate negotiation with Council.

The proposed development being for the construction of a mixed use development comprising 113 residential units (residential flat building) and 6 retail / commercial tenancies (local shops) is permissible with consent. The primary objective of the Residential 2(b) zone is as follows:

> *To provide for the development and use of housing, other than detached housing, in appropriate locations, together with community and service uses of a type and scale appropriate to the enjoyment of such housing.*

It is considered that the proposed development, being for the construction of a mixed use development which consists of 113 residential apartments is not inconsistent with this primary objective.

It is considered that the proposed development is consistent with these secondary objectives as follows:

(a) to provide scope for high-quality residential development in innovative forms on identified sites,

In this regard, the DRP has indicated that the proposed design represents an appropriate design response to the opportunities and constraints offered by the site and its setting and is consistent with the design quality principles outlined in Part 2 of SEPP 65

(b) to improve the quality of the residential amenity by encouraging landscaping and good design in both new developments and renovations.

The communal open space constitutes 20.3% of the site area and will be landscaped and embellished for the use of residents. This complies with the minimum area required under the provisions of DCP 35 (20%).

In addition, the O'Riordan Street road widening area will be required to be landscaped and embellished by the applicant, under a VPA which will be separately negotiated with Council. These works will provide outlook and enhanced amenity to future residents of the proposed development in the short – medium term as well as a significantly improved streetscape in a locality which is at the gateway to the airport and to the newly evolving Mascot Station Town Centre Precinct. In this regard it is understood from discussions with RMS, that the road widening is not programmed to occur in its current 5 year plan and is not expected to be required in the foreseeable future.

Having regard to the above and in consideration of the highly urbanised context of the development, the residential amenity provided is considered to be within acceptable limits.

(c) to encourage the revitalisation and improvement of older established residential areas by rehabilitation and suitable development.

The proposed development represents the redevelopment of an existing commercial site for a mixed use development. The bulk, scale and density of the development is commensurate with anticipated future development along the O'Riordan Street corridor and will to some extent provide a physical buffer to lower density residential development to the east along High and King Streets.

(d) to allow non-residential development which provides services or employment for residents and which is of a type and scale which does not interfere with the amenity of surrounding residential areas.

Six (6) double height ground floor tenancies with a total GFA in the order of 473m^2 are oriented to the O'Riordan Street frontage of the site. These provide opportunities for the establishment of local shops within the proposed development and will serve to activate the O'Riordan Street frontage. The King and High Street frontages of the development present a residential character which makes a positive contribution to those streetscapes.

It is considered that this arrangement provides an appropriate separation between the land uses and minimising the potential for the commercial / retail uses to impact on the amenity of surrounding residential areas or indeed within the proposed development.

(e) to encourage the preservation of buildings which are of heritage significance and within a heritage conservation area.

Noted. However the subject site does not include any items of heritage significance, nor is it located in a Heritage Conservation Area.

(f) to encourage energy efficiency and energy conservation in all forms of development permissible within the zone.

A BASIX Certificate No. 426720 dated 7 May 2012 accompanies the application and indicates that the project meets the water saving target of 40, energy saving target of 20, and the thermal comfort requirements of the SEPP (BASIX) 2004.

Having regard to the above comments, it is considered that the proposed development is generally consistent with these secondary objectives of the 2(b) zone.

Clause 12 – Floor Space Ratios

Clause 12 of the LEP limits the maximum floor space ratio of the development to 0.5:1. Clause 12(2) allows consideration of an increase to the maximum floor space ratio to 1:1 on land within the Residential 2(b) zone and where the allotment area exceeds 2,500sqm.

The proposed development seeks approval for a floor space ratio of 3.32:1 (as measured in accordance with BBLEP 1995). The applicant has submitted a SEPP 1 Objection as discussed earlier in the report which demonstrates that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and it is recommended that the SEPP 1 Objection be supported.

In addition, Clause 12(2) of the LEP provides for a floor space ratio variation pending the consideration of the following matters:

(a) The proposed development will satisfy the primary objective of the zone.

The primary objective of the 2(b) zone is to provide for the redevelopment and use of housing, other than detached housing, in appropriate locations, together with community and service uses of a type and scale appropriate to the enjoyment of such housing.

The existing non-residential uses will be removed to allow for the new development which will provide a mixed use development incorporating local shops, residential uses and home office apartments. This application will enable the redevelopment of this site for an appropriate form of housing with local conveniences at the ground level that will not adversely impact on surrounding residents or the amenity of the area. Its scale is appropriate for this location.

(b) The scope of the proposed development, if above 2 storeys in height, is compatible with the scale of existing residential development in the locality.

The existing area contains a mix of housing forms, types and densities. This area is undergoing a transition towards a new urban character. Council's Design Review Panel has reviewed the proposal and has acknowledged that:

> *"O'Riordan Street in this locality is planned to undergo a transition to a new urban character due to is close proximity and gateway link to and from the Airport. The subject site forms a threshold between this desired future character and the existing built form character to the east and south.*
>
> *The proposed development is a response to this future character and to the existing subdivision pattern including the small scale residential development to the south and the medium scale residential development to the east especially the adjoining 3 storey residential flat buildings.*
>
> *The building envelopes proposed are obviously much larger (height and footprint) than the adjoining existing development and other existing developments in this setting. However, given the future planning for the locality, this may not be unreasonable. The building envelopes proposed are generally suitable for the desired future context and could provide an acceptable outcome in terms of urban form and visual and amenity impact."*

(c) The architectural character and design of the proposed development does not adversely affect existing residential development in the locality.

The architectural character and design of the proposed development is significantly different from existing housing stock in the immediate vicinity and is representative of contemporary urban apartment living. The architect has sought to modulate the facades to create visual interest and to break up the physical bulk of the buildings.

The arrangement of the buildings on the site provides a landscaped area at the eastern side of the North Building creating a landscaped interface with the existing residential flat building at 318 King Street.

Perimeter landscaping is used to soften the edges of the site and contributes to the privacy of the lower level units within the development as well as affording some screening to adjoining residential properties.

The buildings are separated by a common open space in the central part of the site which corresponds with the open space (back yards) between the existing residential apartment buildings at 318 King and 107 High Streets.

The position, orientation and heights of the buildings have been designed in consideration of the impacts on existing residential uses to the east and south. In this regard, the proposed buildings achieve appropriate physical separations between them and the adjacent dwellings, incorporating highlight windows, screens and fixed louvres to maintain privacy on the lower levels where there is a direct interface with the adjoining residential development.

(d) The provision of off-street parking for residents and visitors adequately meets the needs of the development.

The proposed on-site parking provision has been assessed by Council's Traffic Engineer who has reviewed the amended plans submitted by the applicant on 22 and 29 August 2012 and has advised that the proposed parking provision has been reduced to 205. Based on Council's DCP, there will be shortfall of seven (7) parking bays. In this regard, the shortfall of parking bays is considered to be acceptable subject to the following allocation:

- Commercial parking
  Two (2) for each tenancy, with total of twelve (12) for the entire commercial component of the development

- Residential parking
  Total 193 off-street parking bays for residents based on the following rate:
  - Studio/ 1-bedroom unit — 1 space / unit
  - 2-bedroom /3-bedroom unit — 2 spaces / unit
  - Visitors — four (4) spaces

- Loading/Unloading area
  Two (2) loading bays to accommodate Small Rigid Vehicle (SRV).

The provision of six (6) disabled parking spaces within the basement car park (4 on Basement Level 1 and 2 on Basement Level 2) is also proposed in accordance with AS2890.6-2009.

It is important to provide adequate parking for the retail / commercial tenancies, however it is noted that peak usage associated with such spaces (ie. during business hours) does not generally coincide with the peak demand for visitor parking associated with the residential component. In order to ensure optimal use of available parking within the development Council proposes to include a condition in the consent which requires the implementation of a shared arrangement for the spaces allocated to the commercial tenancies by visitors associated with the residential use.

(d1) The provision of on-site car parking does not dominate or detract from the appearance of the proposed development or the streetscape.

Access to the site is via a 3.5m wide vehicular entry on the King Street frontage of the site, which provides access to the basement parking. All vehicles will exit the site via a 5.5m wide driveway to High Street.

The driveway from King Street is located adjacent to the eastern property boundary and will be framed by landscaped areas on either side. The opening to the basement is set back approx. 22 metres from the King Street frontage and is set down approximately 4.5m. This arrangement ensures that the car park entry will not dominate the streetscape.

The car park exit to High Street is integrated as part of the building; the ramp is enclosed and features a landscaped planter on top, improving the visual amenity to neighbouring apartments at 107 High Street.

The design of the entry utilises horizontal architectural treatments which ties in with the remainder of the building design when viewed from High Street.

The vehicular access arrangements are considered appropriate and will not adversely impact the existing streetscape.

(e) The provision of private and communal open space on the site is adequate for the proposed development.

Each dwelling is provided with an area of private open space that is directly accessible from the internal living area of each dwelling. It complies with the numerical standards embodied in DCP 35 and provides a high degree of amenity in this context.

However, the site is deficient in usable communal open space.

- SEPP 65 requires 25-30% and 30% + on larger sites such as this, which translates to communal open space in the order of $923m^2$-$1108m^2$ or more
- Council's DCP 35 requires a minimum of 20% of the site area, which equates to $738m^2$.

Whilst the applicant has suggested that 965m^2 or 26% of the site area is occupied by communal open space, it would appear that this figure includes sections of the setbacks and pedestrian accessways, which are not considered to be usable communal open space (see **Figure 4** below).

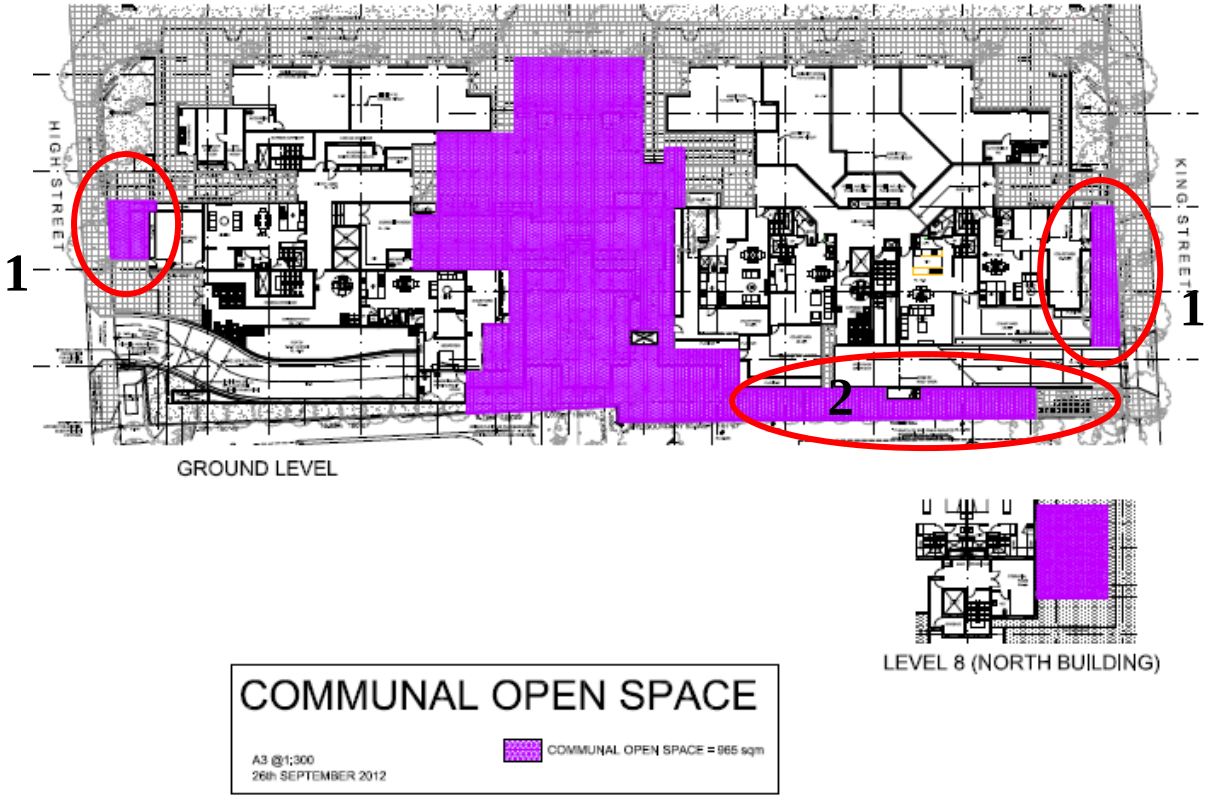

Figure 4 Communal Open Space

The areas identified "1" in the diagram at **Figure 4** are common areas within the setback adjacent to the building lobbies on the King and High Street frontages and afford little value in terms of usability given their dimensions and the high degree of exposure to the adjacent public footpaths.

Area "2" constitutes a pedestrian accessway / thoroughfare and does not offer an acceptable level of usability based on its primary function and configuration (long and narrow).

Accordingly the communal open space provided is as follows:

Communal Courtyard at ground floor = approx. 700m^2
Roof Terrace, Northern Building = 51m^2
Total Communal Open Space = 751m^2 (20.3%)

In view of the highly urbanised context of the site and the fact that the proposed development complies with Council's DCP 35 requirement for communal open space (20%) and also provides private open space to each apartment in excess of the requirements stipulated in DCP 35, it is considered that notwithstanding the numerical deficiency, the quantum of communal open space provision is acceptable in this instance.

(e1) The proposed development includes landscaping that screens and softens the visual effect of the buildings on the site, and creates useable and comfortable open space areas.

Landscaping along the perimeter of the site will provide a green edge to the development and will make a positive contribution to the privacy of apartments, both within the development and beyond the site.

A landscaped buffer is proposed on the east side of the site, including a limited area of deep soil landscaping which is proposed to be planted to provide a dense landscaped space and will facilitate retention of trees on adjoining sites.

The central communal open space between the buildings is on structure, but will be required to provide sufficient planting depth to sustain areas of lawn and decorative planting as well as tree planting. This area comprises a combination of hard and soft surfaces and provides the opportunity for predominantly passive recreation activities. Landscaping will also help define the common area circulation paths and contribute to privacy for adjacent ground floor apartments.

Private open spaces at ground level feature various low level planters which offer the opportunity for decorative as well functional kitchen gardens. Upper level terraces and balconies are sized to enable residents to create similar landscaping with planters.

Species selection is based upon selection of robust species with low demand for water and maintenance.

The landscape scheme allows for useable / active and passive areas of communal open space for the enjoyment of the residents.

(f) The environmental amenity of the proposed development and of the immediate locality includes measures to confine or reduce noise to maintain privacy.

The proposed development has been examined in relation to the consideration accorded to maintaining privacy both within the development and the likely impact on adjoining properties. In this regard it is noted that the building design includes a range of devices including physical separation, the use of fixed and operable privacy screens and highlight windows.

It is considered that the application of these devices will ensure acceptable levels of visual and acoustic privacy are maintained both within the development and external to the site (ie. adjoining properties).

(g) The proposed development ensures adequate sunlight, ventilation and privacy to its residents, to residents of adjoining development and to users of nearby public and private open space.

Council commissioned an independent analysis of the 3D modelling submitted by the applicant. The purpose was to:

(i) verify the accuracy of the shadow analysis;
(ii) confirm the extent of overshadowing of adjoining properties; and
(iii) assess the amenity compliance for solar access and natural ventilation for apartments within the development under the provisions of the RFDC as it gives effect to SEPP 65.

Steve King, a consultant architect from the University of NSW undertook the analysis and confirmed in the first instance that the computer modelling is accurate to a suitable degree to make an assessment of the likely shadow impact to adjoining properties. In terms of these impacts he indicated that:

> *The architects' tabulation of the overshadowing impacts relies on a characterisation of what are the limits of acceptable exposure, where an area of glazing or ground surface is partially shaded. This is not explicitly documented in the materials supplied to me. By reproducing several of the shaded views at the times nominated by the*

architects, I strongly infer that they have taken guidance from the Land and Environment Court Planning Principle in the Benevolent Society vs Waverley Council, which states inter alia:

> *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.*

I find this basis for establishing the limits of preserved solar access to be reasonable in the circumstances...

Having regard to the above, the applicant's portrayal of the overshadowing impact to the adjoining properties is considered to be reasonable and furthermore, these properties have been demonstrated as achieving acceptable levels of solar access.

In relation to point (iii), a preliminary assessment had suggested that the Applicant had not accounted for the self-shading effects of the heavily modelled facades. As a consequence, a significant number of the apartments were incorrectly characterised as receiving three hours of sun on June 21 between 9am and 3pm on the living area glazing. The Statement of Environmental Effects misrepresented the likely compliance with the RFDC for solar access, and could not be relied on for Council's determination of the Development Application.

The independent consultant advised as follows:

> *The Applicant has undertaken a number of detailed design changes to improve the proportion of dwellings in the development that are projected to receive acceptable durations of mid-winter direct sun to living area glazing.*
>
> *The number of units with at least 2 hours direct sunlight onto the glazing of living spaces between the hours of 9.00am and 3.00pm in mid-winter is as follows:*
>
> - *North Building 28 out of a total 40 (70%)*
> - *South Building 54 out of a total 73 (74%)*
>
> *The RFDC Rules of Thumb require a minimum of 70% of dwellings to receive at least three hours of direct sun to glazing of living areas and to private open space on June 21. The Rules of Thumb do make provision for a concession to reduce this to two hours in a densely built up urban context.*
>
> *The Applicant appears to seek this concession uniformly across the two buildings of the development, and for apartments of all orientations. In my view, this is not an appropriate application of the criterion for the concession, as the solar access of the development is not constrained by proximate buildings of similar height and bulk now or in the future.*
>
> *However, the overall compliance of the proposed development for solar access does not rely on the '2-hour standard alone. A minimum of two hours of direct sun may be applied selectively to apartments on the nominal East Elevation, by virtue of the loss of sun in the middle of the prescribed 9am to 3pm period. But more importantly, I note that the majority of the complying apartments in the subject development do so at the higher standard of amenity, receiving at least 3 hours of direct sun between 9am and 3pm on June 21. Of the remaining apartments characterized as complying with a minimum of two hours, again a majority receive additional direct sun before*

9am or after 3pm, and are likely to continue to benefit from that effective solar access after developments on nearby sites are built to likely complying heights.

The Rules of Thumb in the RFDC requires a minimum of 70% of dwellings complying for the appropriate minimum period of direct sun. The proposed design therefore now complies with the RFDC for solar access.

With respect to natural ventilation compliance, the independent analysis confirms that the number of apartments that are nominally cross ventilated 74 out of a total 113 (65.5%)

The *Rules of Thumb* in the RFDC recommend a minimum of 60% of dwellings to be cross ventilated. The design of the development therefore complies with the RFDC for natural ventilation performance.

(h) The proposed development makes provision for the adequate absorption of stormwater, and includes deep root zones for tree planting.

The Applicant states that 258m^2 of the site (7%) is deep soil, as shown in **Figure 5.**

In response to Council concerns about the amount of deep soil provided as part of the proposed development, the applicant submitted (on 25 September 2012) a series of sketch plans (Drawing Nos. SK DS 01A, SK DS 01B, SK DS 02 and SK DS 03) which illustrate modifications to the design of the basement wall alignment in the vicinity of the eastern property boundary to increase the area of deep soil.

The quantum increase in "deep soil" (or soil over structure with minimum depth of 1.0m) is 157m^2. This would increase the quantum of deep soil area to 415m^2 or 11%.

The increased deep soil zone will contribute to improved stormwater absorption as well as sustain greater buffer planting growth between the proposed building and the existing building on the adjacent property.

The applicant has documented (in sketch form) the following modifications:

Ground Level

Realignment of eastern basement retaining wall below ground increases the extent of deep soil zone area.

In addition to the increased deep soil zone, further increase in absorption and planting is proposed by virtue of a structural shelf extension over a portion of the basement in the following locations:

i) South eastern corner of the site, achieving a soil zone of 1m depth which is contiguous with the deep soil zone adjacent to the eastern boundary.

ii) Adjacent to the eastern edge of the central communal open space. Raised planters adjacent to the grassed area are modified, achieving a large area soil zone of 1m depth which is contiguous with the deep soil zone adjacent to the eastern boundary.

Basement Level 1

- Relocation of loading bays.
- Relocation of 1 car space and addition of a car space adjacent to north side of the loading bays.
- Realignment of eastern basement retaining wall.

Basement Level 2

- Modification to the proportion of the car park exhaust fan room.
- Realignment of eastern basement retaining wall.

Appropriate conditions have been included in the schedule which requires the design to be modified prior to the issue of any construction certification, in accordance with the aforementioned sketches submitted to Council on 25 September 2012.

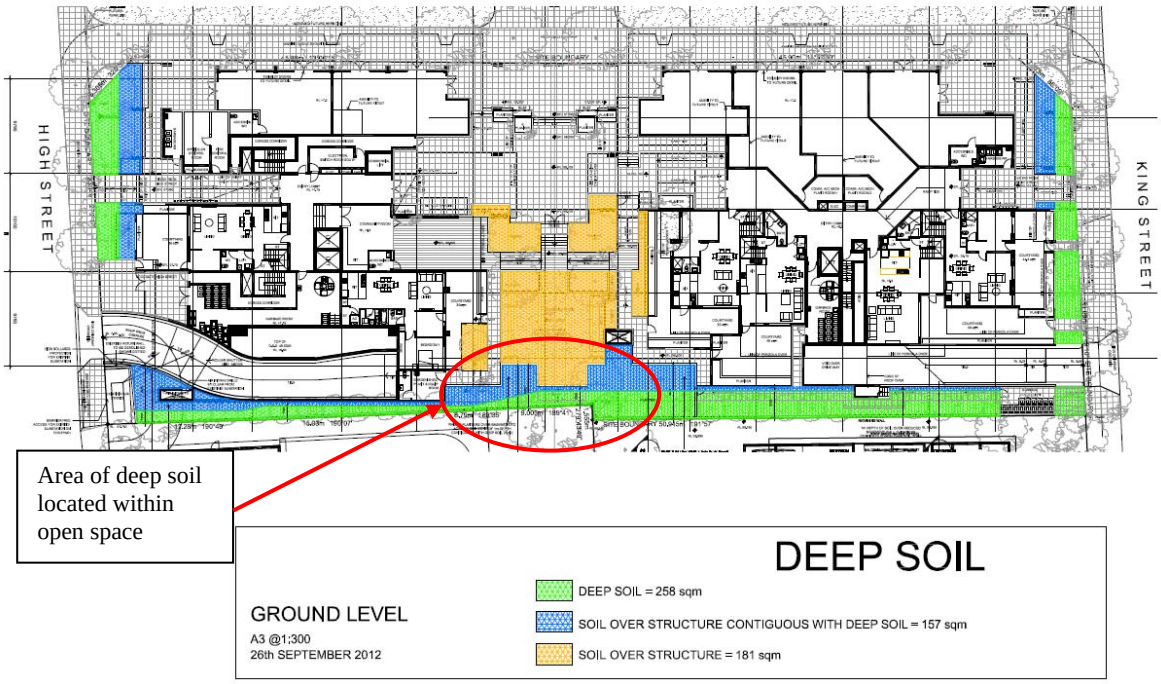

Figure 5 Areas of Deep Soil

(i) The proposed development incorporates pedestrian links at points where they are most prominently and safely connected to the existing street and pedestrian network.

The position of the central landscaped podium aligns with the landscape setback (rear yards) between the adjoining residential buildings to the east. The arrangement of the buildings on the site would not preclude the creation of a possible through site link to the east, ultimately connecting with High Street Reserve.

The development provides clear and legible pedestrian access to and within the site. Both buildings have large double height lobbies at the ground level that are directly accessed from the adjoining streets and also from within the central landscaped podium.

All typical apartments are accessed from the common lobby by lift or via the lift from the basement car park. In addition, individual entry is provided to all ground level apartments.

(j) The proposed development provides a safe and secure environment for its residents.

All the units on the ground level have individual access from the High or King Street frontages or from the communal open space. This will enhance the sense of security and passive surveillance of the surrounding private and public areas.

All entry points to the buildings are clearly defined and include security controlled access for the safety of residents.

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

The provisions of Australian Standard AS2021:2000 have been considered in the assessment of the development application, as the subject site is located within the 25-30 ANEF contour. Residential development in these areas is considered unacceptable in

accordance with Table 2.1 of Australian Standard AS2021-2000 unless an acoustic report is submitted to Council, which demonstrates that the proposed alterations and additions to the existing dwelling can achieve the requirements under Table 3.3 of AS2021-2000.

The applicant has submitted an Acoustic Report for Aircraft and Road Traffic Noise dated 27 April 2012 prepared by Day Design Pty Ltd, which concludes that the proposed development can be constructed to achieve the requirements of AS 2021-2000.

The Standard also requires that the external environment to the dwelling be considered for aircraft noise impacts. This process has taken the following into account;

- the land is zoned Residential 2(b) and residential flat buildings are permissible in the zone;
- the dwellings all have a generous internal floor areas, ranging between 76m^2 for a 1 bedroom apartment to an average of 100m^2 for a 2 bedroom apartment and up to 159m^2 for a 3 bedroom apartment. The larger apartment sizes provide a high level of internal amenity in terms of access to daylight / solar access; and
- The outdoor environment given the curfew and current operating patterns is such that in daylight hours there will be sufficient opportunity to use the generous private open spaces associated with each apartment without the presence of aircraft noise.

Therefore the proposed development is considered to satisfactorily address the requirements of Clause 13 and 13A of the LEP.

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) Regulation 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 proposed buildings exceed this maximum height, and therefore the application was referred to Sydney Airports Corporation Limited (SACL) on 24 May 2012 for consideration. SACL by letter dated 19 September 2012 raised no objections to the proposed development, subject to conditions to be imposed on any consent.

Clause 22 – Greenhouse, Energy Efficiency, etc

Clause 22 of the LEP and the requirements of Council's DCP for Energy Efficiency have been considered in the assessment of the DA. A BASIX Certificate No. 426720 dated 7 May 2012 forms part of the DA documentation. The BASIX Certificate indicates that the project 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

A Geotechnical Report prepared by Asset Geotechnical forms part of the DA documentation which indicates that the proposed basement finished floor level is at RL 1.4m AHD, and excavation approximately 6m deep will be required across the site with up to 7m to 8m deep localised excavations required for construction of lift pits. From the results of this investigation, it is assessed that the basement level will be up to about 5m below the observed groundwater level, and would be within medium dense to dense alluvial sands and clayey sands.

As the development involves works to the basement level that will (during construction) transect the watertable, the proposal was referred to the NSW Office of Water as Integrated Development in accordance with the provisions of section 91 of the EP&A Act.

As previously discussed in this report the Aquifer Interference Policy was released on 13 September 2012. Preliminary advice from the Office of Water indicates that the Policy will have implications for the proposed development, as there are activities proposed that will most likely classify as 'aquifer interference' and as a consequence, the NSW Office of Water will have requirements that will need to be addressed.

The Office of Water has indicated that the specific implications of the new Policy are currently being determined and at the time of preparing this report, was not in a position to issue concurrence and the general terms of approval.

Accordingly, development consent cannot be issued until such time as concurrence and the general terms of approval are issued by the NSW Office of Water. It is understood that the JRPP Secretariat has discussed this matter with the Panel Chair.

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

The site is located within a Class 4 Acid Sulfate Soil Area. As such any works below 2m AHD or works by which the watertable is likely to be lowered beyond 2 metres AHD require the consent of Council.

An Environmental Site Assessment accompanies the application and reveals that ASS was not encountered within the excavation depth proposed for the development.

Council's Environmental Scientist has advised that no objection is raised to the proposed works, subject to the inclusion of appropriate conditions on any consent issued.

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 the 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.

Sydney Water has reviewed the application and in correspondence dated 28 May 2012, advised that:

- the drinking water main requires amplification in order to accommodate the proposed development;
- the current waste water system has sufficient capacity to accommodate the proposed development, but that a deviation of the existing 225mm main may be required.

Relevant conditions as requested by Sydney Water have been included in the schedule.

Concept stormwater plans were submitted with the application, which have been reviewed by Council's Development Engineer. Council's Engineer has provided conditions of consent with regard to the provision of stormwater drainage for the development. As such the proposed development is considered to satisfy the provisions of Clause 38 of the LEP.

Provisions of any Draft Environmental Planning Instruments (S.79C(1)(a)(ii))

Draft Botany Bay Local Environmental Plan 2012

The Draft Botany Bay Local Environmental Plan (Draft LEP) is the comprehensive planning instrument for the whole of the City of Botany Bay. It has been prepared in

response to the planning reforms initiated by the State Government, which required all Councils in NSW to standardise their LEPs. The Draft LEP was placed on public exhibition from 21 May to 22 June 2012 and is therefore a matter for consideration under Section 79C of the EP&A Act, 1979.

The provisions of the Draft LEP have been considered in the assessment of this Development Application and the following information is provided:

Principal Provisions of Draft LEP 2012	Compliance	Comment
Land Use Zone	**No** **N/A**	The site is zoned Business Development B5 under the Draft LEP. The O'Riordan Street road widening is zoned SP2 Infrastructure.
Is the proposed use / works permitted with development consent	**No**	The proposed residential use is prohibited under the draft LEP. In this regard it should be noted that the applicant originally consulted Council in relation to a proposal for multi-storey residential development in March 2011 at a time when the DLEP was in its very early stages (and more than 12 months prior to its exhibition). Council officers provided feedback to the application which indicated that such a proposal could be considered and at the time this was a permissible development. Further discussions between the applicant and Council officers in September 2011 resulted in the inclusion of retail / commercial floor space at ground level on the O'Riordan Street frontage. The DA was lodged on 22 December 2011. The Department of Planning and Infrastructure issued a Section 65 Certificate on 18 April 2012 and the draft LEP was exhibited between 21 May and 22 June 2012. The weight to be given to the draft instrument is influenced by how far the LEP has progressed. Greater weight is given to the provisions of a draft instrument if there is greater certainty that the plan will be gazetted. In this instance, the outcome of the public exhibition period is scheduled to be presented to a Council meeting on 3 October 2012. It is possible that Council may further amend the draft plan having considered the submissions. Following adoption by Council, the draft LEP will be referred to the Minister for gazettal and can be considered imminent and certain. Furthermore, Clause 1.8A of the draft LEP contains a savings clause that states: *"If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not*

Principal Provisions of Draft LEP 2012	Compliance	Comment
		been finally determined before that commencement, the application must be determined as if this Plan had not commenced"
Does the proposed use / works meet the objectives of the zone?	**No**	By virtue of the inclusions of ground floor commercial / retail tenancies, the proposed development is partially consistent with the following objectives in the Draft LEP: • to enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.
Does Schedule 1 – Additional Permitted Uses apply to the site?	**N/A**	Schedule 1 does not apply
What is the height of the building? Does the height exceed the maximum building height	**Yes**	Maximum building height under the Draft LEP is 44m. North Building achieves a height of 28.5m; South Building height of 43.2m. Measured from ground level to the ridge of the building.
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	**Yes**	The maximum floor space ratio under the Draft LEP is 3:1. Calculated in accordance with the definition of gross floor area specified in the draft LEP, the proposed development achieves an FSR of 3:1.
Is the proposed development in a R3/R4 zone? If so, does it comply with the 2000m^2 min site area and max height of 22m and max FSR of 1.5:1?	**N/A**	The site is zoned B5 under the provisions of the Draft LEP.
Is the site within land marked "Area 1" on the FSR Map? If so, does it comply with the sliding scale for FSR in Clause 4.4A?	**N/A**	The site is not located within "Area 1".
Is the land affected by road widening?	**No**	A 19m wide (approx) strip of land along the O'Riordan Street adjacent to the western boundary of the site is reserved for road widening purposes and is owned by RMS. The applicant has confirmed that it is willing to enter into a Voluntary Planning Agreement (VPA) with Botany Bay City Council for the purpose of carrying out the public domain works, including landscaping, lighting, seating, pathways and the undergrounding of the power lines, on the adjacent land reserved for road widening and owned by RMS. The terms of the VPA will be separately negotiated with Council. In addition a long term licence agreement will need to be entered into with RMS to facilitate the

Principal Provisions of Draft LEP 2012	Compliance	Comment
		embellishment of this area.
Is the site listed in Schedule 5 as a heritage item or within a conservation area?	**No**	The site is not listed in Schedule 5 of the Draft LEP.
The following provisions in Part 6 of the Draft LEP apply to the development: • Acid Sulfate Soils • Airspace Operations • Aircraft Noise	**Yes** **Yes** **Yes**	Clause 6.14 – the site is Class 4 land according to Council'ASS Map. An Environmental Site Assessment accompanies the application and reveals that ASS was not encountered within the excavation depth proposed for the development. Clause 6.15 – the proposed buildings will not penetrate the Obstacle Limitation Surface however the application was referred to SACL and Air Services Australia to ensure it does not impact on any navigational aids. Clause 6.16 – the application is accompanied by an Acoustic Assessment which addresses the relevant provisions of AS 2021-2000 Acoustics – Aircraft noise intrusion – Building siting and construction.

The imminence of the gazettal of a draft local environmental plan is paramount in determining the weighting accorded to the provisions of the draft instrument in the assessment of a development application. Three tests have been outlined in relevant case law, as follows:

1. ***Whether the draft local environmental plan is imminent and certain and if so, what weight should the draft LEP be given.***

Public exhibition of the Draft LEP concluded on 22 June 2012. Council is currently reviewing and undertaking further investigations related to the submissions received in response to the public exhibition and will give due consideration as to whether further amendments to the Draft LEP are required.

Upon completion of these investigations and consideration, Council will forward the Section 68 Report to the Department of Planning and Infrastructure.

The Department will subsequently issue correspondence which confirms receipt of the S68 submission.

It is following this exchange that it can be determined that the gazettal of the Draft LEP is "imminent". It is generally accepted that the imminency and certainty of the Draft LEP increases as it is advanced through the plan-making process and the expected date of gazettal approaches.

At the time of preparing this report, the outcome of the public exhibition period is scheduled to be reported to Council in early November 2012. It is possible that Council may further amend the draft plan having considered the submissions. Following adoption by Council, the draft LEP will be referred to the Minister for gazettal and can be considered imminent and certain.

On this basis, the Draft Botany Bay Local Environmental Plan 2012 is considered to be neither imminent and / or certain.

2. ***How is the proposed development characterised under the draft local environmental plan and whether the proposed use is prohibited or permissible.***

Residential accommodation (which includes residential flat buildings) is prohibited in the Business Development B5 zone.

Retail premises are prohibited.

Business premises and neighbourhood shops and office premises are permitted with consent.

3. ***Whether the proposal undermines the expressed future planning objectives for the area in the draft local environmental plan.***

The stated objective of the Business Development B5 zone is as follows:

> *To enable a mix of business and warehouse uses, bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.*

The provision of retail / commercial tenancies at ground level on the western frontage of the development will provide a degree of continuity of business activities along O'Riordan Street. Furthermore the two storey apartments which occupy the eastern side of the development at ground and first floors are intended to provide opportunities for live / work accommodation. The ground floor spaces within these dwellings are specifically designed to accommodate home offices.

This arrangement could broadly be considered to not be wholly inconsistent with the objectives of the B5 zone. It is noted that the objective of the zone does not specify a minimum proportion of business uses within individual developments but seeks to achieve the land use across the broader zone. It is acknowledged that the area is undergoing change and it is considered that approval of the development under the current land use controls will not unduly inhibit the achievement of the future zoning.

The quality of the design is consistent with the desired future character of the Precinct and the development will increase the range of housing choice in the Botany Bay LGA, that will support the viability of existing (and future) centres.

Having regard to the above, it is considered that the proposed development is not contrary to the objective of the B5 zone.

Provisions of Development Control Plans (S.79C(1)(a)(iii))

Development Control Plan – Off Street Parking

The provision of parking to serve the needs of the proposed development has been addressed previously in this report under the section addressing compliance with the provisions of Botany LEP 1995.

Development Control Plan – Aircraft Noise

The issue of aircraft noise and the intensification of residential use has been addressed previously in this report in relation to Clause 13 of Botany LEP 1995.

Development Control Plan – Access

The requirements of the Access DCP have been considered in the assessment of the development application. The proposed development provides disabled access into all main lobbies. Lift access is provided to all levels within each of the buildings.

In addition to the requirements of the Access DCP, Council's DCP 35 - Multi-Unit Housing and Residential Flat Building requires the provision of adaptable dwellings at the rate of 2 adaptable dwellings plus one for each 30 units above 50.

The DCP requires the provision of four (4) adaptable units. This is most appropriately addressed as a condition of consent.

Development Control Plan – Energy Efficiency

A BASIX Certificate has been submitted with the application which indicates that the proposal meets the water saving target of 40%, energy saving target of 20%, and the thermal comfort requirements of the SEPP (BASIX) 2004.

Development Control Plan No. 29 – Waste Minimisation and Management Guidelines

A Waste Management Plan has been submitted detailing waste minimisation and management practices to be implemented for the construction and operational phases of the proposed development. The Waste Management Plan appropriately addresses the requirements of DCP No. 29.

Development Control Plan No. 34 – Contaminated Land

The Contamination Land DCP provides requirements for the environmental assessment of sites that are potentially contaminated.

An assessment has been undertaken by Environmental Investigations and accompanies this application. The report confirms that the site can be made suitable for the intended use subject to the preparation of a Remediation Action Plan, remediation of the site and the preparation of a Site Validation Certificate.

Development Control Plan No. 35 – Multi-Unit Housing and Residential Flat Buildings

The subject site is located with the Mascot Precinct 2. The following table provides an assessment of the application against the relevant provisions of DCP 35.

Requirement	**Proposal**	**Compliance**
Section 2 – Suburb and Precinct Guide – Mascot Precinct 2		
Minimum Site Area Area west of SWOOS – N/A	Site area = 3,693m^2	N/A
Minimum Frontage Area west of SWOOS – 30m	King Street = 32.18m High Street = 35.99m (note: includes splays)	Yes
Building Height Up to 4 storeys 14.4m to top storey 17m to ridge	North Building – 9 Storeys (43.25m) South Building – 14 Storeys (28.5m)	**No** – Refer Note 1.
Preferred Design Type Residential Flat Building	Notwithstanding non-compliance with height and FSR, building typology is generally consistent with the DCP.	Yes
Section 3 General Design Elements		
Building Form and Character		
3.2.1 Floor Space Ratio		
Clause 12 of LEP 0.5:1 base FSR plus up to 0.5:1 additional for sites with	FSR proposed 3.32:1	**No** – SEPP 1 Objection

Requirement	Proposal	Compliance
an area in excess of 2,500m^2		
3.2.2 Site Coverage		
40% Maximum 60% Open Space	85% (incl. Basement); 44% at ground level.	**No** – refer Note 2.
3.2.3 Building Height		
As per Mascot Precinct 2 Controls (see above)	North Building – 9 Storeys (43.25m) South Building – 14 Storeys (28.5m)	**No** – Refer Note 1.
3.2.4 Building Depth		
18m (21m including the articulation zone)	North Building – 35.5 metres South Building 30 metres	**No** – refer Note 3.
3.2.5 Building Separation		
Up to 4 storeys 12m habitable rooms / balconies 9m habitable rooms / balconies and non habitable rooms 6m non-habitable rooms 5 storeys 18m habitable rooms / balconies 13m habitable rooms / balconies and non habitable rooms 9m non-habitable rooms	<u>Within the Proposed Development</u> The DCP controls do not contemplate development of the height and scale proposed. Accordingly SEPP 65 rules of thumb have been used as the assessment criteria in this instance. The development satisfies the minimum separation distances between habitable rooms / balconies and non-habitable rooms (18m) and the separation of 12m between non-habitable rooms. However there is a marginal non-compliance with the minimum 24m between habitable rooms / balconies, as follows: Ground 23.28m Level 1-7 23.28m Level 8 29.27m (complies) <u>Relationship to Adjoining Development</u> The separation between the Northern Building and adjacent 3 storey residential flat building at 318 King St varies from 12.1m to 20.42m between habitable rooms / balconies. The separation between the Southern Building and the 4 storey residential flat building at 107 High St varies from 9.15m to 12.29m between habitable rooms / balconies. Where the separation distance between dwellings is compromised, openings in the proposed building are offset from those adjoining and /or limited in size and are screened to preserve mutual privacy. Notwithstanding the separation between residential components, it should be noted that the car park structure (specifically the egress driveway emerging from the basement car park) on the High Street frontage observes a setback of 2.15m from the eastern (side) boundary, resulting in a physical separation in the order of 5 metres at ground	Minor non-compliance Complies Satisfactory

Requirement	Proposal	Compliance
	level which interfaces with ground floor parking on the adjoining site.	
3.2.6 Corner Buildings		
Buildings are to align with and reflect the corner conditions of respective streets. Corner buildings are to reflect the architecture, hierarchy and characteristics of the streets they address.	The buildings have been sited to address each of the street frontages. The non-residential uses are confined to the ground floor on the O'Riordan Street frontage in cognisance of the need to address the primary thoroughfare. The residential lobbies address King and High Street, reflecting the predominantly residential character of those roads.	Satisfactory
3.2.7 Heritage		
Compliance with DCP 37 – Heritage Conservation	There are no heritage buildings either on or in the immediate vicinity of the site. Furthermore, it is not located within a Heritage Conservation Area.	N/A
3.2.8 Through Site Links & View Corridors		
Retain existing significant views View corridors to be integrated into the design Building footprints are to take account the requirement for consolidated open space as well as for views	There are no significant views in the immediate vicinity of the site. The central part of the site will accommodate a communal courtyard which will be landscaped. This creates an east-west oriented view corridor which aligns with the rear yards of the adjoining residential flat buildings in King and High Street.	Satisfactory
3.2.9 Building Setbacks		
Front Setbacks Building setbacks from front boundary are determined by setback of adjoining development but are to be min 3m (or 4 m if fronting a designated road).	The proposed development observes the following setbacks: North Building – 6.5m to King Street, measured from property boundary to façade of building. South Building – 9.1m to High Street, property boundary to building façade.	Satisfactory
Side Setbacks 2m + ¼ height in excess of 3m, which ever is the greater to allow an inter-building space of at least 9 m between properties (including balconies) with a common rear boundary as well as to allow useable private open spaces to the rear. Min rear and side building setbacks shall be increased	The residential levels of the buildings observe setbacks from the side boundaries which achieve physical separation generally in excess of 9m and in the majority of instances is in excess of 12m. There is an isolated instance at Level 1 of the Southern Building where an area of private open space (terrace) achieves a separation of only 6.8m from a bathroom window in the adjoining property at 107 High Street, however the applicant has provided	Satisfactory

Requirement	Proposal	Compliance
by 3m where vehicle access is provided. Side setback can be reduced by max 1m for 30% of the length of the boundary only when setback is increased by an equal amount elsewhere along the same boundary.	appropriate architectural devices (screen) to ensure privacy is not compromised. The setback area along the eastern boundary will be landscaped to provide screening and general amenity.	
3.2.10 Streetscape		
Garages and parking structures are to be designed, constructed and located to complement the development. These structures are not to dominate the street frontage. Design and materials of front fences /walls to be compatible with the development and with attractive fences and walls in the nearby visible locality.	Access to the site is via a 3.5m wide vehicular entry on the King Street frontage of the site, which provides access to the basement parking. All vehicles will exit the site via a 5.5m wide driveway to High Street. The driveway from King Street is located adjacent to the eastern property boundary and will be framed by landscaped areas on either side. The opening to the basement is set back approx. 22 m from the King Street frontage and is set down approximately 4.5m. This arrangement ensures that the car park entry will not dominate the streetscape. The car park exit to High Street is integrated as part of the building; the ramp is enclosed and features a landscaped planter on top, improving the visual amenity to the apartments at 107 High Street.	Satisfactory
3.2.11 Facades		
The desired future character defined by Precinct, are to be addressed and reflected within the development. Reflectivity from building materials used on facade not to exceed 20%.	The DRP has considered the proposed architectural treatment and has indicated its general support for the development. A condition has been included in the consent.	Satisfactory Satisfactory
3.2.12 Roof Design		
Rooftop or exposed structures including lift motor rooms, plant rooms, etc, together with A/C, ventilation and exhaust systems, are to be screened and integrated with the building. Visual impact of roof fixtures (vents, aerials, chimneys, solar panels, satellite dishes, mobile phone transmitters etc) is to be minimised.	The lift overrun and plant are incorporated in the roof form of the Southern Building. The top level of the Northern Building features a diminished footprint and a simplified floating roof form. The proposed development can comply and will be conditioned accordingly.	Satisfactory

Requirement	Proposal	Compliance
3.2.13 Parking and Access		
Studio + 1 bedroom – 1 space / dwelling 2 - 4 bedroom – 2 spaces/dwelling Visitor – 1 space / 10 dwellings Car wash – 1 bay / 10 dwellings Commercial tenancies 1 space / 40m^2	205 spaces provided in total	Satisfactory subject to specified allocation – refer Note 4
Enter / leave forward direction	One-way vehicle movement through site – ingress via King St / egress to High St	Satisfactory
Driveway – 5m wide	5m wide	Satisfactory
Driveway – max 30m long	Less than 30m long	Satisfactory
3.2.14 Site Facilities		
• Compliance with Sydney Water requirements • Fire hydrant booster valves, substations, water storage tanks etc not to be incorporated in landscaped areas but should be set back behind the building line. • Mailboxes to Australia Post req'mts • Address displayed • Garbage facilities to be integrated into building design • Waste and recycling areas not to be located within front setbacks • Open air clothes drying areas or clothes dryers with min 3.5 star rating • Garden maintenance storage to be provided • Air conditioning units not to be visible from the street	Can be conditioned	Satisfactory
3.2.15 Construction and Materials		
Schedule of materials and finishes Avoid expanses of glass	The DRP has advised that it generally supports the proposed selection of external materials, textures and finishes palette to suit the context.	Satisfactory

Requirement	Proposal	Compliance
3.2.16 Maintenance		
Ensure building can be cleaned and easily maintained	Can be conditioned	Satisfactory
3.2.17 Wind Mitigation		
Wind report for all buildings in excess of 4 storeys	The DA is accompanied by a Wind Analysis which indicates that wind conditions in all outdoor trafficable areas are expected to be suitable for their intended use. The report makes recommendations to mitigate against potential adverse wind conditions which have been included as conditions of consent.	Satisfactory
3.2.18 Demolition		
Comply with AS2601 Protect Council Assets Protect vegetation	Can be conditioned	Satisfactory
Environmental Amenity		
3.3.1 Building Entry		
Sheltered and well lit Separate from car parks	Pedestrian access to each of the residential towers is achieved via King and High Streets respectively and is physically separate from the points of vehicular ingress / egress. The lobbies provide through-access from the streets as well as from the central common open space. This arrangement provides a discrete "address" for each building as well as creating a positive relationship to and activation of the landscaped communal open space within the development.	Satisfactory
3.3.2 Apartment Layout		
Studio – 60m^2 1 bed – 75m^2 2 bed – 100m^2 3 bed – 130m^2 4 bed – 160m^2 Studio/1bed less 25% Crossover unit – 4m wide Single level – 6m wide Townhouses – 5m wide	Studio – 65m^2 1 bed – 76m^2 2 bed – 100m^2 3 bed – 131m^2 N/A N/A N/A 6m (minimum) N/A	Complies
3.3.3 Internal Circulation		
Common Corridors – 2m	Common corridor widths vary. 2m minimum provided adjacent to all lift lobbies; 1.7m in short sections.	Satisfactory

Requirement	Proposal	Compliance
3.3.4 Balconies		
Different styles required 1 balcony per unit 12m^2 min width 3m	Predominantly recessed balconies used All dwellings have access to balcony or private open space Min balcony size 19m^2 / 3m width	Satisfactory Complies Complies
3.3.5 Ceiling Heights		
2.7m for units 2.4m for entries	2.7m floor to ceiling heights achieved for habitable rooms.	Satisfactory
3.3.6 Ground Floor Units		
Increased security Public / private defined Individual entry	Three (3) ground floor apartments (2 in the Northern building and 1 in the Southern building) have individual entry to King and High Streets respectively. Clear delineation between the public / private domain is provided using a combination of courtyard walls which are set back behind a 2.2m landscaped strip on King Street and a 1.8-2.0m landscaped setback on High Street, augmented by a raised planter (2m wide).	Satisfactory
3.3.7 Storage		
Studio – 6m^3 1 bed – 8m^3 2 bed – 10m^3 3+ bed – 12m^3	All storage is provided within the individual apartments and complies with the minimum requirements.	Complies
3.3.8 Private Open Space		
<u>Ground Floor Units</u> 1 bed – 24.5m^2 2 bed – 35m^2 3 bed – 45.5m^2 <u>Balconies</u> 1 bed unit – 12m^2 2 bed unit – 15m^2 3 bed unit – 19m^2	 30m^2 (min) 35m^2 (min) 46m^2 (min) 19m^2 (min) 19m^2 (min) 40m^2 (min)	 Complies Complies Complies Complies Complies Complies
Communal Open Space 20% site area	20.3%	Complies
3.3.9 Landscape		
Deep soil along boundary 3m landscape street front Less than 1/3 hardstand Planter beds 1m wide	Deep soil areas are provided along the eastern, northern and southern boundary however they are compromised to a degree by the basement structure.	No – Refer Note 5
3.3.10 Visual Privacy		
Minimise overlooking Privacy measures if req'd	Acceptable levels of visual privacy are provided externally and internally through physical separation, the orientation of rooms, placement of windows and use of landscape	Satisfactory

Requirement	Proposal	Compliance
	or architectural screening devices. Outlook and views from living areas and balconies will be optimised without compromising visual privacy due to the orientation of living areas and balconies.	
3.3.11 Safety and Security		
Casual surveillance Lighting common areas Secured site Intercom provided	The living areas of the apartments are oriented to the street frontages, providing acceptable levels of passive surveillance of the surrounding public domain. Can be conditioned	Satisfactory Satisfactory
3.3.12 Pedestrian Access		
Paths of travel to and within buildings are to provide uninterrupted, comfortable access for all people.	Both buildings and all apartments are accessible by lift from the basement car park. Disabled access is provided to both buildings from both High and King Streets. Appropriate conditions requiring compliance with AS 1428 will be included in any consent issued in respect of this application.	Satisfactory
3.3.13 Adaptable Housing		
2 units + 1 per 30 units	The proposed development requires the provision of 4 adaptable units. The development is capable of complying and appropriate conditions will be included in any consent issued in respect of this application.	Satisfactory
3.3.14 Fences and Walls		
Max 600mm solid Open style 1m to street 1.8m max high side/rear	The proposed development is capable of complying and appropriate conditions will be included in any consent issued in respect of this application.	Satisfactory
3.3.15 Solar Access / Overshadowing		
Living rooms and private open space of at least 90% of dwellings within the development to achieve 3 hours of solar access between 9am and 3pm	Council commissioned an independent analysis of the 3D modelling prepared by the applicant. This revealed a significant non-compliance (only 51% of dwellings could achieve the 3 hours solar access required by SEPP 65) which was largely due to the inclusion of large recessed balconies off the primary living areas which comply with Council's DCP requirements for private open space but inhibit the achievement of sun on	Satisfactory

Requirement	Proposal	Compliance
	glazing to the living areas. The applicant submitted modifications to some 22 apartments which would enable both the North and South buildings to improve compliance with the SEPP 65 amenity standards. The development achieves 2 hours of solar access between 9am and 3pm in mid winter (consistent with the rule of thumb for a built-up area) as follows: North Building 70% South Building 74%	

Note 1 Height

There is a number of height controls applicable to the site which are relevant in the assessment of this application, as follows:

- DCP 35 maximum height of 4 storeys (Mascot Precinct 2)
- Airports (Protection of Airspace) Regulation maximum of RL 51.00 AHD

The Southern Building achieves a maximum height (measured to the top of the roof – lift overrun and plant are incorporated in the roof form) of 14 storeys / 43.25m above natural ground level / RL 52.80 AHD.

The Northern Building is 9 storeys / 28.5m above natural ground level / RL 37.00 AHD, measured to the top of the lift overrun.

Whilst both proposed buildings exceed the permitted height specified in DCP 35, they comply with the airspace height restrictions.

The site occupies a unique location at the threshold to the Airport precinct. The O'Riordan Street corridor has been the subject of considerable redevelopment in recent years, which has resulted in increases in the height, scale and density of development.

In acknowledgement of this trend, Draft LEP 2012 proposes to increase the maximum permissible height in this locality (including the subject site) to 44m above natural ground level. The introduction of such a control is indicative of Council's expectations in terms of future built form in this area and on this basis it is considered that the height of the proposed development is not inconsistent with the desired future character of this locality.

It is also noted that notwithstanding the non-compliance with the DCP height control, the proposed development has been arranged on site to ensure that adjoining residential properties to the south, east and south east retain a minimum of 2 hours solar access between 9.00am and 3.00pm in mid winter.

Having regard to the preceding discussion, it is considered that the proposed variation to the height control included in DCP 35 is acceptable in this instance.

Note 2 Site Coverage

The maximum site coverage specified under DCP 35 is 40%.

Council's DCP 35 defines Site Coverage as "*…the proportion of the floor plan area of the ground floor plan area of a building or buildings, including garages, carports, awnings, outbuildings etc to the actual site area of the site contained within the site's boundaries expressed as a percentage ratio."*

As a consequence, the area of the basement is required to be included in the calculation of site coverage, which results in a figure of 85% for the proposed development, representing a significant non-compliance with the control. However, at ground level, the site coverage is 44%.

In considering the extent of non compliance it is appropriate to examine the purpose and objectives of the control. The objectives of the site coverage control are as follows:

1. To achieve a balance between built form and open space
2. To ensure adequate sunlight, ventilation and levels of privacy to the dwellings within the development and adjoining buildings and open space
3. To make adequate provision for infiltration of stormwater, landscaping, recreational areas and deep soil planting.

The Statement of Environmental Effects dated 9 May 2012 which accompanies the DA provides the following justification for the non compliance with the site coverage control:

> *Notwithstanding the non-compliance with the site coverage control, the objectives are achieved for the following reasons:*
>
> - *The site coverage of the buildings above ground level is marginally non-compliant. The inclusion of the basement level and driveways do not impact on the balance between the built form and open space. The position of buildings enables landscaping along all boundaries of the site*
> - *The development provides deep soil landscaping along the north, south and eastern boundaries, resulting in opportunities for substantial tree planting to enhance the privacy and outlook of adjacent sites, in particular the existing residential uses to the east*
> - *The site coverage and position of the buildings has no unreasonable adverse impact on the solar access for the adjacent sites. All adjacent properties achive compliant levels of solar access*
> - *The configuration of the units and building separation together with the inclusion of privacy screens will maintain reasonable levels of privacy to the adjoining sites.*
>
> *It is therefore considered the development maintains compliance with the objectives of the site coverage control.*

Whilst the numerical non-compliance with the site coverage control is significant (85% including basement), the perception at ground level will be of a much lesser coverage (44%). The non-compliance does not detract from the site's ability to maintain adequate open spaces and compliant setbacks to adjoining properties.

The development will result in a central communal open space which is appropriately configured and sited to achieve the primary function of providing amenity in the form of landscape design, daylight and ventilation access to apartments, and opportunities for recreation and social activities. The rationale of the applicant is generally agreed with, and the variation is considered appropriate in this context.

Note 3 Building Depth

The North and South buildings have depths of up to 35.5m and 30m respectively measured from glass line to glass line. The depth of individual units varies from 6.75m up to 11.75m, however it is noted that the habitable portions of these units are generally limited to an area within 8m of glass on the facade.

A significant proportion of the units occupies corner locations and have access to dual frontages which provides for good natural light and cross ventilation. None of the single aspect units have frontages less than 7.0 metres (and in the majority of instances are 9 – 10 metres wide), which allows for light penetration and reasonable levels of ventilation.

Balcony dimensions vary across the frontage of the units, however it is noted that compliance with the minimum dimension of 3m required for balconies under Council's DCP 35, creates a deeper articulation zone beyond the glass line.

Having regard to the above, this arrangement is considered to be satisfactory.

Note 4 On-site Parking Provision

As discussed previously in this assessment, a total of 205 on-site parking spaces are proposed to be provided over two (2) basement levels.

This represents a shortfall of seven (7) parking spaces calculated in accordance with the rates set out in Council's Off-Street Parking DCP. In this regard, Council is prepared to accept the shortfall of parking spaces, subject to the following allocation:

- Commercial parking
  Two (2) for each tenancy, with total of twelve (12) for the entire commercial component of the development
- Residential parking
  Total 193 off-street parking bays for residents based on the following rate
  - Studio / 1-bedroom unit — 1 space / unit
  - 2-bedroom / 3-bedroom unit — 2 spaces / unit
  - Visitors — four (4) spaces
- Loading / Unloading area
  Two (2) loading bays to accommodate Small Rigid Vehicle (SRV)

This arrangement is considered to be acceptable in this instance having regard to the location of the site within close proximity to a range of public transport options including rail (Mascot Railway Station is approximately 600 metres to the north) and a number of bus services operating along O'Riordan Street and Botany Road.

It is important to provide adequate parking for the retail / commercial tenancies, however it is noted that peak usage associated with such spaces (ie. during business hours) does not generally coincide with the peak demand for visitor parking associated with the residential component. In order to ensure optimal use of available parking within the development Council proposes to include a condition in the consent which requires the implementation of a shared arrangement for the spaces allocated to the commercial tenancies by visitors associated with the residential use.

The reduced parking provision is also consistent with State government policy in terms of reducing private vehicle usage.

Note 5 Deep Soil

Only 258m^2 of the site (7%) can be considered to be deep soil in the strictest sense of the term. As indicated previously in this report the applicant has submitted a series of sketch plans which illustrate modifications to the design of the basement wall alignment in the vicinity of the eastern property boundary to increase the area of deep soil.

An assessment of the landscape plan in light of the proposed amendments indicates that approx. 20% (117m^2) of the communal open space area will now provide sufficient soil depths (ie. minimum 1.0m) to support larger trees.

The applicant will be required to implement landscaping and embellishment works within the future road widening reserve along O'Riordan Street (which occupies an area in the order of 1,700m^2). On this basis the extent of deep soil planting proposed, particularly given the highly urbanised context of the site, is considered acceptable.

The area available for landscaping was reduced as a result of the amended access arrangements (additional driveway from King Street to create one way vehicle movement through the site has eliminated an area of landscaping). In order to redress the deficiencies in landscaped area it is proposed to require a considerable upgrade to the public domain for the wider street block, including:

(i) both sides of High Street between its intersection with O'Riordan Street and the western boundary of the SWOOS – this includes the area adjacent to the subject site and the adjoining property at 107 High Street and the area adjacent to the properties known as 112- 126 High Street (inclusive);
(ii) both sides of King Street between its intersection with O'Riordan Street and the western boundary of the SWOOS – this includes the area adjacent to the subject site and the adjoining property at 318 King Street and the area adjacent to the properties known as 277 – 285 King Street (inclusive) and the public domain adjacent to part of the property known as 178 O'Riordan Street;
(iii) the full extent of the area reserved for road widening owned by Roads and Maritime Services and located immediately adjacent to the western property boundary. This will be the subject of a separate VPA to be negotiated by Council with the applicant;
(iv) the eastern side of O'Riordan Street between its intersections with Robey Street and High Street; and
(v) the eastern side of O'Riordan Street between its intersection with King Street to a point adjacent to the northern boundary of the property known as 178 O'Riordan Street.

To ensure the landscape treatment within the site boundaries of the proposed development is satisfactory, the Landscape Officer has indicated that a range of modifications are required to be documented on an amended Landscape Plan to be submitted prior to issue of a Construction Certificate. These include:

- Detail regarding planting on structures and soil depths on podium;
- An alternative species for the inner row of Plane Trees given there will be limited amelioration of buildings during their deciduous phase in winter. Also evaluate potential conflict between tree canopy and building awning;
- Ensure all trees in setbacks are located such that they are planted in deep soil rather than over podiums and/or to maximise root run and development;
- Larger tree pits to street trees with planting underneath;
- Additional street trees in High and King Streets reducing paved areas;
- Additional trees behind the electrical kiosk (High St frontage);
- Blueberry Ash not to be hedged but developed as a tree screen;
- Shrubs to be planted under the Blueberry Ash eastern boundary;
- Additional trees in paved areas (communal/private) where landscaping has been deleted to accommodate the King Street driveway. Planter boxes required;
- Embellish paved communal open space with trees and public seating; and
- Increase tree sizes of Waterhousia and Tuckeroo to 20-400L and Plane Trees to 400L.

Council acknowledges the deficiency in deep soil within the development site. However in this highly urbanised area an equally important consideration is the quality of the public

domain. In this regard, Council has included conditions in the consent which require extensive improvements in the adjacent public domain, extending well beyond the frontages of the site in all directions (as detailed above) as well as landscape and embellishment works within the land reserved for road widening.

Any Planning Agreement that has been entered into under section 93F, or any draft planning agreement that the developer has offered to enter into under section 93F (S.79C(1)(a)(iiia))

The applicant has confirmed by letter dated 28 September 2012 that it is willing to enter into a Voluntary Planning Agreement (VPA) with Botany Bay City Council to effect a range of works in the public domain. The extent of these works has been identified by Council as follows:

(i) landscaping and embellishment works, including lighting, seating and pathways, on the adjacent land reserved for road widening and owned by RMS;
(ii) public domain works and street improvements to the following areas:
- the northern side of High Street between its intersection with O'Riordan Street and the western boundary of the SWOOS – this includes the area adjacent to the subject site and the adjoining property at 107 High Street;
- the southern side of High Street between its intersection with O'Riordan Street and the western boundary of the SWOOS – this includes the area adjacent to the properties known as 112- 126 High Street (inclusive);
- the southern side of King Street between the intersection with O'Riordan Street and the western boundary of the SWOOS – this includes the area adjacent to the subject site and the adjoining property at 318 King Street;
- the northern side of King Street between the intersection with O'Riordan Street and the western boundary of the SWOOS – this includes the area adjacent to the properties known as 277 – 285 King Street (inclusive) and the public domain adjacent to part of the property known as 178 O'Riordan Street;
- the full extent of the area reserved for road widening owned by Roads and Maritime Services and located immediately adjacent to the western property boundary;
- the eastern side of O'Riordan Street between its intersections with Robey Street and High Street.
- the eastern side of O'Riordan Street between its intersection with King Street to a point adjacent to the northern boundary of the property known as 178 O'Riordan Street.

The exact wording and detail of the VPA are to form the subject of a separate offer to Council.

Provisions of Regulations (S.79C(1)(a)(iv))

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 - Demolition of Structures when demolition of a building is involved. In this regard a condition of consent is proposed to ensure compliance with the standard.

The Regulations requires notification to relevant authorities that may have an interest in the application. The proposal has been notified to Roads and Maritime Services, RailCorp, Sydney Airport Corporation Limited (SACL), Ausgrid, Sydney Water and the NSW Police

Service. The recommendations provided by these authorities are included as conditions of consent.

All relevant provisions of the Regulations have been considered in the assessment of this proposal.

Impact of the Development (S.79C(1)(b))

Context and Setting

The principal development standards under Draft Botany LEP 2012, utilised to their full extent, will allow a built form of considerable bulk and scale, in some contrast to the existing residential development in the locality but consistent with the likely future development. Notwithstanding, it is acknowledged that in preparing the draft LEP and the subsequent adoption of these controls, Council is cognisant of the scale of development that is likely to be achieved on this site and in the locality.

Due to these controls, there is the potential for any development on the site to be dominant in scale and have a significant impact on surrounding development, as well as a poor standard of amenity for future residents. However, having taken into consideration the design concerns raised by both Council officers and the Design Review Panel at Pre-DA stage, the resulting development proposal is considered to represent an acceptable design solution that will provide for a high standard of amenity, minimises potential impacts on surrounding development and will make a positive contribution to the streetscape and amenity of the locality.

These matters have been considered in the assessment of the development application. It is considered that whilst the environmental impacts associated with the proposed development are within reasonable limits having regard to the urban context. No significant social or economic impacts on the locality are anticipated.

Suitability of the Site (S.79C(1)(c))

The site is considered to be suitable for the proposed development and residential land use. It is located in reasonable proximity to the Mascot commercial centre, as well as Mascot Station and has the environmental capacity to support the proposed additional density and built form. Having regard to the characteristics of the site and its location, the proposed mixed use development is considered appropriate in that:

- the site is zoned to accommodate this type of development;
- the nature and form of the proposed development is generally consistent with the desired future character of the locality;
- the size and dimensions of the land can accommodate the scale of the proposed development;
- the site will have access to all utility services to accommodate the demand generated by the proposed development;
- the proposed development is unlikely to result in any adverse traffic impacts;
- the proposed development will not result in any unacceptable or material environmental impacts in relation to adjoining and surrounding properties, particularly in terms of overshadowing, views, privacy (aural and visual), solar access and natural ventilation; and
- there are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

Additional conditions of consent are included which are aimed at further minimising any potential impacts on neighbouring properties, particularly during the construction phase.

Public Submissions (S.79C(1)(d))

These matters have been considered in the assessment of the development application. In accordance with Council's Notification Policy (Development Control Plan No. 24), the development application was notified to surrounding property owners and occupants and advertised in the local newspaper from 22 May 2012 until 22 June 2012. A total of six (6) submissions, including a petition comprising 19 signatories were received.

In response to the concerns raised by residents during the exhibition period in relation to height, bulk and scale, overshadowing, loss of privacy, traffic impacts, waste management and parking, a Resident Consultative Committee Meeting was convened by Council on 16 August 2012. A total of seven (7) local residents attended, together with representatives from the applicant (architects) and Council's Director of Planning and Development, Chief Town Planner and Senior Strategic Planner.

The issues raised in the submissions and at the aforementioned meeting are addressed below:

Issue: Bulk and Scale

Comment: This area is clearly in a state of transition (which will be fostered by the controls set out in the Draft Botany Bay LEP 2012), with a range of more recent developments in the O'Riordan Street corridor achieving heights / scale in the order of 7 – 9 storeys. It is also noted that a series of recent development applications for sites in O'Riordan Street and King Street (in close proximity to the subject site) have either been approved or are currently being considered by Council which contemplate heights of up to 50.9 metres.

The key building elements are aligned to the O'Riordan Street frontage of the site. The tower elements step back above two storey podia which read as two separate buildings in the landscape, sited on the northern (King Street) and southern (High Street) sides of the property, being 9 and 14 storeys respectively which, when viewed in the context of the proposed height and FSR controls for this site under the provisions of the Draft LEP, the scale of the proposal is considered acceptable.

Council's Design Review Panel examined the proposed development at its meeting on 29 February 2012. A number of comments were made in relation to the scale and built form of the proposal, including:

> *The two storey podium is supported in principle as it provides a human scale at the street frontages but it needs further design development and refinement to strengthen it visually to provide a more solid base. It is suggested that the awning could be lowered to provide a better scale and improve weather protection.*
>
> *It is suggested that the top storey (or two storeys) as well as the roof top elements could be better differentiated through a visually lighter architectural treatment. A setback from the main façade could also be considered.*

In response to the Panel comments, the podium has been refined. The north, south and mid zone corners of the podium have been stepped back to open vistas towards the residential lobbies and to lead towards the central common open space (refer Drawing No.A06 Issue 05).

The facades of both the podia and the residential elements of the towers have also been refined. The top levels of both buildings feature diminished footprints and a simplified floating roof form. The application of lighter pre-finished metal cladding to significant

portions of the top levels differentiates them from the more solid appearance of the main façade planes and serves to "finish" the buildings.

The compositions of the main facades have been developed through grouping of components and greater expression of vertical elements to achieve a more slender appearance which diminishes apparent bulk. The relationship between the two buildings is reinforced through the application of similar façade elements, materials and finishes.

Whist the amended built form exceeds the scale and form of development permitted under Botany LEP 1995, it is generally in accordance with the envelopes and density and the desired future character contemplated under the Draft LEP 2012 and accords with the comments of the DRP. The bulk and scale of the proposed built form is therefore considered to be satisfactory.

Issue: Overshadowing Impact

Comment: The applicant has provided shadow analysis diagrams based on 3D digital computer modelling which examined the shadow impact of the proposed development on the adjacent residential flat buildings at 107 High Street and 318 King Street, as well as a series of single dwelling houses at Nos. 114 – 126 High Street.

The results were as follows:

318 King Street

It is noted that four (4) units in this development have living areas and or balconies which interface with the subject site.

Solar access available to these apartments between 9am and 3pm in mid winter is as follows:

Unit 1 – 11.45am to 2pm = 2hr 15min
Unit 5 – 11.30am to 2.45pm = 3 hrs 25 min
Unit 6 – 12noon to 2pm = 2 hrs
Unit 10 – 9am to 3pm = 6 hrs

On the basis of the applicant's assessment, all adjoining living rooms windows/balconies within the apartments on the western side of the residential flat building at 318 King Street achieve a minimum of 2 hours solar access between 9am to 3pm in mid Winter.

107 High Street

A total of six (6) units within this development have living areas and / or balconies which face the subject site.

The level of solar access available to these apartments between 9am and 3pm in mid Winter should the proposed development be approved, is as follows:

Unit 1 – 11.15am to 3pm = 3hrs 45min
Unit 6 – 11.15am to 1.30pm = 2hr 15min
Unit 7 – 11.15am to 3pm = 3hrs 45min
Unit 12 – 11.15am to 1.30pm = 2hr 15min
Unit 13 – 12.15pm to 3pm = 2hr 45min
Unit 18 – 11.15am to 1.30pm = 2hr 15min

The applicant's assessment indicates that all adjoining living rooms windows/balconies within the apartments on the western side of the residential flat building at 107 High Street achieve a minimum of 2 hours solar access between 9am and 3pm in mid winter.

114 – 126 High Street

Seven (7) single dwellings on High Street will be impacted by overshadowing generated by the proposed development as follows:

No. 114 – 9am to 12.30pm = 3hr 30min
No. 116 – 9am to 11am & 2.30pm – 3pm = 2hr 30min
No. 118 – 9am to 10.30am & 1.30pm to 3pm = 3 hrs
No. 120 – 9am to 9.30am & 12.30pm to 3pm = 3hrs
No. 122 – 11.30am to 3pm = 3hr 30min
No. 124 – 10.45am to 3pm = 4hr 15min

The applicant's assessment indicates that all adjoining dwellings will achieve a minimum of 2 hours solar access between 9am and 3pm in mid Winter.

A number of submissions from adjoining property owners questioned the accuracy of the shadow analysis. In response to these concerns, Council commissioned an independent certification of the overshadowing analysis prepared by the applicant.

Steve King, a consultant architect from the University of NSW was supplied with a digital copy of the computer model, together with a full set of architectural drawings for the project, shadow analysis diagrams and surveys of the site and surrounding properties.

Mr King, in his report dated 27 August 2012 indicates that:

The most obvious overshadowing impacts caused by the higher tower component of the proposal are to properties on the southern side of High Street. However as these properties maintain complying periods of midwinter sun access to both their front yards and any relevant north facing living area windows, the additional overshadowing does not constitute a compliance issue under the relevant controls.

The overshadowing impacts on 318 King Street appear to be on large glass areas and verandas of west facing bedrooms. This is not normally considered to be a type of overshadowing impact that is subject to the routine application of the controls.

In the case of two of the four affected apartments, the impact is in any case trivial in as much as living areas face north and will continue to receive sun throughout the day in midwinter.

In the case of the other two apartments, living areas face south, and the impact on winter sun to the bedrooms may be considered by the occupiers to be significant. I note that the relevant shadow impact is due to the smaller of the proposed blocks on the subject site.

It would be reasonable to suggest that only the increased overshadowing of six dwellings at 107 High Street could be considered to be posing a compliance issue. Of these, Units 1, 7 and 13 have the shortest existing sun access in midwinter. As the shaded views make clear, these units miss out on sun in the middle of the day, because self-shading delays the start of effective sunlight to the living areas. Due to the orientation of the living area glazing to those units, they currently rely on exposure to the low afternoon sun across the subject site, which is presently an open parking area. This is a 'borrowed amenity' across a side boundary that is considered by precedent harder to protect than across street or rear boundaries.

I note that the proposed form of development on the subject site creates a gap between the tower-like blocks. The benefit of this massing strategy to the subject development is an increased proportion of apartments with complying solar access, compared to a slab-like continuous form. A not insignificant benefit for 107 High

Street is that the solar access which is preserved is exactly that which is available because of the gap between the two towers.

The report concludes that the modelling is accurate to a suitable degree and that the 3D shaded views of neighbouring developments which have been tabulated on an hourly basis for June 21 exhaustively illustrate the projected overshadowing impacts of the proposed development.

Having regard to the above, the applicant's portrayal of the overshadowing impact to the adjoining properties is considered to be reasonable and furthermore, these properties have been demonstrated as achieving acceptable levels of solar access.

Issue: Privacy

Comment: As described previously in this report, the Northern Building observes setbacks in excess of 12m to the adjoining residential flat building at 318 King Street.

The Southern Building observes setbacks in excess of 12m to the majority of windows and balconies in the adjoining residential flat building at 107 High Street, however there are a limited number of instances where the setback is reduced to 6.8m (in one instance) and 9m in several other instances. However, it is noted that various architectural devices, including physical screens (to Level 1 terrace area) and a combination of highlight windows and obscure glass, are employed in the design detailing of the Southern Building to mitigate any impact on the privacy of the adjoining dwellings at 107 High Street.

Having regard to the above, it is considered that the impact of the proposed development on the privacy of adjoining properties is within reasonable limits.

Issue: Traffic and Access

Comment: The residents' original concern was the volume of additional traffic entering and exiting the site at High Street. In order to address this, the applicant has submitted amended plans which provides an ingress only driveway from King Street. All vehicles exiting the site will do so via High Street.

In addition, all vehicles shall be restricted to enter the site via King Street and exit the site via High Street by right turn only. This arrangement will minimise the additional traffic volumes associated with the proposed development on the residential areas further to the east along King and High Streets and is included as a condition of consent.

In addition the existing on-street parking spaces along the full extent of the frontage of the site to King Street and High Street shall be removed. This will create additional queuing space in King and High Streets for the intersections with O'Riordan Street and will ensure garbage collection can occur without having to negotiate parked cars adjacent to the kerb.

Issue: Garbage / Waste Management

Comment: Concern was raised by adjoining residents that:

(i) the proposed development does not make adequate provision for garbage storage or collection; and
(ii) that it is undesirable for bins to be collected from King Street.

The Waste Management Plan which accompanies the application describes the installation of a garbage chute with carousel compactor collection system in each building. A garbage room is provided on each residential level of the building which contains a garbage chute for putrescible waste and recycling bin(s).

A garbage room is located in the ground floor of the Northern building immediately behind the lift core. This accommodates the carousel associated with the garbage chute, together with storage for 15 x 240L bins.

An external bin enclosure is currently shown in the landscaped setback area on the eastern boundary to service the Northern building. This enclosure will be required (as a condition of consent) to be deleted in order to increase the quantum of landscaped area and improve the amenity in this part of the site and its relationship to the adjoining residential property at 318 King Street. Bins will be required to remain in garbage room on the ground floor of the Northern Building until collection day when they will be moved to the King Street kerb by the building manager / caretaker.

The garbage room in the Southern building provides accommodation for the bin carousel and 24 x 240L bins. The garbage room has direct access to High Street. Bins will remain in the garbage room until collection day.

The compactor and operational waste associated with the residential component of the proposed development will be managed by the building manager / caretaker, including bin rotation at the carousel on the ground floor and the movement of bins from the garbage room to the collection points at the kerbs in King and High Streets.

Council operates a domestic waste collection service for both garbage and recyclables on a weekly basis.

Separate bin storage rooms are provided in the ground floor of the Northern and Southern buildings for the waste generated by the retail / commercial tenancies. Private waste and recycling contractors will be engaged to manage commercial waste.

The waste management arrangements as proposed are considered to be acceptable in this instance.

Some concern was also raised in relation to collection of garbage bins from High Street due to the narrow carriageway (approximately 9.5m from kerb to kerb, comprising two parking lanes and two through lanes approximately 2.5m wide in each direction). Council's Development Engineer has indicated that if this arrangement is to be accepted, garbage bins are to be collected from the footpath and all existing on-street parking bays on the High Street frontage of the site shall be removed.

Because of the proximity of the development (and the bin collection point) to the intersection of King and O'Riordan Streets, a similar requirement to remove the existing on-street parking bays along the full extent of the King Street frontage of the site will also be imposed.

It is noted that this will require the approval of the Local Traffic Committee.

Issue: Insufficient private open space – POS should not be located within front setbacks

Comment: It is noted that the proposed development provides private open space to each dwelling in excess of Council's minimum requirements.

Three (3) ground floor apartments (2 in the Northern building and 1 in the Southern building) incorporate private courtyards in the setbacks to King and High Streets respectively.

The provision of private open space at ground level within the front setbacks is considered to be acceptable in this instance because: contemporary multi-unit housing development in highly urbanised areas such as this as it:

- is set back behind a 2.2m landscaped strip on King Street and a 1.8-2.0m landscaped setback on High Street, augmented by a raised planter (2m wide);
- contributes to the landscaped setback from the street; and

- provides pedestrian entries to each of these 3 ground floor dwellings which serves to reinforce a domestic scale of development at ground level and also improves activation on the street frontages.

Issue: Out of character with the residential neighbourhood

Comment: Existing development in this locality comprises predominantly residential uses to the east and south, ranging in height from single storey to a maximum of four (4) storeys. Commercial / light industrial uses of varying scale predominate to the north of the site and west of O'Riordan Street, although it is noted that more recent development is characterised by significantly greater scale.

This area is in a state of transition and the design responds to the particular qualities and characteristics of the locality and context and generally accords with the desired future character of this area, as contemplated by the Draft Botany Bay LEP 2012.

Issue: Garbage and sewage will pollute the environment and cause an increase in vermin etc

Comment: The applicant has provided a Waste Management Plan which details the management of garbage across the site. As described above all bins will be stored within the internal garbage rooms in each building until collection day whereupon the building manager / caretaker will move them to the kerb and once they are emptied, will return them to the internal garbage rooms.

Sydney Water has reviewed the application and has confirmed that the existing sewer has sufficient capacity to service the proposed development.

Issue: Danger of aviation disaster

Comment: The application was referred to SACL for review and comment. No objection to the proposed development was identified, subject to the inclusion of appropriate conditions on any consent issued.

Issue: Noise during the construction phase and damage to adjoining building

Comment: Conditions have been included which restrict noise from construction activities associated with the development to comply with the NSW Environmental Protection Authority's Environmental Noise Manual and the *Protection of the Environment Operations Act 1997.*

Construction hours are restricted to:

7.00am – 6.00pm Monday – Friday
7.00am – 1.00pm Saturdays
No work on Sundays or Public Holidays

The applicant will also be required, as a condition of consent, to undertake detailed dilapidation surveys of adjoining properties, prior to the commencement of works.

Having regard to these safeguards it is considered that the construction impacts can be satisfactorily addressed through conditions on any consent issued.

Issue: Excess lighting

Comment: Lighting will be required to be provided in accordance with the relevant Australian Standards. Adequate external lighting of common areas in and around the building is essential to ensure appropriate levels of safety and security.

Conditions have been included which require the use of lighting in the common external areas to minimise light spill to adjoining residential properties. Screen planting will also be implemented along the eastern property boundary where the proposed development

interfaces with existing residential properties at 107 High Street and 318 King Street. It is reasonable to expect that this will also serve to ameliorate any adverse impacts associated with light spill.

Issue: Impact on adjoining trees

Comment: There are a number of existing trees on the properties to the east of the site.

A condition has been included in the consent which requires the protection and preservation of trees on the adjoining properties to the east. Any canopy pruning or trimming of large tree roots (greater than 40mm) requires the consent of Council's Tree Preservation Order under a separate application.

Issue: Lack of public open space in the area – increased population

Comment: The applicant has demonstrated the provision of private open space to each dwelling, as well as communal facilities for passive recreation. These areas are important to serve the day-to-day needs of the residents in such a highly urbanised environment.

The proposed development attracts a S94 Contribution of $2,192,050.16, in excess of $1.7million of which is allocated to open space. Council uses these funds to embellish existing areas and where necessary, acquire additional land to ensure adequate public open space is provided for the residents of Botany Bay.

Issue: Lack of visitor parking – Council's requirement of 1 space / 10 units will not be adequate in an area where there is no parking on O'Riordan Street

Comment: Noted. In order to ensure optimal use of available parking within the development Council proposes to include a condition in the consent which requires the implementation of a shared arrangement for the spaces allocated to the commercial tenancies by visitors associated with the residential use. This will effectively increase the number of visitor parking spaces available in peak demand periods (generally outside business hours) to sixteen (16).

Issue: Lack of adequate parking for retail component

Comment: Noted. The applicant will be required (via condition on any consent issued in respect of this application) to provide two (2) spaces for each retail / commercial tenancy within the proposed development – total of 12 spaces, in accordance with Council's Off-Street Parking DCP.

Issue: Removalist vehicles – insufficient space – should be able to accommodate medium rigid trucks, not just small rigid

Comment: Council's Development Engineer has reviewed the proposal and has concluded that the provision of loading / unloading associated with the proposed development is satisfactory.

Issue: Affect on property values

Comment: There is no evidence to suggest that the proposed development will have any substantive impact on local property values.

Issue: Drainage

Comment: Concern was raised by the residents of 107 High Street about an existing localised flooding issue and the potential impacts associated with the proposed development . In this regard, a condition has been included in the consent which requires that the applicant shall grant to the owners of SP 38801 an Easement for Drainage.

Public Interest (S.79C(1)(e))

The proposed development is considered to be in the wider public interest for the following reasons:

- it is consistent with the objects of the Environmental Planning and Assessment Act 1979, specifically because it represents the economic and orderly development of land;
- the proposal generally satisfies the objectives and intent of Botany Local Environmental Plan 1995 and Council's DCP 35;
- the proposal provides a responsive design in terms of its relationship to adjoining development and establishes an appropriate streetscape and human scale through sound urban design principles;
- the design incorporates a number of ESD initiatives that will achieve a high standard of environmental design and sustainability;
- the proposal provides a satisfactory response to the design principles set out in SEPP 65; and
- the proposal provides the community with additional commercial/retail space, as well as additional high quality housing, taking advantage of the site's proximity to local and regional facilities, public transport and open space areas.

These matters have been considered in the assessment of the development application. The public interest is served through the detailed assessment of the development application under the relevant planning controls and legislation. Based on this assessment it is considered that approval of the proposed development will be in the wider public interest by virtue of the fact that it will contribute to the quantum and range of housing stock available in the Botany Bay LGA.

Other Matters

Sydney Water

The development application was referred to Sydney Water for consideration on 24 May 2012. Correspondence received from Sydney water dated 30 May 2012 raised no objection to the proposed development subject to the imposition of a number of conditions.

Airport Link Company

The development application was referred to the Airport Link Company for consideration on 24 May 2012. At the time of preparing this report, no response had been received.

Sydney Airport Corporation

The subject site lies within an area defined in schedules of the Civil Aviation (Building Control) Regulations, which limit the height of the structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority.

Correspondence received on 19 September 2012 confirms that the Corporation has no objection to the erection of the proposed development to a maximum height of 51.0 metres AHD. The advice also notes that 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 unde r the Airports (Protection of Airspace) Regulation.

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

The matters identified by SACL have been incorporated as conditions.

Roads and Maritime Services (RMS)

The development application was referred to RMS for consideration on 24 May 2012. The application was considered by the Sydney Regional Development Advisory Committee (SRDAC) at its meeting held on 6 June 2012.

RMS raised no objections to the proposed development provided all structures and works (other than footpath pedestrian awnings) are clear of the O'Riordan Street road reserve (unlimited in height or depth).

RMS also provided conditions to be included in any consent issued in respect of this application pertaining to the developer's obligations to RMS in relation to excavation adjacent to classified roads.

The amended plans received by Council on 22 August 2012 documented a reconfiguration of the proposed vehicular access to create a one-way traffic flow through the basement car park with ingress from King Street only and egress to High Street. The relevant information was forwarded to the RMS on 30 August 2012 for further comment.

At the time of preparing this report, no response had been received from RMS in relation to the amended plans, other than verbal confirmation that the matter did not require referral to SRDAC.

NSW Police – Botany Bay Local Area Command

In correspondence dated 6 July 2012 the Mascot Police Local Area Command advised that a medium crime risk rating has been identified for the proposed development. The advice includes a range of recommendations regarding security, lighting and access control which are most appropriately incorporated as conditions or advices in any consent issued in respect of this application.

Fire and Rescue

The development application was referred to NSW Fire and Rescue on 24 May 2012. At the time of preparing this report, no response had been received. Prescribed conditions regarding fire safety have been included in the consent.

Ausgrid

In advice dated 30 May 2012 Ausgrid advised that the existing substation within the property (south eastern corner of the site on the High Street frontage) is to be retained and that any new building works around the substation must be undertaken in accordance with a range of requirements.

The matters identified by Ausgrid have been incorporated as conditions.

Internal Referrals

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

Design Review Panel (DRP)

Council's Design Review Panel (DRP) considered the proposed development on 29 February 2012. The DRP expressed its general support to the proposal subject to recommendations for further refinement with regard to aesthetics and amenity of the development. The plans now before the JRPP have incorporated the recommendations made by the DRP.

Section 94 Contributions

The development application seeks approval for 113 new apartments, comprising:

1 x studio apartment
36 x 1 bed apartment
68 x 2 bed apartments
8 x 3 bed apartments

The Department of Planning and Infrastructure's direction under Section 94E of the *Environmental Planning and Assessment Act 1979* states that residential development contributions have a maximum threshold of $20,000 per dwelling. In accordance with Council's policy, the following Section 94 Contribution applies:

113 dwellings x $20,000 = $2,260,000.00

The additional Section 94 Contribution for the 473m^2 commercial component of the proposed development have been calculated in accordance with Council's S94 Contributions Plan and are as follows:

• Community facilities	$ 5,508.08
• Administration	$ 893.20
• Shopping Centre Improvements (City wide)	$ 3,998.14
• Open Space and Recreation	$ 37,110.39
TOTAL	$ 47,509.81

Therefore the total additional Section 94 Contributions to be levied for the proposed development are as follows:

$2,260,000.00 + $47,509.81 = $2,307,509.81

The existing site contains a vehicle rental business and the credit applicable to the site in accordance with Council's S94 Contributions Plan is as follows:

• Community facilities	$ 13,455.44
• Administration	$ 2,169.20
• Shopping Centre Improvements (City wide)	$ 9,709.77
• Open Space and Recreation	$ 90,125.24
TOTAL CREDIT	$115,459.65

Therefore, the total Section 94 Contribution required to be levied on the proposed mixed use development is $2,307,509.81 less the $115,459.65 credit, which equates to **$2,192,050.16.** A condition of consent has been included which requires payment to be made prior to the issue of a Construction Certificate, as follows:

• Community facilities	$254,277.82
• Administration	$41,648.95
• Shopping Centre Improvements (City wide)	$184,132.21
• Open Space and Recreation	$1,711,991.17
TOTAL S94 CCONTRIBUTION	$2,192,050.16

CONCLUSION

The proposed development has been assessed in accordance with the relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act, 1979*. The application involves the demolition of existing structures and construction of 113 residential apartments, retail / commercial showrooms, associated car parking, loading facilities and landscape treatment.

The proposal provides a responsive design in terms of its relationship with adjoining development and establishes an appropriate human scale through sound urban design principles, whilst ensuring that environmentally sustainable principles are incorporated.

As such, the proposed development is considered to be both reasonable and appropriate in the context of the site. The development will have positive social and economic benefits in terms of creating accommodation for an additional resident population that will benefit from the site's location in proximity to services and facilities and which will in turn, support local businesses and services.

Although generally consistent with the objectives and relevant statutory requirements under Botany LEP 1995, the proposal is subject to a request for a variation to the maximum floor space ratio development standard. Notwithstanding, the request for a variation is considered to be well founded and worthy of support in the circumstances, having regard to the provisions of Clause 12 of Botany LEP 1995 and particularly in light of the proposed increase in density for this site under Council's Draft BBLEP 2012. The subject site is ideally located at the gateway to Mascot Station Town Centre Precinct and provides an excellent opportunity for a well designed, high density mixed use development.

The areas of non-compliance with the relevant controls under Council's DCP 35 – Multi-Unit Housing and Residential Flat Buildings have been discussed earlier in the report and on merit, are considered to be minor and are worthy of support.

As such, it is recommended that the proposed development be APPROVED as a deferred commencement consent.

RECOMMENDATION

In view of the preceding assessment, and subject to receipt of concurrence from the NSW Office of Water and no objections to the proposed traffic and access arrangements being raised by Roads and Maritime Services, it is RECOMMENDED that the Joint Regional Planning Panel for the Sydney East Region, as the Consent Authority, resolve to grant deferred commencement consent, subject to the following:

(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(2) of Botany Local Environmental Plan 1995 relating to maximum floor space ratio of 3.32:1 applied under this clause on the basis that:

   (i) Clause 12(2) 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(274) a "deferred commencement" consent under section 80(3) of the *Environmental Planning and Assessment Act 1979* for the demolition of existing structures on the site and the construction of 113 residential apartments contained in two (2) separate buildings, six (6) small retail /

commercial show rooms located at ground floor in both buildings on the O'Riordan Street frontage, basement car parking for 205 cars, associated loading facilities and landscape treatment at the property known as 182-196 O'Riordan Street, Mascot, with such consent not to operate until the deferred commencement conditions are satisfied.

DEFERRED COMMENCEMENT CONDITIONS

This consent is not to operate until the applicant satisfies the Council, within 12 months of the date of this consent, that it has obtained approval / certification from RailCorp as to the following matters and the approval / certification has been forwarded to Council:

DC1 The applicant shall prepare and provide to RailCorp for approval / certification the following items:

(a) Final Geotechnical and Structural Report / drawings that meet RailCorp's requirements. The Geotechnical Report must be based on actual borehole testing conducted closest to the rail corridor.

(b) The type, location and depth of foundations as well as their design stresses are to be provided. The foundation loads are to be outside the rail tunnel's zone of influence.

(c) Final Construction methodology with construction details pertaining to structural support during excavation based on the Geotechnical Report. The applicant is to be aware that RailCorp will not permit any rock anchors / bolts (whether temporary or permanent) within its land or easements.

(d) Final cross sectional drawings showing ground surface, rail tracks, sub-soil profile, proposed basement excavation and structural design of sub ground support adjacent to the Rail Corridor. All measurements are to be verified by a Registered Surveyor.

(e) Detailed Survey Plan (prepared by a Registered Surveyor) showing the relationship of the proposed development with respect to RailCorp's land and infrastructure.

(f) A Structural Engineer's Report on the effects of the development on the rail tunnel.

Note: Any conditions issued as part of RailCorp's approval / certification of the above documents will also form part of the consent conditions that the applicant is required to comply with.

DC2 The applicant shall revise the On Site Detention (OSD) system to ensure stormwater runoff generated from the development can 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).

This consent is not to operate until such time as the revised Stormwater Management Plan is submitted to and approved by Council.

DC3 Adaptable Units shall be provided within the development as follows:

(a) Four (4) of the dwellings shall be 'adaptable units' as required by Section 3.3.13 of Council's Multi-Unit Housing and Residential Flat Building Development Control Plan No. 35, the BCA and any other relevant legislation; and

(b) Plans shall be submitted showing the design and location of accessible apartments demonstrating that these are equitably distributed throughout the building.

(3) That the deferred commencement consent be limited to a period of 12 months;

Premises: 182-196 O'Riordan Street, Mascot DA No: 11(274)

SCHEDULE OF CONSENT CONDITIONS

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.

Drawing No.	Author	Date Received by Council
1912 A04 Issue 05	Krikis Tayler Architects Pty Ltd	22 August 2012
1912 A05 Issue 05	Krikis Tayler Architects Pty Ltd	22 August 2012
1912 A06 Issue 05	Krikis Tayler Architects Pty Ltd	22 August 2012
1912 A07 Issue 05	Krikis Tayler Architects Pty Ltd	22 August 2012
1912 A08 Issue 05	Krikis Tayler Architects Pty Ltd	22 August 2012
1912 A09 Issue 05	Krikis Tayler Architects Pty Ltd	22 August 2012
1912 A10 Issue 05	Krikis Tayler Architects Pty Ltd	22 August 2012
1912 A11 Issue 05	Krikis Tayler Architects Pty Ltd	22 August 2012
1912 A12 Issue 05	Krikis Tayler Architects Pty Ltd	22 August 2012
1912 A13 Issue 05	Krikis Tayler Architects Pty Ltd	22 August 2012
1912 A14 Issue 05	Krikis Tayler Architects Pty Ltd	22 August 2012
1912 A15 Issue 05	Krikis Tayler Architects Pty Ltd	22 August 2012
1912 A17 Issue 05	Krikis Tayler Architects Pty Ltd	22 August 2012
1901 LP – 01 Issue G	John Lock and Associates	4 September 2012
GFA Area Schedule	Krikis Tayler Architects Pty Ltd	10 May 2012
SK DS03 Issue 1	Krikis Tayler Architects Pty Ltd	25 September 2012
SK DS01A Issue 1	Krikis Tayler Architects Pty Ltd	25 September 2012
SK DS02 Issue 1	Krikis Tayler Architects Pty Ltd	25 September 2012
SK DS 01B Issue 1	Krikis Tayler Architects Pty Ltd	25 September 2012
Report on SEPP 65	Krikis Tayler Architects Pty Ltd	25 September 2012

Compliance		
Letter Report - Stormwater	Australian Consulting Engineers	22 August 2012
Job 120227 D00 (A)	Australian Consulting Engineers	22 August 2012
Job 120227 D01 (D)	Australian Consulting Engineers	22 August 2012
Job 120227 D02 (A)	Australian Consulting Engineers	22 August 2012
Job 120227 D03 (F)	Australian Consulting Engineers	22 August 2012
Job 120227 D04 (C)	Australian Consulting Engineers	22 August 2012
Job 120227 D05 (A)	Australian Consulting Engineers	22 August 2012

Document Name	**Author**	**Date Received by Council**
Statement of Environmental Effects	LJB Planning Pty Ltd	10 May 2012
Letter from LJB Urban Planning	LJB Planning Pty Ltd	22 August 2012
Traffic Impact Assessment	Thompson Stanbury Associates	10 May 2012
Parking Impact Statement	Thompson Stanbury Associates	22 August 2012
Supplementary Traffic Assessment	Thompson Stanbury Associates	27 August 2012
Design Verification Statement	Krikis Tayler Architects	10 May 2012
BASIX Certificate No. 426720	AGA Consultants	10 May 2012
Geotechnical Investigation	Asset Geotechnical Engineering Pty Ltd	10 May 2012
Environmental Noise Impact Report	Day Design Pty Ltd	10 May 2012
Waste management Plan (Construction)	Krikis Tayler Architects	10 May 2012
Waste Management Plan	Elephant's Foot	10 May 2012
Pedestrian Wind Environment Statement	Windtech	10 May 2012
Remediation Action Plan	Environmental Investigations	10 May 2012
Aircraft and Road Traffic Noise Intrusion Report	Day Design Pty Ltd	10 May 2012
Environmental Noise Impact Report	Day Design Pty Ltd	10 May 2012

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

2

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

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

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

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

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

(a)	Builders Security Deposit	$30,000.00
(b)	Development Control	$11,110.00
(c)	Section 94 Contribution	$2,192,050.16
(d)	Waste Levy	$25,000.00
(e)	Inspection and Plans checking fee	$5,000.00
(f)	Infrastructure Performance Bond	$75,000.00

4 This Consent relates to land in Lots 5-15 in DP 864234; Lot G in DP 356472; and Lot 1 in DP 317539 and, as such, building works must not encroach on to adjoining lands or the adjoining RMS land or other public places, other than public domain work required of this consent.

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

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

(i) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 11/274.

(i) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 11/274.

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

(iii) Responsibilities for ensuring owners and/or tenants have adequate and hygienic disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a

clean and safe state at all times in accordance the conditions of this consent.

(iv) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises by 12.00 noon.

(v) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997.

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

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

(c) Consolidation of Lots 5-15 in DP 864234; Lot G in DP 356472; and Lot 1 in DP 317539 into one (1) allotment.

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

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

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

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

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

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

(d) Construct on the trafficable part of the High Street road reserve and to the immediate east of the exit driveway of the basement car park, a traffic direction device to ensure outward traffic from the basement effects a right hand turn onto High Street. Design details shall be submitted to Council for approval.

7 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. 426720 for the development are fulfilled.

Note:

(ii) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or

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

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

8 The future use of the retail / commercial tenancies located on the ground floor of the development shall form the subject of a further development application to Council.

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

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

(i) the consent authority; or,

(ii) an accredited certifier; and,

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

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

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

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

10 **Costs associated with all DA conditions**
All costs associated with these development conditions shall be borne by the applicant. If when actioning these conditions, Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the applicant.

CONDITIONS IMPOSED BY EXTERNAL AGENCIES WHICH MUST BE COMPLIED WITH

11 The proposed development is to comply with the conditions provided by **Roads and Maritime Services** dated 16 July 2012. The conditions are outlined as follows:

The following documents are to be submitted for the concurrence of Roads and Maritime Services (RMS) at least six weeks prior to commencement of construction:

(a) Dilapidation Survey: RMS may require a dilapidation survey for sensitive assets where there is a potential risk of damage caused by the proposed development. The dilapidation survey must cover RMS assets within the influence zone of the excavation. Where applicable, these may include the road pavement, associated subsurface drainage structures, bridges, traffic signal structures and other road assets.

(b) Design documentation: The design documentation must be presented in a format that is readily understood by engineers. The structural engineering report must detail an accurate geometry of the retention scheme, load and design assumptions, load cases, structural section properties / material parameters including analysis output (such as moment and shear envelopes and deflections). Cross sections at critical sections of the proposed excavation showing the geotechnical model used for design must be clearly indicated. The geotechnical report on which the design is based must be provided with the design documentation. The design report must include both temporary and permanent structures where applicable.

(c) Drawings: The Drawings must show the layout of the proposed structure(s) relative to RMS assets including but not limited to roads, tunnels, bridges, embankments, walls, noise walls and traffic signals. Longitudinal and cross sections showing the proposed structures and RMS assets must be drawn at critical locations. The construction sequence must be shown on the Drawings.

(d) Specifications: Copies of the specifications are to be included where necessary to interpret the design and Drawings.

(e) Instrumentation and Monitoring: The instrumentation layout proposed for the monitoring of movement as a result of the excavation must be included in the Drawings together with the frequency of monitoring, trigger levels and action to be taken when trigger levels are exceeded.

12 Following concurrence from Roads and Maritime Services (RMS), construction is to be carried out in accordance with the Drawings and specifications accepted by the RMS. Any modifications to the design, following acceptance, must be referred to RMS for concurrence.

(a) Design Standards: Retaining structures must be designed in accordance with the relevant RMS documents and the current edition of the following Standards as appropriate, unless otherwise specified in this document. Where conflicting information occurs, the RMS document is to take precedence.

AS1726 Geotechnical Site Investigations
AS1170 Structural design actions – General principles
AS5100 Bridge design – Scope and general principles
AS3600 Concrete structures
AS2159 Piling – Design and installation

The design of the proposed structures must be in accordance with AS5100 unless otherwise specified in this document. The design life of permanent retaining wall structures is 100 years and the design of these walls and associated elements is to include both short term and long term effects. In particular, the unplanned excavation as detailed in Section 13.3.1 of AS5100.3 for stability design must be considered.

(b) Geotechnical Investigations: As a minimum, geotechnical investigations are to be undertaken in accordance with AS1726 to develop surface / subsurface geological models and ground water conditions and to determine the properties of the soil and rock units. The geotechnical field investigations and laboratory testing must be comprehensively carried out to determine the site conditions and geotechnical material parameters for the detailed design and construction of the retaining structure. These investigations must be carried out to a minimum of 3 metres below the final excavation level. Investigation by test pits is generally not considered acceptable. Non core and rock core drilling using triple tube sampling is the preferred technique. Where proposed excavations are predominantly in rock, the geotechnical investigations must define adverse defect mechanisms (joints, fault zones, volcanic intrusions, weak zones etc) which may have an adverse impact on the development and adjacent RMS infrastructure. Where excavations are in excess of 10 metres depth in rock, an assessment of the rock stress state and its effects on the excavation is required.

(c) Utilities: The nature of any utilities located within the zone affected by the proposed excavation must be established. The effect of the excavation on these utilities must be analysed and reported. The requirements of utility owners and the sensitivity of these utilities to ground movements must be taken into account in the design and construction. Where the utility owner requirements are not established, the design must consider either the effect of ruptured or the underpinning of such utilities.

(d) Types of Acceptable Ground Support: Whilst most types of ground support structures can be considered, the following types are not generally considered acceptable as permanent retention structures:

a. Use of steel sheet pile walls below the groundwater table.
b. Wall toes founded above the final excavation levels on unsupported rock ledges with rock quality inferior to Class III sandstone (Pells Classification System) or where the rock has adverse defects.

(e) Design Loads and Combinations: Design loads and load combinations must be in accordance with AS5100, but with a minimum uniformly distributed live traffic load (UDL) of 20 kPa for the serviceability limit state. This minimum UDL must be applied on the road which represents the most adverse loading condition for the retaining structure. The Accompanying Lane Factors given in AS5100 may be applied to the UDL for multiple lanes.

The design must take into account construction loads, loads from neighbouring structures and other surcharge loads as required by the relevant design standards. A minimum UDL of 10kPa must be applied for the serviceability limit state for loads other than traffic loads.

Particular loads or load cases may need to be considered for design of the retaining structures impacting on RMS infrastructure, and the developer must inform themselves of any special requirements before commencing design.

(f) Groundwater Levels: Design groundwater levels must take into account both short term, long term and accidental groundwater levels in the vicinity of the retaining structure. Possible damming effects leading to elevated water pressures should be considered.

Where drainage measures are proposed to relieve water pressures behind the structure these must be readily accessible for inspection and maintenance. This requirement may apply either during the construction phase or the in-service phase of the structure.

Design groundwater levels and drainage details must be shown on the Drawings.

(g) Ground Anchors: Where proposed ground anchors are located in whole or in part within the road reserve and RMS easements, the following requirements applies:

a. Only temporary ground anchors will be permitted.
b. Ground anchors are to be designed and tested in accordance with AS5100.
c. Temporary ground anchors must have a minimum design life of 2 years. Where ground anchors are required for more than 18 months they must be designed as permanent anchors.
d. No anchor forming part of the works must be stressed to greater than 75% of the tendon UTS under either working load or test load.
e. No part of any ground anchor must be less than 2 metres below the surface within the State road reserve and RMS easement.
f. Once the anchors are no longer required to carry load, all structural connection between the anchors and the proposed development must be removed.

'Nails and Bolts' used as structural support elements are treated the same as ground anchors.

(h) Ground Deformation and Wall Deflection: The prediction of vertical and horizontal deflections of the proposed retaining structure for each stage of

construction and in the long term must be provided in the design documentation. These deflections must be presented in graphical form at critical sections for the full height of the retaining structure.

Retaining wall structural deflections must not result in any damage to RMS assets. Ground deformation estimates must consider the full zone of influence of the proposed excavation and include the following:

a. Demolition of existing retaining or support structures.
b. Construction of the retention elements.
c. Excavation and deflection of the retention elements.
d. Groundwater drawdown.
e. Consolidation of soils.
f. Other site specific work or processes affecting ground deformation.

Permissible deflections will be determined by RMS on a case by case basis, taking into account the sensitivity of RMS assets to movements, the proximity of the structure to such assets and the ground movements that will occur within RMS property or the road reserve. However, total serviceability deflection of the wall in any one direction acceptable for non-sensitive RMS assets is to be limited to 0.5% of the excavated height or 30mm, whichever is the lesser. Generally, the permissible movements on infrastructure assets should be clarified with RMS prior to the design.

(i) Instrumentation and Monitoring: RMS requires geotechnical instrumentation and monitoring where infrastructure assets may be affected by the proposed excavation. These include bridge structures, associated foundations, existing wall structures etc adjacent to the proposed excavation. Instrumentation and monitoring may be required for the following retaining wall types:

a. Cantilever retaining walls with a retained height exceeding 3 metres.
b. Propped or anchored walls with a retained height exceeding 6 metres.

Where required, instrumentation will generally include a minimum of two inclinometers installed to at least 3 metres below the toe level of the walls. Where the ground water level is above the final excavation level a number of piezometers must also be installed. Other monitoring systems such as a Total Station Survey system (using remote data capture or other technology) may also be required depending on the nature of the development and RMS assets affected by the development.

Where monitoring is required, it is to be carried out at the following stages:

a. Before commencement of construction of retaining structures where appropriate to determine baseline readings. Two independent sets of measurements must be taken confirming measurement consistency.
b. After construction of the retaining structures, but before commencement of excavation.
c. After excavation to the first row of supports or anchors, but prior to installation of these supports or anchors.
d. After excavation to any subsequent rows of supports or anchors, but prior to installation of these supports or anchors.

e. After excavation to the base of the excavation.
f. After de-stressing and removal of any row of supports or anchors.
g. One month after completion of the permanent retaining structure of after three consecutive measurements not less than a week apart showing no further movements, whichever is the later.

Instrumentation and monitoring must be carried out by a competent person experienced in the equipment used. The results of each monitoring stage must be reported to the design engineer. Before work proceeds to the next stage the design engineer must verify that based on the monitoring results and the inspections carried out the structure is performing in accordance with the design intent and that where trigger levels have been exceeded, action has been taken in accordance with the monitoring plan. Verification by the design engineer must constitute a 'Hold Point' for each stage of construction.

RMS must be informed immediately when the trigger levels are exceeded.

The monitoring detailed above does not override any monitoring scheduled by the design engineer or required for any other reason. However, the monitoring detailed above may be included in monitoring programs prescribed by others provided all the requirements described in this document are incorporated into the monitoring program or plan.

(j) Thresholds: It is recommended that the following trigger threshold criteria be adopted and shown on the Drawings:

Alert: If lateral displacements are less than 80% of agreed value, excavation could be continued.
Action: If lateral displacements are greater than 80% but less than 100% of the agreed value, RMS should be notified and the monitoring data be reviewed. The frequency of monitoring should be increased.
Alarm: If lateral displacements are greater than the agreed value, the RMS Project Manager must be advised immediately in which case the excavation works is to be terminated. A comprehensive Risk Management / Contingency Action Plan is to be implemented with measures taken to safeguard the road infrastructure.

(k) Hold Points: Construction must be carried out in accordance with the Council approved plans and work method statements agreed by the RMS. Construction must not proceed to the next stage until preceding 'Hold Points' have been released.

Completion of each stage of construction listed below constitutes a 'Hold Point', certification must be provided by a Chartered Professional Engineer that the conditions listed after each stage of construction below have been met before releasing each 'Hold Point.'

a. After construction of the retaining structures, but before commencement of excavation:
    i. Certify that the structures have been constructed in accordance with the approved Drawings.

b. After excavation to and installation of the first row of supports or anchors:
    i. Certify that the geotechnical conditions are in accordance with those described in the geotechnical report. If not, specify actions required and confirm that these actions have been carried out.
    ii. Certify that the anchors/supports have been constructed in accordance with the approved Drawings.
    iii. Certify that the anchors have been tested and passed in accordance with RMS requirements.
c. After excavation to and installation of any subsequent rows of supports or anchors:
    i. Certify that the geotechnical conditions are in accordance with those described in the geotechnical report. If not, specify actions required and confirm that these actions have been carried out.
    ii. Certify that the anchors / supports have been constructed in accordance with the approved Drawings.
    iii. Certify that the anchors have been tested and passed in accordance with RMS requirements.
d. After excavation to and construction of the base of the excavation:
    i. Certify that the geotechnical conditions are in accordance with those described in the geotechnical report. If not, specify actions required and confirm that these actions have been carried out.
    ii. Certify that the excavation base conditions have been constructed in accordance with the approved Drawings.
e. After de-stressing and removal of any row of supports or anchors:
    i. Certify that all temporary anchors have been de-stressed, removed or disconnected from the permanent retaining structure.

13 Access to Site: Access to the site by RMS Engineers must be allowed for the purpose of reviewing compliance with the requirements set out in this consent and the Work Authorised Development documents agreed with RMS.

14 Upon completion of construction and prior to the issue of an Occupation Certificate, Works as Executed (WAE) Drawings of the retaining structures supporting the Roads and Maritime Services (RMS) infrastructure, including stabilisation measures in the case of excavation in rock, must be submitted to RMS for record purposes.

15 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 182-196 O'RIORDAN STREET, BOTANY 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, an authorised person of the Civil Aviation Safety Authority (CASA), under Instrument Number : CASA 229/11 in the capacity as Airfield Design Manager has advised that he has "***no objection***

to the erection of this structure to a maximum height of 51.0 metres above Australian Height Datum (AHD)".

(c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.

(d) Should you wish to exceed 51.0 metres above Australian Height Datum (AHD), a new application must be submitted.

(e) Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

(f) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

(g) SACL advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.

(h) 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.

(i) 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.

(j) For further information on Height Restrictions please call Peter Bleasdale on (02) 9667 9246.

(k) 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.

(l) 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".

16 The proposed development is to comply with the conditions provided by **RailCorp** dated 3 August 2012. The conditions are outlined as follows:

(a) Any application for approval containing the information set out in points (i) – (iv) inclusive should be submitted to SACL at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulation Statutory Rules 1996 No. 293, which now apply to Sydney (Kingsford Smith) Airport.

(b) Prior to the commencement of works and prior to the issue of a Construction Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project (eg. rail tunnel) is to be carried out by representatives from RailCorp and the applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by RailCorp.

(c) An acoustic assessment is to be submitted to Council prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with the Department of Planning's document entitled *"Development Near Rail Corridors and Busy Roads – Interim Guidelines"*.

(d) Prior to the issue of a Construction Certificate the applicant is to engage an Electrolysis expert to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development, all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

00 Prior to the issue of an Occupation Certificate, the applicant is to submit the as-built drawings to RailCorp and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into RailCorp property or easement.

The Principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.

17 The proposed development is to comply with the conditions provided by **Sydney Water** dated 28 May 2012. The conditions are outlined as follows:

(a) The 150mm drinking water main fronting the proposed development does not comply with the Water Supply Code of Australia (Sydney Water Edition – WSA 03-2002) requirement for minimum sized mains for the scope of development. The drinking water main needs to be amplified to 200mm, as recommended in Water Supply Code of Australia. Details are to be provided prior to the issue of any Construction Certificate.

(b) The current wastewater system has sufficient capacity to service the proposed development. The wastewater main available for connection is the 225mm main traversing the site. The proposed development may conflict with the location of this 225mm main and a wastewater deviation may be required. Any adjustment or deviation required must be in accordance with the Sewerage Code of Australia (Sydney Water Edition WSA 02-2009). Refer to your WSC for details of requirements.

(c) Should this development generate trade wastewater, this consent does not guarantee the applicant with Sydney Water will accept the trade wastewater to its sewerage

system. In the event trade wastewater is generated, the property owner is required to submit an application for permission to discharge trade wastewater to the sewerage system before business activities commence. A boundary trap will be required where arrestors and special units are installed for trade waste pre-treatment.

(d) If this development type is "Industrial" then the property may be part of sewerage catchment subject to a wastewater reuse scheme. This may impact the level of pollutants such as Total Dissolved Solids (TDS) that Sydney Water will accept from the property to the sewerage system. Businesses wishing to discharge wastewater (other than domestic sewage) should first contact a Sydney Water Trade Waste Office. A boundary trap will be required where arrestors and special units are installed for trade waste pre-treatment.

Prospective Purchasers should be made aware of the above situation under the requirements of vendor disclosure.

(e) Sydney Water will further assess the impact of any subsequent development when the developer applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of future development and to assess if amplification and/or changes to the system are applicable. The developer must fund any adjustments needed to Sydney Water infrastructure as a result of the development.

The developer should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. The Water Servicing Coordinator will ensure submitted infrastructure designs are sized and configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002) and the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

18 The proposed development is to comply with the recommendations provided by **NSW Police Botany Bay Local Area Command**, dated 6 July 2012. The conditions are outlined as follows:

(a) As the proposed development may be exposed to break enter and steals, stealing, steal from persons, malicious damage and steal from motor vehicle offences, a closed circuit television system (CCTV) which complies with the Australian Standard – Closed Circuit Television System (CCTV) AS: 4806:2006 needs to be implemented to receive, hold or process data for the identification of people involved in anti social or criminal behaviour. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation.

(b) This system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas which are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or more cameras should be positioned at the entry and exit points to monitor these areas (underground car park, foyer entrance).

(c) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis.

(d) It is crucial even in the development stage that these cameras are installed as soon as power is available to the site as a deterrent to thieves. Details of the closed circuit television system are to be provided prior to the issue of the Construction Certificate.

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

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

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

(h) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external lighting.

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

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

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

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

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

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

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

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

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

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

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

i. Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations

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

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

(t) It is not advised to install storage cages or similar for the residents in the underground car park. If it is required, consider that they should NOT be constructed in an isolated area. The cages are easy targets when they have little supervision. CCTV cameras must cover this area if they are constructed. Suitable housing and **quality locks** should be used to prevent access. Simple steel mesh covers and small padlocks will NOT suffice as adequate security.

(u) The door and door frames to these premises should be of solid construction. Doors should be fitted with locks that comply with the Australian Standard – Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing

mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are recommended for residential units.

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

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

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

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

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

19 The proposed development is to comply with the recommendations provided by **Ausgrid**, dated 30 May 2012. The conditions are outlined as follows:

(a) The existing substation is to be protected from damage by vehicles in area classified as high risk for vehicle impact, such as adjacent to driveways. Details are to be provided prior to the issue of any Construction Certificate.

(b) Twenty-four hour access to the substation is to be available. Details are to be provided prior to the issue of any Construction Certificate.

(c) Substation housings to be separated from building ventilation system air intake and exhaust duct openings, by not less than 6 metres. This applies irrespective of whether the building ducted ventilation system is mechanical or natural and irrespective of whether or not fire dampers are installed in the ducts. Details are to be provided prior to the issue of any Construction Certificate.

(d) Any portion of a building other than a BCA class 10a structure constructed from non combustible materials, which is not sheltered by a non-ignitable blast resisting barrier and is within 3 metres in any direction from the housing of a kiosk

substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres of any direction from the housing of a kiosk substation, unless they are sheltered by a non-ignitable blast resisting barrier. Details are to be provided prior to the issue of any Construction Certificate.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE DEMOLITION OF ANY BUILDING OR STRUCTURE

20 A Hazardous Materials Audit (HMA) shall be carried out and a report provided to council to ensure that any hazardous materials that may have been used within the structural components of buildings and infrastructure are adequately addressed to protect site personnel and the public from the risk of exposure. This shall be undertaken by an appropriately qualified consultant and shall be submitted to the Principal Certifying Authority.

The Work Management Plan shall be submitted to Council in accordance with AS2601 – Demolition of Buildings. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.

21 Hazardous or Special Wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment, Climate Change and Water and with the provisions of the:

(i) Occupational Health and Safety Act, 2000;
(ii) Occupational Health and Safety Regulation 2001; and
(iii) Protection Of the Environment Operations Act 1997 (NSW); and
(iv) NSW Department of Environment and Climate Change *Waste Classification Guidelines* (2008).

22 Erosion and sediment control devices are to be installed prior to the commencement of any demolition, excavation or construction works upon the site. These devices are to be maintained throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of the project, where necessary.

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

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

24 Prior to the release of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.

25 The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans listed below a contribution of **$2,192,050.16** is required to be paid to Council prior to the issue of the Construction Certificate.

26

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

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

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

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

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

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

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

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

27

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

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

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

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

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

28

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

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

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

29 The measures required in the acoustical assessment report prepared by Day Design Pty Ltd dated 27th April 2012 shall be undertaken in accordance with the provisions of *AS 2021-2000: Acoustics – Aircraft Noise Intrusion – Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021-2000 shall be incorporated into the construction of the building. This report was based on architectural drawings provided by Krikis Tayler Architects Pty Ltd, dated 22/02/2012.

The work detailed in the report includes:

(a) External masonry walls – bricklayers should be instructed to ensure the perp-ends are filled and suitable cement mortar to eliminate shrinkage gaps during curing.

(b) External Glazed Walls – These are to be acoustically rated to achieve an Rw45 to reduce road traffic and aircraft noise. These are to be built as per specifications listed in the report.

(c) The ceiling and roof system shall be built as per the specifications listed in the report.

(d) Windows and external doors are to be glazed as per the specifications listed in table 6.3 Schedule of Glazing Construction.

(e) Air conditioning be provided with appropriate acoustic treatment.

30 **Public Domain Improvement Plan**

Prior to the issue of a Construction Certificate, a public domain improvements plan shall be submitted for approval by Council for the area including:

(a) the northern side of High Street between its intersection with O'Riordan Street and the western boundary of the SWOOS – this includes the area adjacent to the subject site and the adjoining property at 107 High Street;
(b) the southern side of High Street between its intersection with O'Riordan Street and the western boundary of the SWOOS – this includes the area adjacent to the properties known as 112- 126 High Street (inclusive);
(c) the southern side of King Street between the intersection with O'Riordan Street and the western boundary of the SWOOS – this includes the area adjacent to the subject site and the adjoining property at 318 King Street;
(d) the northern side of King Street between the intersection with O'Riordan Street and the western boundary of the SWOOS – this includes the area adjacent to the properties known as 277 – 285 King Street (inclusive) and the public domain adjacent to part of the property known as 178 O'Riordan Street;

(e) the full extent of the area reserved for road widening owned by Roads and Maritime Services and located immediately adjacent to the western property boundary;
(f) the eastern side of O'Riordan Street between its intersections with Robey Street and High Street; and
(g) the eastern side of O'Riordan Street between its intersection with King Street to a point adjacent to the northern boundary of the property known as 178 O'Riordan Street.

The Plan shall be prepared by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture and in ground landscaping. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement.

Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements.

31 **Landscape Plan**

Prior to the issue of a Construction Certificate, an amended Landscape Plan shall be submitted for approval by Council. The following matters are to be documented / addressed as part of the Plan:

(a) Detail regarding planting on structures and soil depths on podium in coordination with the architectural drawings, specifically with respect to the deep soil shelf extensions over the basement car park;
(b) An alternative species for the inner row of Plane Trees (adjacent to the western property boundary) given there will be limited amelioration of buildings during their deciduous phase in winter;
(c) evaluate potential conflicts between tree canopy and building awning, adjusting awning dimensions or tree species / location to ensure that tree canopies are not compromised. Note – a tall canopy tree is required in this location;
(d) Ensure all trees located in setbacks are located such that they are planted in deep soil rather than in shallower soil over podia and/or to maximise root run and development;
(e) Larger tree pits to street trees with planting underneath;
(f) Additional street trees in High and King Streets reducing pavement dimensions.
(g) Additional trees to be planted in the area behind the electrical substation (High St frontage);
(h) Blueberry Ash not to be hedged but developed as a tree screen;
(i) Shrubs to be planted under the Blueberry Ash along the eastern boundary;
(j) Additional trees to be provided in the paved areas (both communal and private) to address the reduction in landscaped area associated with the one-way vehicle movement through the site. Planter boxes will be required;
(k) Embellish the paved portion of the central (main) communal open space with trees and public seating;
(l) Increase tree sizes of Waterhousia and Tuckeroo to 20-400L and Plane Trees to 400L;
(m) Delete garbage storage bay from the eastern boundary landscape setback (King Street frontage) and provide contiguous tree screen planting along this boundary;

(n) Provide comment regarding realistic retention of the inner row of trees on the O'Riordan Street frontage (building edge) after road widening. Consider the location of these trees proximate to the new kerb line and species suitability with the aim of retaining the trees during and after any future road widening; and

(o) The recommendations of the Pedestrian Wind Environment Statement prepared by Windtech and dated 17 April 2012 as they relate to landscape treatment.

32 **Dilapidation Report for Public Infrastructure**

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

- O'Riordan Street
- King Street
- High Street
- All properties immediately adjoining the site

(b) The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course the construction. 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: -

(i) 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

(ii) 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.

(iii) 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.

(iv) 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.)

33 **Public Utility Adjustment**

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

- Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
- Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
  - The additional load on the system; and
  - The relocation and/or adjustment of the services affected by the construction.

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.

34 **Car Parking and Vehicle Access – Design Certification**

Prior to the issue of the Construction Certificate, design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying car parking area, vehicle access path, turning area, loading area and vehicle queuing area fronting vehicular control point that shown on the construction plans have been designed in accordance with AS 2890.1, AS2890.2 and AS2890.6

35 **Stormwater Management Plan**

Prior to the issue of Construction Certificate, plans of the stormwater management and disposal system for the development shall be submitted to Council for approval. The detailed stormwater management construction plans (together with the design certification) shall be generally in accordance with the layout shown on the following stormwater drainage plans, prepared by Australian Consulting Engineers:

- Job No. 120227, Drawing No. D00, Rev A;
- Job No. 120227, Drawing No. D01, Rev D;
- Job No. 120227, Drawing No. D02, Rev A;
- Job No. 120227, Drawing No. D03, Rev F and;
- Job No. 120227, Drawing No. D04, Rev C

In addition, the following issues shall also be addressed in the construction plans: -

a) Detailed roof and downpipes drainage system shall be shown on the stormwater management construction plans to ensure stormwater runoff from the roof area to be collected and drained into the rainwater tanks and OSD system. Any overflow from the roof drainage system shall be conveyed to the OSD system.
b) New kerb inlet gully pit (with lintel minimum 2.4m long opening) shall be provided to High Street and drainage pipes connecting the new kerb inlet gully

pit to the existing kerb inlet gully pit on the corner of High Street and O'Riordan Street shall be minimum 375mm diameter reinforced concrete pipes (RRJ). The pipe shall be provided under the kerb with minimum fall of 0.5%.

c) The OSD tank volume and the size of orifice shall be revised to ensure stormwater runoff generated from the development can 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). Calculations and modelling of the OSD system shall be submitted as part of construction plans.

d) 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.

e) Any underground OSD system shall be relocated to the common area and area outside the "deep soil" zone.

f) In order to protect the buildings from stormwater inundation, the OSD tanks shall be water-tight.

g) The proposed pump-out system in the basement car parking area shall be revised in order to collect stormwater runoff from all the driveway ramps (King Street and High Street). The pump-out system shall be designed to comply with the following:

- The volume of the pump-out storage tank shall be designed with a minimum storage capacity equivalent to the runoff volume generated from the area (approximately 155 sq m) draining into the tank for the 1 in 100 year ARI 2-hours duration storm event;
- Information of the selected pumps (eg brand, model numbers, performance curve and specifications) shall be submitted to Council to ensure the pump has adequate capacity. Each pump shall have a minimum capacity of 10L/s or shall be based on the flow rate generated from the 1 in 100 year ARI 5-minutes duration storm event of the area draining into the system, whichever is greater;
- The pump-out system shall comprise with two (2) submersible type pumps. The two pumps shall be designed to work on an alternative basis to ensure both pumps receive equal use and neither remains continuously idle;
- An alarm warning device (including signage and flashing strobe light) shall be provided for the pump-out system to advise the occupant of pump failure. The location of the signage and flashing strobe light shall be shown on the stormwater management plans; and
- In order to ensure there is no intrusion of waters into the structure, all underground parking structures shall be tanked and no subsoil drainage lines shall be provided to the basement.

(h) It is a condition of this consent that the applicant shall grant to the owners of SP 38801 an Easement for Drainage.

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

36 **Stormwater Management System (including on-site detention system and basement pump-out system) – Compliance Certificate (Design)**

Prior to the issue of any Construction Certificate, the applicant shall obtain a compliance certificate (under Part 4A of Environmental Planning and Assessment Act) for the design of stormwater management system of the development from an Accredited Certifier (stormwater management facilities design compliance).

37 **Supporting Council's Property**

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

38 **Soil and Water Management Plan**

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* 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.

39 **Construction Traffic Management Plan**

Prior to the issue of Construction Certificate, 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 and Council** for approval. The plan shall: -

(a) be prepared by a RMS 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 the construction vehicle access points of the site;
(d) indicate the frequency of truck movements;
(e) ensure any vehicles accessing the site or carrying out construction activities associated with the development be restricted to 12.5 metres (defined as Heavy Rigid Vehicle in AS2890.2). Trucks with trailers are not allowed to access the site;
(f) ensure any vehicles associated with site construction activities **not be permitted to travel on the sections of King Street and High Street east of the site;** and
(g) ensure all traffic (including worker's vehicles) generated from the construction activities shall enter and leave the site in a forward direction.

40 **Construction Management Plan**

Prior to the issue of Construction Certificate, detailed Construction Management Plan (CMP) shall be submitted to **Principal Certifying Authority and Council** for approval of the site works. The CMP shall address the following:

(a) All vehicles (including worker's vehicles) associated with site construction activities shall enter and leave the site in a forward direction ONLY;
(b) All vehicles (including worker's vehicles) associated with site construction activities shall only be allowed to park within the site. No parking of these vehicles shall be allowed on O'Riordan Street, King Street and High Street;
(c) Construction building materials shall be stored wholly within the site;
(d) Access to adjacent buildings and the pedestrian and vehicular access fronting O'Riordan Street, King Street and High Street shall be maintained at all times. No closure of any road reserve will be permitted without Council approval;
(e) Under no circumstance (except emergency) 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) Locations of site office, accommodation and the storage of major materials related to the project shall be within the site;
(g) Protection of adjoining properties, pedestrians, vehicles and public assets shall be implemented at all times;
(h) Location and extent of proposed builder's hoarding and Works Zones, if there is any, shall be shown on the plan. It should be noted that any Works Zones proposed requires approval from Council; and
(i) Tree protection management measures for all protected and retained trees shall be implemented at all times.

41 **Engineering Drawings - Civil Works in the Public Domain**

Prior to issue of any Construction Certificate, the applicant shall lodge an application, together with engineering construction drawings and plans checking fee, to Council as a road authority, for assessment under Roads Act, for the civil works to be carried out in the public domain associated with the development. Documentary evidence of the lodgement of engineering plans shall be submitted to the Principal Certifying Authority attesting this condition has been appropriately satisfied. The engineering construction drawings shall include the following civil works in public domain area:

(a) Design and reconstruct kerb and gutter, footpath and kerb ramps for the entire King Street and High Street frontage of the site. The works shall include removal of any redundant crossings;
(b) Repair damaged footpath, kerb and gutter along the O'Riordan Street frontage of the site;
(c) Design and provide landscaping on the footpath area along all frontages of the site;
(d) Design and construct proposed vehicular crossings on King Street and High Street;
(e) Design and provide line marking and all necessary signage on O'Riordan Street to RMS's requirements. The details of line marking and signage shall be approved by Council Traffic Committee;

(f) Construct stormwater drainage system from the site to the new kerb inlet gully pit on High Street and then to the existing Council's drainage pit at the corner of O'Riordan Street and High Street. This work shall include construction of a new 2.4m long opening grated kerb inlet gully pit on High Street and reconstruction of the existing kerb inlet pit at the corner of O'Riordan Street and High Street;

(g) Resurface the road pavement for the area directly in front of the site on King Street and High Street with 50mm AC10 hotmix. The area of construction shall extend from the lip of new kerb and gutter to the centreline of the road;

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. All costs associated with the design and construction of the public domain works shall be borne by the applicant.

42 The plans submitted with the Construction Certificate shall address the following matters:

(a) Storage shall be provided for each unit prior to issue of the Construction Certificate in accordance with the following:

(i) The proposal shall comply with the minimum storage requirements contained within Section 3.3.7 of Council's DCP No. 35 for Multi Unit Housing and Residential Flat Buildings which are as follows:

- Studio apartment = $6m^3$
- 1 bedroom apartment = $8m^3$
- 2 bedroom apartment = $10m^3$
- 3 bedroom apartment = $12m^3$
- At least $10m^3$ of storage area is to be provided for each retail tenancy in accordance with DCP 35.

(ii) A minimum of 50% of the storage requirements shall be provided within the unit, and the remainder shall be provided in the basement, in accordance with DCP No. 35;

(iii) The storage areas shall have a minimum height of 1.5 metres in accordance with DCP 35;

(iv) Storage areas proposed within the living room or any other habitable room within a dwelling shall not be included as storage space for these purposes.

(v) Storage space provided within a dwelling shall not be included as part of the floor area of the dwelling (i.e. the units must comply with Council's minimum unit sizes contained in DCP No. 35 excluding any proposed storage area);

(vi) Storages areas within the basement shall be constructed in accordance with the following requirements as recommended by the NSW Police:

(1) The construction shall be undertaken using solid frame construction and each storage area shall be provided with a

proper key lock that complies with Australian Standard AS:4145:1993.

(2) These storage areas shall be monitored by CCTV cameras at all times.

43 The applicant shall submit a materials and finishes board to Council's satisfaction prior to issue of a Construction Certifcate.

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

44 **Approval and Permits under Roads Act and Local Government Act**

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

(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- Permit to erect hoarding on or over a public place, including Council's property/road reserve;
- Permit to construction works, place and/or storage building materials on footpaths, nature strips;
- Permit for roads and footways occupancy (long term/ short term);
- Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve;
- Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services;
- Permit to place skip/waste bin on footpath and/or nature strip;
- Permit to use any part of Council's road reserve or other Council lands;
- Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area. (It should be noted that the issue of such permits may involve approval from RMS 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); and
- 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 Traffic Engineer for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s)).

Copy of the approved permits shall be submitted to the Principal Certifying Authority attesting this condition has been appropriately satisfied.

45 **Erosion and Sediment Control Measures**

Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or

excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

46 **Road Occupancy Licence**

The applicant shall arrange with RMS's Transport Management Centre (TMC) for any required Road Occupancy Licence prior to commencement of any works on O'Riordan Street or near the signalised traffic light.

47 **Public Liability**

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

48 **Section 138 Consent – Roads Act 1993**

Prior to commencement of any works in the road reserve area, the applicant shall obtain written approval, together with a copy of approved engineering plans, construction management plan and construction traffic plans, under Section 138 of Roads Act 1993 for the civil works to be carried out in public domain. Documentary evidence shall be submitted to the Principal Certifying Authority attesting to this condition has been appropriately satisfied.

49 **State Survey Mark**

Prior to commencement of any works in the road reserve area, 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.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

50 **Construction Operations**

(a) The applicant shall conduct all demolition, excavation, construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.

(b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.

(c) Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (e.g. 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 are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and /or other plant and equipment.

51 Protection of Council's Property

During Demolition, Excavation and Construction and any associated deliveries activities, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be make 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.

52 Erosion Controls - Access to Site and Transportation of Materials

(a) During Demolition, Excavation, Construction and any associated deliveries activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.

(b) Erosion and sediment control devices are to be installed prior to the commencement of any demolition, excavation or construction works upon the site. These devices are to be maintained throughout the entire demolition, excavation and construction phases of the development for a minimum three (3) month period after the completion of the project, where necessary.

53 Implementation of Soil and Water Management Plan, Construction Traffic Management Plan and Construction Management Plan

During construction, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times: -

- Approved Soil and Water Management Plan;

- Approved Construction Traffic Management Plan and;
- Approved Construction Management Plan

54 Inspection of Civil Works in Public Domain Area (including Road Reserve)
All works carried out on the road reserve 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 constriction**, encompassing not less than the following key stages:

- Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works;
- Prior to placement of concrete (vehicular crossing, kerb and gutter and footpath)/road pavement;
- Prior to backfilling of proposed stromwater drainage system in the road reserve; and
- 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.

55 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.*

LEVEL RESTRICTIONS

Construction period of 4 weeks and under:

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

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

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

Time Restrictions

Monday to Friday	07:00am to 06:00pm
Saturday	07:00am to 01:00pm

No Construction to take plan on Sundays or Public Holidays.

Silencing

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

56 The Principal Contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

(i) The *Soil and Water Management Plan* if required under this consent;

(ii) *"Do it Right On Site, Soil and Water Management for the Construction Industry"* published by the Southern Sydney Regional Organisation of Councils, 2001; and

(iii) *"Managing Urban Stormwater – Soils and Construction"* published by the NSW Department of Housing 4th Edition" ('The Blue Book).

Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (http://111.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The "Do it Right On Site" can be downloaded free of charge from Council's website at:

http://www.botanybay.nsw.gov.au/council/services/planning/factsheets.htm

Further information on sediment control can be obtained from www.ssroc.nsw.gov.au.

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

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

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

57 The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.

58 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.*

59 Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A free copy of the sign is available from Council's Customer Service Counter.

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

61 All remediation work must be carried out in accordance with: -

(i) *Managing Land Contamination: Planning Guidelines SEPP 55 Remediation of Land*;

(ii) EPA Guidelines made under the Contaminated Land Management Act 1997; and

(iii) the Remediation Action Plan entitled 'Toplace Pty Ltd Remediation Action Plan – 182-196 O'Riordan Street, Mascot NSW' prepared by Environmental Investigations, Report No. E1566.1AD dated 20 April 2012.

62 Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

63 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.

64 To prevent contaminated soil being used onsite, all imported fill shall be certified VENM material and shall be validated in accordance with the Office of Environment and Heritage (OEH) 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.

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

66 For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Freshwater. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system.

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

(i) NSW Department of Environment, Climate Change and Water (DECCW) '*Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites'*; and
(ii) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority for review and concurrence). The report is to be submitted after completion of remediation works and prior to commencing any building works.

68 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. The report is to be submitted after completion of remediation works and prior to commencing any building works.

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.

69 In accordance with the Contaminated Land Management Act 1997, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.

70 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.

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

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

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

c. the Development Approval number;

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

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

72

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

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

(c) If the soil conditions require it:-

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

(iii) adequate provision must be made for drainage.

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

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

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

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

73 The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.

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

74 Prior to the issue of an Occupation Certificate (either Interim or Final), the applicant, in accordance with the offer to enter into a Voluntary Planning Agreement (VPA) with Council must have:-

(a) entered into a VPA with Council and have executed that agreement; and

(b) undertaken to the satisfaction of the Council, all public domain works specified in the VPA; and

(c) paid all costs associated with the VPA, including preparation costs.

75

(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:

(vii) Overhead service cables on the King Street frontage to be undergrounded, starting from the existing pole "A" to the existing pole "C" as shown on Plan No. 1. (Note: Pole "A" may be retained, however the cables must be undergrounded from this point).

(viii) Overhead service cables on the O'Riordan Street frontage to be undergrounded, starting from the existing pole "C" to the existing pole "G" as shown on Plan No. 1. (Note: Pole "G" may remain, however the cables must be undergrounded up to this point).

(b) The cable conduits shall be installed underground within the future road and foopath alignment based on any future road widening.

(c) Existing street lights located within the footpath reserve along the entire King Street and O'Riordan Street frontages of the development site, being street lights identified as being located on poles "B" and "D" and "F" as shown on Plan No. 1 shall be replaced with new street lighting.

(d) Approval shall be obtained from Council, Roads and Maritime Services and the responsible utility authority for the location, design, style, etc. of required 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 lights in accordance with the requirements of Australian/New Zealand Standard AS/NZS 1158-1997 "Public Lighting Code" and the requirements of the Roads Authority. 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.

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

76 Prior to Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

77 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.

78 Prior to the issue of any Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the car parking areas (including queuing area, commercial/retail and visitor parking area), driveways and vehicular access paths have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1 and AS2890.6 requirements. The internal parking facilities shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standards.

79 A graffiti management plan is to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours.

80 The windows and window-frames to these premises are to be of solid construction. These windows should be fitted with locks with comply with the **Australian Standard – Mechanical Locksets for windows in buildings, AS: 4145** http://www.standards.orq.au to restrict unauthorised access. 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 windows, such a wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings,

warehouses and factories. 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. (e.g. locking bars, electronic locking devices, detection devices, alarms).

81 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.

82 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.

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

84 Damage to Council Infrastructure

Any damage not shown in the dilapidation report submitted to Council before site works have commenced, will be assumed to have been caused by the site works undertaken (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to the issue of Final Occupation Certificate.

85 Car Parking Area - Engineering Certification

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 resident, visitor and commercial/retail parking area), driveways, ramps and vehicular access paths have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS 2890.6 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.

86 Off Street Parking Bays

Prior to the issue of any Occupation Certificate, minimum **205** off-street car parking bays and **2** loading bays for Small Rigid Vehicle (SRV) as defined in AS2890.2 shall be provided to the development as shown on the approved architectural plans. All parking bays and loading bays shall be line marked. The allocation of parking bays shall be in accordance with the following:-

- Commercial / Retail parking
  2 parking bays for each tenancy, with total of twelve (12) for the entire commercial/retail premises

- Residential parking

193 off-street parking bays for residents and visitors based on the following rate: -

o Studio/ 1-bedroom unit	1 space / unit
o 2-bedroom /3-bedroom unit	2 spaces / unit
o visitors	4 spaces

87 Stormwater Drainage System – Completion and Engineering Certification

Prior to the issue of any Occupation Certificate, construction of the stormwater drainage system (including OSD system 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*', Australian Rainfall & Runoff (AR&R), AS 3500 and BCA.

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.

88 Stormwater Management System – Compliance Certificates

Prior to the issue of any Occupation Certificate, the applicant shall obtain compliance certificates (under Part 4A of Environmental Planning and Assessment Act) for the construction and compliance of the stormwater management system. The certificate shall be obtained from the following categories of Accredited Certifier: -

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

89 Maintenance Schedule - On-Site Detention and Pump-Out System

Prior to the issue of Final Occupation Certificate, maintenance schedule of the on-site detention system and pump-out system shall be prepared by a qualified engineer and submitted to Principal Certifying Authority and a copy to Council for record purpose.

90 Section 88B/88E(3) – On-Site Detention and Pump-Out System

In order to ensure that the constructed OSD and pump-out 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 system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. The relative location of the 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 the issue of Final Occupation Certificate.

91 Applications Associated with Works on Council's Land

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.

92 Removal of Redundant Crossings

Prior to the issue of Final Occupation Certificate, the redundant vehicular crossings, 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.

93 Construction of Vehicular Crossings

Prior to the issue of any Occupation Certificate, new vehicular crossings including layback and/or gutter and any associated road restoration shall be constructed on King Street and High Street in accordance with Council's requirements. The applicant shall make a separate application to Council's Customer Service Counter for the construction of vehicular crossing (either by Council or own forces) to the vehicular entry points of the site as shown on the submitted approved plan.

Each crossing shall be minimum **4.5** metres wide at the property boundary and at 90^{o} to the kerb and gutter in plain concrete. **Vehicular crossing on High Street shall be designed to restrict right turn exit onto High Street from the site.** 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.

94 Civil Works in Public Domain - Completion

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: -

(a) Reconstruct kerb and gutter, footpath and kerb ramps for the entire King Street and High Street frontage of the site

(b) Repair damaged footpath, kerb and gutter along the O'Riordan Street frontage of the site.

(c) Provide landscaping on the footpath area along all frontages of the site

(d) Construct proposed vehicular crossings on King Street and High Street.

(e) Provide line marking and all necessary signage on O'Riordan Street to RMS's requirements. The details of line marking and signage shall be approved by Council Traffic Committee.

(f) Construct stormwater drainage system from the site to the new kerb inlet gully pit on High Street and then to the existing Council's drainage pit at the corner of O'Riordan Street and High Street. This work shall include construction of a new 2.4m long opening grated kerb inlet gully pit on High Street and reconstruction of the existing kerb inlet pit at the corner of O'Riordan Street and High Street.

(g) Resurface the road pavement for the area directly in front of the site on King Street and High Street with 50mm AC10 hotmix. The area of construction shall extend from the lip of new kerb and gutter to the centreline of the road.

95 Civil Works in Public Domain – Completion Documentation

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.

- Written confirmation / completion certificate obtained from Council's engineers
- Inspection reports (formwork and final) for the works on public domain and road reserve area obtained from Council's engineer
- 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.

96 Street Signs

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.

97 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 3.32:1 (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.

98

(e) 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.

(f) Condition Nos. 74-98 are pre-conditions prior to the issue of the Occupation Certificate.

ONGOING CONDITIONS

99 The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration). The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial / industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time / night time.

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.

100 In order to minimise the attractiveness of the landscaped area for foraging birds, the site must be cleaned regularly and all refuse bins are to be covered.

101 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.

102 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.

103 **Maintenance of Stormwater Drainage System**
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.

104 **Enter and Exit the Premises**
All vehicles shall enter the site via King Street and exit via High Street access driveway by right turn only. All vehicles shall enter and exit the site in a forward direction.

105 **Deliveries, Loading and Unloading**
Vehicles making deliveries (including goods, merchandise and the like) to the site shall comply with the following requirements: -

- Vehicles making deliveries to the site shall be limited to Small Rigid Vehicle (SRV) (as defined by AS2890.1).
- All loading and unloading activities associated with the development shall take place wholly within the dedicated loading bays in the basement car parking area.
- 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 car park etc)

106 **Car Parking Area**
All parking and loading bays 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.

107 **Employee Parking**
The occupier(s) of the commercial/retail premises shall ensure that any person employed on the premises shall park their vehicles, if any, in the employee parking area provided. No employee shall be permitted to park on a common driveway, public streets or any road related areas (eg. footpath, nature strip, road shoulder, road reserve, public car park etc)

108 **Vehicle Turning Area**
Vehicle turning areas shall be kept clear at all times and no vehicles shall be permitted to park in these areas.

109 **Allocation of Parking Bays**
A total of 205 off-street parking spaces are to be provided in accordance with the approved architectural plans. Of these, one hundred and eighty nine (**189) spaces shall be allocated to residents** parking based on the following rate:

- Studio/ 1-bedroom unit 1 space / unit
- 2-bedroom /3-bedroom unit 2 spaces / unit
- **Four (4)** off-street parking spaces shall be made available at all times for visitors parking, with two (2) to be used for car wash bays
- **Twelve (12)** parking spaces shall be dedicated to commercial/retail premises, with 2 parking bays for each tenancy

110 Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council.

111 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.

112 Roller shutters to windows and doors are not permitted if visible from street.

113 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.

114 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 businesses and ground floor common areas.

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

116 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. 11/274 dated as 22 December 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