

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

<b>JRPP No</b>	<b>2013SYE084</b>
<b>DA Number</b>	<b>DA 13/173</b>
<b>Local Government Area</b>	<b>City of Botany Bay</b>
<b>Proposed Development</b>	<b>Redevelopment of the site in the following manner:</b> <ul style="list-style-type: none"> <li>• <b>Demolition of existing industrial buildings, excavation and site remediation.</b></li> <li>• <b>Removal of sixteen (16) existing trees along the southern and northern boundaries.</b></li> <li>• <b>Construction of an 13 storey mixed use development comprising of 92 dwellings (7 studio, 24 x one bedroom units and 61 x 2 bedroom units), 344m<sup>2</sup> of commercial floor space fronting Coward Street and 175 car parking spaces.</b></li> <li>• <b>Strata Subdivision to create 92 residential lots and 2 commercial lots.</b></li> </ul>
<b>Street Address</b>	<b>246 Coward Street, Mascot</b>
<b>Lot &amp; DP Nos.</b>	<b>Lot 1 DP773899</b>
<b>Applicant</b>	<b>Imperic Pty Ltd</b>
<b>Capital Investment Value (CIV)</b>	<b>\$28,150,000.00</b>
<b>Number of Submissions</b>	<b>Nil</b>
<b>Recommendation</b>	<b>Conditional Consent</b>
<b>Report by</b>	<b>Rodger Dowsett, Director Planning and Development</b>
<b>Date</b>	<b>8 August 2014</b>

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

### **PRECIS**

Council received Development Application No. 13/173 on the 30 August 2013 seeking consent for the following:

- demolition of existing industrial buildings;
- removal of sixteen (16) existing trees along the western boundary that now stand on the development site;
- excavation and site remediation;
- the construction of an 13 storey mixed use development comprising of 92 dwellings (7 studios, 24 x one bedroom units and 61 x 2 bedroom units), 344m<sup>2</sup> of commercial floor space fronting Coward Street and 175 car parking spaces, and
- Strata subdivision to create ninety two (92) residential lots and two commercial lots.

The development application is required to be referred to the Joint Regional Planning Panel pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the Capital Investment Value of the proposal is \$28,150,000.00.

The Development Application is also Integrated Development, pursuant to Section 91 of the EP&A Act as the development involves construction dewatering (a temporary process) and therefore requires approval from the NSW Office of Water.

The application is further classified as Integrated Development as it also involves the removal of an access driveway on Coward Street (a classified road) and as such requires approval from RMS. Under a letter dated 9 October 2014, the NSW Office of Water has granted its General Terms of Approval to the proposed development. Under a letter dated the 9 May 2014, NSW RMS provided conditions for the proposed development.

In accordance with Clause 86(4), the application requires the concurrence of RailCorp as it involves excavation 2m below ground level and within 25m of the rail corridor. Concurrence was granted on 30 June 2014.

Council received additional information in respect of the proposed development as follows:

- On 17 January 2014 the applicant submitted to Council an addendum to the Statement of Environmental Effects. The addendum relates to Floor Space Ratio and Public benefit;
- On 20 January 2014 Further information was submitted in relation to reduction in floor space, Breezeways and Public benefit as well as a response to the Design Review Panel Comments;
- Various requests and responses, to obtain Railcorp concurrence, due to the site being within the 25m of the rail tunnels' corridor zone of influence, and
- On the 21 March 2014 amendments to the plans were submitted to Council following the discussions with Council on 21 February 2014 relating to reduced service panels in Coward Street frontage, Pedestrian entry on Coward Street and the relocation of bicycle parking from adjacent to the Park side entrance to the building to the basement and land dedication as public benefit.
- On 7 August 2014 Amended plans were received to include 7 studio apartments.

The development application was notified for a period of 30 days from 2 October 2013 to 1 November 2013. No objections were received.

The amended application was notified for a period of 14 days from 9 April 2014 to 23 April 2014. Again, no objections were received.

### **Floor Space Ratio**

The maximum floor space ratio ("FSR") permitted under BBLEP 2013 for the subject site is 3.2:1 (7,920m<sup>2</sup>). The development proposes a FSR of 3.88:1 (9,607m<sup>2</sup>).

As such, the Applicant has submitted a Clause 4.6 variation to the development standard applying under Clause 4.4 – being the Floor Space Ratio control. The FSR variation is considered acceptable as it does not result in any adverse impacts on the amenity of adjoining properties in terms of privacy or overshadowing.

The envisaged built form under the DCP, sees a conjoint development with a tower of 13 storeys fronting Coward Street and a tower of 6 storeys to the John Street frontage of the site. This envisaged built form has not been pursued due to the significant amenity issues that would result (poor sunlight access, privacy and site occupancy).

### **Public Benefit**

The applicant has provided the following in terms of public benefit:

- Increase in parkland to allow an extension to Nancy Bird-Walton Park (currently 189m<sup>2</sup>). This land (215m<sup>2</sup>) will be fully landscaped and dedicated to Council which increases the size of the existing park.
- Dedication of a fully installed and operational public toilet facility to John Street, and
- Public Domain Work upgrades as outlined in the conditions of consent.

### **Officer Recommendation**

The application is referred to the Joint Regional Planning Panel (JRPP) for determination pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act as the proposed development has a Capital Investment Value of \$28,150,000.00.

The recommendation is for approval, as stated below:

*It is recommended that the Joint Regional Planning Panel (JRPP), as the determining Authority in this instance, resolve to:*

- (a) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum floor space ratio of 3.88:1 (9607m<sup>2</sup>); and*
- (b) Approve Development Application No. 13/173 for the demolition of existing industrial buildings, excavation and site remediation; 92 dwellings (7 x Studio, 24 x one bedroom units and 61 x 2 bedroom units), 344m<sup>2</sup> of commercial floor space fronting Coward Street and 175 car parking spaces; Strata subdivision of Lot 1 into two retail lots and further Strata subdivision to create 92 residential*

*lots and two commercial lots at 246 Coward Street, Mascot, subject to the Conditions imposed in the attached schedule.*

## 1.0 BACKGROUND

### 1.1 Site Description

The subject site is located on the northern side of Coward Street and has a secondary frontage to John Street. The site is located approximately 20m to the west of the intersection of Bourke Street and Coward Street, and is known as No. 246-250 Coward Street, Mascot. It has a legal description of Lot 1 in DP 773899.

The subject site has an 'L' shape with frontage length to Coward Street of 41.76m, a stepped eastern boundary length of 66.53m, a western boundary length of 66.455m and a northern boundary length to John Street of 32.615m, giving a total site area of 2,475m<sup>2</sup>. The site slopes to the north and has a fall of approximately 4m along its length towards John Street.

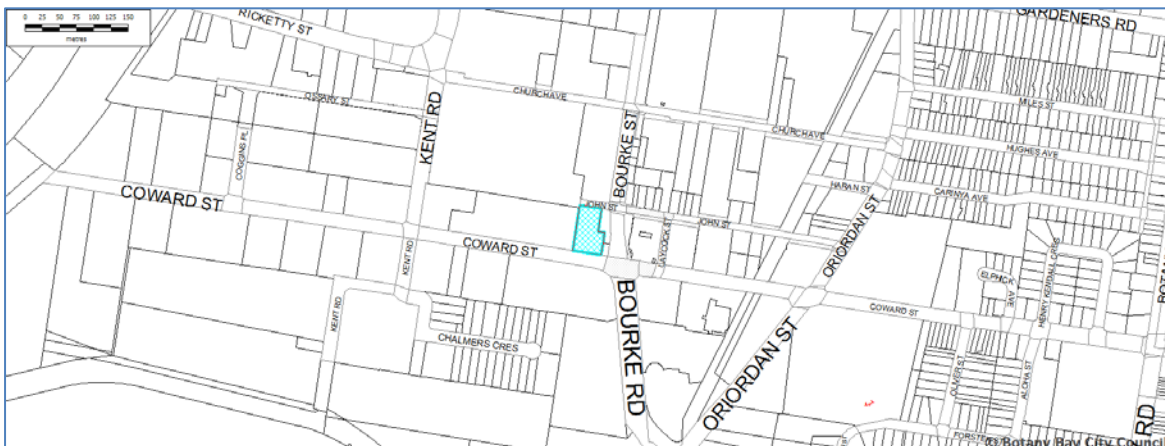
The majority of the site is covered by a two storey concrete commercial/warehouse building, sited on the Coward Street boundary and on the John Street boundary there is a hardstand area with a warehouse behind. The existing building has a setback of approximately 7.5m from Coward Street, 15m from John Street and is built to the side boundaries.

A hardstand area is also located on the Coward Street frontage with car parking belonging to the current use being accommodated in the undercroft of the building and to the east of the building. Presently, there are limited landscape areas on site consisting of landscaping along the boundary of the Coward Street frontages, with a small area provided abutting the eastern boundary adjacent to Council's park, known as Nancy Bird-Walton Park.

There are street trees along the Coward Street frontage. The building has the flat roof construction along Coward Street and pitched roof to the warehouse along John Street. No business identification signage is located on the site.

The properties surrounding the site are commercial/warehousing in nature to the immediate west. A vacant commercial building is immediately to the east as is Nancy Bird-Walton Park. To the north is a partially completed mixed use development.

### Locality Plan



## Site Photos

Subject site as viewed from the southern side of Coward Street.



Subject site as viewed from John Street (looking east).

## 1.2 Description of the Locality

The subject site is located approximately 1km from Sydney Domestic Airport Terminal and 3km from Sydney International Airport Terminal.

The site is located Mascot Station Precinct Town Centre and the underground Mascot station which enhances the excellent accessibility of the area. The precinct is located in close proximity to major regional road networks and Port Botany. As such the site has excellent accessibility to major transport and employment opportunities.

Due to the past industrial use of the majority of the land in the locality, land in the area is susceptible to contamination, resulting in the majority of sites requiring some level of remediation. In addition, most sites within the locality have water table issues. These two factors alone contribute to the high cost associated with development in the locality.

The site is situated within the Mascot Station Precinct (Urban Block 1) which is bounded by Kent Road Street to the west, Gardeners Road to the north, Coward Street to the south and Bourke Street to the east. The precinct is comprised of a variety of land uses including commercial/warehousing, distribution centres offices and mixed use residential/retail.

Directly to the north is 8 Bourke Street, comprising a partially completed mixed use development.

Located adjacent to the southern portion of the eastern site boundary is a small public park that contains an area of seating and a variety of landscape treatments. Located adjacent to the northern portion of the eastern boundary is a commercial building that has largely been vacant since construction and has a narrow curved form with a zero lot line along its western side. The building, known as 244 Coward Street, Mascot has a stepped 6 to 7 storey height and a nil setback to the common boundary with the application site, this zero lot line was a design intention. Car parking within the building is accessed from John Street.

Located to the west of the site is a 3 storey commercial building with access to basement parking located immediately adjacent to the subject site. It has a zero lot line setback to the common boundary with the subject site and a setback of approximately 8m from the street boundary. The building is large and extends in a westerly direction by some 150m, with at grade car parking positioned at the western end of the site. Council currently has a development application on this site for a mixed use residential/commercial and public car park. Further to the west there is another site, containing car parking which connects with Kent Road further to the west.

To the north west of the site is the recently approved 19-33 Kent Road development currently under construction by the development company, Meriton (Council reference DA-13/200).

To the south of the site and outside of the Mascot Station Town Centre Precinct is Qantas Headquarters and other office/commercial activities generally related to Sydney Airport including TNT.

### **1.3 Site and Development History**

#### **Site and Development History**

- Council approved Development Application No. 1750 on the 22 August 1988 for the use of the premises as an air freight forwarding facility.
- Council approved Development Application No. 02/353 on the 23 July 2002 for the use of the premises for warehousing and sales of locksmith/ security hardware.
- Council approved Development Application No. 09/317 on the 3 February 2009 as a “deferred commencement” consent which became operational on 3 February 2010, for use of the premises for warehousing of fabric and textile products and bathroom accessories with associated offices.

### **1.4 The Proposal**

The development application in its amended form requests consent for the following:

- the demolition of existing commercial/warehouse building;

- removal of sixteen (16) existing trees along the northern and southern boundaries that now stand on the development site;
- excavation and site remediation;
- construction of an 13 storey mixed use development comprising of 92 dwellings (7 studios, 24 x one bedroom units and 61 x 2 bedroom units), 360m<sup>2</sup> of commercial floor space fronting Coward Street;
- 172 car parking spaces, and
- Strata subdivision to create ninety two (92) residential lots and two (2) commercial lots,
- Public toilet and land dedication.

#### Residential Flat Component

The proposed development is comprised of one residential flat building, which is accessible to pedestrians from Coward Street and through Nancy Bird-Walton Park. Vehicular access is obtained from John Street. The building contains one central pedestrian corridor entry from Coward Street with a secondary entrance to the eastern side of the building adjacent Nancy Bird-Walton Park. Two lifts are located together within the entrance foyer. The Coward Street level also contains retail at the Coward Street frontage behind which are located apartments and a large communal landscaped open space. The upper levels are characterised by an open central communal area with apartments accessible from the central corridors which look down to the landscaped podium below. A communal room/balcony is proposed on Level 13. The development is to contain, when complete, 92 apartments (including ten (10) adaptable apartments) through condition of consent and two commercial lots.

The unit mix of the development is as follows:

	<b>TOTAL</b>	<b>Unit Mix</b>
<b>1 bedroom</b>	31	34%
<b>2 bedroom</b>	61	66%
	<b>92</b>	<b>100%</b>

**Table 1 – Unit Mix**

#### Summary table:

This table contains a summary of the proposed development based a total of 92 dwellings.

<b>Unit No.</b>	<b>No. of Bedrooms</b>	<b>Dwelling Size (m<sup>2</sup>)</b>	<b>Private Open Space (m<sup>2</sup> / dwelling)</b>	<b>Car parking provision</b>	<b>Cross Ventilation</b>	<b>2 Hours Sunlight</b>
Unit 101	1 bedroom	75m <sup>2</sup>	25m <sup>2</sup>	1	Yes	Yes
Unit 102	1 bedroom	75m <sup>2</sup>	35m <sup>2</sup>	1	No	Yes
Unit 103	2 bedrooms	100m <sup>2</sup>	28m <sup>2</sup>	2	Yes	Yes
Unit 104	Studio	66m <sup>2</sup>	25m <sup>2</sup>	1	Yes	Yes
Unit 201	2 bedrooms	100m <sup>2</sup>	12m <sup>2</sup>	2	Yes	Yes
Unit 202	1 bedroom	75m <sup>2</sup>	10m <sup>2</sup>	1	Yes	Yes
Unit 203 (adaptable)	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	Yes	Yes
Unit 204	2 bedrooms	100m <sup>2</sup>	15m <sup>2</sup>	2	No	No
Unit 205	2 bedrooms	100m <sup>2</sup>	16m <sup>2</sup>	2	Yes	No
Unit 206	Studio	60m <sup>2</sup>	11m <sup>2</sup>	1	Yes	No
Unit 207	Studio	60m <sup>2</sup>	12m <sup>2</sup>	1	No	No
Unit 208	2 bedrooms	100m <sup>2</sup>	22m <sup>2</sup>	2	Yes	Yes

Unit No.	No. of Bedrooms	Dwelling Size (m <sup>2</sup> )	Private Open Space (m <sup>2</sup> / dwelling)	Car parking provision	Cross Ventilation	2 Hours Sunlight
Unit 209	1 bedroom	75m <sup>2</sup>	15m <sup>2</sup>	1	No	Yes
Unit 301	2 bedrooms	100m <sup>2</sup>	12m <sup>2</sup>	2	Yes	Yes
Unit 302	1 bedroom	75m <sup>2</sup>	10m <sup>2</sup>	1	Yes	Yes
Unit 303 (adaptable)	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	Yes	Yes
Unit 304	2 bedrooms	100m <sup>2</sup>	15m <sup>2</sup>	2	No	No
Unit 305	2 bedrooms	100m <sup>2</sup>	16m <sup>2</sup>	2	Yes	No
Unit 306	Studio	60m <sup>2</sup>	11m <sup>2</sup>	1	Yes	No
Unit 307	Studio	60m <sup>2</sup>	12m <sup>2</sup>	1	No	No
Unit 308	2 bedrooms	100m <sup>2</sup>	22m <sup>2</sup>	2	Yes	Yes
Unit 309	1 bedroom	75m <sup>2</sup>	15m <sup>2</sup>	1	No	Yes
Unit 401	2 bedrooms	100m <sup>2</sup>	12m <sup>2</sup>	2	Yes	Yes
Unit 402	1 bedroom	75m <sup>2</sup>	10m <sup>2</sup>	1	Yes	Yes
Unit 403 (adaptable)	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	Yes	Yes
Unit 404	2 bedrooms	100m <sup>2</sup>	15m <sup>2</sup>	2	No	No
Unit 405	2 bedrooms	100m <sup>2</sup>	16m <sup>2</sup>	2	Yes	No
Unit 406	Studio	60m <sup>2</sup>	11m <sup>2</sup>	1	Yes	No
Unit 407	Studio	60m <sup>2</sup>	12m <sup>2</sup>	1	No	No
Unit 408	2 bedrooms	100m <sup>2</sup>	22m <sup>2</sup>	2	Yes	Yes
Unit 409	1 bedroom	75m <sup>2</sup>	15m <sup>2</sup>	1	No	Yes
Unit 501	2 bedrooms	100m <sup>2</sup>	12m <sup>2</sup>	2	Yes	Yes
Unit 502	1 bedroom	75m <sup>2</sup>	10m <sup>2</sup>	1	No	Yes
Unit 503 (adaptable)	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	Yes	Yes
Unit 504	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	No	No
Unit 505	2 bedrooms	100m <sup>2</sup>	17m <sup>2</sup>	2	Yes	Yes
Unit 506	2 bedrooms	100m <sup>2</sup>	16m <sup>2</sup> 55SQM courtyard	2	Yes	No
Unit 507	1 bedroom	75m <sup>2</sup>	15m <sup>2</sup> 55sqm Courtyard	1	Yes	No
Unit 601	2 bedrooms	100m <sup>2</sup>	12m <sup>2</sup>	2	Yes	Yes
Unit 602	1 bedroom	75m <sup>2</sup>	10m <sup>2</sup>	1	No	Yes
Unit 603	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	Yes	Yes
Unit 604	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	No	Yes
Unit 605	2 bedrooms	100m <sup>2</sup>	17m <sup>2</sup>	2	Yes	Yes
Unit 606	2 bedrooms	100m <sup>2</sup>	16m <sup>2</sup>	2	Yes	No
Unit 607	1 bedroom	75m <sup>2</sup>	15m <sup>2</sup>	1	Yes	Yes
Unit 701	2 bedrooms	100m <sup>2</sup>	12m <sup>2</sup>	2	Yes	Yes
Unit 702	1 bedroom	75m <sup>2</sup>	10m <sup>2</sup>	1	No	Yes
Unit 703	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	Yes	Yes
Unit 704	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	No	Yes
Unit 705	2 bedrooms	100m <sup>2</sup>	17m <sup>2</sup>	2	Yes	Yes



Unit No.	No. of Bedrooms	Dwelling Size (m <sup>2</sup> )	Private Open Space (m <sup>2</sup> / dwelling)	Car parking provision	Cross Ventilation	2 Hours Sunlight
Unit 706	2 bedrooms	100m <sup>2</sup>	16m <sup>2</sup>	2	Yes	No
Unit 707	1 bedroom	75m <sup>2</sup>	15m <sup>2</sup>	1	Yes	Yes
Unit 801	2 bedrooms	100m <sup>2</sup>	12m <sup>2</sup>	2	Yes	Yes
Unit 802	1 bedroom	75m <sup>2</sup>	10m <sup>2</sup>	1	No	Yes
Unit 803	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	Yes	Yes
Unit 804	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	No	Yes
Unit 805	2 bedrooms	100m <sup>2</sup>	17m <sup>2</sup>	2	Yes	Yes
Unit 806	2 bedrooms	100m <sup>2</sup>	16m <sup>2</sup>	2	Yes	No
Unit 807	1 bedroom	75m <sup>2</sup>	15m <sup>2</sup>	1	Yes	Yes
Unit 901	2 bedrooms	100m <sup>2</sup>	12m <sup>2</sup>	2	Yes	Yes
Unit 902	1 bedroom	75m <sup>2</sup>	10m <sup>2</sup>	1	No	Yes
Unit 903	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	Yes	Yes
Unit 904	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	No	Yes
Unit 905	2 bedrooms	100m <sup>2</sup>	17m <sup>2</sup>	2	Yes	Yes
Unit 906	2 bedrooms	100m <sup>2</sup>	16m <sup>2</sup>	2	Yes	No
Unit 907	1 bedroom	75m <sup>2</sup>	15m <sup>2</sup>	1	Yes	Yes
Unit 1001	2 bedrooms	100m <sup>2</sup>	12m <sup>2</sup>	2	Yes	Yes
Unit 1002	1 bedroom	75m <sup>2</sup>	10m <sup>2</sup>	1	No	Yes
Unit 1003	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	Yes	Yes
Unit 1004	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	No	Yes
Unit 1005	2 bedrooms	100m <sup>2</sup>	17m <sup>2</sup>	2	Yes	Yes
Unit 1006	2 bedrooms	100m <sup>2</sup>	16m <sup>2</sup>	2	Yes	No
Unit 1007	1 bedroom	75m <sup>2</sup>	15m <sup>2</sup>	1	Yes	Yes
Unit 1101	2 bedrooms	100m <sup>2</sup>	12m <sup>2</sup>	2	Yes	Yes
Unit 1102	1 bedroom	75m <sup>2</sup>	10m <sup>2</sup>	1	No	Yes
Unit 1103	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	Yes	Yes
Unit 1104	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	No	Yes
Unit 1105	2 bedrooms	100m <sup>2</sup>	17m <sup>2</sup>	2	Yes	Yes
Unit 1106	2 bedrooms	100m <sup>2</sup>	16m <sup>2</sup>	2	Yes	No
Unit 1107	1 bedroom	75m <sup>2</sup>	15m <sup>2</sup>	1	Yes	Yes
Unit 1201	2 bedrooms	100m <sup>2</sup>	12m <sup>2</sup>	2	Yes	Yes
Unit 1202	1 bedroom	75m <sup>2</sup>	10m <sup>2</sup>	1	No	Yes
Unit 1203	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	Yes	Yes
Unit 1204	2 bedrooms	100m <sup>2</sup>	14m <sup>2</sup>	2	No	Yes
Unit 1205	2 bedrooms	100m <sup>2</sup>	17m <sup>2</sup>	2	Yes	Yes
Unit 1206	2 bedrooms	100m <sup>2</sup>	16m <sup>2</sup>	2	Yes	No
Unit 1207	1 bedroom	75m <sup>2</sup>	15m <sup>2</sup>	1	Yes	Yes
Unit 1301	2 bedrooms	100m <sup>2</sup>	30m <sup>2</sup>	2	Yes	Yes
Unit 1302	2 bedrooms	100m <sup>2</sup>	30m <sup>2</sup>	2	Yes	Yes
Unit 1303	2 bedrooms	100m <sup>2</sup>	12m <sup>2</sup>	2	Yes	Yes
Unit 1304	2 bedrooms	100m <sup>2</sup>	12m <sup>2</sup>	2	Yes	Yes
Unit 1305	2 bedrooms	100m <sup>2</sup>	16m <sup>2</sup>	2	Yes	No

**Table 2 – Apartment Summary**

The following table provides a summary of compliance:

Control	Required	Proposal	Complies
<b>FSR</b>	3.2:1 (under BBLEP 2013 (7,920m <sup>2</sup> ))	3.88:1 (9607m <sup>2</sup> )	<b>No – Clause 4.6 Variation submitted</b>
<b>Height</b>	44 metres (under BBLEP 2013)	44 metres	<b>Yes</b>
<b>Car Parking</b>	175 spaces are required as follows for the proposal: <ul style="list-style-type: none"> <li>• 153 residential;</li> <li>• 14 visitors;</li> <li>• 6 commercial.</li> </ul>	175 spaces are proposed as follows: <ul style="list-style-type: none"> <li>• 153 residential;</li> <li>• 14 visitors;</li> <li>• 6 commercial</li> </ul>	<b>Yes</b>
<b>Communal Space</b>	20% for residential flat buildings	25% (includes public park dedication total of 234m <sup>2</sup> )	<b>Yes</b>
<b>Unit Sizes</b>	Studio: 60m <sup>2</sup> 1 bedroom: 75m <sup>2</sup> 2 bedrooms: 100m <sup>2</sup>	Studio = 60m <sup>2</sup> 1 Bedroom = 75m <sup>2</sup> 2 Bedroom = 100m <sup>2</sup>	<b>Yes</b>

**Table 3 – Summary of Compliance**

#### Floor Space Ratio

The maximum FSR permitted by BBLEP 2013 is 3.2:1.

The development application seeks an FSR of 3.88:1 (9,607m<sup>2</sup>) which does not comply with Clause 4.4 of BBLEP 2013. It is noted that the original application was lodged with an approximate FSR of 4.1:1 which included breezeways which were enclosed by a floor to ceiling fixed louver screen. As such, this area was required to be included in the FSR calculation.

Upon amended plans being received, a reduction in the extent of the circulation corridors occurred giving rise to a reduction in FSR of the development to 3.88:1 (9,607m<sup>2</sup>).

#### Basement Car Parking and Parking Allocation

The proposed development requires 175 parking spaces. The basement car park contains 175 spaces that will comprise of 153 resident spaces, 14 visitor spaces, 2 car wash bays and 6 retail spaces. The car parking is provided over four basement levels.

#### Subdivision

The proposed development involves the Strata subdivision into ninety two (92) residential lots and two commercial lots.

## 2.0 PLANNING CONSIDERATIONS

### 2.1 Section 79C(1) - Matters for Consideration

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

(a) **Provisions of any Environmental Planning Instrument (EPI), draft EPI and Development Control Plan (DCP)**

Environmental Planning and Assessment Act – Schedule 4A

The application is required to be determined by the Joint Regional Planning Panel pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act as the Capital Investment Value of the proposed development is \$28,150,000.

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

The relevant requirements under Division 5 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the development applications.

The development application is Integrated Development in accordance with the *Water Management Act 2000* as the development involves temporary site dewatering during construction activity.

Before granting development consent to an application, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development. In this regard, the development application was referred to the NSW Office of Water. In a letter dated 11 February 2014, NSW Office of Water has provided its General Terms of Approval for the proposed development, which have been imposed upon the development in the Schedule of Consent Conditions section of this report.

The Development Application is also Integrated Development, pursuant to Section 138 of the Roads Act 1993 as it involves the removal of the Coward Street vehicle crossing. In a letter dated the 9 May 2014, NSW RMS has provided conditions for the proposed development.

State Environmental Planning Policy (Infrastructure) 2007

*Clause 86 - Excavation in, above or adjacent to rail corridors*

The proposed development falls within the provisions of Clause 86 as the site is within 25 m of the underground rail corridor. As such the application was referred to RailCorp NSW Transport for them to grant concurrence. The application was originally submitted with no detail of the rail tunnel and its relationship to the infrastructure of the proposed development.

Plans and documentation were referred to Railcorp - NSW Transport for consideration and comment. In a letter dated 9 October 2013 Railcorp advised further information was required, relating to geotechnical and structural drawings, construction methodology, cross sectional drawings and a detail survey. Under letter dated 30 June 2014, RailCorp has advised that it has no objection to the proposed development and has provided conditions which have been imposed upon the development in the Schedule of Consent Conditions section of this report.

*Clause 104 - Traffic Generating Development*

The proposed development falls within the provisions of Schedule 3 of the SEPP – Traffic Generating Development that is required to be referred to the NSW RMS. The application was accompanied by a Traffic and Impact Assessment Report prepared by Transport and Traffic Planning Associates, dated August 2013.

Plans and documentation were referred to the NSW RMS for consideration and comment. In a letter dated 14 May 2014, the RMS has advised that it has no objection to the proposed development and has provided conditions which have been imposed upon the development in the Schedule of Consent Conditions section of this report.

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. The applicant submitted a Preliminary Stage Environmental Site Assessment prepared by Aargus Australia dated December 2011 and a Phase II Environmental Site Assessment prepared by Aargus Australia dated January 2013 .

The report concludes that based on the results of the investigation it is considered that that the risks to human health and the environment associated with soil contamination at the site are low. The site is therefore considered to be suitable for the proposed use.

Clause 7 of State Environmental Planning Policy 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application. Therefore it is considered that the applicant has adequately demonstrated that the site can be made suitable to accommodate the intended use and it satisfies the provisions of SEPP No. 55.

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

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

*(a) to ensure that it contributes to the sustainable development of New South Wales:*

- (i) by providing sustainable housing in social and environmental terms, and*
- (ii) by being a long-term asset to its neighbourhood, and*

- (iii) by achieving the urban planning policies for its regional and local contexts, and*
- (b) to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- (c) to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
- (d) to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
- (e) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.*

The provisions of SEPP No. 65 have been considered in the assessment of the development application. The applicant has submitted a SEPP 65 assessment of the proposed development along with a design verification statement prepared by Russell Olsson of Olsson and Associates Architects Pty Ltd, dated August 2013, to verify that the plans submitted were drawn by a Registered Architect and achieve the design quality principles set out in Part 2 of SEPP No. 65.

Council's Design Review Panel has considered the proposed development during the assessment of the application on 7 November 2013. The current plans which are the subject of this assessment have addressed the concerns raised by the Design Review Panel together with other design changes to accommodate the concerns of the Council.

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

The ten design principles are addressed as follows:

### **Principle 1: Context**

*Good design responds to and contributes to its context. Context can be defined as the key natural and built features of an area.*

*Responding to context involves identifying the desirable elements of a locations current character or, in the case of precincts undergoing transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.*

The site falls within Mascot Station Town Centre, Urban Block1 being the urban core of the precinct which has been identified for re-development in accordance with the Mascot Station Town Centre Precinct Masterplan. The BBDCP 2013 has been adopted by Council, therefore the controls of Part 9A of BBDCP 2013 do apply. Notwithstanding, it is appropriate to consider the principles in the Masterplan and its accompanying DCP.

The surrounding built form context consists of mixed use residential development to the north, and north west of the site, to the south predominantly commercial space. The south is comprised of mainly commercial buildings being Qantas Headquarters, TNT and other typically supporting business and accommodation for the users of Sydney Airport.

The new zoning for the subject site allow for the redevelopment of the land fronting Coward Street for higher density residential development and commercial use. Land adjoining to the immediate south on the opposite side of Coward Street has also been identified under BBLEP 2013 for business purposes however typically on the eastern side of Bourke Street medium density residential development of a maximum building height of 44m (or 13 storeys).

The subject site is has a contour which allows for a level change of 4 metres between Coward and John Streets. Coward Street is subject to heavy traffic movement, with associated pollution and noise impacts from the identified traffic movement.

On this basis, it is considered that the proposed use of the subject site for the purposes of a residential flat development and commercial premises is consistent with its context.

### **Principle 2: Scale**

*Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.*

*Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of an area.*

The scale of the proposed development is that of a 4 storey podium fronting Coward Street with a nine storey tower above, whilst at the rear (John Street frontage), the height is reduced significantly to minimize overshadowing of the apartments by providing a large communal open space and to provide more than compliant separation distances to adjoining development. The podium fronting Coward Street incorporates a continuous solid balustrade at the first floor apartments to give the appearance of reduced bulk when viewed from parts of the Coward Street.

The height and wall the fronts John Street is 4m. However, this wall, for the reasons of amenity, visual interest and to reduce possibilities for graffiti is proposed to be planted with the climbing flora species over a wire mesh to improve the appearance of the streetscape. However it is noted that John Street will transform into a major entry to the recently approved Meriton development of 19-33 Kent Road (DA-13(200)).

The setback provided by the communal open space is effective in achieving privacy for both future occupants of the building and adjoining residents to the immediate north, being 8 Bourke Street. The height of the proposed development is 44 metres at the northern portion of the building, complying with the building height of 44m permitted under BBLEP 2013. Across the remainder of the site, the height is compliant.

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

*Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.*

*Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.*

The development form will comprise of a single residential tower accessible from Coward Street and John Street frontages. Commercial premises comprising of two separate tenancies are proposed to the ground floor fronting Coward Street (one also overlooks Nancy Bird-Walton Park, within the podium. The proposal provides an interesting built form with a curved plan and angled blade walls are designed to assist in ameliorating road traffic noise.

The building facades are articulated through strong horizontal and vertical elements, detailed and varied balcony treatments, and a modern and varied material/finishes selection to provide visual interest. The overall built form is compatible with the adjacent developments and the emerging character of the area as it undergoes redevelopment. The building height and form turns the corner to provide a further presence to the corner, concentrating overshadowing to the road and business zone to the south and visual impact to the adjoining development to the south. The proposed modern architectural form will contribute to the public domain as it enhances the streetscape amenity.

#### **Principle 4: Density**

*Good design has a density appropriate for a site and its context in terms of floor space yields (or number of units or residents).*

*Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.*

The proposed FSR of 3.88:1 (9607m<sup>2</sup>) does not comply with the maximum FSR permitted for the subject site of 3.2:1 which is addressed through the Clause 4.6 variation later in the report.

A total of 92 apartments and two commercial spaces are proposed.

This will comprise of ( 7 studios, 24 x one bedroom and 61 x 2 bedroom apartments. The number of units provided within the building is appropriate given that sufficient landscaping, car parking, private open space, appropriate internal layouts, and setbacks are integrated into the design.

#### **Principle 5: Resource, energy and water efficiency.**

*Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.*

*Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.*

The location, orientation and design of the development provides for adequate solar access and cross ventilation to the majority of apartments in accordance with SEPP 65. The Residential Flat Design Code (RFDC) recommends that at least 60% of the proposed units shall achieve flow through ventilation with the proposal indicating 72% of proposed units able to achieve cross flow ventilation. The applicant has confirmed that all habitable spaces are adequately ventilated.

The RFDC recommends that at least 70% of all proposed units and balconies shall achieve 2 hours of direct sunlight during the period 9.00am and 3.00pm at mid-winter in dense urban areas. The proposal indicates that 75% of proposed units will receive at least 2 hours sunlight during mid-winter to balconies. In addition, the development can meet the requirements of BASIX.

Taking into consideration recent approvals and development applications under assessment, the majority of the western façade of the building will be in shadow from approximately 1.30 to 2pm onwards. Approximately 30% on this western façade, being 12 of 39 apartments on the western side receive the required two hours of direct sunlight.

It is noted that the proposal has minimized south facing apartments as much as possible, noting that the main street frontage is south facing and that if the development was to be more aligned with a form that was envisaged under the DCP then direct sunlight access would be significantly worse than what is proposed.

It is noted that all units within the development are designed with open layouts and private balconies. BASIX Certificates have been submitted with the application that demonstrates the development is capable of meeting thermal, energy, and water efficiency targets. Further, a rainwater tank will be constructed for the retention of stormwater to be re-used for irrigation of communal landscape areas.

#### **Principle 6: Landscape**

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.*

*Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.*

*Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.*

There are three distinct types of landscape open space provided to the development. This includes private open space balconies, communal open space terraces at Level 1 (Coward Street frontage) and at ground level along the southern boundary. A landscape plan has been submitted with the application which demonstrates that a quality landscaped setting for the proposed development will provide a significant level of amenity for future occupants and the adjoining properties, with street planting to enhance the streetscape.

Council's Landscape Officer has reviewed the proposal and provided conditions. The proposed landscape planting is commensurate with the building size and bulk; hence it is considered that the proposal is consistent with this design quality principle.



## **Principle 7: Amenity**

*Good design provides amenity through the physical, spatial and environmental quality of a development.*

*Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.*

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

Private recreational areas are provided in the form of balconies or terraces off the living areas and are supplemented by communal landscaped areas to ensure an overall quality of living for future occupants. A community room (41m<sup>2</sup>) is also provided on Level 13 with a balcony (40m<sup>2</sup>)

An assessment of environmental acoustic impacts as well as a road traffic noise and aircraft noise assessment have accompanied the application, which details measure to be implemented, to ensure that the occupants of the development are not adversely impacted upon.

The proposal will be conditioned to comply with disability access requirements and incorporates sufficient service areas as required. It is considered that the development satisfies the provisions with respect to layout and amenity, and therefore the development is consistent with this principle.

## **Principle 8: Safety and Security**

*Good design optimises safety and security, both internal to the development and for the public domain.*

*This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.*

The development provides for safe direct pedestrian access from Coward Street and through Nancy Bird-Walton Park from Bourke Street. Casual surveillance to the public domain area fronting Coward Street, the park and Bourke Street is available from the street, from upper level apartments and from the ground floor commercial tenancies. Pedestrian and vehicular entries are clearly separated and well defined. Safe internal access is available from the basement car park directly into the building and the public/private domain is clearly distinguished. The proposal satisfies the requirements of Crime Prevention Through Environmental Design (CPTED) as assessed by NSW Police (Mascot Local Area Command), and conditions have been provided in this regard.

## **Principle 9: Social Dimensions**

*Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.*

*New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.*

*New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.*

The development provides a balanced mix of apartments to a site located within close proximity to public transport, recreation facilities, and shopping facilities. It is noted that the proportion of studio and one bedroom apartments complies with the 35% requirement suggested in Part 9A of BBDCP 2013, the proposed 33% studio and 1 bedroom apartments are considered appropriate as it reflects current market demand and future projections for increased demand for smaller apartments.

The subject site is located in an area identified for higher density mixed development. The applicant proposes a moderate mix of unit types, both in terms of layout and number of bedrooms that are likely to provide an appropriate style of dwelling for a variety of demographics. On this basis, the proposed development is considered to contribute to the social mix of the locality and provide housing that will enhance and provide for the local population.

## **Principle 10: Aesthetics**

*Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.*

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

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

## Botany Bay Local Environmental Plan 2013

The provisions of the Botany Bay Local Environmental Plan 2013 (BBLEP 2013) have been considered in the assessment of this Development Application and the following information is provided:

<b>Principal Provisions of BBLEP 2013</b>	<b>Compliance Yes/No</b>	<b>Comment</b>
Landuse Zone	N/A	The site is zoned B2 – Local Centre under BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed residential flat building and commercial premises are permissible with Council's consent under BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives in the BBLEP 2013: <ul style="list-style-type: none"> <li><i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live, work in and visit the local area;</i></li> <li><i>To encourage employment opportunities in accessible locations, and</i></li> <li><i>To maximise public transport patronage and encourage walking and cycling.</i></li> </ul>
Does Clause 2.6 apply to the site?	Yes	Clause 2.6 states that <i>land to which this Plan applies may be subdivided, but only with development consent.</i>  The proposed development involves the Strata subdivision of 92 residential lots and two commercial lots and the dedication of land in stratum to Council.
What is the height of the building?  Is the height of the building below the maximum building height?	Yes	The proposed building height is at a maximum 44m, which is no greater than the 44 metres permitted by Clause 4.3 of BBLEP 2013.
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	<b>No – Clause 4.6 Submitted</b>	The proposed FSR is 3.88:1, which does not comply with the maximum FSR of 3.2:1 permitted under Clause 4.4 of BBLEP 2013.
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m <sup>2</sup> min and maximum height of 22 metres and maximum FSR of 1.5:1?	N/A	The subject site is not located within an R3 or R4 zone.
Is the site within land marked “Area 3” on the FSR Map	N/A	The subject site is not identified as being within “Area 3” on the FSR map.
Is the land affected by road widening?	No	The subject site is not affected by road widening on the Land Acquisition Map.
Is the site identified on the Key Sites Map?		The subject site is within the Mascot Station Precinct. Refer to Clause 6.16 discussion

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		below.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <p>6.1 – Acid sulfate soils</p> <p>6.2 – Earthworks</p> <p>6.3 – Stormwater management</p> <p>6.8 - Airspace operations</p> <p>6.9 – Development in areas subject to aircraft noise</p>	Yes	<p>Clause 6.1 – Acid Sulfate Soils. The subject site is affected by both Class 2 and Class 4 Acid Sulfate Soils. The development application has been reviewed by Council’s Environmental Scientist who advises that the Acid Sulfate Soil Testing if required for the entire depth of excavation. This will be conditioned, however it is noted that the tests already carried out did not indicate potential or actual acid sulfate soils. The development is considered to be consistent with Clause 6.1 of BBLEP 2013.</p> <p>Clause 6.2 – Earthworks. The proposed development seeks to demolish the existing buildings and excavate the subject site for basement car parking. The development application is Integrated Development and as such, the NSW Office of Water has provided its General Terms of Approval for the proposed development. These conditions are included in the draft Schedule of Conditions. The development is considered to be consistent with Clause 6.2 of BBLEP 2013.</p> <p>Clause 6.3 – Stormwater. The development application involves appropriate stormwater management and practice throughout the development. The application has been reviewed by Council’s Development Engineer who has provided conditions which relate to the proposed stormwater management in a letter dated 4 August 2014. The development is considered to be consistent with Clause 6.3 of BBLEP 2013.</p> <p>Clause 6.8 – Airspace Operations. The subject site lies within an area defined in the schedules of the Civil Aviation (Buildings Control) Regulations that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The application proposed buildings which exceed the maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration. SACL</p>

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
6.16 – Design excellence		<p>raised no objections to the proposed maximum height of 50.8 metres AHD, subject to conditions to be imposed on any consent. The development is considered to be consistent with Clause 6.8 of BBLEP 2013.</p> <p>Clause 6.9 – Aircraft Noise. The subject site is affected by the 20 ANEF contour. An acoustic report has been submitted with the development application, which indicates that the development has been designed to comply with the requirements of AS2021-2000. The development is considered to be consistent with Clause 6.9 of BBLEP 2013.</p> <p>Clause 6.16 Design Excellence. The proposed design has been the subject of consideration by Council's Design Review Panel on 7 November 2013.</p> <p>Council received amended plans on the 21 March 2014, which further address the concerns of Council and Design Review Panel in respect of FSR and park frontage and other architectural features.</p> <p>The bulk, scale and height of the proposed development is appropriate as the development will not create any unreasonable impacts on the amenity of adjoining sites. The built form as proposed is contemporary in nature and presents an articulated façade providing enhanced interest to the streetscape and the precinct generally.</p> <p>On this basis, it is considered that the Applicant has adequately addressed the recommendations of the Design Review Panel and the proposed development is considered to be consistent with Clause 6.16 of BBLEP 2013.</p>

**Table 4 – BBLEP 2013 Compliance Table**

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

**Note 1 – Clause 4.6 Variation to Maximum Floor Space Ratio**

The FSR for the proposed development is 3.88:1 which exceeds the maximum 3.2:1 permitted under BBLEP 2013. A summary of the FSR pursuant to the BBLEP 2013 is provided in the table below:

<b>Botany Bay LEP 2013</b>	
<b>Permitted FSR under Clause 4.4</b>	<b>Proposed FSR</b>
3.2:1 (7,920m <sup>2</sup> )	3.88:1 (9,607m <sup>2</sup> )

**Table 5 – FSR**

The applicant has submitted a Clause 4.6 exception to the development standard in respect of the maximum FSR for the subject site specified under Clause 4.4. The Applicant has demonstrated in their Clause 4.6 variation request the subject development is similar in height and scale to existing and approved development nearby to the site and will not create any unreasonable amenity impacts in terms of overshadowing, privacy or view loss. The Clause 4.6 variation also highlights that a compliant 3.2:1 development could have a similar bulk and scale to the proposed development (two tower form) and a similar traffic generation rate as envisaged under the DCP 2013. The variation to the FSR control is supported by Council.

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

The subject floor space ratio requirement is a development standard contained in Clause 4.4 of Botany Bay Local Environmental Plan 2013.

***2. What is the underlying object or purpose of the standard?***

The specific objectives in respect of FSR under BBLEP 2013 have been identified by the applicant below:

- “(a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,*
- (b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,*
- (c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,*
- (d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.”*

The subject site is located within in the Mascot Station Town Centre Precinct. Part 9A of BBDCP 2013 envisages a built form for the subject site of a 13 storey building fronting Coward Street and a 6 Storey building fronting John Street. The application does not propose a conjoint building due to the overshadowing it would encounter from surrounding development as well as site occupancy. The

Applicant has adequately identified the objectives applying to FSR under BBLEP 2013.

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

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

The Applicant claims that compliance with the maximum FSR development standard of 3.2:1 is unreasonable and unnecessary in the circumstances of the case on the following grounds:

- “▪ *The site is ideally located to accommodate additional density as it has excellent access to public transport and areas of employment, educational facilities, entertainment and open space. These characteristics are consistent with the aims and objectives for additional housing and population density as outlined under the NSW Draft Metropolitan Strategy for Sydney to 2036. In fact, on 16 March 2013 the NSW Premier announced the Urban Activation Precincts program and the Mascot Station Precinct was included in the precincts identified. The MSP was selected for higher density housing and the NSW Growth Infrastructure Plans will ensure that State Infrastructure is delivered to support growth in the MSP community. Funding will also be available for Council to deliver improvements to public spaces through the Precinct Support Scheme;*
- *The DCP requires apartment sizes are 20% to 50% larger than the apartment sizes that are specified by the RFDC, which has a direct and negative impact on dwelling yield. To retain the financial feasibility of the project, additional GFA is required to achieve a dwelling yield that is economically viable and allows for the site to be developed in accordance with the objects of the EP&A Act, 1979;*
- *Despite the additional GFA, the proposal is less than the maximum 44m building height and offers generous areas of communal open space in the form of rooftop gardens, podium terraces and through facilities such as the leisure centre, pool and gym. In terms of bulk and scale, the proposal will be entirely consistent with the evolving built form character of the locality and the proposed building height, density and arrangement on the site was given favourable support by Council’s DRP at the pre-DA stage;*
- *In terms of building design and apartment layout, the proposal is considered to set an explanatory standard as it maximises solar access to apartments where possible, has generous building separation within the site and to the adjacent properties and takes advantage of district views. Combined with the internal layout of apartments and connected balconies that serve as an extension of each apartment’s living area, all dwellings will offer high levels of occupant amenity;*

- *As detailed in Section 4.3.6 of this report, the proposal will not create an adverse amenity impact on any surrounding property (in terms of view loss, privacy impacts or overshadowing) as the scale of the building is consistent with the maximum permitted height limit, and on this basis, associated impacts are within expected limits;*
- *The Traffic Report submitted with the development application demonstrates an acceptable outcome for traffic generation and parking provisions and that the proposal will not unreasonably impact on the functionality of the road network or intersections; and*
- *Development within close proximity to Mascot Station has been widely approved by Council and the JRPP with FSRs that easily exceed the previous and current LEP controls; and*
- *In terms of the strategic location of the site, the proposal will mark the western edge of the MSP and will provide a layout which maximises pedestrian connectivity within a dense urban setting.”*

Comment:

The Applicant’s justification is generally agreed with. The proposal is considered to be of an appropriate bulk, scale and height for the subject site which has been amended to a reduced FSR following further consideration by Council’s Design Review Panel and necessary circulation space. A suitable amount of soft landscaping is proposed for the development.

The traffic generation resulting from the amended proposal is reduced from the original proposal and is considered to be satisfactory in this instance.

The overall impacts from the proposed development have been minimised and the built form combined with the proposed landscape treatment is considered to improve the public domain of the locality.

The development will enhance economic growth in the local precinct and improve both the pedestrian environment through the extension to Nancy Bird-Walton Park at the intersection of Bourke Street and Coward Street and will enhance the streetscape of Coward Street.

The proposal is therefore considered to satisfy the underlying objectives for the FSR control.

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

The underlying objectives and purposes of the FSR control remain relevant to the proposed development. The proposed development is consistent with the objectives of the FSR control in the BBLEP 2013 as detailed above.

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

The applicant has provided the following justification to demonstrate that the underlying objectives of the FSR control of BBLEP 2013 would be thwarted or defeated if compliance were required:



Address	FSR Control under BBLEP 2013	Approved FSR calculated under BBLEP 2013	Approval Date	Approved By
5 Haran Street	3.2:1	3.1:1	June 2013	LEC
2-4 Haran Street	3.2:1	4:1	August 2013	JRPP
19-33 Kent Road	3.2:1	3.72	30 March 2014	JRPP
581-587 Gardeners Road	2.5:1	2.46:1	16 April 2014	JRPP
2-8 Sarah Street	3:1	3.19:1	22 July 2014	JRPP
13A Church Avenue	3.2:1	3.6:1	11 June 2014	Council

**Table 6 – Comparison of FSR throughout the Precinct**

**Public Contributions**

*The proposal provides an amount of public contributions. The following public benefits include those identified under BBDCP 2013 and are also in addition to the DCP requirements:*

- *Land dedication into public ownership with a total area of 215m<sup>2</sup>, which comprises immediately abutting Nancy Bird-Walton Park. It is proposed that the park will be embellished and dedicated to Council prior to the occupation of the proposed development.*

**Comment:**

The Applicant's justification is generally agreed with. The application has undergone assessment and it is considered that strict compliance with the 3.2:1 FSR would hinder attainment of the underlying objectives identified in Item 2 above.

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

The Applicant's rationale, being that the development standard has been virtually abandoned or destroyed is generally agreed with. Other sites within the precinct have benefited from additional FSR, by way of a site by site assessment and SEPP 1 Objections or Clause 4.6 variations subject to individual consideration. Their key rationale includes:

- BBLEP 2013 is now in force and the applicable FSR for the subject site is 3.2:1;
- Other developments assessed under the BBLEP 2013 have been approved in the area that exceed the current FSR controls. These are indicated in the Table 6 above.

***4. Is the variation well founded?***

It is considered that the proposal is generally consistent with the underlying objectives of the standard identified in 2 above. The Clause 4.6 variation contends that compliance with the 3.2:1 FSR development standard is unreasonable and unnecessary in the circumstances of the case with respect of the aims and objectives of BBLEP 2013 and the relevant matters of consideration.

The proposed development provides a high quality residential development that facilitates the orderly and economic development of land in a manner that is appropriate in the Precinct. The dwelling sizes are compliant with Council's BBDCP 2013 comparatively high minimum unit sizes (compared to those set out in the Residential Flat Design Code) and as such it is acknowledged that Council's DCP unit sizes have contributed in part to the additional FSR. In addition, the site is affected by high water table and is further constrained by reducing impacts on the rail tunnel. These factors alone contribute to the high cost of development within the precinct.

The rationale and argument presented in the Clause 4.6 variation is generally agreed with and it is recommended that the development standard relating to the maximum FSR for the site as contained within Clause 4.4 of the BBLEP 2013 should be varied in the circumstances to allow the development to attain a floor space ratio of 3.88:1.

**5. *Is the granting of consent consistent with the aims and objectives of Clause 4.6 of BBLEP 2013, namely:***

**(a) *To provide an appropriate degree of flexibility in applying certain development standards to particular development.***

As noted elsewhere, the additional floor space created is a product of considered site analysis and careful spatial arrangement of built and landscape elements across the site taking into consideration the impacts from surrounding development, in particular the shadow impacts from 8 Bourke Street. Full numerical compliance in this instance would not provide any additional benefits to the locality.

**(b) *To achieve better outcomes for and from development by allowing flexibility in particular circumstances.***

In the discussion under point 3 above, it has been established that Council's view is that in the circumstances of the case, the proposed development is appropriate and strict adherence to the development standard in this instance is unreasonable and unnecessary.

Furthermore, the additional floor space does not manifest itself in any substantive impact to adjoining properties in terms of residential amenity, overshadowing or visual impact. To strictly apply the development standard, in the absence of any tangible impact, would be unreasonable and without basis.

Clause 4.6(4) states the following:

**(4) *Development consent must not be granted for development that contravenes a development standard unless:***

**(a) *the consent authority is satisfied that:***

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Director-General has been obtained.*

It is considered that the Applicant has addressed the requirements of Clause 4.6(4) and the granting of consent is consistent with the aims and objectives of Clause 4.6 of BBLEP 2013.

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

The proposed variation to the FSR standard does not raise any matters of significance for state or regional planning. The variation is also not contrary to any state policy or ministerial directive.

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

As detailed above, the development application involves public benefits required by BBDCP 2013 and will provide public benefits over what is required under the DCP which will result increased accessibility through the precinct, a contribution to reducing vehicle reliance and increased amenity for future residents.

**Conclusion**

The proposal is not inconsistent 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. It is considered that the proposed development is a well-conceived response to all the relevant planning controls and strategies, and addresses the constraints and opportunities presented by the site.

The Clause 4.6 variation submitted by the applicant in respect of the non-compliance with the 3.2:1 FSR standard in Botany Bay Local Environmental Plan 2013 is considered to be well founded.

Accordingly, it is considered that the development standard relating to the maximum FSR development for the site as contained within Clause 4.4 of BBLEP 2013, should be varied in the circumstances to allow the development to attain a floor space ratio of 3.88:1.

**Botany Bay Development Control Plan (BBDCP) 2013**

Council resolved on 11 December 2013, to adopt the BBDCP 2013 in accordance with the provisions of the *Environmental Planning & Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Even though the application was lodged on 6 September 2013, there are no savings provisions applying and the provisions of BBDCP prevail.

<b>Part</b>	<b>Control</b>	<b>Proposed</b>	<b>Complies</b>
3E.3. Subdivision	<b>C1</b> Strata subdivision is to be consistent with the Desired Future Character of the area	The proposed Strata subdivisions will provide for the individual ownership of the proposed commercial premises and residential apartments.	Yes
	<b>C2</b> Development Applications must provide and demonstrate compliance with a development consent for the development proposed to be subdivided.	The proposed Strata subdivision will be subject to conditions of consent.	Yes
	<b>C3</b> Any proposal must not contravene any conditions of consent applied to the development or building which is the subject of the proposed subdivision.	As above.	Yes
	<b>C4</b> Any communal areas (common driveway or footpaths) or right of way easements must be shown within the common property of the development to be managed wither by a body corporate or strata body.	The access driveways to basement car parking and aisles are proposed to be common property on the proposed plan of subdivision.	Yes
	<b>C5</b> Any car parking associated with the development must be allocated to each individual strata lot to be created and shown on the plan of subdivision to be submitted with the application.	A condition can be imposed to require an amended strata plan prior to the issue of the Subdivision Certificate.	N/A
	<b>C6</b> Subdivision is not permitted in areas identified to be affected by projected 2100 sea level rise by NSW Government unless it can be demonstrated that potential impacts can be mitigated.	N/A – The subject site is not affected by the 2100 sea level rise policy.	N/A
3A.2 Car Parking	<b>C7</b> – Bicycle parking equivalent to 10% of the required car parking shall be provided.	Twenty Two bicycle parking spaces are proposed within the basement parking area. This equates to 12.6% of required car parking.	Yes
3A.3.1 – Car Park Design	<b>C1</b> – All off -street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6 (for people with disabilities). The design of off -street commercial vehicles facilities (including parking) shall	All car parking areas have been designed to comply with AS2890.1 and AS2890.6. A condition can be imposed on any consent granted to ensure compliance is met.	Condition to comply

Part	Control	Proposed	Complies
	be in accordance with AS2890.2.		Yes
	C2 - Vehicle access points, loading /unloading area and the internal circulation of an off-street parking facility shall be designed in a manner that entry to and exit from the site is made in a forward direction (except for dwelling houses).	Vehicle access to the car parking areas is by way of a two lane access driveway of 6 metres width.	N/A
	C3 - Parking spaces for small cars shall comply with AS2890.1 and only be permitted to the off-street parking facilities that are open to the general public.	No small car parking spaces are proposed or required.	Condition to Comply
	C4 - For mixed use development, residential off-street parking facilities shall be separated from the other uses and security roller doors shall be installed to provide security to residents;	The commercial spaces are combined with resident spaces but are separated by boom gate access. A Security gate can be provided by Condition of Consent	Condition to comply.
	C6 - All parking bays shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with AS2890.1. These markings shall be maintained at all times.	Condition for all parking bays to be clearly signposted and marked.	Yes
	<b>Basement Car Parking</b> C20 - Basement car parking facilities are preferred for large scale development.	Three levels of basement car parking are proposed.	<b>No – Refer Note 1</b>
	C21 - Basement parking areas are to be located directly under building footprints to maximize opportunities for deep soil planting.	Basement parking is located directly and beyond the building footprint.	Yes
	C22 - Ventilation grills and screening devices of car park openings are to be integrated into the overall façade and landscape design of the development.	The basement car park will be mechanically ventilated.	Yes
	C26 – the minimum width of the access driveway shall be 5.5 metres for 6m inside the circulation roadway	6m width proposed for 9 metres.	Yes

Part	Control	Proposed	Complies
	<p>C34 - All off-street parking facilities shall allocate accessible parking spaces for people with disabilities at the rate in accordance with Part 3C - Access and Mobility.</p> <p>C37 - For residential development, accessible car parking spaces are to be allocated to adaptable unit, or as visitor parking</p>	In accordance with Part 3C and AS2890.6, 10 disable car parking spaces are required. This will be conditioned to comply	Condition to comply
3A.3.4 – On Site Loading and Unloading	<p>C1 - Service bays and parking area for commercial vehicles shall be designed in accordance with AS2890.2 and AUSTROADS guidelines.</p> <p>C2 - The number of service bays shall be provided in accordance with Table 2 . Where calculated provision of servicing bays numbers results in a fraction, the requirements shall be rounded up to the nearest whole number.</p> <p>C3 - For land uses not specifically listed, number of service bays shall be provided as per the most similar use of equivalent intensity; evidence in support of such provision shall be provided to Council for assessment</p>	The proposal incorporates one (1) service bays (tradesman spaces/courier spaces) within the ground floor level car parking area. The DCP requires that access and aisle are capable of accommodating a Medium Rigid Vehicle (MRV), however Council has agreed that waste collection will occur from John Street as such only seeks access for a Small rigid vehicles (SRV) in this instance is acceptable.	Considered acceptable
3C.2 – Access and Mobility	<p>C1 - All development including community events must comply with Table 1.</p> <p>C2 - All development must comply with the provisions of the Disability Discrimination Act 1992, BCA, the Premises Standards and the relevant Australian Standards.</p> <p>C3 - All residential development must comply with AS4299 - 1995 Adaptable Housing for those developments required to provide adaptable housing.</p>	<p>The commercial tenancies are designed to be fully accessible.</p> <p>The development can be conditioned to comply.</p> <p>10% of the total number of proposed dwellings (ie. 10 dwellings) are proposed to be adaptable.</p>	<p>Yes</p> <p>Condition to comply</p> <p>Condition to Comply</p>
3G.2 – Stormwater	C1 - Development shall not be carried out on or for any lands	The application has been assessed by Councils	Yes

Part	Control	Proposed	Complies
Management	<p>unless satisfactory arrangements have been made with and approved by Council to carry out stormwater drainage works.</p> <p>C5 - Development shall incorporate site constraints/limitations as described below:</p> <p>(i) Existing on site public stormwater drainage infrastructures;</p> <p>(ii) Flooding and overland stormwater flows, particularly related to natural depressions, adjacent or over the existing public stormwater structures and impact from climate change; and</p> <p>(iii) Flood prone lands as indicated on Section 149(5) Planning Certificates</p>	<p>Development Engineer who has no objection to the proposed development and who has recommended conditions in regards to Stormwater</p> <p>Yes as mentioned above, the proposal will incorporate a stormwater system suitable for the development and has been designed to mitigate any flood levels.</p>	Yes
3L2 –Safer By Design	<p>C1 - Developments are to provide connections to existing activity centres, neighbourhoods and street networks. Isolated residential developments or gated communities are discouraged.</p> <p>C2 - Developments shall facilitate a diverse range of activities that attract people, encourage interaction and provide a community focus.</p> <p>C4 - Mixed use and higher density developments are to be located in close proximity to activity centres or public transport networks</p> <p>C5 - For new development located along major arterial and main roads, active street frontages and uses are to be located on the ground floor to attract pedestrian traffic.</p> <p>C6 - Pathways shall be direct with all barriers along pathways being permeable including</p>	<p>The ground floor commercial tenancies will assist in providing a connection with the street.</p> <p>The development is mixed use in nature, providing both residential and commercial uses.</p> <p>Public transport networks are located on Coward Street and Bourke Street, as well as Mascot Train Station.</p> <p>An active street frontage is proposed at the frontage to Coward Street and to the park frontage.</p> <p>A landscape plan has been submitted, which indicates that the pathway into the building and along the street frontage is</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Part	Control	Proposed	Complies
	landscaping and fencing.	direct. The land dedication to facilitate the expansion of the park will be subject to detailed design by a condition of consent	Yes
	C7 - Provide pedestrians and cyclists with a choice of formal pathways and routes.	As above.	Yes
	C8 - No entrapment spots should be included in any path.	No entrapment spaces are proposed.	Condition to comply
	C9 - All paths shall be well lit.	Condition for lighting to comply with Australian Standards.	
3J.2 Aircraft Noise Exposure Forecast	C2 Where building site is classified as "conditional", development may take place, subject to Council consent and compliance with AS2021-2000.	The subject site is located within the 20 ANEF contour. An acoustic report has been submitted with the development application which indicates that the design of the building alterations have been designed to comply with the requirements of AS2021-2000.	Yes
3K - Contamination – Preliminary Investigation	<p>C7 - Before determining a Development Application that involves a change of use or rezoning of land where it is proposed to carry out development for a more sensitive land uses, Council must consider the results of a preliminary investigation. Consideration shall be given to the following:</p> <p>(i) Is the information about the site's history adequate?</p> <p>(ii) Are the descriptions of activities on the site detailed enough to identify a potentially contaminating land use?</p> <p>(iii) Are there any gaps in the history that might mask a potentially contaminating land use?</p> <p>(iv) Are the sources reliable?</p> <p>(iv) Is the information verifiable?</p> <p>(v) Does the information conform to the Managing Land Contamination: Planning Guidelines</p>	<p>The application has been accompanied by a Preliminary Stage 1 Environmental Site Investigation prepared by Aargus Australia, dated 3 December 2011 and Phase 2 Environmental Site Assessment prepared by Aargus Australia, dated January 2013.</p> <p>This report concludes that site can be is suitable for the proposed development. These reports have been reviewed by Council's Environmental Scientist who has recommended standard conditions and for the soil from a certain area on the site to be classified and disposed of in an appropriate manner.</p>	Yes



Part	Control	Proposed	Complies
	(EPA)?		
3L.1 - Landscaping General Requirements	C1 - Landscaping must comply with Council's Technical Guidelines for Landscaping on Development Sites.	The development application has been accompanied by a detailed landscape design, which is consistent with Council's Technical Guidelines.	Yes
	C2 - Existing trees including street trees must be preserved.	There are existing street trees which will be preserved.	Yes
	C3 - Landscaping shall be designed to reduce the bulk, scale and size of buildings, to shade and soften hard paved areas, to create a comfortably scaled environment for pedestrians in the public domain, or from within the site, and to screen utility and vehicle circulation or parking areas. Emphasis should be placed landscaped setbacks designed to soften buildings.	The bulk and scale of the building is appropriate and will be further softened by the proposed street trees and landscaping in the front, side and rear setbacks.	Yes
	C4 - Landscape screening or buffers are to be included and designed so as to enhance privacy between properties and softening of walls and facades.	Landscape setbacks are proposed to the eastern, western and southern boundaries to assist in reducing privacy impacts to adjoining properties.	Yes
	C5 - Street tree planting is a Council requirement with most large developments. The species and size will be to Council specification. Landscaping in the public domain shall reinforce existing streetscape planting themes and patterns. Council may require street tree planting, grassing, shrub and accent planting or any combination of these.	The submitted landscape plans have been assessed by Council's Landscape Architect and appropriate conditions are recommended to be imposed on any consent granted.	Yes
	C7 - Fire booster valve assemblies, electrical kiosks/substations and waste collection/storage areas must not be located in landscaped areas not in the street setback/s of a development. All such utility and ancillary areas shall be screened	All proposed utilities and services are appropriately located on the northern or southern elevations.	Yes

Part	Control	Proposed	Complies
	<p>with either a built structure or landscaping</p> <p><b>Deep Soil Zones</b> C15 - Where possible, deep soil zones are to be contiguous with deep soil zones on neighbouring sites so as to enhance tree canopy continuation and wildlife corridors.</p> <p><b>Planter Beds</b> C16 - All planter beds shall be a minimum 1 metre wide except where otherwise stipulated in boundary setbacks for individual development types</p>	<p>The deep soil zone is located along the southern boundary which is contiguous with adjoining sites.</p> <p>Podium level planter beds are located within private open space terraces, which are of varied sizes/dimensions, however generally exceeding 1m in width.</p>	Yes
4C.6.1 Adaptable Housing	<p>C3 - Disabled access to all common areas shall be provided even if the development has less than five (5) dwellings and does not contain an adaptable dwelling.</p> <p>C 4 - Where a development includes five (5) or more dwellings at least one (1) dwelling must be constructed to meet either Class A or B adaptable housing standards under AS 4299-1995 Adaptable Housing.</p>	The proposed development must accommodate ten (10) adaptable apartments, being 10% of the total number of apartments proposed.	Yes – condition to Comply
9A.4.3.1 Height	<b>C1</b> The maximum height of buildings must be in accordance with the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013.	The building height proposed is a maximum of 44mm.	Yes
9A.4.3.2 Floor Space Ratio (FSR)	<b>C1</b> The maximum FSR of buildings must be in accordance with the Floor Space Ratio Map and Clause 4.4 and 4.4B of the Botany Bay Local Environmental Plan 2013.	Proposed FSR is 3.88:1 (9,607m <sup>2</sup> )	<b>No – Refer to Clause 4.6 variation above.</b>
	<b>C3</b> Development must comply with the future layout and built form controls for Urban Blocks 1, 3, and 4 in <b>Figures 11, 12, 14 and 15</b> . This requirement may result in the FSR not being achieved.	The development does comply with the height limit form but does not comply with the building block mass envisaged in the DCP as it envisages a 6 storey built form to front John Street. However due to impacts from 8 Bourke St and the departures already approved	No – Considered acceptable.

Part	Control	Proposed	Complies
		from the envisaged built form the departure is considered acceptable	
9A.4.3.3 Site Amalgamation and Subdivision	<b>C1</b> The redevelopment of lots within Urban Blocks 1, 3 and 4 must conform to the amalgamation pattern in <b>Figures 21, 22, 24 and 25.</b>	The proposed development site is not identified as being required to amalgamate.	Yes
9A.4.3.4 Street Setbacks	<b>C1</b> All development within Urban Block 1 must comply with the street setbacks identified in <b>Figures 30 and 31.</b>	Ground Level – 5 metres, Levels 2-4 – 3 metres and Level 5 and above 6m setback, as such a varied setback is proposed to Coward Street. This is consistent with the Masterplan average setbacks and is consistent with the setbacks for similar development fronting Coward Street in Mascot Station Precinct.	Yes
9A.4.3.6 – Building Separation	<p><b>C1</b> Mixed Use developments containing residential units must comply with the principles and provisions of State Environmental Planning Policy No. 65 (SEPP65) and the RFDC.</p> <p>Up to four storeys:</p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms/balconies.</li> <li>• 9m between habitable rooms/balconies and non-habitable rooms.</li> <li>• 6m between non-habitable rooms.</li> </ul> <p>Up to five to eight storeys:</p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms/balconies.</li> <li>• 13m between habitable rooms/balconies and non-habitable rooms.</li> <li>• 9m between non-habitable rooms.</li> </ul> <p>Nine storeys and above:</p> <ul style="list-style-type: none"> <li>• 24m between habitable rooms/balconies.</li> </ul>	<p>A minimum side and rear boundary setback of 6 metres is proposed for the development, which is half of the required building separation distance for buildings of 5-8 storeys in height.</p> <p>Up to Four Storeys Apartments with habitable rooms/ balconies which are westerly facing are setback 12m from common site boundary. Apartments are also located on boundary but are not oriented west.</p> <p>Up to five and eight storeys 7.9m provided on development site towards Coward Street with 12m provided toward John Street edge of building. 12-15m provided on 256 Coward Street</p> <p>Nine storeys and above 7.9m provided on development site towards Coward Street with 12m provided toward John</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No – refer Note 1</p>

Part	Control	Proposed	Complies
	<ul style="list-style-type: none"> <li>•18m between habitable rooms/balconies and non-habitable rooms.</li> <li>•12m between non-habitable rooms.</li> </ul>	Street.	
9A.4.4.4 Active Street Frontages and Awnings	<b>C1</b> All development within Urban Blocks 1, 3 and 4 must provide retail or commercial street frontages where shown in <b>Figures 49, 50, 51 and 52.</b>	The subject site is required to have an active street frontage under BBLEP 2013. The proposed development incorporates two (2) commercial tenancies at ground level directly fronting Coward Street. The development is also required to have retail to front John Street. However, given the adjacent approved development, 19-33 Kent Road and the utilization of John Street as a car park entry, retail is not proposed at this location and in respect of the 8 Bourke Road development, John Street is the service/carpark access for this development	Yes
	<b>C2</b> All development within Urban Blocks 1, 3 and 4 must provide awnings where shown in <b>Figures 53, 54, 55 and 56.</b>	The podium does overhang street level on the proposed development, which is consistent with the adjacent development to the east. The lack of an awning allows for the establishment of street trees and landscaping along the commercial frontage at ground level. This is considered acceptable and will enhance the streetscape.	No – Considered acceptable
9A.4.4.6 Building Articulation	<b>C2</b> Blank external walls of greater than 100m <sup>2</sup> must be avoided.	The existing rear masonry wall along the John Street is to be planted and will have a creeping plant species over a mesh facade. This will protect and enhance the amenity of the adjoining residential dwellings to the north.	No – Considered acceptable
9A.4.4.7 Dwelling Size and Mix	<b>C1</b> Dwellings are to have the following minimum areas: Studio: 60m <sup>2</sup> 1 bedroom: 75m <sup>2</sup> 2 bedrooms: 100m <sup>2</sup> 3 bedrooms: 130m <sup>2</sup>	The proposed sizes are as follows:  Studio = 60 m <sup>2</sup> 1 bedroom = 75m <sup>2</sup> 2 Bedroom = 100m <sup>2</sup>	Yes
	<b>C2</b> The combined total number of studio units and one-bedroom	The combined total of studios and 1 bedroom units is 34%. (1	Yes

Part	Control	Proposed	Complies
	apartments/dwellings must not exceed 35% of the total number of apartments/ dwellings within any single site area.	bedroom and two bedroom units proposed)	
9A.4.4.9 Private Open Space and Communal Open Space	<b>C2</b> The minimum private open space requirement per dwelling for multi dwellings and residential flats are as follows:  Studio/1 bedroom= 12m <sup>2</sup> ; 2 Bedrooms: 15m <sup>2</sup>	1 Bedroom = 10- 55m <sup>2</sup> 2 bedrooms = 12-55m <sup>2</sup>	No Refer Note 2
9A.4.5.4 Solar Access and Shadow	<b>C3</b> Development must demonstrate:  (i) Neighbouring developments will obtain at least three hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; and  (ii) 30% of any common open space will obtain at least two hours of direct sunlight between 9am and 3pm on 21 June.	To the south are currently located the commercial headquarters of Qantas. To the east is a mixed use residential tower and to the west a mixed use residential tower is proposed. More than 3 hours of sunlight is provided.	Yes – Refer Note 3
9A.4.5.7 Wind Mitigation	<b>C1</b> All new buildings are to meet the following maximum wind criteria:  (i) 10 metres/second along commercial/retail streets;  (ii) 13 metres/second along main pedestrian streets, parks and public places; and  (iii) 16 metres/second in all other streets	A Wind Impact Assessment has been submitted with the application prepared by SLR Global Environmental solutions dated 15 August 2013.  The report supplied as part of the application indicates compliance with this control.	Yes

**Table 7 – BBDCP 2013 Compliance Table**

*Note 1 – Building Separation*

Control C1 of Section 9A.4.3.6 of BBDCP 2013 states that residential flat buildings and mixed use developments containing residential units must comply with the principles and provisions of State Environmental Planning Policy No. 65 (SEPP65) and the Residential Flat Design Code in relation to building separation.

In respect of building separation, the proposed built form on site largely meets the minimum requirements under SEPP65. However, the proposed building separation between the building above 9 storeys is 22.9m to the proposed balconies and habitable rooms contemplated to be erected on 256 Coward Street (which is the subject to a development application currently under assessment) where under the SEPP, a minimum distance of 24m is required.

The Applicant has provided privacy screens to any windows and treatments of the balcony screening required to assist in maintaining privacy. The balcony treatments are proposed to balconies of units on the western side of the building with adjustable sliding screens. This is considered acceptable and will not adversely impact on the solar access or natural ventilation achieved for those units. However a condition is proposed that these screens are to be fixed to ensure the privacy of 256 Coward Street.

It is noted that on the top of the podium are proposed courtyards located up to the common boundary with 256 Coward Street. It is proposed to condition dense planting on the common boundaries of these courtyards to ensure privacy is maintained and that the area is not trafficable.

*Note 2 - Private Open Space*

In accordance with Section 9A4.4.9, the private open space requirements of 12m<sup>2</sup> and 15m<sup>2</sup> are not met for 45 of the apartments. The shortfall in size requirements is no greater than 3m<sup>2</sup> for any apartment and the balconies are of a layout where they can facilitate table and chairs. The proposed development also contributes a significant amount of communal open space as well as enhancement and enlargement of Nancy Bird-Walton Park. Furthermore, the site enjoys close connection with the Coward Street cycleway and is within walking distance to Mascot Oval. Accordingly the non-compliance is considered acceptable in this instance.

*Note 3:- Solar Amenity*

In accordance with Section 9A.4.5.4 solar access to a minimum 50% of the primary private open space of adjoining property and 50% of windows to habitable rooms must obtain at least 3 hours of direct sunlight on June 21. The submitted shadow diagrams demonstrate that the proposal complies with relation to adjoining properties solar access.

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

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

Comment: The subject site is located within the Mascot Station Town Centre (Urban Block 1) Precinct, an area which has been identified and has already been subject to redevelopment for high density mixed use commercial/residential. It is therefore necessary to ensure that adjoining properties to the east and west of the subject site will retain a compliant level of solar access on June 21.

Shadow diagrams submitted with the development application indicate that there will be the overshadowing to the property to the west (subject to a development application) which has the potential to impact on the sunlight access to any proposed

primary private open space areas on this site. However from 10am on June 21, any shadow impacts are well removed from the site to the west as such the proposed development maintains acceptable sunlight access to the potential private open space areas of the adjoining site to the west between 9am and 3pm on June 21.

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

Comment: The proposal is of quality design and is appropriate in context given its location on the intersection of Coward and Bourke Streets in an area that has been identified for redevelopment under BBLEP 2013 and has already been the subject of intensification. The impact of the shadow, whilst excessive would not be significantly reduced should the development be required to fully comply with built form controls of the Mascot Station Town Centre Precinct Masterplan.

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

Comment: As submitted on the perspective shadow analysis received by Council on 7 August 2014, and in consideration of the impacts from 8 Bourke Street development and the proposed development, the north facing glazed areas of adjoining sites to the west will be in direct sunlight from 10:00am to 3:00pm on June 21, being five (5) hours of direct sunlight.

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

Comment:

Directly to the east is located Nancy Bird-Walton Park and further to the east past the intersection of Bourke and Coward Streets is 230 Coward Street. This mixed use building is well separated by the road reserve and the existing park and as the shadow diagrams show, is only impacted by the development from 3pm onwards. As such the impacts are considered acceptable in this instance.

Directly to the west is located No. 256 Coward Street which currently comprises a three storey commercial building. Council has received an application for the redevelopment of this site is likely to be of a similar scale to that currently proposed at the subject site. The application was lodged with Council on 30 June 2014.

As detailed above, the adjoining properties to the immediate have been addressed by the applicant. Amended shadow diagrams received on 21 March 2014, indicate that the proposed development maintains acceptable sunlight access to the properties to the east and west of the development and those adjacent sites benefit from more than 3 hours of sunlight access as a result of the proposed development

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

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

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

Comment: The area is a high-density locality currently undergoing significant re-development centred on Mascot Station. The adjoining properties to the east have recently been redeveloped for residential development similar to that proposed under this development application and that envisaged under the controls of BBLEP 2013 and BBDCP 2013. Properties to the west are at various stages of the development process.

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

These matters have been considered in the assessment of the Development Applications. It is considered that the proposed development will have no significant adverse environmental, social or economic impacts on the locality. Any likely impacts of the proposed development are considered to have been adequately dealt with in the assessment of the Development Application.

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

These matters have been considered in the assessment of the development application. The subject site is currently a commercial warehouse building. Pockets of contamination have been identified on the site however adequate information has been submitted to confirm that the site is considered suitable for the proposed residential and commercial development. In addition, the subject site is affected by the 20-25 ANEF contour and also affected by road traffic noise from Bourke Street and Coward Street. In this regard, the applicant has submitted an acoustic report which demonstrates that the development can meet the acoustic requirements of both affectations. It is essential that all works forming part of this application be undertaken in an appropriate manner to ensure the ongoing health and safety of adjoining residents and future occupants of the site.

Accordingly, it is considered that the site is suitable for the proposed development. The proposed development being for demolition of existing industrial buildings, excavation and site remediation; removal of seven (16) existing trees along the western boundary; construction of an 13 storey mixed use development comprising of 92 dwellings ( 7 studio, 24 x one bedroom units and 61 x 2 bedroom units), 344m<sup>2</sup> of commercial floor space fronting Coward Street and 175 car parking spaces; Strata



subdivision of Lot 1 into two retail lots and Strata subdivision to create 92 residential lots and two commercial lots at 246 Coward Street, Mascot located within the B2 – Local Centre zone is considered to be a suitable development in the context of the site and the locality.

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

These matters have been considered in the assessment of the development application. In accordance with Botany Bay Development Control Plan 2013 Part 2 – Notification and advertising, the development application was notified to surrounding property owners for thirty (30) days from 2 October 2013 to 1 November 2013. No Submissions were received.

The amended application was notified for a period of 14 days from 9 April 2014 to 23 April 2014. No Objections were received.

**(e) The public interest.**

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

## **2.2 Other Matters**

### **2.2.1 External Referrals**

- *Sydney Water*

The application was referred to Sydney Water and have recommended conditions on any consent granted, by letter dated 11 November 2013.

- *NSW Police – Botany Bay Local Area Command*

The application was referred to the NSW Police for a ‘Safer by Design’ Assessment in accordance with the Protocol established between Botany Bay City Council and the NSW Police Force.

The NSW Police identified a ‘medium’ crime risk rating for the proposed development on a sliding scale of low, moderate, high, extreme crime risk.

The key recommendations from the assessment include:

- Installation of CCTV Cameras within and around the development;
- Improved lighting around the car park areas and building within the development;
- Ensuring that building design minimises the potential for climbing onto balconies;
- Landscaping that promotes natural surveillance of all areas;
- Underground car park that does not have hidden areas or dark spots;
- Security measures in place for entry doors and lifts (security passes).

A comprehensive condition is proposed on the consent requiring compliance with the recommendations made in the NSW Police Safer by Design assessment, dated 8 October 2013.

- *NSW Office of Water*

Groundwater levels encountered across the site vary between 5.9m-7.2m AHD. This is approximately 2.3m below ground surface within sandy soils. The proposed basement level will be constructed with a finished floor level of 6.8m AHD. As such, the proposed development is Integrated Development and requires a Controlled Activity Approval for construction dewatering pursuant to the provisions of Section 91 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

In a letter dated 11 February 2014, NSW Office of Water has provided its General Terms of Approval for the proposed development, which have been imposed upon the development in the Schedule of Consent Conditions section of this report.

- *Sydney Airports Corporation Limited (SACL)*

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

The development application was therefore referred to SACL for consideration. Under letter dated 27 March 2014 SACL provided concurrence for the development, subject to conditions, and on the following basis:

- Building height permitted to a maximum of 50.8m AHD; and,

The conditions provided by SACL have been imposed upon the development in the Schedule of Consent Conditions section of this report.

- *Roads and Maritime Services (RMS) / Sydney Regional Development Advisory Service (SRDAC)*

The Application is “Traffic Generating Development” and was referred to RMS. The proposal was considered by RMS and in a letter dated the 9 May 2014, RMS have advised that they have no objection to the proposed development and have provided conditions to be imposed on any consent granted.

### **2.2.2 Internal Referrals**

The development application was referred to relevant internal departments within Council, including the Development Engineer, Traffic Engineer, Landscape Officer, Environmental Scientist and Environmental Health Officer for consideration. Relevant conditions have been imposed into the recommendation of the consent.

#### **Design Review Panel (DRP)**

The design concept now forming part of this development application currently before the Panel was referred to the DRP, which met on 7 November 2013. The DRP made the following recommendations:

- *The design is generally of good quality: the following detailed recommendations are made:*

The following is a response to each suggestion made by the DRP:

	Issue	Officers Response
1	<i>Some reduction in the visual bulk of the tower block as a result of reduction in FSR as discussed above would potentially enhance the building form.</i>	The height of the tower is as anticipated by BBDCP 2013 and the bulk is compatible with the surrounding development. Furthermore, it is noted that the proposal reinforces the intersection and is considered to be an “entry” to the Mascot Station Town Centre.
2	<i>The four storey podium addressing the Coward-Bourke Street corner is appropriate in scale but appears somewhat bland in presentation, and would benefit from further design refinement, including modulation of the horizontal bands. The areas of blank external wall with zero setback need to be modulated and well detailed where they will be exposed to view (windows could also be considered for the length of wall projecting above the existing recent development to the east).</i>	The podium fronting Coward-Bourke Street has incorporated a balcony balustrade at the floor which utilises a mix of brick and vertical metal balustrades and painted pre-cast concrete panels along with changes in colour (towards the western end of the Building on Coward Street frontage) to enhance the visual appearance of the podium. The podium also responds to the scale of street trees proposed and this will assist in improving amenity and provides for opportunities for passive surveillance to Nancy Bird-Walton Park.
3	<i>It is suggested that the main entrance to the residential foyer from Coward Street should be further emphasized and celebrated perhaps by way of a cantilevered canopy.</i>	The amended plans have incorporated a canopy over the entrance which
4	<i>The party wall of the existing adjoining building to the east is exposed to the communal deck area, and could be screened by ‘vertical wall’ planting.</i>	Whilst this is desirable, it is not practical as it would require works on the neighbouring site. It is noted that a 1.8m wall is located at the communal open space level of the building.

**Table 7 – Design Review Panel comments**

It is considered that the Applicant has addressed the concerns of the Design Review Panel in the design currently before the Panel. The current design will contribute to the amenity of the locality.

#### Section 94 Contributions

At Council Development Committee on 6 May 2009, Council was advised of the changes made to the Section 94 Contributions imposed by the State Government. The Minister for Planning issued a Section 94E Direction on 23 January 2009, which capped levies for residential development and residential subdivision to \$20,000.00. Council responded to the Direction by passing a resolution on the 18 March 2009 to comply with the cap. Therefore based on the cap the Section 94 Contributions may be applied to the proposed 84 residential units. As such, the calculations are as follows:

- DA13/173 = 92 units @ \$20,000.00 each = \$1,840,000.00
- DA13/173 + commercial units (344sqm) = \$106,999.35

**Credit:** The Application is entitled to a Section 94 credit based on historic industrial use of the land. This is calculated based on the number of employees that would occupy the floor areas based on previous consents and the rates within the Section 94 Contributions Plan 2005-2010. On this basis a total of \$66,278.00 can be deducted from the total contribution.

Therefore a total Section 94 Contribution of **\$1,880,721.35** is required to be paid to Council in accordance with the draft schedule of Conditions attached to this report.

### 3.0 Conclusion

The Joint Regional Planning Panel, Sydney East Region (JRPP) is the consent authority for the development application. The design currently before the Panel has been the subject of a design review process. The view is expressed that the application given the findings of the assessment process should be supported.

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* and the *Botany Bay Local Environmental Plan 2013*. The proposal is permissible in the B2 – Local Centre zone, and is considered to result in a development which is suitable in the context. It is therefore recommended that the Panel grant approval to the application subject to the conditions in the attached schedule.

## 4.0 **RECOMMENDATION**

It is recommended that the Joint Regional Planning Panel (JRPP), as the determining Authority in this instance, resolve to:

- (a) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum floor space ratio of 3.88:1 (9607m<sup>2</sup>); and
- (b) Approve Development Application No. 13/173 for the demolition of existing industrial building, excavation and site remediation; removal of 16 trees on the northern and southern boundaries, 92 dwellings (7 studios, 24 x one bedroom units and 61 x 2 bedroom units), 344m<sup>2</sup> of commercial floor space fronting Coward Street and 175 car parking spaces; Strata subdivision of Lot 1 into two retail lots and further Strata subdivision to create 92 residential lots and 2 commercial lots at 246 Coward Street, Mascot, subject to the Conditions imposed in the attached schedule.

## 5.0 **CONDITIONS OF CONSENT**

**Premises: 246 Coward Street, Mascot**

**DA No: 13/173**

### **SCHEDULE OF CONSENT CONDITIONS**

#### **GENERAL CONDITIONS**

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

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
001 Issue DA-4	Olsson and Associates architects	7 August 2014
012 Issue DA-4		7 August 2014
013 Issue DA-4		7 August 2014
101 Issue DA-4		7 August 2014
102 Issue DA-4		7 August 2014
103 Issue DA-4		7 August 2014
202 Issue DA-4		7 August 2014
203 Issue DA-4		7 August 2014
204 Issue DA-4		7 August 2014
205 Issue DA-4		7 August 2014
206 Issue DA-4		7 August 2014
301 Issue DA-4		7 August 2014
302 Issue DA-4		7 August 2014

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
401 Issue DA-4 402 Issue DA-4 403 Issue DA-4 404 Issue DA-4 501 Issue DA-1 601 Issue DA-3 602 Issue DA-3 603 Issue DA-3		7 August 2014 7 August 2014 7 August 2014 7 August 2014 7 August 2014 7 August 2014 7 August 2014 7 August 2014
Landscape Plans LA-01Rev 1 LA-02 Rev 1	JILA – Jane Irwin Landscape	
Survey Plan, Reference No. 2205/13	True North Surveys	6 September 2013
Stormwater Concept Plans, Project No. 213-1134, Drawing Nos.: H01 (Rev A) H02 (Rev A) H03 (Rev A) H04 (Rev A) H05 (Rev A) H06 (Rev A) H07 (Rev A) H08 (Rev A) H09 (Rev A) H10 (Rev A) H11 (Rev A) H12 (Rev A)	Greenarrow Pty Ltd	6 September 2013

<b>Reference Document(s)</b>	<b>Author</b>	<b>Date Received</b>
Statement of Environmental Effects	Planning Ingenuity	6 September 2013

<b>Reference Document(s)</b>	<b>Author</b>	<b>Date Received</b>
SEPP 65 Design Verification Statement	Olsson and Associates	6 September 2013
SEPP 65 Report	Olsson and Associates	6 September 2013
BASIX Certificate No. 488031M_02	NSW DoPI	21 January 2014
Waste Management Plan	Mark Jamieson	6 August 2013
Wind Impact Assessment, dated 15 August 2013	SLR Global Solutions	6 September 2013
Preliminary Stage 1 Environmental Site Assessment, Ref ES4711	Aargus	6 September 2013
Acid Sulphate Soils Assessment Ref ES2304/4	Aargus	6 September 2013
Traffic & Parking Assessment Report, Ref 12182	Transport and Traffic Planning Associates Pty Ltd	6 September 2013
Noise Impact Assessment, dated 29 August 2013	SLR Global Solutions	6 September 2013
BCA Accessibility Report, dated 29 August 2013	Accessibility Solutions	6 September 2013
BCA Capability Report, dated 28 August 2013	Vic Lilli Pty Ltd	6 September 2013
Capital Investment Report, dated 30 August 2013	MMDCC	6 September 2013
Letter from Planning Ingenuity dated 21 March 2014	Planning Ingenuity	20 January 2014
Letter from Olsson and Associates dated 20 January 2014	Olsson and Associates	20 January 2014
Letter from Olsson and Associates dated 21 March 2014	Olsson and Associates	21 March 2014

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

- 2 The applicant must prior to the issue of the Construction Certificate, pay the following fees:

- (a) Builders Security Deposit \$223,125;
- (b) Development Control \$12,300.00;

(c) Section 94 Contribution(prior to OC) \$1,880,721.35

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

- 3 This Consent relates to land in Lot 1 of DP773389 and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public works required by this consent.
- 4 It is a condition of consent that the applicant shall prior to the issue of an occupation certificates, at no costs or expense to Council, comply with the following:
  - (a) Replace all the existing above ground electricity and telecommunication cables to underground cables within the site and road reserve area fronting Coward Street and John Street 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.
  - (b) Provide appropriate and suitable street lighting to a high decorative standard to the Coward Street and John Street frontage of the site, so as 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.
  - (c) Replace the public stormwater system on the eastern side of Bourke Street, between John and Church Street, the design hydraulic detail of which is to be submitted with the Construction certificate.
- 5 The consent given does not imply that works can commence until such time that:
  - (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
    - (i) The consent authority; or,
    - (ii) An accredited certifier; and,
  - (b) The person having the benefit of the development consent:
    - (i) Has appointed a principal certifying authority; and
    - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.



- (a) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
  - (b) All plumbing stacks, vent pipes, stormwater downpipes and the like shall be kept within the building and suitably concealed from view;
  - (c) The basement of the building must be designed and built so that on completion, the basement is a “fully tanked” structure, i.e. it is designed and built to prevent the entry of ground water / ground moisture into the inner part of the basement;
  - (d) Air conditioning units must not be visible from any public place.
- 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 each relevant BASIX Certificate for the each building in the development are fulfilled.
- (a) Note:  
Relevant BASIX Certificate means:
    - (i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
    - (ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
    - (iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

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

- 8 The following conditions are imposed by RailCorp –NSW Transport and shall be complied with
- (a) Unless amendments are required by RailCorp as part of the review and approval/certification of the documentation listed in Condition 10(c) all excavation and construction works are to be undertaken in accordance with the following documents:
    - (i) Geotechnical Investigation Report prepared by Aargus Pty Ltd dated 3rd February 2014 (Ref: GS5304/5A).
    - (ii) Structural Report prepared by ABC Consultants Pty Ltd dated June 2014 (Ref: 13512-001-r-Rev B)
    - (iii) Shoring Layout Plan – Drawing No. S101.01 Revision D dated 11/6/14 prepared by ABC Consultants Pty Ltd.

- (iv) Shoring Elevations Sheet 1 – Drawing No. S101.02 Revision D dated 11/6/14 prepared by ABC Consultants Pty Ltd.
- (v) Shoring Elevations Sheet 2 – Drawing No. S101.03 Revision D dated 11/6/14 prepared by ABC Consultants Pty Ltd.
- (vi) Shoring Sections – Drawing No. S101.04 Revision C dated 3/6/14 prepared by ABC Consultants Pty Ltd.
- (vii) Development Location Plan– Drawing No. S101.05 Revision F dated 11/6/14 prepared by ABC Consultants Pty Ltd.
- (viii) Development Location Sections– Drawing No. S101.06 Revision F dated 11/6/14 prepared by ABC Consultants Pty Ltd.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from RailCorp confirming that the documentation listed in this condition have not be superseded with the approval/certification of documentation in Condition 9(c).

Should RailCorp advise that any of the documentation listed in this condition have not been superseded, then the measures detailed in those specific documents are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate.

- (b) Prior to the commencement of works the Principal Certifying Authority is to provide verification to RailCorp that this condition has been complied with.
- (c) The Applicant shall prepare and provide to RailCorp for approval/certification the following items:
  - (i) A tunnel/track Monitoring Plan.
  - (ii) An assessment of the potential impact of the proposed development on the underground infrastructure (in particular, the tunnel lining), including the impact due to construction method. This is to be undertaken by a qualified tunnel/geotechnical engineer.
  - (iii) Australian Standard AS2159 mandates both pile load and integrity testing. Pile testing type and the percentage required shall be detailed on the structural drawings.

Any conditions issued as part of RailCorp's approval/certification of any of the above documents will also form part of the consent conditions that the Applicant is required to comply with. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from RailCorp confirming which of the documentation listed in this condition are to now apply and supersede the documentation in Condition

- (d) The measures detailed in the documents approved/certified by RailCorp under this Condition are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to

the commencement of works the Principal Certifying Authority is to provide verification to RailCorp that this condition has been complied with.

- (e) All excavation/ground penetration works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
- (f) No rock anchors/bolts are to be installed into RailCorp's property or easements.
- (g) The Applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by RailCorp. If required by RailCorp, prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project 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.
- (h) The following items are to be submitted to RailCorp for review and endorsement prior to the issuing of a Construction Certificate:
  - Machinery to be used during demolition, excavation/ground penetration and construction

It should be noted that excavations undertaken in rock are to maintain and limit vibration levels to levels that will not adversely impact Railcorp assets.

- (i) An acoustic assessment is to be submitted to Council and RailCorp prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
- (j) 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.
- (k) 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.
- (l) Prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to RailCorp for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.
- (m) Prior to the issue of a Construction Certificate the Applicant must hold current public liability insurance cover for a sum to be determined by

RailCorp. This insurance shall not contain any exclusion in relation to works on or near the rail corridor. The Applicant is to contact RailCorp's Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with RailCorp's written advice to the Applicant on the level of insurance required.

- (n) Prior to the issue of a Construction Certificate the Applicant is to submit to RailCorp the demolition, excavation and construction methodology and staging for review and endorsement. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.
- (o) Prior to the issuing of an Occupancy Certificate the Applicant shall provide RailCorp and Council as-built drawings and survey locating the development with respect to any rail boundary, RailCorp easement and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of RailCorp's representative. The as-built survey is to confirm that there has been no encroachment into any RailCorp land or easement area.

9 The following condition is imposed by Sydney Water and is to be complied with:

Water

- (a) The 150 mm drinking water main available for connection is the 150mm main on the Northern side of Coward Street

Wastewater

- (a) The wastewater main available for connection is the 225mm main constructed under WO 40307.

Sydney Water Servicing

- (b) Sydney Water will further assess the impact of the developments when the proponent applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of the development and to assess if amplification and/or changes to the system are applicable. Sydney Water requests Council continue to instruct proponents to obtain a Section 73 Certificate from Sydney Water.
- (c) The proponent must fund any adjustments needed to Sydney Water infrastructure as a result of any development. The proponent should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. Details are available from any Sydney Water Customer Centre on 132092 or Sydney Water's website at [www.sydneywater.com.au](http://www.sydneywater.com.au).

10 The following conditions are imposed by the NSW Roads and Maritime Service (RMS).

- (a) All redundant driveways shall be removed and replaced with kerb and gutter to Roads and Maritime requirements.
- (b) All construction activity associated with the proposed development is to be contained on site as no construction zones will be permitted on Coward Street in the vicinity of the site.
- (c) A Road Occupancy Licence should be obtained from TMC for any works that may impact on traffic flows on Coward Street during construction activities.
- (d) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of the Construction Certificate.
- (e) The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval which shows that the proposed development complies with this requirement;
- (f) Should the post development stormwater discharge from the subject site into the RMS drainage system exceed the pre development discharge, detailed design plans and hydraulic calculations of any charges are to be submitted to RMS for approval, prior to commencement of any works.

Details should be forwarded to:

The Sydney Asset Management

Roads and Maritime Services

PO Box 973 Parramatta CBD 2124

- (g) The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS 2890.2 – 2002 for heavy vehicle useage and AS 2890.6:2009 for the disabled;

The proposed development should be designed such that road traffic noise from adjacent public roads is mitigated by durable materials, in accordance with EPA criteria for new land use development (The Environmental Criteria for Road Traffic Noise, May 1999). Roads and Maritime's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments

- (h) The developer is to submit detailed documents and geotechnical reports relating to the excavation of the site and support structures to RMS for approval in accordance with Technical Direction (GTD 2012/001);

The developer is to submit all documentation at least six(6) weeks prior to the commencement of construction and is to meet the full cost of the assessment by RMS.

The report and any enquiries should be forwarded to :

Project Engineer, External Works

Sydney Asset Management

Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124  
Telephone 8848 2114  
Fax 8849 2766

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

- (i) All works and regulatory signposting associated with the development are to at no cost to RMS or Council.
- (j) All proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.
- (k) All vehicles are to enter and leave the site in a forward direction.

- 11 The following conditions form the General Terms of Approval by the NSW Office of Water and must be complied with:

General and Administrative Issues

- (a) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified;
- (b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below ground level that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation;
- (c) Sufficient drainage will be provided beneath and around the outside of the watertight structure to ensure that groundwater is able to drain around the structure and does not cause an impediment to natural groundwater flow which would lead to an increase in hydraulic gradient across the footprint of the basement greater than double the natural hydraulic gradient.
- (d) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

Prior to Excavation

- (e) Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken and a report provided to the NSW Office of Water. A schedule and indicative plans of the proposed ongoing

water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report;

- (f) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the calculation method shall be included in the report;
- (g) A copy of a valid development consent for the project shall be provided to the NSW Office of Water;
- (h) The method of disposal of pumped water shall be nominated (i.e. street drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (tailwater) must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority;
- (i) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### During Excavation

- (j) Engineering measures designed to transfer groundwater around the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- (k) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- (l) Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.
- (m) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- (n) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- (o) The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of

Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.

- (p) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety procedures.

Following excavation

- (q) Should pumping volumes or groundwater quality significantly differ from the predictions supporting the DA and licence applications, detailed monitoring records must be provided to the NSW Office of Water, together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.

12 The following conditions are imposed by the NSW Police Service:

- (a) As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
- (b) The CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas that 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 strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance);
- (c) Any proposed landscaping and vegetation should adhere to the following principles:
  - (i) Shrubs bushes, plants should remain under 900mm in height;
  - (ii) Branches or large trees should start at a height of two (2) metres and higher;

This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
- (d) 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;
- (e) Any storage cages in the underground car park areas should not be constructed in an isolated area. CCTV cameras must cover this area, as they are easy targets when they have little supervision. Solid steel housing and quality key locks should be used to prevent access.



- 13 The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) and must be complied with:
- (a) The PROPERTY DEVELOPMENT at 246 COWARD STREET, MASCOT lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of this Corporation.
  - (b) The Civil Aviation Safety Authority (CASA) have no objection to the erection of the building to a height of 50.8 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 the above heights, a new application must be submitted. 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.
  - (e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. SACL advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by SACL prior to any approval is to include:
    - (i) the location of any temporary structure or equipment, ie. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
    - (ii) the swing circle of any temporary structure/equipment used during construction;
    - (iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
    - (iv) the period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
  - (f) 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.
  - (g) The development is to comply with the Civil Aviation Safety Authority (CASA) requirements as outlined in the Council's Development Application Guide for Multi-Unit Residential, Commercial and Industrial.
- 14 Ausgrid have advised that until the electrical load requirements of the development are provided, the accommodation of an electrical substation should be allowed for within the premises. Accordingly, the applicant is to liaise with Ausgrid to obtain confirmation on this issue, prior to a Construction Certificate.

## **PRIOR TO COMMENCEMENT OF DEMOLITION WORKS**

- 15 Prior to commencement of any works on-site, a dilapidation report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a qualified person and submitted to Council. The report shall include records and photographs of the following area that will be impacted by the development:

- (a) All properties immediately adjoining the site;
- (b) Coward Street and John Street; and

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

- (c) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediately adjoining properties owners and public utility authorities. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;
- (d) A second dilapidation report, including a photographic survey shall then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all adjoining properties owners;
- (e) It is a condition of consent that should demolition, site clearing and site remediation 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.)

16

- (a) There shall be no loss of support to the Council's nature strip area as a result of the construction within the site. Details prepared by a practicing Structural Engineer of how this support will be maintained during the demolition works shall be submitted to Council prior to the commencement of works.
- (b) 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.

- 17 Prior to the commencement of demolition work, a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority.

The statement must be in compliance with: AS2601-1991 Demolition of Structures,” the requirements of WorkCover Authority and conditions of the Development Approval, and must include provisions for:

- (a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
- (b) Induction training for on-site personnel;
- (c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- (d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- (e) Disconnection of Gas and Electrical Supply;
- (f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- (g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- (h) Waterproofing of any exposed surfaces of adjoining buildings;
- (i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
- (j) Working hours, in accordance with this Development Consent;
- (k) Confinement of demolished materials in transit;
- (l) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”;
- (m) Sewer – common sewerage system;
- (n) On site monitoring both during asbestos removal and the remainder of demolition activities.

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

- (a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities to determine the position and level of services;
  - (b) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with:
    - (i) The additional load on the system; and
    - (ii) The relocation and/or adjustment of the services affected by the construction.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
- 19 Prior to demolition of any building constructed before 1970, the person acting on this consent shall ensure compliance with Australian Standard *AS2601-2001, Demolition of Structures* by a person with suitable expertise and experience. This may involve a Work Plan that identifies any hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimize any dust nuisance and the disposal methods for hazardous materials, including:
- (a) Removal, cleaning and disposal of lead-based paint shall conform to the current EPA guidelines. Demolition of materials incorporating lead is to be conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the *AS2601-1991 Demolition of structure*.
  - (b) Hazardous dust shall not be allowed to escape from the site. Any existing accumulations of dust (e.g.; ceiling voids and wall cavities) shall be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water shall not be allowed to enter the street and stormwater systems. Demolition is not to be performed during high winds, which may cause dust to spread beyond the site boundaries.
  - (c) All contractors and employees directly involved in the removal of hazardous dusts and substances wearing protective equipment conforming to Australian Standard *AS1716 Respiratory Protective Devices* and shall adopt work practices in accordance with the requirements of WorkSafe's *Control of Inorganic Lead At Work* (NOHSC: 102(1994) and NOHSC: 2015(1994).
  - (d) All lead-contaminated materials being disposed of in accordance with the Environment Protection Authorities Environmental Guidelines; *Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999)* and *The Protection of the Environment Operations Act 1997 (NSW)*.
- 20 Prior to commencement of any works, the following approvals and permits on Council's property/road reserve under Roads Act 1993 and Local Government Act 1993 shall be made and obtained from Council's Customer Services Counter:
- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;

- (b) Permit for roads and footways occupancy (long term/ short term);
- (c) 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;
- (d) Permit to place skip/waste bin on footpath and/or nature strip;
- (e) Permit to use any part of Council's road reserve or other Council lands;
- (f) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area;

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

- (g) 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.

- 21 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition works upon the site in order to prevent sediment and silt from site works 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.
- 22 The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.
- 23 A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
  - (a) stating that unauthorised entry to the work site is prohibited;

- (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
  - (c) the Development Approval number;
  - (d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
  - (e) any such sign is to be removed when the work has been completed.
- 24 A detailed Traffic Management Plan for the pedestrian and traffic management of the site during demolition, excavation and construction shall be prepared and submitted to the relevant road authority (Council or Roads and Traffic Authority) for approval prior to commencement of any works. The plan shall:
- (a) be prepared by a RMS accredited consultant.
  - (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
  - (c) if required, implement a public information campaign to inform any road changes well in advance of each change.
  - (d) Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.
  - (e) During construction, all works and measures shall be implemented in accordance with approved Traffic Management Plan at all times.
- 25 A detailed Construction Management Plan (CMP) shall be submitted to Council and the Principal Certifying Authority for approval prior to the commencement of any works. The plan shall address:
- (a) Excavation and construction vehicles access to and egress from the site;
  - (b) Parking for demolition and construction vehicles. All construction-related vehicles shall be parked on-site and no parking of these vehicles shall be allowed on Coward, John or Bourke Streets;
  - (c) Locations of site office, accommodation and the storage of major materials related to the project;
  - (d) Protection of adjoining properties, pedestrians, vehicles and public assets;
  - (e) Location and extent of proposed builder's hoarding and Work Zones, if there is any.
  - (f) Active measures to control and suppress dust, grit and the like that are associated with construction activity.

- (g) Measures to control the arrival of plant and equipment associated with the construction process and the delivery of such plant and equipment during reasonable hours of the working day;
  - (h) Public Notification where working hours are extended for a particular construction activity;
  - (i) Provision of on-site car parking for employees, contractors and site personnel during the construction phase of the development; and
  - (j) During construction, all works and measures shall be implemented in accordance with approved Construction Management Plan at all times.
- 26 To ensure safe construction traffic flow on site a Traffic Management Plan (TMP) and report shall be prepared by an RMS accredited person and submitted to and approved by Council prior to issue of Construction Certificate.
- The TMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices” and the RMS’s Manual – “Traffic Control at Work Sites”. The TMP is to address but not be limited to the loss of on-street parking, construction vehicles travel routes, safety of the public and access, materials storage, handling and deliveries including construction traffic parking.
- Additionally, all traffic controllers utilise for the site must be RMS accredited and a minimum of seven (7) day notice shall be given to residents if they will be affected by the proposed construction activities.
- 27 All works carried out on the public roads shall be inspected and approved by Council’s engineer. Documentary evidence of compliance with Council’s requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
- (a) Initial pre-construction on-site meeting with Council’s engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
  - (b) Prior to placement of concrete (kerb and gutter and footpath);
  - (c) Prior to construction and placement of road pavement materials; and
  - (d) Final inspection.
- Note:** Council’s standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.
- 28 During demolition, excavation, remediation and construction, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:
- (a) Approved Erosion and Sediment Control Plan;
  - (b) Approved Traffic Management Plan and;

- (c) Approved Construction Management Plan.

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

- 29 Prior to any excavation works below 7m below ground level an acid sulfate soil (ASS) assessment shall be undertaken to determine the presence and extent of any ASS.
- Note:
- (i) Should any potential acid sulfate soil (PASS) or actual acid sulfate soil (AASS) be identified then the an Acid Sulfate Soils Management Plan shall be prepared which shall include any site specific procedures and mitigation measures required and a site analysis from a NATA registered laboratory; and
  - (ii) All recommendations of the report shall be implemented prior to the commencement of excavation or building works below 7m below ground level.
- 30 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.
- 31 Prior to the issue of a Construction Certificate, the construction drawings shall indicate the following:
- (a) That water will be prevented from penetrating behind fittings/linings and into concealed spaces in laundry, sanitary areas and bathrooms etc;
  - (b) That floor to ceiling in laundry and bathroom areas to be tiled;
  - (c) That timbers used in the development are plantation, recycled or regrowth timbers of timbers grown on Australian farms or State forest plantations and that no old growth or rainforest timbers are to be used in any circumstances; and
  - (d) That plumbing to each dwelling will be separated and adequately contained to prevent noise transmission and vibration.
- 32 The applicant shall bear the cost of all restoration works to Council’s property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development. Dilapidation survey reports (one prior to commencement and one at completion) of Council’s assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the release of Construction and Occupation Certificate.



- 33 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.
- 34 Prior to the issue of the Construction Certificate, the planter boxes at the rear upper levels of the building shall have minimum dimensions of 1.2 metres in height and 1.0 metres in width. Details shall be submitted with the Construction Certificate.
- 35 Prior to the issue of the Construction Certificate, The landscape areas shown on the plan by Olssen & Associates *Dwg 201 Issue DA-4 dated March 2014*, and plans *LA-01 and LA-02 Rev 1 dated August 2013* by JILA shall be the subject of detailed landscape construction documentation (plans and specifications) that are to be submitted to and **approved by the City of Botany Bay’s Landscape Architect**. The landscape documentation is to be prepared by a suitably qualified landscape architect, in accordance with DCP 2013. The detailed (construction level) plan shall include, but not be limited to:
- (a) A detailed planting plan at 1:100 scale showing all plant locations, centres, numbers and pot sizes. There is to be a dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas.
  - (b) All trees shall be min. 100 litre.
  - (c) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls.
  - (d) Areas of paving, schedule of materials, edge treatments and sectional construction details.
  - (e) All fencing, privacy screening and pergolas – elevations and materials. The steel pergola structures located in the communal open space area to the northern and western boundaries are to be detailed to ensure they are of high quality design and construction materials as they will be visible from adjoining residents and the public domain.
  - (f) Details of other landscape elements such as furniture, lighting, planter walls, in-situ masonry seating. Provide sectional construction details and elevations.
  - (g) Planter box on slab sectional details. Planter box depths to be in accordance with Council’s DCP and SEPP 65 which requires 900mm soil depth for planting trees.
  - (h) Densely planted planter boxes of a minimum width of 2.5m on the western boundary of the proposed Courtyards on Level 5.
  - (i) Trees shall be used extensively throughout the site – private courtyards, through the centre of the site and in setbacks. Trees must be of an appropriate scale to ameliorate and soften buildings, provide a measure of screening and privacy and improve pedestrian and communal open space areas. Deep soil zones (street setbacks) must include larger canopy trees to improve the public domain and meliorate buildings. Trees to be predominantly native, evergreen

species using open canopy evergreens and some selected deciduous for solar penetration.

- 36 A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to *'Do It Right On-Site' Soil and Water Management for the Construction Industry* (available from Council) and NSW EPA's *Managing Urban Stormwater: Construction Activities* and submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. This Plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the Soil and Water Management Plan shall be kept on-site at all times and made available to Council Officers on request.
- 37 Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
- 38 Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.
- 39
- (a) Prior to the issue of the Construction Certificate, the measures required in the Noise Impact Assessment Report No. 610.12456-R3 prepared by SLR Global Environmental Solutions dated 29 August 2013 shall be undertaken in accordance with the provisions of *AS2021-2000: Acoustics – Aircraft Noise Intrusion – Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021-2000 shall be incorporated into the construction of the building;
  - (b) Prior to the issue of the Construction Certificate, a compliance report from a suitably qualified acoustic consultant shall be submitted to Council indicating any required noise mitigation measures to the approved dwelling, as detailed in the NSW Road Noise Policy 2011 in accordance with AS 3671-1989 – Acoustic – Road Traffic Intrusion;
  - (c) Prior to the issue of the Construction Certificate details are to be provided on acoustic treatment to the entry and exit roller door to driveway of the development to comply with the Office of Environment & Heritage's Industrial Noise Policy and Noise Control Guidelines.

- 40 Prior to the issue of the Construction Certificate, the measures required in the Wind Impact Assessment, Report prepared by SLR Global Solutions Pty Ltd dated 15 August 2013 shall be detailed on the Construction Certificate plans.
- 41 Prior to the issue of the Construction Certificate, a Certificate under Section 73 of the Sydney Water Act 1994 shall be obtained and submitted to Council for each stage of construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges.
- Note: Immediate application should be made to Sydney Water for this Certificate to avoid problems in servicing the development.
- 42 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:
- (a) The rooms for the storage of garbage and recyclable materials shall be:
    - (i) fully enclosed;
    - (ii) adequately ventilated;
    - (iii) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
    - (iv) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.
    - (v) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
  - (b) Waste arising from the development (when complete) is to be removed from the John Street, the detail of which is to be submitted with the Construction Certificate.
- 43 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.
- 44 Prior to the issue of the Construction Certificate, detailed construction plans in relation to the development shall be revised and submitted to Council for approval. The plan shall be revised to include the following:

- (a) Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distances stipulated in AS 2890.2.
- 45 Submission for approval of the Principal Certifying Authority detailed stormwater drainage plans for the site together with certification from a chartered civil engineer indicating the plans have been prepared in accordance with all relevant sections of Botany Council's Stormwater Management Technical Guidelines (SMTG). The stormwater plan shall also allow for, but not be limited to:
- (a) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure. The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement;
- (b) Incorporate water quality improvement system and WSUD strategy designed to capture and treat at least 85% flows generated from the site;
- (c) The OSD and water quality improvement system including rainwater tanks are to be relocated in an open publicly accessible area to ensure it can be readily accessed, inspected and maintained, including ensuring any surcharge flows due to the design being exceeded and/or blockage can escape via a physical overland flow path directly to the public road; and
- (d) The provision of a rainwater tank (Minimum capacity 5000l) to service the public amenities building to John Street.
- 46 To provide adequate flood protection all habitable floor levels and driveway/stairs access to basement parking are to have a minimum 500 and 100mm freeboard above the 1 in 100 year flood level respectively. Additionally, stair wells and driveway access to basement must be located above the Probable Maximum Flood level in accordance with Botany Council's Stormwater Management Technical Guidelines (SMTG). Plans together with engineering certification indicating compliance with this requirement are to be submitted with the Construction Certificate application.
- 47 Prior to the issue of the Construction Certificate, design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2 (for loading area) and AS2890.6.
- 48 In order to maximise visibility in the basement car parks, the ceilings shall be painted white. This requirement shall be reflected on the Construction Certificate plans.
- 49 The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council approval.

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

<b>Car Parking Rates</b>	<b>Required</b>
1 space per 1 bedroom unit	31 spaces
2 spaces per 2 bedroom unit	122 spaces
1 visitor space per 7 dwellings	14 spaces
Commercial spaces	6
Car Wash Bays	2
<b>TOTAL REQUIRED</b>	<b>175</b>

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

- 51 Prior to the issue of the Construction Certificate, the following documentation shall be submitted to Principal Certifying Authority:

- (a) Longitudinal sections along centreline of all the ramps between each basement parking levels;
- (b) Design certification, prepared by a suitably qualified engineer, showing the longitudinal sections shall be designed in accordance with AS2890.1 (including gradients and gradient transitions).
- (c) Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans includes the required sight lines for safety and has been designed in accordance with AS 2890.1, AS2890.2 (for loading area) and AS2890.6.
- (d) Details including swept paths demonstrating that a HRV vehicle and a garage can access the Coward Street and Kent vehicular entry/exit to the building are to be submitted.
- (e) The vehicular driveways to be the building are to be a minimum of 6m.

Note: Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distances stipulated in AS 2890.2.

- 52 Prior to the issue of the Construction Certificate, subject to the approval of CASA, the applicant is to provide in the Construction Certificate documentation roof mounted solar collector panels below a height of 50.8m AHD, to the rooftop area of each building, of which 20% of power generated shall be returned to the Ausgrid network together with tariff rebates. Details of the panel system are to be provided with the Construction Certificate including the approval from the Civil Aviation Safety

Authority and the solar collectors system are to be installed before the issue of the Occupation Certificate.

- 53 Plans submitted with the Construction Certificate shall demonstrate compliance with the following:
- (a) All residential unit size excluding balconies as minimum must be as following:
    - (i) Studio = 60m<sup>2</sup>
    - (ii) 1 bedroom = 75m<sup>2</sup>
    - (iii) 2 bedroom = 100m<sup>2</sup>
  - (b) Adaptable units must be provided in accordance with Section 4C.6.1 of Botany Bay Development Control Plan 2013. Such units shall be designed in accordance with AS 4299 and BBDCP 2013 (Section 4C.6.1). Details to be submitted with the Construction Certificate.
  - (c) Fixed privacy screens shall be provided to the balconies located on the western façade of the building to units 104, 506, 507, 606, 607, 706, 707, 806, 807, 906, 907, 1006, 1007, 1106, 1107, 1206, 1207, 1305, and community room.
- 54 The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc
- 55 Any air conditioning units are to be located so that they are not visible from the street or public place and are not obscure windows/window frames or architectural features of the development with details shown on plans submitted with the construction certificate.

## **DURING WORKS**

- 56 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.
- 57 If the work involved in the construction of a building:
- (a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
  - (b) involves the enclosure of a public place:
    - (i) a hoarding or fence must be erected between the work site and the public place.
    - (ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.

- (iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
      - (iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
    - (c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
- 58 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves the 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;
- (a) 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.
    - (ii) The provisions of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- 59
- (a) Any new information that comes to light during demolition, excavation, remediation and or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council;
  - (b) 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.
- 60 The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.
- 61 Throughout the demolition and construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
- 62 During demolition and construction works, the applicant/builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between

the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.

- 63 The Applicant shall conduct all demolition, construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
- 64 All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 65
- (a) Existing structures and or services on this and adjoining properties shall not be endangered during any demolition associated with the above project. The Applicant is to provide details of any stabilisation works required to adjacent developments to Council.
  - (b) As the development involves an excavation that extends below the level of the base of the footings of a building or road 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.
    - (iii) Must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of his intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished.
- 66 If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
- 67 The operation shall not give rise to offensive odour or other air impurities in contravention of the Protection of the Environment Operations Act 1997. The Principle contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- (a) Covering excavated areas and stockpiles,
  - (b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
  - (c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,



- (d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
- (e) All loads entering or leaving the site are to be covered,
- (f) The use of water sprays to maintain dust suppression,
- (g) Keeping excavated surfaces moist.

68

- (a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion;
- (b) Concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land;
- (c) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;
- (d) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- (e) During construction works the area in front of the premises and for the full width of the site, be maintained at all times and kept clean and tidy.
- (f) The operations of the site shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
- (g) All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.

69 The Development is to be constructed to meet the following construction noise requirements:

- (a) Construction Noise
  - (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.

- (b) Level Restrictions
  - (i) Construction period of 4 weeks and under:
    - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(A).
  - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
    - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- (c) Time Restrictions
  - (i) Monday to Friday 07:00am to 06:00pm;
  - (ii) Saturday 08:00am to 4:00pm;
  - (iii) No Construction to take place on Sundays or Public Holidays.
- (d) Silencing
  - (i) All possible steps should be taken to silence construction site equipment.

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

71

- (a) All imported fill shall be validated in accordance with Department of Environment and Conservation approved guidelines to ensure that it is suitable for the proposed development from a contamination perspective. Imported fill shall be accompanied by documentation from the supplier, which certifies that the material is suitable for the proposed residential/recreational land use and not contaminated based upon analyses of the material.
- (b) 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.

- (c) Any soil disposed of offsite shall be classified in accordance with the procedures in the Department of Environment and Climate Change Waste Classification Guidelines (2008).

72

- (a) Demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 Demolition of Structures and the requirements of the NSW WorkCover Authority; and
- (b) The demolisher shall comply with Australian Standard 2601 - 1993 "*Demolition of Structures*".

73

Hazardous or intractable 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 and Climate Change and Water and with the provisions of:

- (a) New South Wales Occupational Health and Safety Act, 2000;
- (b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
- (c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
- (d) Protection Of the Environment Operations Act 1997 (NSW); and
- (e) Department of Environment and Climate Change Waste Classification Guidelines (2008).

74

The following shall be complied with:

- (a) 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 Environmental Noise Control Manual;
- (b) Vibration levels induced by the demolition and construction activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
- (c) Vibration levels induced by the demolition and construction activities shall not exceed 3mm/sec peak particle velocity (ppv) when measured at the footing of any unoccupied building.
- (d) The upper noise level from the demolition and construction operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).

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

- 75 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 **\$1,798,069.00** is required as follows:

(a)	Community Facilities	\$202,454.60
(b)	Administration	\$6,285.78
(c)	Open Space & Recreation	\$1,563,944.06
(d)	Transport Management	\$108,036.91

The Section 94 Contribution of **\$1,880,721.35** is to be paid to Council prior to the issue of any Occupation Certificate.

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

76

- (a) Prior to the issue of the Occupation Certificate, the development is to be constructed to meet the requirements detailed in the Noise Impact Assessment Report No. 610.12456-R3 prepared by SLR Global Environmental Solutions dated 29 August 2013, received by Council 6 September 2013; and
- (b) All acoustic work including that acoustic work required at Condition No. 39 shall be completed prior to the issue of the Occupation Certificate and validated by a person with appropriate qualifications and experience.

- 77 Prior to the issue of the Occupation Certificate, the following is to be complied with:

- (a) Replace all the existing above ground electricity and telecommunication cables to underground cables within the site and road reserve area fronting Coward Street 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;
- (b) Provide appropriate and suitable street lighting to a high decorative standard to both street frontages 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;
- (c) The public domain shall be upgraded with new paving and street tree planting, to be installed by the Applicant at the Applicant's expense in accordance with the approved landscape documentation. All improvements shall be in accordance with Council Landscaping and Engineering

specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate;

- (d) New street trees at min. 400 litre pot size specified shall be installed in the Coward Street verge in accordance with the approved landscape documentation plans. The trees shall be sourced from a reputable nursery/supplier that grows trees in accordance with the NATSPEC requirements. A Dial-Before-You-Dig enquiry is required prior planting - Council is not liable for any damage to subsurface infrastructure during public domain works. NOTE: Three (3) hold point inspections are required: during construction of tree pits, prior-planting street trees to ensure plant stock is suitable and post-planting to verify final finishes; and
- (e) The public footpath in Coward Street shall be re-constructed in accordance with Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specification and the approved landscape documentation. Construction hold points and Council inspections are required at the following minimum points:
  - (i) at the commencement of paving works, and
  - (ii) at final completion.

Council approval of public domain works is required prior issue of the Occupation Certificate. NOTE: Pavers shall be ordered accounting for adequate lead time for manufacture (10-12 weeks). No paver substitutes will be permitted.

Note: A public domain improvements plan shall be submitted for approval by Council. The plan shall be undertaken by a suitably experienced landscape architect and shall include, but not be limited to, new street tree planting in Coward Street (to infill gaps and replace trees in poor condition), footpath paving (width and construction materials to be in accordance with the Mascot Station Town Centre Draft Public Domain Plan) in Coward and John Streets, street tree pit treatments and tree guards (where required), street furniture (to Council specification) and in-ground verge landscaping. The treatment of the public open space area to be dedicated to Council shall be included, inclusive of the existing public park, to ensure the physical, visual and landscape connectivity between the two areas is addressed and appropriately designed. The existing masonry boundary wall should be demolished and upgrading of the existing reserve will be required to ensure connectivity between the two areas. The plan shall be in accordance with Council's specification and requirements. Civil drawings shall be included detailing providing levels and detailed footpath construction sections in accordance with Council's Engineering and Landscape requirements and are required to align with the landscape drawings.

78 Plans submitted with the Occupation Certificate shall demonstrate compliance with the following:

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

- (i) Studio = 60m<sup>2</sup>
    - (ii) 1 bedroom = 75m<sup>2</sup>
    - (iii) 2 bedroom = 100m<sup>2</sup>
  - (b) The 175 car parking spaces shall be made available to residents and visitors at all times, with such spaces being clearly marked and signposted prior to issue of the Occupation Certificate;
  - (c) Allocation of the car parking shall be as follows:
    - (i) Each studio/one (1) bedroom unit shall be allocated 1 car parking space;
    - (ii) Each two (2) bedroom unit shall be allocated 2 car spaces;
    - (iii) Fourteen (14) visitors car spaces shall be provided. Such spaces being located nearby the entrance to the development.
    - (iv) Three (3) spaces per commercial tenancy.
    - (v) Two (2) Car wash bays.
  - (d) The plan shall also indicate the 215m<sup>2</sup> of land to be dedicated to Council as Parkland and also the land to be dedicated for the public toilet and required rainwater tank.
- 79 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.
- 80 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval prior to the issue of the Construction Certificate.
- 81 Prior to the issue of the Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the car parking area has been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6 requirements. The internal parking facilities shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standards.
- 82 The following shall be complied with prior to the issue of the Occupation Certificate:
- (a) A new vehicular crossing including layback and/or gutter and any associated road restoration shall be constructed in accordance with Council's requirements. The applicant shall make a separate application to Council's Customer Service Counter for the construction/ reconstruction of vehicular crossing (either by Council or own forces) to the vehicular entry point of the site as shown on the submitted approved plan.

- (b) The crossing shall be able to accommodate the turning movement of Medium Rigid Vehicle (MRV) entering and leaving the site and at 90° to the kerb and gutter in plain concrete. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant.
- (c) The redundant vehicular crossing, together with any necessary works shall be removed and the footpath, nature strip and kerb and gutter shall be reinstated in accordance with Council's specification.
- (d) Written confirmation / completion certificate obtained from Council.
- (e) Inspection report (formwork and/or final) for the works on road reserve obtained from Council's engineer.
- (f) A copy of the approved public domain civil works plans showing Work-as-Executed details (together with an electronic copy) prepared by a registered surveyor.
- (g) Driveways and vehicular access paths shall be designed and constructed to comply with the minimum requirements (including changes of grade) of AS/NZS 2890.1.

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

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

85

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

Title under Section 88B/88E(3) of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built pump-out system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. Proof of registration shall be submitted to the Principal Certifying Authority prior to occupation of the premises.

86 Prior to the issue of the Occupation Certificate:

- (a) the construction of the stormwater drainage system of the proposed development shall be generally in accordance with the approved stormwater management construction plan(s), Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All downpipes shall be located within the property boundaries; and
- (b) documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and accepted practice.

87 Any damage not shown in the dilapidation report required under Condition No. 15 submitted to Council before site works have commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to the issue of the Occupation Certificate.

88 The Council nature strips shall be suitably replaced in accordance with Council Specification and the approved landscape documentation at the completion of construction work and at the Applicant's expense.

89 Landscaping shall be installed in accordance with the Council approved landscape plan only prior to the issue of an occupation certificate. This amended plan will supercede previous landscape plans. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and to Council's satisfaction at all times.

- (a) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements;
- (b) The contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required, and
- (c) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council



approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the Issue of an Occupation Certificate.

- 90 The Applicant is to submit payment for a public works defects liability bond of \$14,000.00. The duration of the bond shall be limited to a period of 12 months after Council approval of public domain works. At the completion of the 12 month period the bond shall be refunded pending a satisfactory inspection of the new public domain work by Council. If rectification or maintenance work is required in this period then council will forfeit all or part of the bond to undertake the required work, unless the applicant undertakes this work.
- 91 Prior to the issue of the Occupation Certificate; the footpath at the commercial tenancy frontages must for reasons of public safety and presence be illuminated between sunset one day and sunrise the day following - 7 days a week and in accordance with the following standard:
- (a) Lighting is to comply with the requirement for pedestrian areas in the current AS/NZS 1158;
  - (b) Lighting must be recessed into the facade;
  - (c) All associated wiring and conduits are to be completely concealed; and
  - (d) Light fittings should be readily accessible to support their regular maintenance.
- 92 Prior to the issue of the Occupation Certificate and at no expense to Council
- (a) Dedicate the portion of land to Council for the purpose of enlarging Nancy Bird-Walton Park and Kent Road. The areas of the land to be dedicated is on Plan Drawing 014' Issue DA-4 dated 21 March 2014, prepared by Olsson and Associates titled "*Council Dedication Plan*". The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of the Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes; and
  - (b) Dedicate, again at no expense to Council, the public toilet enclosure and required rainwater tank fronting John Street, as depicted on plan Drawing 103 Issue Da-4 dated 13 March 21013 titled "Basement 1- John Street. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of the Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes;
- 93 Prior to the issue of the Occupation Certificate, 215m<sup>2</sup> of land abutting Nancy Bird-Walton Park as indicated on Plan Drawing 014' Issue DA-4 dated 21 March 2014, prepared by Olsson and Associates titled "*Council Dedication Plan*" shall be dedicated in a turfed state and to Council at no cost.
- 94 Prior to the issue of the Occupation Certificate:

- (a) Lighting (lux) levels for this development must include the installation of 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 premises;
- (b) 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; and,
- (c) All lighting shall comply with AS4282-1997 Control of the obtrusive effects.

95

- (a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.
- (b) Condition Numbers 4, 75 to 94 of this consent are pre-conditions to the issue of the Occupation Certificate.

#### **CONDITIONS WHICH MUST BE SATISFIED PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

- 96 Prior to the issue of Subdivision Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority showing all the structures are wholly located within the property boundary.
- 97 Positive Covenant and Restriction on Use of the land shall be created to all proposed lots to ensure that car parking for the residential part is not to be to sublet or used for any other purposes.
- 98 A copy of the Building Management Statement and By-Laws for each of the proposed lots shall be submitted to Council for approval prior to the issue of the Subdivision Certificate. The Building Management Statement and By-Laws shall address all conditions associated with the ongoing use of the development of Development Consent No. 13/173 and include:
  - (a) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 13/173;
  - (b) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 13/173;

- (c) Responsibilities regarding the maintenance of the car wash bay the Owners Corporation / building owner;
- (d) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste sterile, disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times;
- (e) 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 before 12.00 noon;
- (f) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000;
- (g) 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;
- (h) The linen plan must include details of any easements, encroachments, rights of way, including right of footway, restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
- (i) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-installment;
- (j) The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines;
- (k) CCTV surveillance of all public areas within the development site; and
- (l) Maintenance of inbuilt acoustic measures for aircraft noise.

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

- 99 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
- 100 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
- 101 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- (a) Ensure soil depths in accordance with Council's DCP Part 3L. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes;
  - (b) A concrete hob or haunch shall be constructed at the internal joint between the sides and base of the planter to contain drainage to within the planter;
  - (c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil;
  - (d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns;
  - (e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
- 102 Vehicles making deliveries (including goods, merchandise and the like) and accessing the site shall comply with the following requirements:
- (a) The maximum size of vehicles making deliveries and accessing to the site shall be limited to Medium Rigid Vehicle MRV only as per AS/NZS 2890.2-2002 only.
  - (b) All loading and unloading of vehicles shall be carried out wholly within the site. 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, service station etc).

- (c) Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or similar 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.
- 103 The ongoing maintenance of the nature strip shall then be undertaken by the occupier/owner/strata body. Maintenance shall include mowing, watering and maintaining an even coverage of grass at all times. Maintenance does not include pruning, trimming, shaping, or any work to street trees located on the road verge/nature strip at any time the removal of weeds and rubbish and maintaining a good, even coverage of grass at any time.
- 104 The landscape contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time monthly maintenance is required.
- 105 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a twelve (12) month period after planting. Maintenance includes watering twice weekly within the first four months then weekly thereafter to sustain adequate growth and health, annual feeding, weed removal within the mulched base and mulch replenishment at three (3) monthly intervals (to 75mm depth). It does not include trimming or pruning of trees under any circumstances.
- 106 No roller shutters are to be installed to any of the commercial shopfronts that front Coward Street.
- 107 The hours of operation of any future commercial use must be restricted to the hours of 7:00am to 9:00pm Monday to Saturday and 7:00am to 8:00pm Sunday and public holidays.
- 108 The use of the premises shall not give rise to any of the following when measured or assessed at “sensitive” positions within any other property. These “sensitive” positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
  - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

- (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
- (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- (e) Noise controls specific to the amenity of the residential neighbourhood
  - (i) The La10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5 dB between 9:00pm one day and 7:00am the day following Monday to Sunday when measured at the boundary of any residential property; and,
  - (ii) Notwithstanding compliance with the above (Condition No. 108(e)(i)), the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 9:00pm one day and 7:00am the day following Monday to Sunday.

109 Any air conditioning units shall comply with the following requirements:

- (a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
- (b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
  - (i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
  - (ii) Before 7 am or after 10 pm on any other day.
- (c) The transmission of vibration to any place of different occupancy above the requirements of AS2670, Australian Standard AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction. Australian Standard AS2107 2000: Recommended Design Sound levels and Reverberation levels for Building Interiors.
- (d) Any air-conditioning unit shall comply with the City of Botany Bay's General Noise Criteria detailed in Condition 108 above.

110

- (a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other

changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;

- (b) The adaptable apartments approved under this development consent are to remain unaltered at all times; and
  - (c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces identified by the NSW Police in Condition 12, shall be monitored by CCTV cameras at all times.
- 111 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for 12 months after planting (ie. final hold-point inspection). Maintenance includes watering twice weekly to enable good establishment and sustain adequate growth. There shall be two (2) fertilizer applications using a suitable product for natives applied at manufacturer's recommendations, ongoing weed removal, mulch replenishment (minimum of 2) maintaining a 1 metre wide mulch ring at all times and removal of grass/weeds within the mulch ring. Maintenance does not include trimming or pruning the trees under any circumstances. Formative pruning will be undertaken by Council.
- 112 The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction at all times. The automatic drip irrigation system shall be maintained in working order at all times.
- 113 The landscape terraces on Level 5 (top of Podium) shall not be accessible for everyday use by inhabitants of the adjoining units and shall only be access for any maintenance purposes.
- 114 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. 13/173 dated as 6 September 2013 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.