

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

JRPP No	2014SYE016
DA Number	13/271
Local Government Area	City of Botany Bay
Proposed Development	<p>Integrated Development Application for the construction of a residential flat building at 27 Church Ave, 18A, 20-22 John Street, Mascot, in the following manner:</p> <ul style="list-style-type: none"> • Demolition of all structures on site; • Site excavation and remediation; • Construction of 95 residential apartments contained in three residential flat buildings as follows: <ul style="list-style-type: none"> • Tower A, 13 storeys (Fronting Church Ave) containing 46 units; • Tower B, 13 storeys mid-<u>block</u> containing 22 units; • Tower C, 8 storeys fronting John Street building containing 27 units; • Two commercial units, facing both street frontages • Four levels of parking comprised of one basement level, one at grade parking level and two podium levels to accommodate 170 vehicles.
Street Address	27 Church Ave, 18A, 20-22 John Street, Mascot
Applicant/Owner	Olsson and Associates Architects
No. of Submissions	<p>First notification – 13 individual submissions</p> <p>Second Notification – 5 individual submissions</p>
Regional Development Criteria	Development with a CIV of \$24,200,000
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment • Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to development applications • State Environmental Planning Policy No. 55 – Contaminated Land • State Environmental Planning Policy 2004 (BASIX); • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat buildings • Botany Bay Local Environmental Plan 2013

	<ul style="list-style-type: none"> • Botany Development Control Plan 2013
Documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Statement of Environmental Effects – Elton Consulting • Amended Architectural Plans – Olsson and Associates; • Traffic Impact Assessment – Traffic and transport Planning P/L; • Phase 1 and 2 Environmental Site Investigation – Aargus • Noise Impact Assessment – Acouras Consultancy
Recommendation	<p>The Sydney East Joint Regional Planning Panel (JRPP), as the Determining Authority resolve:</p> <p>Grant the approval Development Application No. 13/271 for the construction of a residential flat building at 27 Church Ave, 18A and 22 John Street, Mascot, in the following manner: Demolition of all structures on site; site excavation and remediation; Construction of 95 residential apartments contained in three residential flat buildings as follows:</p> <ul style="list-style-type: none"> (a) Tower A, 13 storeys (Fronting Church Ave) containing 46 units (b) Tower B, 13 storeys mid-block containing 22 units. (c) Tower C, 8 storeys fronting John Street building containing 27 units. (d) Two commercial units, facing both street frontages (e) Four levels of parking comprised of one basement level, one at grade parking level and two podium levels to accommodate 170 vehicles.
Report by	Lincoln Lawler – Senior Assessment Planner

EXECUTIVE SUMMARY

The Development Application, as amended, seeks the construction of three residential flat buildings at 27 Church Ave, 18A and 20-22 John Street, Mascot (the Site), in the following manner:

- Demolition of all structures on site.
- Site excavation and remediation.
- Construction of 95 residential apartments contained in three residential flat buildings as follows:
 - Tower A, 13 storeys (Fronting Church Ave) containing 46 units;
 - Tower B, 13 storeys mid-block containing 22 units;
 - Tower C, 8 storeys fronting John Street building containing 27 units;
 - Two commercial units, facing both street frontages;
- Total floor space ratio of 3.2:1 and a maximum building height of 43.8metres, and

- Four levels of parking comprised of one basement level, one at grade parking level and two podium levels to accommodate 170 vehicles.

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 exceeds \$20 million.

The Development Application is Integrated Development, pursuant to Section 91 of the EP&A Act as the development involves temporary construction dewatering and therefore requires approval from the NSW Office of Water. In a letter dated 6 August 2014, the NSW Office of Water has granted its General Terms of Approval to the proposed development.

The site is zoned B4 Medium Density Residential pursuant to the Botany Bay Local Environmental Plan 2013 (BBLEP 2013). The proposal comprises of “residential flat building” and “commercial premises” and is therefore permissible in this zone with development consent.

The total area of the subject site is 2913m². Clause 4.4(2) and Clause 4.3(2) allow a FSR of 3.2:1 and a height of 44 metres. The proposal development has an FSR of 3.2:1 and a height of 43.8 metres (including lift overruns), and therefore complies with the BBLEP 2013 provisions.

The application has been assessed against the provisions and objectives of SEPP 65, SEPP 55, BBLEP 2013 and BBDCP 2013. The proposal complies with the maximum height, FSR, setbacks, private open space and unit sizes. While the proposal has non-compliances with communal open space, car parking (2 car spaces shortfall), landscaping, unit mix and building depth, these departures are addressed in the assessment and on balance are considered to be reasonable in the circumstances.

The proposal achieves the anticipated density and development outcome for the site granted as generally anticipated by the controls of BBLEP and BBDCP 2013 and generally responds to the desired future character of the locality as per the character precinct objectives contained within Part 8 of the BBDCP 2013. The proposal in its amended form is recommended to the JRPP for consideration and approval, subject to conditions.

1.0 BACKGROUND

1.1 Site Description

The subject site has dual frontage with the northern frontage to Church Ave and southern frontage to John Street. Further to the west is Bourke Street and Mascot Train Station and further to the east is O’Riordan Street. The site is regular in shape and is long but narrow and is formed by the following three (3) allotments, which make up a total site area of 2913m².

Street Address	Lot and Deposited Plan(DP)	Area(m ²)
27 Church Ave	Lot 5 DP506923	2,168.5
18A John Street	Lot ADP380858	291.5
22 John Street	Lot 1 DP799325	453

The majority of the site is covered by an informal at grade temporary car park and a warehouse is located in the south eastern corner of the 27 Church Ave allotment. There is a level change between 27 Church Ave and 18A and 22 John Street of approximately 2.2m with the Church Ave allotment being lower. 22 John Street currently is used as a builders' yard for the storage of metals and timbers and other equipment, whilst 18A John Street contains a vacant single storey brick warehouse building set back from the John Street frontage.

The properties surrounding the site are a mix of newer mixed use residential/commercial developments as well as some older single storey industrial buildings.

Locality Plan



Site Photos

Subject site as viewed from 228 Coward Street.



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.

To the east of the site is Mascot Station Precinct Town Centre and the underground Mascot Station. 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, shallow groundwater is present in this locality. These two factors alone contribute to the high cost associated with development in the locality.

The site is situated within the Mascot Station Town Centre Precinct, Urban Block 4 which is bounded by Gardeners Road to the north, O’Riordan Street to the east, Coward Street to the south and Bourke Street to the west. The precinct is comprised of a number of site that have already been redeveloped or are currently at various stages of the development process.

The immediately adjoining premises to the west are occupied by nine storey mixed residential and commercial developments.

Further to the west, there are a number of high rise mixed use developments including two sixteen storey buildings known as “Tempo” in Bourke Street, opposite Mascot railway station as well as construction of the Meriton development known as “Mascot Central” at 19-33 Kent Road.

The immediate adjoining premises to the east (16-18 John Street) towards the rear of the site are occupied by a single storey industrial building currently vacant.

The immediate adjoining premises to the east (23 Church Avenue) towards the front of the site are occupied by single storey industrial buildings used for steel fabrication.

Further to the east is a six storey mixed residential and commercial development having a frontage to both Church Avenue and John Street.

To the south on the opposite side of John Street, there a number of six- eight storey residential flat buildings over basement car parking along with Laycock Walk

To the north on the opposite side of Church Avenue, there is an industrial/warehouse complex (known as 639 Gardeners Road) and a five storey mixed development by Meriton at 635 Gardeners Road.

1.3 Site and Development History

Site and Development History

Development Application No. 09/061 was approved by Council on 22 October 2009 for a Staged Consent consisting of Stage 1 being for the demolition of all existing structures on the

site and soil remediation and validation works, and Stage 2 being for the consolidation of Lot Z in DP 405064 and Lot 3 in DP 506923 into one (1) allotment and re-subdivision of the site into two (2) allotments in accordance with the consolidation plan and the construction a new multi-unit residential development with associated commercial space, basement car parking and landscaping at the premises known as 23-27 Church Street, Mascot. This consent has now lapsed.

1.4 The Proposal

The development application (as amended) requests consent for the demolition of existing structures and site remediation; Construction of 95 residential apartments contained in three residential flat buildings as follows:

- Tower A, 13 storeys (fronting Church Ave) containing 46 Apartments
- Tower B, 13 storeys mid-block containing 22 Apartments.
- Tower C, 8 storeys fronting John Street building containing 27 units.
- Two commercial units, facing both street frontages
- Four levels of parking comprised of one basement level, one at grade parking level and two podium levels to accommodate 170 vehicles.

Residential Flat Component

The proposed development is comprised of three residential flat buildings, which are accessible to pedestrians from both Church Ave and John Street and vehicles from Church Ave only. Pedestrian access can be obtained directly from John Street to the middle tower or through Tower A communal open space at podium Level. There is no connectivity through the site as Tower B does not provide a thorough fare through the development. Tower A and B have two central elevators and Tower C has one elevator. A communal landscaped terrace is proposed to the podium level area and a community room located at Level 9 on Tower C. A total of 95 apartments are proposed (including Nine (9) adaptable apartments).

The unit mix of the development is as follows:

	TOTAL	Unit Mix
Studio	12	12.6%
1 bedroom	26	27.4%
2 bedroom	57	60%
	95	100%

Table 1 – Unit Mix

Commercial Component

The proposal also involves a commercial space with frontage to Church Ave, adjacent to the developments driveway. This commercial space has an area of 90 sqm.

Further, an additional commercial space of 125sqm is proposed to the John Street frontage.

The table shown in Appendix A contains a summary of the proposed development in terms of number of bedrooms, dwelling size, private open space, car parking, cross ventilation and solar access, based a total of 95 dwellings.

The following table provides a summary of compliance:

Control	Required	Proposal	Complies
FSR	3.2:1 (under BBLEP 2013 (9321.6m ²))	3.2:1 (9319m ²)	Yes
Height	44 metres (under BBLEP 2013)	43.8metres (lift overruns)	Yes
Car Parking	<p>170 spaces are required as follows for the proposal:</p> <ul style="list-style-type: none"> 152 residential; <p>Studio = 12 x 1 = 12 1 bedroom = 26 x 1 = 26 2 bedroom = 57 x 2 = 114 Residential Total = 152</p> <ul style="list-style-type: none"> 14 visitors; 6 commercial. <p><u>Total Required</u> = 172 spaces (BBDCP 2013)</p>	<p>170 spaces are proposed as follows:</p> <ul style="list-style-type: none"> 152 residential; 14 visitors; 4 commercial. 	No – shortfall of 2 spaces
Deep Soil	<p>25% deep soil required</p> <p>25-30% (728.25m²) communal open space area</p>	<p>Nil</p> <p>1190sqm or 40% site area</p>	<p>No</p> <p>Yes</p>
Unit Sizes	<p>Studio: 60m²</p> <p>1 bedroom: 75m²</p> <p>2 bedrooms: 100m²</p>	<p>Studios = 60m²</p> <p>1 bedroom:= 75-78.4m²</p> <p>2 Bedroom = 100m²</p>	Yes
Building Separation	<p>The requirements for building separation under the RFDC are as follows:</p> <p><u>One to four storeys/<12m:</u></p> <p>12 metres between habitable rooms</p> <p>9 metres between habitable/balconies and non-habitable rooms</p>	<p>Tower A to Tower B</p> <p>21 m to Level 11</p> <p>24 m Level 12 -up</p>	<p>No from level 9-11</p> <p>Yes</p>
		Tower B – Tower C – 24m	Yes
		Eastern Boundary Zero Lot Line	No
		<p>Western Boundary</p> <p>Non Compliance with Tower C <6m</p>	No

	<p>6 metres between non-habitable rooms</p> <p><u>Five to eight storeys/up to 25m height:</u></p> <p>18 metres between habitable rooms</p> <p>13 metres between habitable/balconies and non-habitable rooms</p> <p>9 metres between non-habitable rooms</p> <p><u>Nine storeys +/25m height:</u></p> <p>24m between habitable rooms/balconies</p> <p>18m between habitable/balconies and non-habitable rooms</p> <p>12m between non-habitable rooms</p>		
Solar Access	70% of apartments to receive 3 hours midwinter reduced to 2 hours for higher densities (BBDCP 2013, RFDC)	61% receive minimum 2 hours	No
Cross Ventilation	70% of apartments (BBDCP 2013, RFDC)	50% as the development involves a zero lot line.	No
Communal Open Space	25-30% (RFDC)	At least 1190sqm or 40% site area provided on podium levels and rooftop garden of 312 m ² providing an area of 43% of site area	Yes
Deep Soil	25% (RFDC)	Nil	No
Building Depth	18m (RFDC)	15-34m	No (Satisfactory due to larger unit size requirements)



Figure 4 - Proposed Site Plan

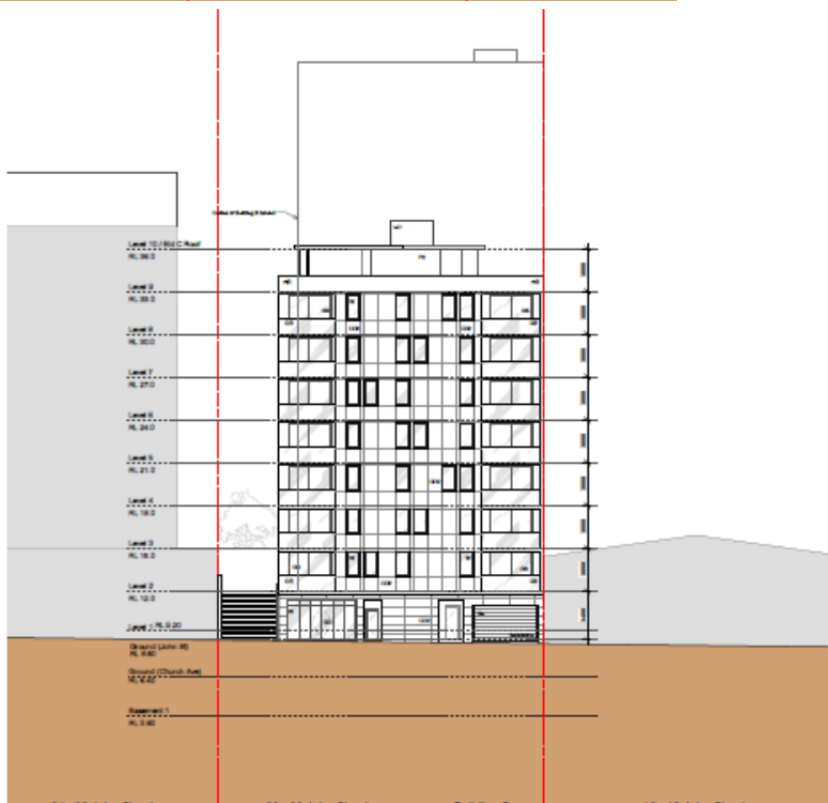
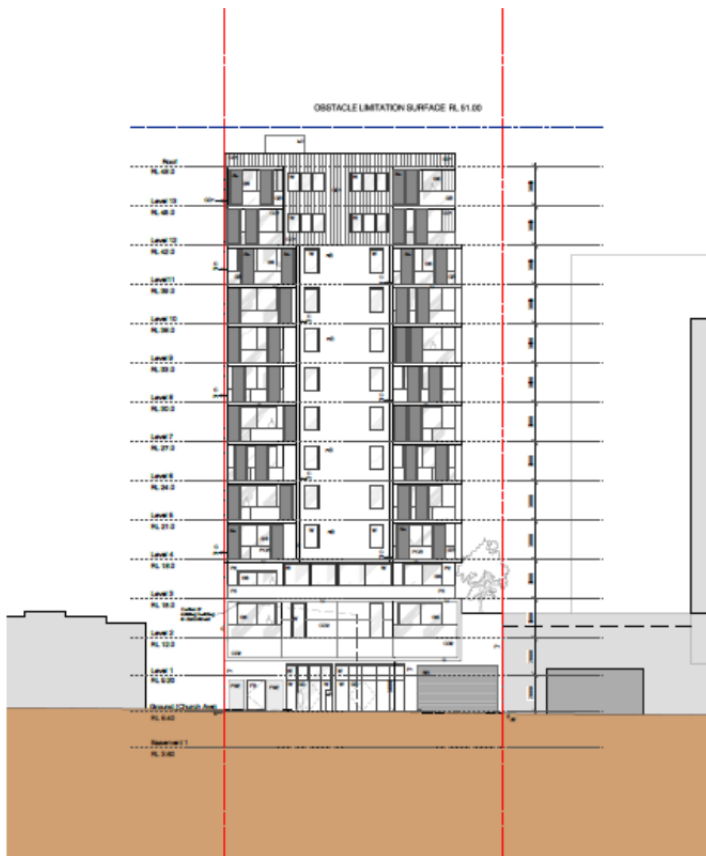


Figure 5 - Proposed Northern Elevation (View from Church Avenue)

Figure 6 - Proposed South Elevation (View from John Street)



Figure 7 - Proposed East Elevation

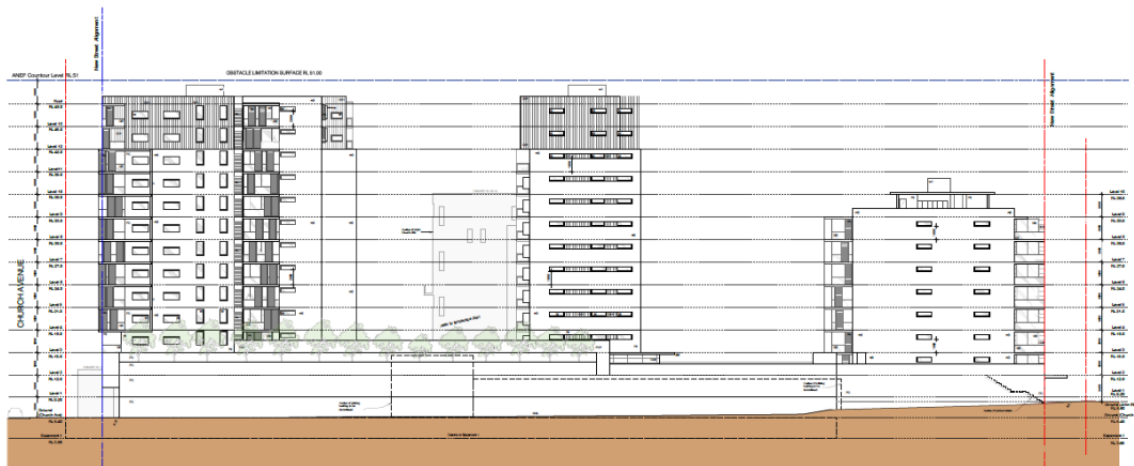


Figure 8 - Proposed West Elevation

SECTION 79C CONSIDERATIONS

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

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

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

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

Groundwater was encountered across the site at depths varying from 1.4 to 1.6 metres below natural ground level. Therefore, the basement structure will penetrate the water table of the locality and as such, the application is classified as Integrated Development

in accordance with the *Water Management Act 2000* as the development involves temporary construction dewatering activities.

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. On 6 August 2014, the NSW Office of Water issued Council with a letter providing General Terms of Approval for the proposed development, which are included in the recommended Schedule of Consent Conditions.

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.

On 17 December 2013 the applicant submitted a Detailed Site Investigation Report for 18 John Street and 27 Church Ave prepared by Aargus, dated 10 December 2013.

On 11 November 2014 the applicant submitted a preliminary site investigation for the site at 22 John Street, Mascot.

The Detailed Site investigation concludes that based on the results of this investigation, a Remediation Action Plan (RAP) should be prepared and implemented to manage the abovementioned hotspots of soil contamination and render the site suitable for the proposed development.

Council's Environmental Consultant – Enrisk has assessed both reports and is satisfied that the site can be made suitable for residential and has recommended conditions of consent.

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. Council has relied on the information in the aforementioned reports that the sites can be made suitable for the proposed development. 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 Development

State Environmental Planning Policy No. 65 aims to improve the design quality of residential flat development in New South Wales.

The provisions of SEPP No. 65 have been considered in the assessment of the development application. An Architectural Design Statement, a SEPP 65 Assessment and an assessment against the Residential Flat Design Code accompany the application. A design verification statement prepared by Russell Olsson of Olsson and Associates,

dated July 2014, was also submitted to verify that the plans submitted were drawn by a registered Architect.

Compliance with the Residential Flat Design Code is provided within Appendix B attached to this report.

The Council's Design Review Panel (DRP) has considered the proposed development prior to the lodgement of the application in August 2013.

It should be noted that the initial proposal presented to the DRP was before the acquisition of 18A John Street.

The DRP raised concerns in character in regard to the narrowness of the development site) in the context of the emerging redeveloped character of the Mascot Station Precinct and advised that "ideally the site should be amalgamated with the adjoining properties to the east (23 Church Ave and 16-18 John Street) and at the least the adjoining property to the west (18A John Street) with regards to visual dominance of the development and its integration with the character of the streetscape and lower scale residential dwellings. It was recommended that the design be amended to implement a two/three storey podium form comprising street facing townhouses or apartments with the taller building elements set back behind in order to reduce the dominance of the building in relation to its neighbours. It was further advised that support would not be given to the application without the issues relating to Scale and Built Form being satisfactorily addressed through a redesign of the proposal.

The specific recommendations of the Panel made at the meeting are:

- The large blank walls on the east and west elevations must be modulated and detailed to provide a high standard of presentation where exposed to view eg expression of structure, relief providing plane variation, pattern and colour palette as part of the overall compositions.

Comment: The large blank walls have been articulated with a variety of window styles and a change in material to the top two storeys of Towers A and B. The east elevation has been punctuated with glass block windows, which allows them to be built against, It is considered that this could be further achieved and actuated by a painted finish that provides a visual interest and relief to the blank eastern elevation.

- The side walls to the podium also must be modulated and have external materials to provide a high quality appearance where exposed to view.

Comment: Conditioned to comply

- The lower two storeys to Church Avenue and one storey to John Street should read clearly as a base to provide an appropriate scale when viewed from the street.

Comment: This has been provided through articulation and change in materials on each of these frontages. In addition, the podium at street level is recessed to the Church Ave frontage where the tower is taller.

- Incorporate variety in the treatment of balcony balustrades including some solid balustrades, partial fixed and operable louvre screening and weather protection over windows as façade articulation elements.

Comment: A mixture of pre cast and glass balustrades are proposed on Tower A. The remainder of the towers are glass balustrades. Aluminium louvres are used on every balcony, these are to be operable except where required by condition of consent.

- Increased definition of a base, middle and top by incorporating different façade treatments of the base (two storeys to Church Avenue and one storey to John Street) and the top storey.

Comment The definition of the podium is achieved through a definitive awning, articulation with materials, Tower A is recessed at Street level.

The proposal currently before the JRPP has been further development once presented to the DRP in August 2013. The proposal as amended has incorporated the comments provided by the DRP

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the proposed development. The development application was accompanied by a BASIX Certificate committing to environmental sustainable measures.

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:

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Landuse Zone	N/A	The site is zoned B4 Mixed use under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed <i>residential flat building</i> is permissible with Council's consent under the BBLEP 2013. Mixed use development is defined in the BBLEP 2013 as "a building or place comprising 2 or more different land uses." The two different land uses would be residential and commercial
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"> • <i>To provide a mixture of compatible land uses.</i> • <i>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling</i>
Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Clause 2.5 does not apply to the proposal.

What is the height of the building?	Yes	Max. Height = 44m (Cl.4.3 2)
Is the height of the building below the maximum building height?		Tower A – 43.8m (50.2m AHD) Tower B – 43.8m (50.2m AHD) Tower C -30.2 (38.2m AHD)
What is the proposed FSR? Does the FSR of the building comply with the maximum FSR?	Yes	Max. FSR = 3.2:1 or 9321.6sqm (Cl.4.4 2) Site area = 2913 sqm GFA = 9319sqm The proposed FSR is 3.2:1.
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m ² min and maximum height of 22 metres and maximum FSR of 1.5:1?	Not Applicable	The subject site is located within a B4 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?	Yes	The subject site is affected by the road widening.
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.
6.1 – Acid sulfate soils	Yes	Clause 6.1 – Acid Sulfate Soils. The subject site is affected by Class 2 Acid Sulfate Soils and requires an Acid Sulphate Soils Management Plan to be submitted prior to the issue of the Construction Certificate. The development is considered to be consistent with Clause 6.1 of BBLEP 2013.
6.2 – Earthworks	Yes	Clause 6.2 – Earthworks. The proposed development involves bulk excavation to accommodate 2 basement levels. The development application has been accompanied by a Geotechnical Assessment and was referred to the NSW Office of Water for concurrence. The NSW Office of Water has provided its General Terms of Approval for the proposed development. The development is considered to be consistent with Clause 6.2 of BBLEP 2013.
6.3 – Stormwater management	Yes	Clause 6.3 – Stormwater. The development application proposes an On Site Detention system (The site is not suitable for infiltration due to the depth of water table). The site (specifically the basement) is likely to be affected by the ingress of overland flooding from a trapped low point located on John Street at the proposed basement entry. It is recommended that a condition be imposed requiring an overland flow path/drainage easement to be created through the subject site to Church Ave. Subject to this requirement, the development is considered to be consistent with Clause 6.3.
6.8 - Airspace operations	Yes	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 to this maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration. In a letter dated 29 August 2014, SACL raised no objections to the proposed maximum height of 50.2 metres (AHD). The development is considered to be consistent with Clause 6.8 of BBLEP 2013.
6.9 – Development in areas subject to aircraft noise	Yes	Clause 6.9 – Aircraft Noise. The subject site is affected by the 20-25 ANEF contour. An acoustic report has been submitted with the development application which recommends acoustic measures to be implemented in the design and construction of the building to comply with the requirements of AS2021-2000. The development is considered to be consistent with Clause 6.9 of BBLEP 2013.
6.16 – Design excellence	Yes	<p>Clause 6.16 Design Excellence. The proposed design has been the subject of consideration by Council's Design Review Panel. The recommendations of the DRP have largely been incorporated into the current design.</p> <p>The proposal complies with the maximum height and FSR controls under the BBLEP.</p> <p>The bulk and scale of the proposed development is considered to be satisfactory and the building is generally compliant with building separation requirements under the RFDC.</p> <p>The built form is contemporary in nature and presents an articulated/modulated façade, resulting in a satisfactory presentation to the street. The design provides ample landscaping and communal/private open space which is expected to provide a good level of amenity to future residents.</p> <p>On this basis, it is considered that the development application is consistent with Clause 6.16 of BBLEP 2013.</p>

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

Botany Bay Development Control Plan (BBDCP) 2013

BBLEP 2013 is the comprehensive development guideline for the City of Botany Bay. The most relevant and applicable clauses of the DCP are considered in the assessment of this development proposal and are provided below:

Part	Control	Proposed	Complies
Part	Control	Proposed	Complies

3A.2 Car Parking	<p>Residential Flat Buildings: 1 space/ studio or one bedroom units 2 spaces/ two or 3 bedroom units; 1 designated visitor space per 7 dwellings</p> <p>Commercial/Business premises 1 space/40sqm GFA =5.37 (6) spaces Commercial Space 215sqm</p> <p>Total required: 181 Parking spaces</p>	<p>A total of 179 parking spaces are proposed as follows:</p> <p>Studios/1 Bed (29 Units) - 29 spaces 2 Bed – (66 Units) – 132 spaces Visitor- 1 per 7 – 14 spaces</p> <p>Commercial 4 Spaces provided.</p> <p>Total Provided : 179</p>	No - See Note 1
3A.3.1 – Car Park Design	<p>C1 – 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 be in accordance with AS2890.2.</p> <p>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).</p> <p>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.</p> <p>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;</p> <p>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.</p> <p>Basement Car Parking C20 - Basement car parking facilities are preferred for large scale development.</p> <p>C21 - Basement parking areas are to</p>	<p>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.</p> <p>Vehicle access to the car parking areas is by way of a two lane access driveway of 6 metres width.</p> <p>No small car parking spaces are proposed or required.</p> <p>The commercial spaces are combined with resident spaces.</p> <p>Condition for all parking bays to be clearly signposted and marked.</p> <p>One basement, one at grade and two podium levels of car parking are proposed.</p> <p>Basement, podium and at grade</p>	<p>Condition to comply</p> <p>Yes</p> <p>N/A</p> <p>Acceptable</p> <p>Condition to comply.</p> <p>Yes</p> <p>Yes</p>

	<p>be located directly under building footprints to maximize opportunities for deep soil planting.</p> <p>C22 - Ventilation grills and screening devices of car park openings are to be integrated into the overall façade and landscape design of the development.</p> <p>C26 – the minimum width of the access driveway shall be 5.5 metres for 6m inside the circulation roadway</p> <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>	<p>parking is located directly beneath the building footprint and is sleeved by the commercial and residential at both street frontages.</p> <p>The basement car park will be mechanically ventilated.</p> <p>6m width proposed.</p> <p>In accordance with Part 3C and AS2890.6, 1 disabled car parking space is required. Seven (7) disabled car parking spaces are proposed.</p> <p>Condition for five (5) spaces to be allocated to the adaptable units and two (2) disabled spaces for retail/visitors respectively.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Condition to comply</p>
3A.3.4 – On Site Loading and Unloading	C1 - Service bays and parking area for commercial vehicles shall be designed in accordance with AS2890.2 and AUSTROADS guidelines.	The proposal incorporates a loading/unloading bay at Ground Level, located adjacent to a garbage rooms, The head clearance has been demonstrated and will be ensured through a condition of consent	Conditioned to comply.
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>Nine (9) adaptable dwellings are proposed.</p>	<p>Yes</p> <p>Condition to comply</p> <p>Yes</p>
3G.2 – Stormwater Management	C1 - Development shall not be carried out on or for any lands unless satisfactory arrangements have been made with and approved by Council to carry out stormwater drainage works.	Appropriate stormwater plans, in concept have been submitted and assessed as part of the application. Councils Development Engineer is satisfied and has recommended conditions of consent.	Yes
3I.2 –Safer By Design	C1 - Developments are to provide connections to existing activity centres, neighbourhoods and street networks. Isolated residential developments or gated communities	The ground floor commercial tenancies will assist in providing a connection with the street.	Yes

	<p>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 landscaping and fencing.</p> <p>C7 - Provide pedestrians and cyclists with a choice of formal pathways and routes.</p> <p>C8 - No entrapment spots should be included in any path.</p> <p>C9 - All paths shall be well lit.</p>	<p>The development is mixed use in nature, providing both residential and commercial uses.</p> <p>Public transport networks are located at Mascot Station, Bourke Street, Gardeners Road, Botany Road and O'Riordan Street.</p> <p>An active street frontage is proposed to both the John Street and Church Ave frontages.</p> <p>A detailed landscape plan has been submitted, which indicates that the pathway into the building and along the street frontage is direct.</p> <p>As above.</p> <p>No entrapment spaces are proposed.</p> <p>Condition for lighting to comply with Australian Standards.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Condition to comply</p>
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 20-25 ANEF contour. An acoustic report has been submitted with the development application which indicates that the building has 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>The applicant submitted a preliminary and detailed Site Investigation prepared by Aargus both dated 10 December 2013 for 18 and 27 Church Ave and 10 November 2014 for 22 John Street.</p> <p>This report concludes that site can be made suitable for the proposed development, subject to remediation works being undertaken to remove the contaminated soils.</p> <p>On this basis, a Remedial Action Plan to be submitted prior to the issue of the Construction Certificate for the building.</p> <p>A condition will also be required for a Site Audit Statement (SAS) to be</p>	Yes

	<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 (EPA)?</p>	submitted to Council prior to the issue of the Occupation Certificate, which states that the site has been made suitable for the proposed development.	
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 no existing street trees proposed to be removed, both in poor condition located underneath the overhead cables on Gardeners Road.	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 with either a built structure or landscaping	All proposed utilities and services are appropriately located on the northern elevation.	Yes
	<p>Deep Soil Zones</p> <p>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>	The deep soil zone is located along the southern, eastern and western boundaries which are contiguous with adjoining sites.	Yes

	<p>Planter Beds</p> <p>C16 - All planter beds to be a min 1 metre wide except where otherwise stipulated in boundary setbacks for individual development types</p>	Podium level planter beds are located within private open space terraces, which are of varied sizes/dimensions, generally exceeding 1m in width.	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 accommodates nine (9) adaptable apartments and seven (7) disable parking spaces.	Yes
9A.4.3.1 Height	C1 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 maximum permitted height of buildings is 44m. The building height proposed is 43.8m.	Yes
9A.4.3.2 Floor Space Ratio (FSR)	C1 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 3.2:1 (9319m ²) Maximum FSR is 3.2:1 or 9321.6m ²	Yes
9A.4.3.3 Site Amalgamation and Subdivision	C1 The redevelopment of lots within Urban Blocks 1, 3 and 4 must conform to the amalgamation pattern in Figures 21, 22, 24 and 25 .	The site is located within urban block 4. The proposed development site comprises of three (3) separate allotments of land which are suitable for redevelopment. It is noted that the three sites, or the adjacent three sites have not been identified in Council's Amalgamation Plan as Council's Development Control plan indicates that sites west of the Sydney Water Swoos have been recently redeveloped or upgraded or redevelopment is unlikely.	Yes
	C2 – The redevelopment of lots within Urban Blocks 1, 3 and 4 must conform to the lot alignments in Figures 26, 27, 28 and 29 .	Proposal complies with the street alignment of Figure 29 for both frontages.	Yes
9A.4.3.4 Street Setbacks	<p>C1 All development within Urban Block 4 must comply with the street setbacks identified in Figures 34 and 35.</p> <p>C4 All development within Urban Blocks 1,3 and 4 must comply with the section plans in Figures 36, 37,38,39,40,41 and 42</p>	Council's DCP has identified that sites west of the Sydney Water Swoos have been identified as recently redeveloped or upgraded or redevelopment is unlikely, Council's DCP does not specify any street setback requirements for new street alignments.	Not Applicable
9A.4.3.5 Side and Rear Setbacks	C1 – All development within Urban Blocks 1,3 and 4 must comply with the side and rear setbacks identified	Figure 15 – Urban Block 4 does not indicate any side or rear setbacks applicable to the site.	Not Applicable

	in Figures 11,12,14 and 15		
9A.4.3.6 – Building Separation	C1 Mixed Use developments containing residential units must comply with the principles and provisions of State Environmental Planning Policy No. 65 (SEPP65) and the RFDC.	At the eastern boundary the development proposes a zero lot line so when the adjacent site develops it can do so in a manner that complements this development. The proposed setbacks to the western boundary range from 4m to 9.3m and beyond and therefore do not comply with the RFDC which is explained in detail in the following note.	No - refer note
9A.4.3.7 – Building Envelope	C1 – Residential flat buildings and mixed use developments containing residential units must comply with the principles and provisions of SEPP 65 and the Residential Flat Design Code in relation to building depths.	The applicant has provided a SEPP 65 design verification statement which states that the application complies. Council has undertaken its assessment contained in Appendix B.	No – considered acceptable.
9A.4.4.4 Active Street Frontages and Awnings	C1 All development within Urban Blocks 1, 3 and 4 must provide retail or commercial street frontages where shown in Figures 49, 50, 51 and 52 .	Council's DCP does not specify any active retail or commercial street frontage requirements for the site. The awning proposed on John Street is to be reduced in width by way of a condition of consent to allow for appropriate street tree planting to be accommodated.	Yes
	C2 All development within Urban Blocks 1, 3 and 4 must provide awnings where shown in Figures 53, 54, 55 and 56 .	Council's DCP has identified that sites west of the Sydney Water Swoos have been identified as recently redeveloped or upgraded or redevelopment is unlikely, Council's DCP does not specify any awning requirement for the site.	
9A.4.4.6 Building Articulation	C2 Blank external walls of greater than 100m ² must be avoided.	The eastern elevations are blank concrete walls on the boundary. The site to the east is capable of redevelopment and can be designed cohesively with the proposed blank walls. Interim measures will be conditioned to ensure visual interest is achieved.	No – Considered acceptable
9A.4.4.7 Dwelling Size and Mix	C1 Dwellings are to have the following minimum areas: Studio: 60m ² 1 bedroom: 75m ² 2 bedrooms: 100m ²	The proposed sizes are as follows: Studios = 60-64m ² 1 bedroom = 75-79m ² 2 Bedroom = 100-107m ²	Yes
	C2 The combined total number of studio units and one-bedroom apartments/dwellings must not exceed 35% of the total number of apartments/ dwellings within any single site area.	The combined total of studios and 1 bedroom units is 40%.	No – Refer to Note 2
9A.4.4.9 Private Open Space and Communal Open Space	C2 The minimum private open space requirement per dwelling for multi dwellings and residential flats are as follows:		Yes

	Studio/1 bedroom= 12m ² ; 2 Bedrooms: 15m ²	Studio = 12m ² 1 bedrooms = 12m ² 2 bedrooms = 15 m ²	
9A.4.5.4 Solar Access and Shadow	<p>C3 Development must demonstrate:</p> <p>(i) living rooms and private open space for at least 70% of apartments in a development site and 70% of neighbouring residential development will achieve a minimum of 2 hours of direct sunlight between 9am and 3pm on 21 June.</p> <p>(ii) 30% of any common open space will obtain at least two hours of direct sunlight between 9am and 3pm on 21 June.</p>	<p>The proposed developments will receive the required amount of sunlight to 61% of the proposed apartments.</p> <p>To the south is a residential flat building that is separated by the John Street road reserve. To the east is a potential development site and to the west two residential flat buildings. It is considered that at least 70% of these developments will maintain their existing level of daylight access.</p>	No – Refer to Note 3
9A.4.5.7 Wind Mitigation	<p>C1 All new buildings are to meet the following maximum wind criteria:</p> <p>(i) 10 metres/second along commercial/retail streets;</p> <p>(ii) 13 metres/second along main pedestrian streets, parks and public places; and</p> <p>(iii) 16 metres/second in all other streets</p>	<p>A Wind Impact Assessment has been submitted with the application prepared by SLR Global Environmental solutions dated 5 December 2013.</p> <p>The report supplied as part of the application indicates compliance with this control.</p>	Yes

Note 1: Car Parking

The residential component of the development complies with a total residential and visitors spaces required being 175 spaces with 175 spaces provided. The commercial spaces required total 6 spaces where only 4 spaces are provides. As such a shortfall of two (2) space is proposed. Given the location of the property in proximity to Mascot Town centre and the Mascot Train Station and good public transport connections, as such it is considered that the two space shortfall is considered acceptable.

Note 2 – Unit Mix

In accordance with the BBDCP 2013, Part 9A.4.4.7, the total number of studio and one bedroom apartments must not exceed 25% of total apartments within the development. As indicated in the table below, the total number of studio and one bedroom apartments for the proposed development is 40%.

	TOTAL	Unit Mix
Studio/1 bedroom	38	40%
2 bedroom	57	60%
	95	100%

Table – Proposed Unit Mix

While the proposal does not comply with the unit mix under BBDCP 2013, the proposal delivers a range of apartment sizes to achieve Council's DCP requirements. The proposal also features a range of apartment styles and layouts. Further it is noted that variations to the unit mix have been supported in the past including the Meriton Development at 19-33 Kent Road (65%), Residential Flat Building at 581 Gardeners Road (43%), 39 Kent Road, (36.5%).

The majority of apartments within the development (i.e. 60%) are two bedroom units. On balance, it is considered that the proposal achieves an acceptable unit mix of dwellings, including their configuration.

Note 3: – Solar Access

In accordance with Clause 9A.4.5.4 of the BBDCP 2013, living rooms and private open space for at least 70% of apartments in a development site and 70% of neighbouring residential development will achieve a minimum of 2 hours of direct sunlight between 9am and 3pm on 21 June.

Furthermore, 30% of any communal open space will obtain 2 hours of direct sunlight between 9am and 9pm on 21 June.

Dwellings within the site.

The applicant has identified that 70 % of apartments receive 2 hours of sunlight to balconies or living rooms between 9-3pm midwinter. The applicants architect has through their reviewed SEPP 65 verification statement advised of the same in regards to daylight access.

The Residential Flat Design Code sets down objectives and rules of thumb in relation to Daylight access. The objectives are as follows:

Objectives

- . To ensure that daylight access is provided to all habitable rooms and encouraged in all other areas of residential flat development.*
- . To provide adequate ambient lighting and minimise the need for artificial lighting during daylight hours.*
- . To provide residents with the ability to adjust the quantity of daylight to suit their needs.*

Further the rules of thumb indicate:

Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter. In dense urban areas a minimum of two hours may be acceptable.

. Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10 percent of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed

Councils assessment of the application material, in particular the applicants solar access diagrams reveals that less than 70% of the dwellings receive 2 hours of daylight. Sixty one (61)% or 58 of 95 apartments receive two hours of daylight to private open space and at least the primary living area in the mid-winter between 9am and 3pm. Given the narrowness of the site and the orientation in this high density residential/mixed use area the departure is considered acceptable.

Overshadowing of Adjoining properties.

23 Church Ave

The applicant has provided indicative building envelopes and apartment design for the adjacent site to the east which is potentially subject to redevelopment. It is noted that building envelope is roughly based on an FSR of 3.68:1 providing an approximate yield of 96 units. It is noted that this application complies with the FSR of 3.2:1, notwithstanding this; the building envelope provided by the applicant for a potential adjacent development provides 70% of the apartments with at least two hours of solar access. It is noted that with a compliant building in terms of height and FSR, dependant on building form, could achieve compliance.



24-28 John Street

This site is located to the south west of the site.

Accordingly the proposed development impacts 24-28 John Street only in the morning on 21 June between 9am and 11am. The approval of 24-28 John Street considered the development of the application site in terms of shadow impacts next door in terms of shadow impacts.

For the remainder of the day the development does not impact this site. However in accordance with Council's Controls 70% of apartments in neighbouring sites must achieve two hours of solar access.

In regards to the development to the west, 24-28 John Street there are single aspect (easterly) apartments that are impacted by the proposed development. Other apartments within the

complex are dual aspect. In regards to 1-5 Bourke Street although there are some single aspect (easterly facing) apartments these are located generally between the gap between Tower A and B and therefore receive some morning sunlight but in the afternoon are overshadowed by their own development. Other apartments in the most adjacent tower are generally dual aspect.

The design and siting of the development minimises overshadowing given the constraints of the site. Further, the proposal complies with the maximum height and FSR provisions of the LEP and therefore the resulting shadow from the development would not be unreasonable or unexpected.

The proposal is not considered to result in significant adverse impacts to the surrounding dwellings and is therefore compliant with the solar access provisions under Clause 4C.5.8 and SEPP 65.

Council has undertaken a 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 site is located within the Mascot Station Precinct, identified as a high density mixed use commercial/residential area and accordingly, it is unreasonable to expect that adjoining properties will retain existing sunlight. To the east of the subject site is No. 23 Church Ave, which contains a low level industrial building, sited within 2 metres of the common boundary, this property is likely to be subject to further development so an assessment against a similar type of development as proposed. To the south of the subject site is John Street and a residential flat building at 222 Coward Street.

To the west are two residential developments to the north and west of the site is 1-5 Bourke Road and to the west but to south is 24-28 John Street, Again being another residential flat building. Given the orientation of the allotments and high density development surrounding the site, there will be some properties impacted by the proposed development. The proposed development impacts the sites from 9am to 11am, from Midday these properties overshadow themselves. Notwithstanding this, consideration of the shadow impacts from the development of the subject site were considered as part of the applications at 1-5 Bourke Road and 24-28 John Street.

It is noted that 30 of the 115 apartments (25%) at 1-5 Bourke Road are impacted as they are east facing only.

At 24-28 John Street, despite the shadow impacts being assessed from the development of the subject site, in principal, it is noted that the approval for the units fronting John Street and the east (8 Apartments) have been approved with privacy screens on their balconies meaning they can't rely on the east facing nature of the balconies. These are only single aspect and are setback approximately 3.5m from the common boundary.

The other single aspect (easterly) apartment (8 Apartments) at this development is also impacted as the proposal overshadows them for 2 hours.

Additional shadow diagrams have been submitted on 27 January 2015. These indicate that the potential adjoining developments to the east, being 23 Church Ave will be affected by overshadowing, however will continue to receive a minimum of 2 hours sunlight during winter solstice for at least 70% of the development therefore complying with the control.

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

Comment: The proposal is of quality design and is appropriate in context given the primary location within the Mascot Station Precinct and dual street frontages. The width of the shadow is split due to the split nature of the proposed towers. It is noted that the development fully complies with built form controls of BBDCP 2013, which is a significant reduction from what was originally presented to Council and the Design Review Panel.

- *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, the north facing properties along John Street continue to receive sunlight from 12pm and therefore complies with the controls.

Window sizes and locations are not yet known for 23 Church Street, however it is envisaged that there will be some overshadowing to the lower levels but as indicated on plans submitted by the applicant of how the site could develop, compliance with the control is achieved.

The setbacks provided by the properties at 1-5 Bourke Street and 24 John Street have not provided half of the relevant setback within their sites. It is noted that from 11am, these properties are not shadowed by the development and rather shadowed by their own developments.

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

Comment: The private open space areas to the future potential development at 23 Church Street have been assessed by Council and the applicant and receive the required level of sunlight.

As stated above, the shadow cast from Tower C is smaller due to the height of the building being smaller than what is reasonably anticipated with a building that is built to the height limits of the zone.

At 222 Coward Street, the north facing private open space balconies are setback 20.5m from the sites southern boundary to John Street. Further they will still maintain morning and afternoon sun. The properties to the west are either dual aspect in which case maintain their daylight access or a limited number of single aspect that are impacted but still receive some level of sunlight typically in the morning.

- *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 west have been redeveloped. The adjoining properties to the east is yet to be redeveloped for residential development similar to that proposed under this development application and that envisaged under the controls of BBLEP 2013 and BBDCP 2013. As mentioned the applicant has submitted shadow diagrams for how the property to the east could develop which would comply with the controls.

Note2: Building separation

The requirements for building separation under the RFDC are as follows:

- *One to four storeys/<12m:
12 metres between habitable rooms*

- 9 metres between habitable/balconies and non-habitable rooms

6 metres between non-habitable rooms
- Five to eight storeys/up to 25m height:

18 metres between habitable rooms

13 metres between habitable/balconies and non-habitable rooms

9 metres between non-habitable rooms
- Nine storeys +/>25m height:

24m between habitable rooms/balconies

18m between habitable/balconies and non-habitable rooms

12m between non-habitable rooms

Internal separation distances

Tower A to Tower B



The separation of Tower A to Tower B is 21 metres up to level 11 between balconies to habitable rooms. The separation distance between Tower A and Tower B above level 11 is 24 metres.

The separation of Tower A to Tower B below 25 metres complies with the required separation distance of 18 metres as 21 metres is provided.

The separation of Tower A to Tower B above 25 metres does not comply up to 35.5 (Level 12) where the separation distance is 24 metres.

Typically balconies are offset from each other to ensure no direct overlooking.

As such the non-compliance of 3 metres over approximately 3 floors is considered acceptable in this instance.

Tower B to Tower C

The separation distance from Tower B to Tower C is at a minimum of 24m between habitable rooms and balconies between the buildings and thus complies.



External Separation Distances



As demonstrated in the above diagram the site to the east is known as 23 Church Ave (Zero Lot Line Setback) the site to the south-west is known as 24-28 John Street (4 metres to common boundary, 7 metres to habitable rooms and balconies) and the site to the north- west is known as 1-5 Bourke Road (ranging from 11m to 18 metres).

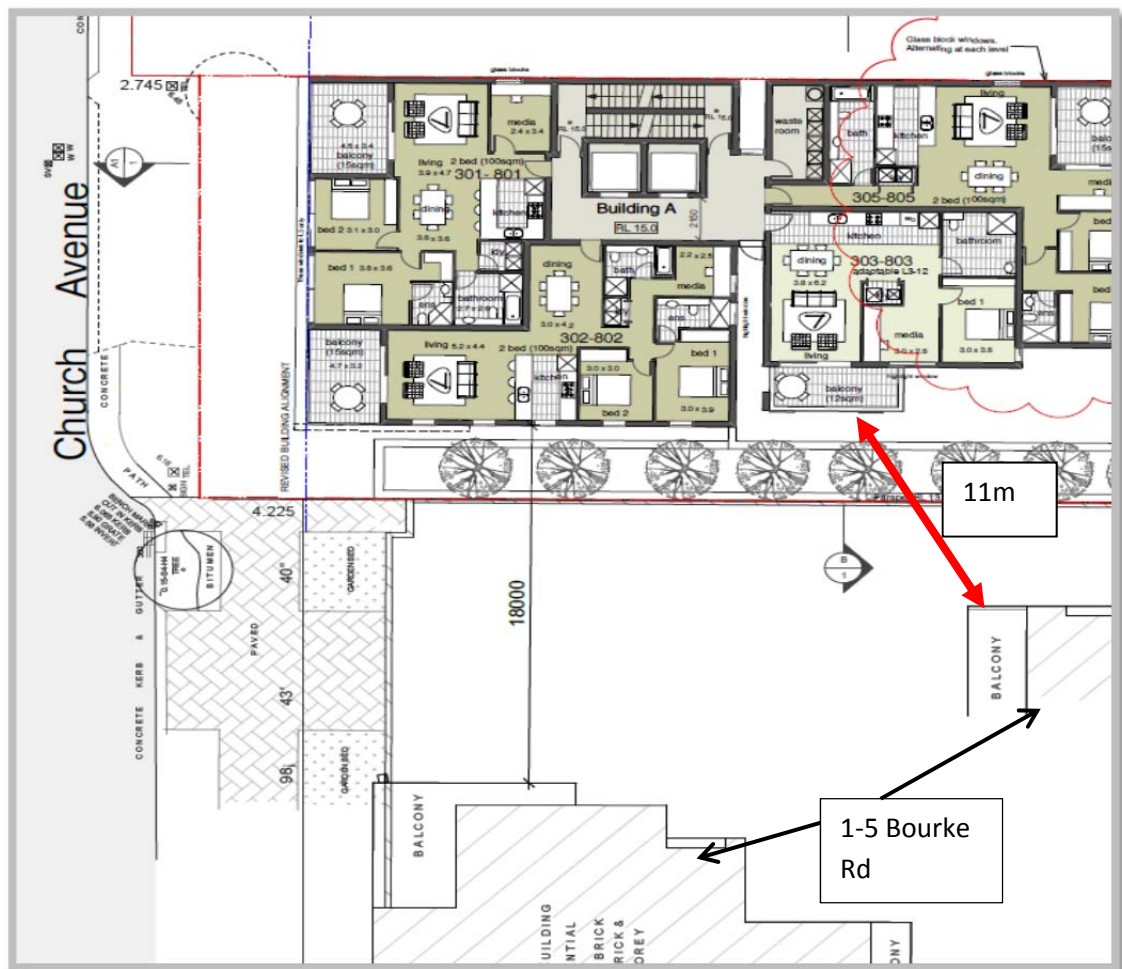
23 Church Ave

All towers are located on a zero lot line on the eastern boundary. The development plans indicate glass block windows on these walls; however these will be deleted

through a condition of consent as they provide no ventilation and are a limited light source. The design is such that it can be abutted if the adjacent site develops.

1-5 Bourke Road

The separation distance from Tower A(northern portion) from habitable rooms to the balconies on 1-5 Bourke Road is 18m as demonstrated in the figure below and therefore complies with the minimum 18 separation distance up to Level 7 (25 metres). It is noted that residential flat building at 1-5 Bourke Street has nine (9) levels. Level 8 and above therefore does not comply with the 24m required separation distance for the existing balcony, living area and bedrooms at 1-5 Bourke Street (northern tower).



The separation distance between the southernmost balcony on the eastern façade of tower A and the adjacent balcony on 1-5 Bourke Street is 11 metres when measured at an angle of 60 degrees. This increases to 15m setback from balcony to the proposed habitable room on 27 Church Ave. Even though this is a non-compliance, given the viewing angles and the availability of privacy screens on the proposed balconies the non-compliance is considered acceptable.

All habitable rooms located along the western boundary of Tower B have high level windows to maximise privacy. The orientation of the western most unit of Tower B is primarily to the north. A privacy screen protrudes from western façade of the building. The balcony of western most unit does have some orientation to the west, and as such creates privacy impacts. In order to mitigate this, fixed privacy screens will be required to the western façade of the balcony through a condition of consent.

The separation distance to 1-5 Bourke Street from Tower B is 9.3 metres measured in the horizontal plane, in a perpendicular manner between builders.



As noted above the adjacent unit in Tower B will have privacy impacts mitigated through conditions of consent. As such, even though the separation distance does not comply, the impacts can be appropriately mitigated.

As shown in the diagram above, there are apartments at 1-5 Bourke Street that have a single easterly aspect as evidenced from the two balconies on the building outline which comply with the required separation distance of 24 metre. These are able to look through the separation between the proposed buildings (as indicated by the red arrow) which is considered a reasonable outcome both in terms of solar access and privacy.

24-28 John Street

Tower C is setback typically 4m from the western boundary accompanied with the building at 24-28 John Street being setback a further 3m (approximately). All windows on Tower C that face the western boundary are high silled at 1.8m.



The southernmost proposed balcony directly faces the adjacent building which provides a separation distance of 7m, it is recommended that the western façade of this balcony have fixed louvres to maximise privacy. It is noted that the balconies impacted at this location at 24-28 John Street also have privacy screens and as such the non compliance in the separation distance is considered acceptable through these mitigation measures. From the northernmost balcony of Tower C there is only a separation of 11m to the main bedroom window of 24-28 John Street, as indicated in the above diagram. The building at 24-28 John Street is 9 storeys in height.

The departures outlined above are unlikely to result in privacy impacts to either the residential flat building at 1-5 Bourke Street and 24-28 John Street, Mascot as privacy screens or other such measures have been used to mitigate any potential privacy issues. On this basis, the non-compliance with the SEPP is considered to be minor.

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

These matters have been considered in the assessment of the application. It is considered that the proposal would be unlikely to result in significant adverse environmental, social or economic impacts in the locality.

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

These matters have been considered in the assessment of the development application. The subject site has been used continuously for many years for a bowling club and has no known history of industrial uses. Pockets of contamination have been identified on site, however adequate information has been submitted to confirm that the site can be made suitable for the proposed residential development. In addition, an acoustic report has been submitted to demonstrate that the development can meet the acoustic requirements of sites affected by aircraft noise (ANEF 20-25). Accordingly, it is considered that the site is suitable for the proposed development.

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

The application was first notified for a period of 30 days from 28 January 2014 to 28 February 2014 in accordance with Council's Notifications Policy together with the Integrated Development provisions under the EP&A Act 1979. A total of 13 individual submissions were received.

The amended proposal was re-notified from 30 July 2014 to 30 August 2014. A total of 5 individual submissions were received.

Issues raised within submissions relating to building design, desired future character, site isolation, building separation, landscaping, communal open space and podium and solar access/overshadowing have been addressed in this report as part of the detailed assessment. Other matters raised within the submissions are summarised and addressed as follows:

Summary of Issue	Applicants response / Council Comment
Claims that views to the city will be lost from their top floor penthouse apartment impacting upon the value and potential growth of property value in the future. Believes that compensation from the developer must be paid.	<p><u>Applicants Response:</u> The height of the building is as envisaged by the planning controls and is compatible with the height of development in the vicinity. Distant views will be restricted by any other similar developments in the vicinity which build to the permissible height limits established under the Botany Bay LEP 2013.</p> <p><u>Council Comment:</u> The proposed development is both within the height and floor space ratio controls for the site and therefore is reasonably anticipated development. Refer Note 2 Below for view loss analysis.</p>
Concerned about the impacts to the local community. Considers that	<p><u>Applicants Response:</u> The Mascot Station Precinct has been</p>

<p>overdevelopment and overpopulation will compromise quality of life of the local community and surrounding area. Claims a residential tower on the site is not appropriate for Mascot.</p>	<p>identified as an “Urban Activation Precinct” by the NSW Department of Planning & Environment. The residential tower is an appropriate form of development in this part of Mascot, in proximity to a transport node, services and facilities, and will contribute to the desired future character of the area.</p> <p><u>Council Comment:</u> The proposed development is akin to similar applications that seek to intensify the residential population within this location. The proposal complies with the planning controls in the BBLEP 2013</p>
<p>Believes that the site is too small for development, and is being further subdivided.</p>	<p><u>Applicants Response:</u> The site has a total area of 2,913m² and has been enlarged by consolidating an additional lot (22 John Street). The site is not being further subdivided.</p> <p><u>Council Comment:</u> The Site is capable of being developed in a way that can achieve appropriate residential amenity for a site of this nature.</p>
<p>Considers that more green space, community facilities, shopping and lifestyle facilities are needed, and should be developed on the site. Notes that if this is provided as part of development and would support.</p>	<p><u>Applicants Response:</u> Some commercial space will be provided at the Church Avenue frontage and will activate the street frontage. A variety of commercial and retail space has been provided in recently completed developments adjacent to Mascot Station that will provide shopping and lifestyle facilities. Furthermore, Section 94 contributions will support community facilities in the vicinity. The proposal generally meets minimum landscaping requirements, provides communal space at roof level of the building and will contribute to the road widening of Church Avenue and John street.</p> <p><u>Council Comment:</u> It is noted that the proposal does incorporate some opportunity for commercial operations which will potentially further enhance the lifestyle and liveability of the Mascot Station Town Centre. In addition, a number of everyday needs will be able to be met</p>

	with the Meriton development at 19-33 Kent Road, which is well under construction. This site is within close proximity to those planned facilities.
Requests that the overall height of buildings be reduced.	<p><u>Applicants Response:</u> The height of the building is below the maximum permitted height allowable in the area under Botany Bay LEP 2013.</p> <p><u>Council Comment:</u> The proposed height is compliant with the 44 metre height limit for this locality.</p>
Considers that the proposed development is inconsistent with the local context in particular the scale and proportion of the surrounding buildings.	<p><u>Applicants Response:</u> The scale and proportion of the building is compatible with that of other buildings recently constructed in the Mascot Station Precinct and as envisaged in the planning controls for the area and the site generally. Some of the existing buildings of a lesser height and scale were designed under the older (1995) controls.</p> <p><u>Council Comment:</u> It is noted that the majority of buildings surrounding the development site have a greater FSR than 3.2:1 but are potentially lower. Notwithstanding this, the proposal complies with the current LEP controls for height and Floor Space Ratio.</p>
Claims that the buildings exceed height restrictions.	<p><u>Applicants Response:</u> The proposed building will have a height of 43.8m which complies with the height limit of 44m specified in Botany Bay LEP 2013.</p> <p><u>Council Comment:</u> The maximum height of the buildings is 43.8m</p>
Considers that the solar access and air flow to their apartment will be impacted significantly affecting his quality of life.	<p><u>Applicants Response:</u> Updated shadow diagrams have been prepared. The updated diagrams show that there will be impact on some of the units located on the lower floors of the adjoining mixed development to the west. This is an inevitable consequence of the current planning controls that have allowed substantial increases in height. A</p>

	<p>reduction in the height of the proposed development would not necessarily improve solar to the lower level units. The updated diagrams show that the adjacent site to the west will be impacted by shadow from the subject development for only 1.5 hours in the morning in winter. The most significant impact on solar access to the apartments on the eastern side of the building is caused by the building itself.</p> <p><u>Council Comment:</u> Shadow diagrams have been presented and discusses in detail in the report. The development does impact on adjacent dwellings but given the orientation of the site it is difficult to protect all dwellings from overshadowing.</p>
Notes that shadow diagrams were not submitted with revised application. Requests that revised shadow diagrams (factoring in seasons) be completed and submitted for review.	<p><u>Applicants Response:</u> Updated shadow diagrams in relation to the revised application have now been prepared and are attached.</p> <p><u>Council Comment:</u> Revised shadow diagrams were received by Council. Furthermore, it is noted that the closest building to John Street and the submitter is only a maximum of 9 storeys (height 30.2m)</p>
Considers that the building separation of Tower B and Tower C of less than 10m to adjoining sites (1-5 Bourke St & 24-28 John St) is too small, not compliant with the RFDC and significantly impacts upon the amenity of residents in terms of solar access.	<p><u>Applicants Response:</u> Building B was moved further to north at the request of Council to retain in the east-west view corridor stretching from Bourke Street to O’Riordan Street. This has resulted in departures from RFDC separation guidelines. However, Building B was extended no further north than to the point to where there are single orientation units in the adjacent building. This would mean that one aspect for the corner units would be impacted; however the units would have the benefit of an orientation to the other aspect and importantly, view to the building separation that contributes to the view corridor.</p> <p><u>Council Comment:</u> It is acknowledged that the site is constrained in width.</p> <p>The apartments within Building B and C</p>

	<p>generally have high level windows to the western boundary adjacent to existing residential flat buildings. It is noted in Building B the balcony has a significant opportunity to produce privacy impacts and shall be conditioned to have fixed privacy screened to the western facade. Other privacy issues have been minimised through conditions of consent</p>
<p>Inappropriate to build (Tower B) adjacent to single facing units.</p>	<p><u>Applicants Response:</u> Building B was relocated no further north than to a point where there are single orientation windows in the adjacent building. This means that single facing units are not directly adjacent to Building B, but rather face the separation between Buildings A and B.</p> <p><u>Council Comment:</u> Whilst The development is closer to existing development, however privacy impacts can be mitigated through conditions of consent. Noting both 1-5 Bourke Street and 24-28 John Street both do not comply with the required setbacks of SEPP65.</p>
<p>Considers that the view corridor from Laycock Walk (north-south) should also be preserved.</p>	<p><u>Applicants Response:</u> It is not practical to preserve all view corridors in the vicinity.</p> <p><u>Council Comment:</u> A view corridor will be preserved between the buildings which is equivalent to the width of Laycock walk.</p>
<p>Claims that the level difference between podium (proposed) and podium of adjacent site creates a high 2.5m wall on the boundary with evergreen trees growing to third level obstruct views to podium level from the neighbouring site. Considers this to be unpleasant and depressing.</p>	<p><u>Applicants Response:</u> An adjustment to the basement levels has been made to ensure the podium levels are now closer in RL. On the western boundary where deep-soil planting has been proposed, the parapet level has been reduced in height to match podium parapet height of 1-5 Bourke Street (according to survey, the level of the adjacent parapet is approximately RL 13.91) (see Figure 3 in the Supplementary Report).</p> <p>The planter originally proposed at podium level has also been extended to Church Avenue. Apartment 202 in the complex has therefore been modified to accommodate this change.</p> <p><u>Council Comment:</u></p>

	<p>The proposal has been designed to be as close as possible to other podiums in the vicinity. An offsetting in levels is produced and where blank walls are proposed, these are proposed to be planted to enhance to amenity.</p>
<p>Considers that the uneven base (podium) to both sides of proposed development is inconsistent with surrounding buildings – podium on west side (1-5 Bourke St) is 2 levels from ground, but further east (17-19 Church St) is only 1 level from ground.</p>	<p><u>Applicants Response:</u> As outlined above, an adjustment has been made to ensure the podiums are closer in RL.</p> <p><u>Council Comment:</u> The proposed podiums have been designed to be as close as possible to adjacent podiums.</p>
<p>Considers that the podium level should be reduced. Alternatively a high wall can be set back to reduce level difference or number of units reduced.</p>	<p><u>Applicants Response:</u> As outlined above, an adjustment has been made to ensure the podiums are closer in RL.</p> <p><u>Council Comment:</u> The proposed podiums have been designed to be as close as possible to adjacent podiums.</p>
<p>Points out that there are no setbacks on southern end of the deep soil zone – enclosed car park stair well is built to boundary at 16.6m.</p>	<p><u>Applicants Response:</u> This projection is for a distance of 2.5m, which is short compared to the 62m long deep soil zone.</p> <p><u>Council Comment:</u> The car park stair is well located to ensure that most efficient use of the land.</p>
<p>Considers that the location of the deep soil area (along the boundary line) and proposed tree species – Elaeocarpus reticulatus (Blueberry Ash) – to be planted is inappropriate as it is too tall (grows to 8m level 3) at such a proximity to adjoining sites. Concerns also raised about maintenance (location and access issues) of the trees.</p>	<p><u>Applicants Response:</u> The selection of planting in this location can be amended to allow for species of a lesser height if considered necessary.</p> <p><u>Council Comment:</u> A detailed landscape plan is required by condition of consent prior to the issue of a construction certificate.</p>
<p>Considers that the BBQ and entertainment area is located too close to adjacent property and potentially affects the amenity of surrounding residents due to noise, smoke/fumes and odour.</p>	<p><u>Applicants Response:</u> There is considered to be sufficient setback provided from adjoining buildings so that the BBQ and passive recreation area will not unduly affect the amenity of the adjoining premises. This area can be relocated or further screening provided at the detailed design stage.</p> <p><u>Council Comment:</u> Body Corporate/owner rules and finalised design can be ensured to minimise</p>

	impacts on adjacent residents.
<p>Considers that the proposed 14 storey buildings are too high, out of proportion and inconsistent with surrounding buildings and should be reduced.</p> <p>Notes that:</p> <p>» there is no specific information on the maximum number of storeys for this site however Botany Bay DCP 2013 states that buildings along Church Avenue should be limited to a maximum of 6 storeys above ground. Provides examples of developments along Church Avenue most of which are 6 storeys with the exception of 3-9 Church Ave (Rina Complex) at 8 Storeys and 1 Church Ave at 13 Storeys.</p> <p>» DCP control Section 9A.4.3.1 which may require reduction of height of buildings allowed under the LEP if the proposed development has unacceptable adverse impacts.</p>	<p><u>Applicants Response:</u> The height of the building is below the maximum permitted height allowable in the area and is compatible with height of other recent development in the vicinity and as envisaged in the current planning controls.</p> <p>Some existing development in the vicinity of a lesser height and scale were developed under earlier controls applicable in the area (1995).</p> <p><u>Council Comment:</u> The height bulk and scale controls, in particular the height and floor space ratio controls set down in Botany Bay Local Environmental Plan 2013 have been complied with.</p> <p>It is noted that the site does not benefit from a anticipated building envelope design like others within the Development Control Plan 2013. Therefore the LEP controls and a merit assessment.</p>
<p>Claims that the proposed height and position of Tower A significantly reduce solar access (from approx. 2hr to less than 1 hour from 9am-11am to the main living area) of units immediately adjoining to the west.</p>	<p><u>Applicants Response:</u> There will be a reduction in solar access to units in the lower levels of the existing buildings adjoining to the west as an inevitable consequence of the tower buildings in this dense urban environment.</p> <p>This is also a consequence of the existing balconies being built 3.2m from the boundary.</p> <p>The latest design amendment has increased the separation between Building A and Building B from 18m to 21m, which slightly improves daylight access to the adjoining site.</p> <p><u>Council Comment:</u> Given the constraints of the site, any development on this site would have an impact on the solar access of the apartments within the residential flat buildings to the west.</p>
<p>Raises concerns about safety of the podium area particularly at night given the area will not be visible from the adjoining site due to the elevated wall and</p>	<p><u>Applicants Response:</u> There will be more than adequate overlooking of public and communal spaces from units within the subject</p>

<p>boundary plantings.</p>	<p>development and from the upper levels of the adjoining development. <u>Council Comment:</u> Passive surveillance will occur from within the development. The podium level will have restricted access to residents and guests and this will be met through a condition of consent.</p>
<p>Considers that the sites redevelopment and design could be undertaken with the adjoining 23 Church Avenue to produce a more complete and coherent plan.</p>	<p><u>Applicants Response:</u> The proposal allows for the future redevelopment of the adjoining site, in such a way that will create a coherent streetscape, good amenity for adjacent units, and maintain a view corridor across the site, as detailed more fully elsewhere in this response. <u>Council Comment:</u> Agreed, however these are in separate ownership and the development has been well considered to ensure future development can match this proposed form whilst ensuring that the view corridor through the site is maintained (between Tower B and C).</p>
<p>States that C&V Engineering are now the owners of 16-18 John Street, Mascot.</p>	<p><u>Applicants Response:</u> Noted. <u>Council Comment:</u> 16-18 John Street is in the ownership of C and V Engineering. This entity is different to the owner of 23 Church Ave.</p>
<p>Considers that the applicant's submission to Council to vary side setback control stating that the zero lot line and side setback does not impede future development of 23 Church Avenue and 16-18 John Street, Mascot is inaccurate and misleading. Claims that the applicant has not completed any shadow analysis or solar access to validate this theory.</p>	<p><u>Applicants Response:</u> The proposal to vary the side setback controls and allow the building to be sited to the common boundary with 23 Church Avenue will allow that site to be developed with buildings also sited to the common side boundary – a mirror effect. This siting will mean the development of 23 Church Avenue will have dwellings with a north, south and east orientation. It is noted that a previous development application (DA 09/061), proposed a multi-storey mixed commercial and residential development on the site of 23 and 27 Church Avenue (not including the</p>

	<p>John Street properties). The building was designed to allow for the independent construction of 23 and 27 Church Avenue including separate demolition of existing structures, land remediation and validation, building construction and occupation. If constructed independently and at different times, the building that was first constructed would have been sited to the common boundary.</p> <p>It would not be necessary to undertake additional shadow analysis to validate that a building could be constructed to the boundary on the site of 23 Church Avenue.</p> <p><u>Council Comment:</u> Under the DCP, the site does not have a side setback control.</p> <p>The zero lot line is considered reasonable as it allows future development on 23 Church Ave to abut the built form.</p>
<p>Claims that applicant did not consult with them on potential design approaches or impacts of the development upon 23 Church Avenue and 16-18 John Street, Mascot.</p>	<p><u>Applicants Response:</u> A number of meetings and discussions have been had with the owners of 23 Church Avenue and were not successful at coming to any agreement on a joint venture or sale to one party. Council had previously suggested that a Master plan be prepared to demonstrate how the sites could be separately developed. It was proposed to the owners of 23 Church Avenue to do that and share the cost, but the offer was declined.</p> <p>The current plans demonstrate that it is the most practical design approach to allow for the sites to be developed independently but achieve an integrated design outcome on completion of development on each site.</p> <p><u>Council Comment:</u> This application is assessed on its merits. Both the applicant and the owners of 23 Church Ave, have indicated that both sites can develop independent of each other.</p> <p>Further it is noted that Council has recently met with the owners on 23</p>

	Church as a Pre-Development Application meeting as recently as 25 February 2015 where an independent indicative scheme has been presented.
Considers that the applicants submission to vary side setback control failed to recognise other key areas of concern from their previous submission including lack of ventilation, lack of light to rooms on the boundary, increase overshadowing, decrease in sunlight to adjacent properties, permanent blank walls to boundary, non-compliance and positioning of buildings related to master planning of the precinct, non-compliance with podium height affecting views from adjacent site and sterilisation of sites in John Street.	<p><u>Applicants Response:</u> The plans and SEE have adequately addressed these issues. The previous DA (DA 09/061) for 23-27 Church Ave proposed a design that provided for buildings to be constructed independently on each site with the possibility of blank walls on the boundary in the interim. It is proposed that the wall on the common boundary will be modulated and architecturally treated until, or in the event that, development occurs on the adjacent site. It would likely result in a poor design outcome if each site was developed with building forms that provided for setbacks from the common side boundary. Setbacks could not be provided that would achieve the objectives the RFDC guidelines. Furthermore, as discussed above, the siting of development on the common boundary is the best way to achieve a number of objectives, such as:</p> <ul style="list-style-type: none"> • good solar access for dwellings in 23 Church Avenue (orientation to the north and east predominantly) • maintain a view corridor from Bourke Street and O’Riordan Street as requested by Council • coherent streetscape. <p><u>Council Comment:</u> These sites do not have any side setback controls. Solar access and the entire application has been assessed both through Council controls and SEPP 65.</p>
Considers that proposed development does not adequately address potential future redevelopment of site or implications for future potential redevelopment.	<p><u>Applicants Response:</u> Disagree, as for the reasons outlined above. Plans have been provided with the DA documentation show indicative floor plates to demonstrate how the adjoining site could be developed.</p> <p><u>Council Comment:</u></p>

	Both the applicant and the owner of 23 Church have investigated the development potential of the adjacent site which reveals that this proposal does not prejudice the redevelopment of the adjacent site.
Claims that applicant has not adequately demonstrated that the objectives under Section 9.A.4.3.3. – Site Amalgamation and Subdivision of Botany Bay DCP 2013 can be achieved.	<p><u>Applicants Response:</u></p> <p>Section 9.A.4.3.3 of Botany Bay DCP 2013 does not require that the sites be amalgamated (refer Figure 25 – Lot Amalgamation – Urban Block 4).</p> <p>Objectives of Section 9.A.4.3.3:</p> <p>O1 To consolidate allotments where necessary to allow for development of built forms that make a positive contribution to the spatial definition of the street;</p> <p>O2 To ensure that smaller allotments of land are not isolated leaving them unable to develop efficiently in the future;</p> <p>O3 To provide for the creation of new allotment boundaries where they are required to enable the proposed new roads and public domain works;</p> <p>O4 To ensure redevelopment sites are of a suitable size and shape to enable high density residential and mixed use development forms;</p> <p>O5 To improve permeability and amenity by creating new internal streets; and</p> <p>O6 To establish Bourke Street as the main retain and pedestrian/cycle street with Church Avenue playing a supporting role.</p> <p>It is considered that the proposal meets the objectives of the section, in particular the incorporation of 22 John Street into the subject development. This means no small lots have been left isolated.</p> <p>The plans indicate that both the enlarged lots at 23 Church Avenue and 27 Church Avenue can be developed independently whilst achieving a built form that makes a positive contribution to the spatial definition of the street.</p> <p>The Botany DRP indicated that if the current proposal is to proceed, it would be acceptable in terms of its massing relationships to existing adjoining</p>

	<p>redevelopment. The blank walls on the east and west elevations must be modulated and detailed to provide a high standard of presentation where exposed to view. These features have been incorporated into the design and will be further refined at the detailed design stage.</p> <p><u>Council Comment:</u> The site has not been identified as a site that is needed to amalgamate with Council's DCP.</p> <p>Previous approvals have indicated that the sites can develop independently of each other</p> <p>Notwithstanding this, site isolation is commented on below, refer note 1</p>
Claims that it has always been their intention to try to amalgamate their properties with the proposed development in order to provide a mutually more appropriate development site for a quality design outcome.	<p><u>Applicants Response:</u> This claim is hard to support given that the owners of 23 Church Avenue had previously owned the site at 27 Church Avenue. Also, the previous application (DA 09/061), although purporting to amalgamate the sites, expressly provided for the independent construction of the building on each of the sites and the building was designed accordingly (i.e. with separate walls on the common boundary).</p> <p><u>Council Comment:</u> The site meets the tests of not being isolated and both parties have demonstrated both sites can develop independently of each other that will produce similar outcomes.</p>
Considers that that the statement in the SEE regarding attempts to amalgamate the sites is broad and misleading. C&V Engineering claim that several proposals were put forward however these were all ignored.	<p><u>Applicants Response:</u> Attempts were made to amalgamate the sites but for commercial reasons, were unsuccessful. The owners of 23 Church Avenue have maintained that they have a viable industrial use operating on their site and have no need to proceed with an amalgamation at least in the short to medium term.</p> <p><u>Council Comment:</u> This application is assessed on its own merits.</p>

<p>Considers that the development of site of 23 Church Avenue and 16-18 John Street, Mascot relies on a specific form of development occurring (identified on the roof plan as “Indicative Development Outline”) should be rigorously tested to ensure high amenity and available density can be achieved.</p>	<p><u>Applicants Response:</u> The plans for the redevelopment of 27 Church Avenue demonstrate that a viable development with high amenity and realisation of available density can be achieved on 23 Church Avenue. Indicative floor plates have been prepared to demonstrate how the adjoining site could be developed. The previous DA (09/061) for 23-27 Church Avenue provided for development on each site to the common boundary and was considered the most practical design for the redevelopment of sites either individually or separately. A design providing for separate tower elements on each site with side separation from each other would not be practical and would likely result in reduced separation to the existing residential developments to the east and west of 23 and 27 respectively. <u>Council Comment:</u> The applicant has rigorously tested both their own development form and the development form put forward by the owner of 23 Church Ave. Council notes the following: As is the case with this development, the floor space ratio control of 3.2:1 can be achieved on the adjacent site within the prescribed height limits. Amenity can be ensured through design excellence.</p>
<p>Considers that building envelopes should be established to show how the building forms on the adjoining sites identified in the roof plan as “Indicative Development Outline” would relate comply with solar access and privacy requirements under the RFDC.</p>	<p><u>Applicants Response:</u> Some indicative floor plates have been prepared to demonstrate how the adjoining site could be developed. As stated above, such a building footprint would achieve a number of objectives including social access. <u>Council Comment:</u> The applicant has provided a potential design outcome and assessed the overshadowing impacts of that development.</p>

Note 1 - Site Isolation

Section 9A.4.3.3 Site Amalgamation and Subdivision has not identified this site for site amalgamation. However, as this will leave three sites (23 Church, 16 and 18 John Street) undeveloped.

The following assessment is provided which addresses the relevant matters of consideration to the Isolation of Sites principles.

Assessment under the relevant Planning principle including Cornerstone Property Group Pty Ltd v Warringah Council [10493 of 2003] was provided: The applicant's response is as follows:

“The plans indicate that both the enlarged lots at 23 Church Avenue and 27 Church Avenue can be developed independently whilst achieving a built form that makes a positive contribution to the spatial definition of the street.” Accordingly as the sites can develop which has been proven by both the applicant through this application and further studies and the neighbours proposed development as outlined in pre development application meetings held with Council, the site is not considered isolated and as such no further assessment is required.

Council notes further that the proposed development is situated on three separate allotments of land all held in the same ownership. (Lot 3 506923, Lot 1 DP799325 and Lot A DP360656). The neighbouring allotment to the east, being 23 Church Ave (Lot Z DP 405064) is held in one ownership and then 16-18 John Street being Lot A and B DP316950 are held in the same ownership. It is noted that Councils information for the address for service indicates that these allotments are probably the same owner, however technically these allotments have different entities in regards to ownership.

The three allotments to the east have a combined area of 3,662sqm, being similar in size to the proposed development site. The applicant and the owners of the adjacent site have both identified that the adjacent site can develop in a manner that is similar to the proposed development.

Therefore, there is no site isolation of 23 Church Ave, 16-18 John Street, as a result of the proposed development.

It is noted that the original application, did not include 18 A John Street, however during the assessment period, the applicant has secured this allotment.

Note 2 - View Loss

Although the proposed development complies with height limits for the zone one submission has raised view loss from the site to the south at 222 Coward Street.



Photo- view to the western edge of balcony (standing)



Photo – view to the north from eastern side of balcony



Photo – View from living/dining (standing) balcony to the north

The following assessment has had regard to the case law established by *Tenacity Consulting v Warringah* [2004] NSWLEC 140 which has established a four-step assessment of view sharing.

Unit 23/ 222-228 Coward Street

Step 1: The first step is the assessment of views to be affected. The outlook from No.23 is currently to the district horizon, over a distance of about 6.1km. Though the city is visible on the horizon, it is a distant feature on the skyline. The city skyline occupies a minor percentage of the available panorama. The majority of the view is distant, of a general nature. Whilst a feature in the panorama, the city skyline does not have the same iconic weight as a single point of focus of significance, comparable to, say, the Harbour Bridge, water views; or the Opera House. Due to the distance, there are no distant features within this panorama, with the city skyline being a very small, distant, component to the outlook of the unit.

Step 2: The second step is to consider from what part of the property the views are obtained.

The panorama is available from various points on the external balcony which benefits from a northerly aspect but is also able to obtain district views to the east and north east and north though its design includes a blade screen wall to the east, thus restricting outward viewing. The combined living dining area benefits from a dual aspect with full length windows to the

north and to the west. From a sitting position, there are also views to the horizon. Internally, the outlook to the city is more across the central portion of the subject site from a standing and sitting location in the dining area.

Step 3: The third step is to assess the extent of the impact. The development would occupy about 10-15% of the available panorama to the north and west. There remains a generally open outlook, and the City skyline vista remains, although the western portion of the skyline will be obstructed by the proposed development, the main focus of the CBD including Sydney tower and its surrounds is unaffected. The reduction in aspect relates to a portion of the regional district outlook and a small portion of the city skyline, views to the north (including the City skyline) and to the north-east, towards the golf courses and wider district are all retained.

Step 4: The fourth step is to assess the reasonableness of the proposal that is causing the impact. The interrupted panorama is not a view that could be expected to be retained, given the expectation of redevelopment of the MSP in a like manner to that which has occurred on surrounding land, noting that Council's LEP 2013 has amended the height limit to 44 metres for the precinct.

In line with the expressed principle of the Court for such circumstances (para.29 of the appeal judgement), the extent of view sharing is reasonable, and the impact is considered acceptable.

Based on the above assessment, the view loss impacts attributable to the amended development are considered both within reason and satisfactory with regard to the Planning Principles contained within *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 and found to be acceptable, retaining a good percentage of the skyline view to the north. The proposed development is considered reasonable and has been designed to provide a fair share of view retention and should be supported in this instance.

(e) The public interest

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

Other Matters

External Referrals

Ausgrid

Ausgrid have by letter dated 4 February 2014 advised that a new substation is required to service the proposed development.

NSW Office of Water

The Office of Water in a letter dated 6 August 2014 has provided their General Terms of Approval to the proposed development.

NSW Police Service

NSW Police in a letter dated 21 August 2014 have raised no objection to the proposed development, subject to conditions.

Roads and Maritime Services (RMS)

RMS, in a letter dated 4 September 2014, have raised no objection to the proposed development.

Sydney Airports Corporation Limited (SACL)

SACL by letter dated 28 March 2014 confirmed that they raise no objections to the development to a maximum height of 23.8 metres (AHD) as shown on the plans. This does not include the height required for construction cranes, etc. and further approvals may be required prior to issue of a Construction Certificate.

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. Appropriate conditions are recommended to be imposed on any consent issued.

Section 94 Contributions

The Section 94 Contributions (indexed at the time of writing the report) for the proposed development are calculated as follows:

Section 94 Development Contribution Plan 2005-2010

Residential

•	95 units,	
12 small dwelling@	\$5,142.00 =	\$61,704
83 medium dwellings @	\$8,738 =	\$725,254
Total		\$786,958

The above is broken down as follows:

Community Facilities:	\$84,991.45
Administration:	\$3,147.84
Transport:	\$43282.69
Open Space and Recreation:	\$655,536.02

Commercial

Based on a floor area of 215sqm (worker equivalent of 10 employees and a site area of 2913sqm) gives a total of:

Total	\$53,617.60
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The above is broken down as follows:

Community Facilities:	\$3,490.00
Administration:	\$530.00
Shopping Centre (City Wide)	\$2,260.00
Drainage	\$44,277.60
Open Space and Recreation:	\$3,060.00

Mascot Station Precinct Plan

Residential

12 x Studio, 26 x 1 Bedroom, 57 x 2 Bedroom	\$582,803
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Commercial

Based on 215sqm	\$16,920
Total	\$599,723

<u>Grand total</u>	<u>\$1,440,298.60</u>
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Therefore a total Section 94 Contribution of \$1,440,298.60 is required to be paid to Council in accordance with the draft schedule of Conditions attached to this report.

Conclusion

Development Application No. 13/271 in its amended form seeks consent for the construction of a residential flat building at 27 Church Ave, 18A and 22 John Street Mascot, in the following manner:

- Demolition of all structures on site.
- Site excavation and remediation.
- Construction of 95 residential apartments contained in three residential flat buildings as follows:
 - Tower A, 13 storeys (Fronting Church Ave) containing 46 units
 - Tower B, 13 storeys mid-block containing 22 units.
 - Tower C, 8 storeys fronting John Street building containing 27 units.
 - Two commercial units, facing both street frontages
- Total floor space ratio of 3.2:1 and a maximum building height of 43.8 metres.
- Four levels of parking comprised of one basement level, one at grade parking level and two podium levels to accommodate 170 vehicles.

The Joint Regional Planning Panel, Sydney East Region (JRPP) is the consent authority for the development application. In determining the application, the Panel is requested to consider the content of the submissions received as a result of the public exhibition and the planning response to these submissions contained within the body of this report.

The application has been assessed against the development standards within the BBLEP 2013 and complies with the maximum FSR of 3.2:1 and is below the 44 metre height limit.

The application is considered to be consistent with the Ten Design Principles of SEPP 65 and achieves compliance with provisions relating to height and floor space ratio. While there are non-compliances with unit mix, car parking, building depth separation, solar access, these departures are addressed in the assessment and on balance are considered to be reasonable in the circumstances.

The application has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* and the *Botany Local Environmental Plan 2013* and it is recommended to the Panel that the application be granted approval, subject to the conditions in the attached schedule.

RECOMMENDATION

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

Grant the approval Development Application No. 13/271 for the construction of a residential flat building at 27 Church Ave, 18A and 22 John Street, Mascot, in the following manner: Demolition of all structures on site; site excavation and remediation; Construction of 95 residential apartments contained in three residential flat buildings as follows:

- Tower A, 13 storeys (Fronting Church Ave) containing 46 units
- Tower B, 13 storeys mid-block containing 22 units.
- Tower C, 8 storeys fronting John Street building containing 27 units.
- Two commercial units, facing both street frontages

- Four levels of parking comprised of one basement level, one at grade parking level and two podium levels to accommodate 170 vehicles.

5.0 CONDITIONS OF CONSENT

Premises: 27 Church Ave, 18A and 22 John Street, Mascot

DA No: 13/271

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.

Drawing No.	Author	Dated Received
Project No. 13041	Olsson and Associates	5 November 2014
DA01 (Rev H)		
DA02(Rev H)		
DA03 (Rev H)		
DA04(Rev H)		
DA05(Rev H)		
DA06 (Rev H)		
DA07 (Rev H)		
DA08 (Rev H)		
DA09 (Rev H)		
DA10(Rev H)		
DA11(Rev H)		
DA12 (Rev H)		
DA13 (Rev H)		
DA14 (Rev H)		
DA15(Rev H)		
DA16(Rev H)		27 December 2013
DA17 (Rev H)		
DA18(Rev C)		
DA19 (Rev H)		
DA20 (Rev H)		
DA21(Rev C)		
DA22 (Rev A)		

Drawing No.	Author	Dated Received
Survey Plan, Reference No. 203659	W Buxton P/L	17 December 2013
Stormwater Concept Plans, Project No. 130506, Drawing Nos.: D00 (Rev A) D01 (Rev B) D03 (Rev B) D04 (Rev A) D05 (Rev P1)	Australian Consulting Engineers	2 July 2014

Reference Document(s)	Author	Date Received
Statement of Environmental Effects	Elton Consulting	17 December 2013
Supplementary Report	Elton Consulting	2 July 2014
SEPP 65 Design Verification Statement	Olsson and Associates	2 July 2014
SEPP 65 Report	Olsson and Associates	2 July 2014
BASIX Certificate No. 514297M	NSW DoPI	2 July 2014
Wind Impact Assessment, Report Number 610.12639&R1 27 June 2014	SLR Consulting	2 July 2014
Preliminary Site Investigation Document number ES5614/2 Dated 27/11/13	Aargus	27 December 2013
Detailed Site Investigation 10 December 2013 Report ES5614/2	AAargus	27 December 2013
Geotechnical Investigation, dated Report GS5614/1A16 September 2013	Aargus	27 December 2013
Preliminary Site Investigation 22 John Street	Aargus	11 November 2014
Traffic & Parking Assessment Report, Ref 12471	Transport And Traffic Planning Associates	2 July 2014

Reference Document(s)	Author	Date Received
Noise Impact Assessment, reference SYD2013-1014-R001B dated 17/06/14	Acouras Consultancy	2 July 2014
Construction Management Plan, Ref No. A-7006	MHN Design Union	27 December 2013
BCA Report, Date: 23 June 2014 Our Re: J130263	Vic lilli	2 July 2014
Accesss Compliance Assessment Report, dated 18 December 2013	Vista Access Architects	2 July 2014
Quantity Surveyors Estimate, dated 30 October 2013	Newton Fisher and Associates	17 December 2013
Waste Management Plan	Russell Olsson	17 December 2013

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 | \$50,000.00; |
| (b) | Development Control | \$11,011.00; |
| (c) | Section 94 Contributions | \$1,440,298.60; |

Note: 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.

- 3 This Consent relates to the land identified in the table below 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.

Street Address	Lot and Deposited Plan(DP)
27 Church Ave	Lot 5 DP506923
18A John Street	Lot ADP380858
22 John Street	Lot 1 DP799325

- 4 It is a condition of consent that the applicant shall, 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 Church Ave 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. These works and payments shall be completed prior to the issue of the Occupation Certificate; and
 - (b) Provide appropriate and suitable street lighting to a high decorative standard to the Church Ave 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.
- 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.
- 6 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 7
- (a) All plumbing stacks, vent pipes, stormwater downpipes and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level;
 - (b) 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;
 - (c) 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.

- 8 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 No 514297M 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

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

Water

- (a) The drinking water main available for connection is the 200mm main on the southern side of Church Avenue.

Wastewater

- (b) The wastewater main available for connection is the 225mm main constructed under WO 40307
- (c) Where proposed works are in close proximity to a Sydney Water asset, the developer may be required to carry out additional works to facilitate their development and protect the wastewater main. Subject to the scope of development, servicing options may involve adjustment/deviation and or compliance with the Guidelines for building over/adjacent to Sydney Water assets.

Sydney Water Servicing

- (a) 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.

- (b) 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.

10 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 impacts 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) Construction methods and material used in and for construction shall not cause pollution of the groundwater;

Prior to Excavation

- (d) 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;
- (e) 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;
- (f) A copy of a valid development consent for the project shall be provided to the NSW Office of Water;
- (g) Groundwater quality testing shall be conducted and a report supplied to the NSW Office of Water. Samples must be taken prior to the commencement of pumping, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria;
- (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 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 (tailwater) that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site;

During Excavation

- (j) Piping or other structures used in the management of pumped groundwater (tailwater) shall not create a flooding hazard. Control of pumped groundwater (tailwater) is to be maintained at all times during dewatering to prevent unregulated off-site discharge;
- (k) 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;
- (l) Pumped groundwater (tailwater) 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 (tailwater) shall be complied with;
- (m) 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 sulphate soils management plan or remediation action plan) shall not be compromised by the dewatering activity;
- (n) 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;
- (o) 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 precautions;

Following excavation

- (p) All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.

- 11 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;
- 12 The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) and must be complied with:
- (a) The PROPERTY DEVELOPMENT at 27 Church Ave, 18A and 22 John 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 50.2metres 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.

PRIOR TO COMMENCEMENT OF DEMOLITION WORKS

- 13 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) Church Ave 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.)

14

- (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.
- 15 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 16 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.
- 17 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- (a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
 - (b) Protection of the Environment Operations Act 1997;
 - (c) Protection of the Environment Operation (Waste) Regulation
 - (d) DECC Waste Classification Guidelines 2008.
- 18 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) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
 - (c) 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;

- (d) Disconnection of Gas and Electrical Supply;
- (e) 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;
- (f) No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- (g) Waterproofing of any exposed surfaces of adjoining buildings;
- (h) Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
- (i) Working hours, in accordance with this Development Consent;
- (j) Confinement of demolished materials in transit;
- (k) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”;
- (l) On site monitoring both during asbestos removal and the remainder of demolition activities.

19 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.

20 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)*.
- 21 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.

- 22 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.
- 23 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.
- 24 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.
- 25 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 RTA accredited consultant.
 - (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
 - (c) 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.
- 26 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.
- 27 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 Church Ave or John Street;
 - (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.
- 28 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.
- 29 In accordance with the Contaminated Land Management Act 1997, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.
- 30 All management measures recommended and contained within the Soil and Water Management Plan (SWMP) submitted as part of the construction certificate shall be implemented in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction 4th Edition (2004)*. 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 and made available to council officers on request.
- 31 Erosion and sediment control devices are to be installed prior to the commencement of any demolition, excavation or construction works upon the site. These devices are to be maintained throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of the project, where necessary.
- 32 Council requires an application to discharge water to a Council road or stormwater system. The application must be made in writing to Council estimating volume and number of days involved and must be accompanied by a current dewatering license

from the NSW Office of Water. For water to be permitted to go to stormwater the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Freshwater. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.

- 33 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

- 34 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 and Mascot Station Development Contributions Plan

Section 94 Development Contribution Plan 2005-2010

Residential

Community Facilities:	\$84,991.45
Administration:	\$3,147.84
Transport:	\$43282.69
Open Space and Recreation:	\$655,536.02

Commercial

Community Facilities:	\$3,490.00
Administration:	\$530.00
Shopping Centre (City Wide)	\$2,260.00
Drainage	\$44,277.60
Open Space and Recreation:	\$3,060.00

Section 94 2005/2010 Total **\$840575.6**

Mascot Station Precinct Plan

Residential - 12 x Studio, 26 x 1 Bedroom, 57 x 2 Bedroom \$582,803

Commercial based on 215sqm \$16,920

MSP Total **\$599,723**

Grand total **\$1,440,298.60**

The Section 94 Contribution of **\$1,440,298.60** is to be paid to Council prior to the issue of the first Construction Certificate.

Note: 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.

- 35 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.
- 36 A revised landscape plan for the property is required to be submitted and approved by City of Botany Bay Council’s Landscape Architect. The revised plan shall incorporate the following amendments to the Landscape Plan:
- a) Increase the provision of landscaping within the Church Avenue setback. Large scale planters are to be provided with a suitable layered planting scheme to soften the interface between the public footpath and ground floor retail, improve pedestrian comfort and amenity and to improve the public domain.
 - b) Provide large scale planters of minimum 1.2m width along the boundary west of building C on level 2. Planting should comprise a layered scheme and incorporate trees and shrubs to achieve a level of screening and privacy for residents of the adjacent development to the west, and improve amenity.
 - c) Revise plant species. The following are considered unsuitable within a modified landscape of artificial soils in a built up environment with irrigation, limited soil depths and deep shade: *Eucalyptus haemastoma*, *Bauera*, *Correa*, *Epacris*, *Boronia*, *Kunzea*, *Dichondra*, *Grevillea sericea*, *Lobelia*, *Pimelia*. *Fatsia japonica* should also be substituted.
 - d) Hardy shade tolerant species (native/exotic) suited to the modified, shaded podium environment are encouraged eg. *Glochidion ferdinandi*, *Cupaniopsis anacardiodes*, *Lillypilly*, *Viburnum*, *Murraya*, *Choisya*, *Strelizia*, *Xanadu*, *Ajuga*, *Acanthus*, *Liriope*, *Gardenia*, *Clivea*.
 - e) The building awning that extends south over a garden-bed on Level 2 from Building B must be reduced to cover the building entrance and western side of the building only, so that tree planting may be accommodated within this bed.
 - f) Within the deep, linear planter along the western boundary consider replacing the proposed *Elaeocarpus reticulatus* with a larger spreading canopy tree with a more symmetrical canopy form.
 - g) Include an additional planter bed and landscaping on the Building C roof plan

to break up the large expanse of paving. Locate planter adjacent the common room to the north east.

- h) Include an additional landscape area on the roof of Building A or Building B. This will provide enhanced compliance with Landscaped Area for the site and also create additional spaces for residents that will have enhanced amenity, usability and access to sunlight. All roof gardens to include barbeques and timber decking entertainment areas.
- i) The internal communal landscaping to be further developed to incorporate more canopy trees. Appropriate soil depth in planters must be provided, in accordance with SEPP 65 and BBDCP 2013.
- j) Incorporate more seating in the communal landscape areas to encourage residents to use the spaces.
- k) The building awning along Jong John Street is required to be pulled back so as to be consistent with adjacent awnings to the west and to reduce conflict with proposed street trees.
- l) More detail is required to be submitted to Council and approved by Council Landscape Architect, including the following:
 - Indicate pot sizes, planting densities and plant locations
 - Construction details and sections
 - Typical drainage to podium planters and planter boxes.
 - Details and locations of proposed furniture, lighting and fencing
 - All plans to clearly indicate building awnings and basement extents.

The landscaped areas on the property shall be installed and maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.

- 37 Prior to the issue of the Construction Certificate, A revised public domain plan is required to be submitted and approved by City of Botany Bay Council's Landscape Architect. The revised plan shall incorporate the following amendments to the Landscape Plan:

- a) Feature full width segmental paving in accordance with Council's Draft Public Domain Manual and any other specification is required along John Street. Church Avenue to incorporate grassed nature strip and footpath in accordance with Council's Draft Public Domain Manual and specification.
- b) Deletion of grassed nature strip. Tree pits in full width paving along John Street to align with the adjoining site interface to the west, and provide consistent streetscape responsive to the proposed commercial tenancy and substation/services access requirements. The building awning along Jong John

Street is required to be pulled back so as to be consistent with adjacent awnings to the west and to reduce conflict with proposed street trees.

- c) Proposed landscaped in-road blister islands (2) along John Street as required as part of the Mascot Town Centre Precinct Masterplan 2012.
 - d) Increased soft landscaping within the Church Avenue setback in front of the building. This will comprise planting on podium due to basement below.
 - e) Street trees in accordance with Council's Street Tree Masterplan. Tree pits and tree guards in accordance with the Draft Public Domain Manual.
 - f) Street furniture in accordance with the Draft Public Domain Manual and Council specification and requirement.
 - g) Resolution of access to fire boosters, recessed within the building fronting Church Avenue.
 - h) The design must consider and incorporate the location of any above ground electrical pillars to be erected by the Energy Provider associated with the undergrounding of power around the site.
- 38 Prior to the issue of a construction certificate additional investigations be undertaken to determine the contamination status of the section of the site referred to as 18 Church St. The additional investigations should evaluate the contamination status of the soil and groundwater. A report detailing the investigations should be submitted to a NSW EPA accredited auditor.
- 39 Prior to the issue of a construction certificate additional assessment of the results of the groundwater investigation is required to determine if the presence of volatile petroleum hydrocarbons may pose a health risk at the redevelopment. Also additional assessment/investigation must be undertaken to delineate the plume and to determine if the contamination has moved off-site. A report detailing the assessments/investigations should be submitted to a NSW EPA accredited Auditor.
- 40 Prior to the issue of a construction certificate a remedial action plan (RAP) must be prepared for the site in accordance with the NSW EPA Guidelines for Consultants Reporting on Contaminated Sites. The RAP after the additional investigations have been completed. The RAP must include information in regard to at least the following:
- a) how the USTs will be removed (in line with relevant guidelines)
 - b) how the excavations will be validated (in line with relevant guidelines)

- c) asbestos handling procedure
- d) unexpected finds procedure
- e) additional investigations to be undertaken at 18 Church St during the remediation once the existing building is demolished

The RAP must be submitted to Council and the NSW EPA accredited auditor for approval

- 41 Any management plans identified in the RAP as required must be prepared in accordance with relevant guidelines and submitted to the Principal Certifying Authority prior to the commencement of any remedial works.
- 42 The remedial works outlined in the (RAP) must be undertaken to make the site suitable for the development.
- 43 Prior to the issue of a construction certificate a validation report must be prepared for the site in accordance with the NSW EPA Guidelines for Consultants Reporting on Contaminated Sites. The validation report should provide details of the remedial works that have been undertaken and the validation sampling that has been undertaken to demonstrate the success of the remedial works. The validation report must be submitted to Council.
- 44 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.
- 45 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.

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

47 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.

48 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.

49 Prior to the issue of the Construction Certificate, the measures required in the Noise Impact Assessment Report No. SYD2013-1014-R001B prepared by Acouras Consulting Ltd dated 17/06/14 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:

50 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.

51 Prior to the issue of the Construction Certificate, a Certificate under Section 73 of the Water Board (Corporation) 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.

- 52 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.
- 53 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.
- 54 All balconies shall have a water supply tap and a gas connection where gas is available. These shall be indicated on the plans prior to the issue of the construction certificate.
- 55 All air conditioning units shall be suitably screened within a suitably ventilated enclosure to enhance screening from the public realm. These shall be indicated on the plans prior to the issue of the construction certificate.
- 56 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).
- 57 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. 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.
- 58 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 the requirement of this condition and Botany Council's Stormwater Management Technical Guidellines (SMTG).
- The detailed stormwater drainage plans be thoroughly checked and amended where required to incorporate but not be limited to the following:
- (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 any stormwater runoff that may enter the bassement carpark from the basement driveway access.
 - (b) The OSD shall be designed to ensure it will not be subjected to backwater affect from the 100 year flood level at the site.
 - (c) Incorporate a water quality improvement system and Water Sensitive Urban Design (WSUD) strategy, designed to capture and treat at least 85% flows generated from the sitein accordance with Section 4 &16 Botany Council's Stormwater Management Technical Guidellines (SMTG).
 - (d) 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.
 - (e) All proposed finished habitable floor levels and basement driveway crests have been provided with a minimum freeboard of 500 & 300mm above the applicable 1:100 year flood level at the site.
 - (f) Provision of a Site Emergency Response Plan (SERP) to cater for the safe evacuation of occupants of the site during the Probable Maximum Flood event (PMF).
- 59 A detailed overland flow path assessment shall be prepared to determine the critical flow characteristics of the overland flow path and its impact to and by the development.

The study shall be prepared by a suitably qualified and experienced engineer and shall be in accordance with the current version of Australian Rainfall and Runoff (AR&R),

d the NSW Floodplain Management Manual and Section 11 of City of Botany Bay DCP STMG. The flood study shall include but not limited the following:

- Catchment plan highlighting upstream catchment area that generates the overland stormwater flows,
- Cross-section detail taken at the property showing existing ground levels and water levels for a 1% AEP and PMF,
- The flood study must be signed by the engineer declaring that the study has been undertaken in accordance with Australian Rainfall and Runoff and the NSW Floodplain Management Manual, and
- The results of the flood study shall be submitted to the PCA and Council for approval.

60 Flood Mitigation Measures. Flood mitigation measures recommended by the flood study shall be incorporated into the design of the development and submitted to the PCA and Council for approval. The design shall also incorporate the following:

- All levels shown on drawings and details shall be to the Australian Height Datum (AHD), and
- The floor levels of the development shall comply with Section 8 of the SMTG.

61 Where dewatering are permitted to discharge to stormwater the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Freshwater. All testing must be completed out by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system.

62 Groundwater Dewatering Fees and Water Quality. As this development involves an excavation below the water table these works are subject to a Council Drainage Charge for discharge of site dewatering to storm water. As such a formal application is to be submitted to Council.

Note: Council will not give permission for contaminated ground water to be discharged into its stormwater system. To discharge groundwater into the Council's stormwater system the applicant must supply the following:

- a. An Application to Council for permission to discharge water from site dewatering to Council's stormwater drainage system.
- b. A copy of a current bore license from the NSW Office of Water for dewatering.
- c. A report prepared by a suitably qualified person is to be provided together with results from a NATA approved laboratory confirming that the quality of the water meets the 95% freshwater trigger values applying to typically slightly-moderately disturbed systems as detailed in the Australian and New Zealand Guidelines for Fresh and Marine Water Quality, Australian and New

Zealand Environment and Conservation Council and Agriculture and Resource Management Council of Australia and New Zealand, Paper No 4, October 2000.

- d. If the groundwater is not suitable for direct disposal to the stormwater, any proposed treatment methods must be noted and accompanied by relevant documentation demonstrating the processes involved as well as engineering evidence of its applicability. (Note that Council reserves the right to refuse any proposed treatment methods. In the advent Council does not have the technical expertise to review a treatment method an independent third party review may be requested. The proponent will be required to pay for these works.).
- 63 The proposed car parking facility (space size, aisle widths, headroom clearance gradients and safe sight distance etc) shall be designed to ensure all vehicles visiting the site can safely enter and leave in a forward direction in accordance with relevant sections of AS 2890. The architectural plans shall be amended where required to incorporate but not be limited to the following requirement and Traffic engineering certification confirming compliance shall be submitted for approval with the Construction Certificate application.
- (a) The design must be amended to provide for an internal loading unloading bay & waste collection facility including adequate manoeuvring area and headroom clearance to ensure a Heavy Rigid Vehicle (HRV) can enter and leave safely in a forward direction. The design shall be certified by a traffic engineer as compliant with AS 2890.
 - (b) The proposed carparking layout and ramps shall be amended where required to allow for adequate manoeuvring area to ensure safe two way access without conflict is available in the carpark, especially entry and exit from the access ramps.
- 64 To provide an accurate record of the existing state of Council infrastructure, the Principal Contractor must submit a dilapidation report on Council's & public infrastructure adjoining the development site. The dilapidation reports must be submitted to Council prior to the commencement of any demolition/construction work on site. The report must include photographic and video recordings of the existing public infrastructures.
- 65 A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:-
- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.

- (b) The proposed phases of construction works on the site and the expected duration of each construction phase.
- (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process.
- (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- (f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- (g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- (h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent.
- (i) Proposed protection for Council and adjoining properties.
- (j) The location and operation of any on site crane.
- (k) The location of any Work Zone (if required) approved by Council's Engineering Section, including a copy of that approval.
- (l) The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area. Access across public parks and open space reserves is prohibited. Site access and egress is to be generally obtained from the public roads.
- (m) Obtain Permits required under this consent.

66 Erosion and sediment control devices are to be installed prior to the commencement of any demolition, excavation or construction works upon the site. Accordingly, a detailed Sedimentation & Erosion Control plan prepared by a suitably qualified person in accordance with the Department of Housing Manual "Managing Urban Stormwater, Soils and Construction" shall be submitted to the Principal Certifying Authority for approval with the Construction Certificate application. These devices are to be maintained throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of construction where necessary to minimise erosion and sediment transport from the site.

67 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. A dilapidation survey 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 Certificate.

68 Submission of an application to Council for the erection of a protective hoarding where required along the street frontage of the property. Applicable fee and charges in accordance with Council's Management Plan are to be fully paid prior to issue of Construction certificate.

69 To facilitate safe access to and from the proposed development the following external engineering works shall be constructed at no cost to Council, prior to issue of Occupation Certificate.

(a) The construction of new vertical kerb and gutter and associated footpath paving to Council's satisfaction along the entire frontage of the site to Church & John Street.

(b) The asphalt sheeting of half road width including reconstruction of any damaged road pavement along the entire frontage of the site to Church & John Street as directed by Council's Engineer.

Detailed engineering plans prepared by a chartered civil engineer including certification indicating compliance with this requirement are to be submitted to Council for approval with the Construction Certificate for roadworks. Engineering assessment and works inspection fees in accordance with Council's fee and charges are to be fully paid prior to consent being issued.

70 Where public utilities are affected by the proposed development works, and adjustment and/or relocation works are required, the cost of these works shall be fully borne by the applicant. Written consent from the relevant public utilities owners are to be submitted to council and all their requirements are to be fully complied with.

71 To ensure satisfactory performance of the completed external works, a maintenance period of six (12) months shall apply to all external engineering works completed in relation to this application. The performance period shall commence from Council's Compliance Certificate issue date.

The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification. A bond in the form of a cash deposit or unconditional Bank Guarantee of fifty thousand dollars (\$50,000) shall be lodged with Council prior to issue of the Construction Certificate to guarantee this requirement will be met. The bond will only be refunded when the works are determined to be satisfactory to Council after the expiry of the six (12) months maintenance period

- 72 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.
- 73 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.
- 74 The car parks shall be mechanically ventilated. This requirement shall be reflected on the Construction Certificate plans.
- 75 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.
- 76 Prior to the issue of the construction certificate, fixed privacy screens shall be indicated on the construction plans as follows:
- (A) Tower A – western facing balconies to ensure no overlooking into adjacent balconies at 1-5 Bourke Street
 - (B) Tower B - western side of westernmost balcony to ensure privacy between balconies and windows of 1-5 Bourke street.
 - (C) Tower C – north facing and south facing balconies adjacent to western boundary to ensure privacy to 24 John Street
- 77 Prior to the issue of the construction certificate detailed design drawing shall include Planter boxes that are 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.

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

Car Parking Rates	Required
1 space per studio/1 bedroom unit	38 spaces
2 spaces per 2 bedroom unit	114spaces
1 visitor space per 7 dwellings	14 spaces
Commercial spaces	4
TOTAL REQUIRED	170

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.

DURING WORKS

79 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.

80

- (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.

81 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.

82 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.

83 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.

84 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.

85 All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.

86

- (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.

87 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.

88 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.

89

- (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.

90 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 04:00pm;
 - (iii) No Construction to take place on Sundays or Public Holidays.
- (d) Silencing
 - (i) All possible steps should be taken to silence construction site equipment.

- 91 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.
- 92
- (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).
- 93 If any material containing asbestos is found on site during the demolition process the material is to be removed and disposed of in accordance with WorkCover requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
- 94 Following the completion of the removal of asbestos from the site, an Asbestos Clearance Certificate is to be provided to Council following the final asbestos clearance inspection by a licensed inspector.

95

- (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"*.

96 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).

97 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**

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

- (a) NSW Office of Environment and Heritage (OEH) '*Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites*'; and
- (b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the *Contaminated Land Management Act 1997*; and
- (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of the occupation certificate.

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

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and SAS prior to issuing the occupation certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

- 100 All acoustic work including that acoustic work required at Condition No. 37 shall be completed prior to the issue of the Occupation Certificate and validated by a person with appropriate qualifications and experience.

- 101 Prior to the issue of the Occupation Certificate, The public domain and Council footpath area shall be upgraded with new paving, street furniture and street tree planting, to be installed by the applicant at the applicant's expense. All improvements shall be in accordance with final approved public domain plan and Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate.

- 102 The following is to be complied with prior to the issue of the occupation certificate:

- (a) Replace all the existing above ground electricity and telecommunication cables to underground cables within the site and road reserve area fronting Church Ave 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. These works and payments shall be completed prior to the issue of the Occupation Certificate;

- 103 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 = 60m²
 - (ii) 1 Bedroom = 75m²
 - (iii) 2 bedroom = 100m²
- 104
- (a) The 170 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;
 - (b) 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.

Note: Five (5) of the disabled car parking spaces are to be allocated to adaptable dwellings.
 - (iv) Two (2) space per commercial tenancy.
- 105 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.
- 106 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 and unit numbering shall be submitted to Council for approval prior to the issue of the Occupation Certificate.
- 107 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.
- 108 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) Any 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.

109

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

shall be submitted to the Principal Certifying Authority prior to occupation of the premises.

- 110 All vehicular crossings are to be constructed. Prior to the issuing of an Occupation Certificate (or the completion of work or the use of the building), the applicant shall make a separate application to Council's to construct (or reconstruct) a vehicular crossing (either using Council or own forces) to all vehicular entry points to the site. All vehicular crossings, which were shown on submitted plans, shall be in the correct location. All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section.
- 111 Prior to the release of an Occupation Certificate, the following works shall be completed to Council's satisfaction at the applicant's expense to Council's satisfaction:
- (a) The construction of new vertical kerb and gutter and associated footpath paving along the entire frontage of the site to Church Ave and John Street
 - (b) The asphalt sheeting of half road width including reconstruction of any damaged road pavement along the entire frontage of the site to Church Ave and John Street
 - (c) Construction of access driveway and layback to the subject site.

The Principal Certifying Authority, shall not release ANY occupation certificate until written confirmation from Council has been provided confirming the above works have been completed to Council's satisfaction

- 112 Engineering certification shall be submitted to the Principal Certifying Authority confirming the site stormwater drainage system has been constructed in accordance with approved plans and Botany Council's Stormwater Management Technical Guidelines (SMTG).

Additionally, the certification shall also confirm that the following flood related matters have been complied with:

- (a) All proposed finished habitable floor levels and basement driveway crests have been provided with a minimum freeboard of 500 & 300mm above the applicable 1:100 year flood level at the site.
 - (b) A Site Emergency Response Plan (SERP) to cater for the safe evacuation of occupants of the site during the Probable Maximum Flood event (PMF).
 - (c) Certification indicating all recommendations of the approved flood study has been incorporated into the development.
- 113 All services (Utility, Council, etc) within the road reserve (including the footpath) affected by the proposed development shall be relocated/adjusted where required to match the proposed/existing levels. All costs are to be borne by the applicant.

- 114 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 levels shown upon the approved plans, with relation to drainage, boundary and road reserve levels, have been strictly adhered to.
- 115 Prior to the issue of the Occupation Certificate, dedicate to Council and at no expense to the Council and generally in accordance with approved plans to dedicate the portion of land to Council for the purpose of widening Church Avenue and John Street. The areas of the land to be dedicated shall be the full length of Church Avenue and John Street frontages of the development site and as detailed in the Botany Bay Development Control Plan 2013. 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;
- 116 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.
- 117 Any damage not shown in the dilapidation report required under Condition No. 14 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.
- 118 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.
- 119 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.
- 120 Prior to the issue of the Occupation Certificate, landscaped areas on the property and in the public domain shall be installed and maintained in accordance with the Council approved amended, detailed landscape documentation, the conditions of consent (inclusive of the above landscape amendments required) and Council's DCP at all times. An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved amended landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. 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.

- 121 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.
- 122 The Church Avenue and John Street public footpaths shall be re-constructed in accordance with Council specifications and the final, approved public domain plan. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications only. Pavers shall be ordered accounting for adequate lead time for manufacture. Construction hold points and Council inspections are required at the following points:
- (a) after formwork installation and to prior pouring the concrete blinding slab,
 - (b) at the commencement of paving works, and
 - (c) at final completion.
- 123 Council approval of public domain works is required prior issue of an Occupation Certificate.
New street trees at the pot size specified shall be installed in the road frontages surrounding the in accordance with the approved public domain plan. The trees shall be sourced from a reputable supplier that grows to NATSPEC. 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: Two hold point inspections are required - prior planting trees to ensure plant stock is suitable and post-planting.
- 124 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.
- 125 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.

- 126 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.
- 127 Prior to the issue of the Occupation certificate, fixed privacy screens shall be installed as follows:
- (A) Tower A – western facing balconies to ensure no overlooking into adjacent balconies at 1-5 Bourke Street
 - (B) Tower B - western side of westernmost balcony to ensure privacy between balconies and windows of 1-5 Bourke street.
 - (C) Tower C – north facing and south facing balconies adjacent to western boundary to ensure privacy to 24 John Street
- 128
- (a) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
 - (b) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building.
 - (c) Where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
- 129
- (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 Nos. 98 through 128 are pre-requisite conditions which must be satisfied prior to the issue of the Occupation Certificate.

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

- 130 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.
- 131 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.
- 132 All new street trees and landscaping in the public domain shall be maintained by the Applicant/Owner/Strata for 12 months after final inspection of public domain works by Council's Landscape Architect. Maintenance includes twice weekly watering to sustain adequate growth, annual feeding and weed removal in tree pits but does not include trimming or pruning of the trees under any circumstances
- 133 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 B99 vehicles (5.2m in length, as denoted by the current version of AS/NZS 2890.1) 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.
- 134 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.

- 135 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.
- 136 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.
- 137 No roller shutters are to be installed to any of the commercial shopfronts that front Church Ave or John Street.
- 138 The hours of operation of any future commercial use must be restricted to the hours of 7:00am to 10:00pm Monday to Saturday and 7:00am to 8:00pm Sunday and public holidays.
- 139 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.

- 140 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 113 above.

- 141
- (a) The noise emitted from a domestic swimming pool pump, spa and related fixed equipment should not exceed the background level (LA90) by more than 5dB(A) when measured on any neighbouring property. The measured level (LA90), measured for not less than five (5) minutes, should be made at a time when the equipment is intended to be operated and the background levels are lowest.
 - (b) A correction of 5dB(A) should be added to the measured level if the noise is tonal.
 - (c) The noise emitted from the swimming pool and spa equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq40dB(A) night time.
 - (d) A time switch should be installed on the equipment to control its operating hours.

For assessment purposes, the above L_{Aeq} sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

- 142
- (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.

- 143 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.
- 144 The BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.
- 145 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. 13/271 dated as 17 December 2013 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

Advisory Note:

- (a) 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);
- (b) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis. 4. It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.
- (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.
- (f) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.
- (g) 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).
- (h) 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.
- (i) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.
- (j) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.

- (k) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (currently \$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.
- (l) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
 - Warning, trespassers will be prosecuted.
 - Warning, these premises are under electronic surveillance
- (m) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
- (n) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.
- (o) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
- (p) Signage needs to be provided to assist occupants to identify fire suppression equipment, eg extinguishers, fire hoses etc.
- (q) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours.
- (r) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.
- (s) It is not advised to install storage cages or similar for the residents in the underground car park. If it is required, consider that they should NOT be constructed in an isolated area. The cages are easy targets when they have little supervision. CCTV cameras must cover this area if they are constructed. Solid steel housing and quality key locks should be used to prevent access.
- (t) The door and door frames to these premises should be of solid construction.
- (u) Doors should be fitted with locks that comply with the Australian Standard — Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy

usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are required for residential units.

- (v) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space.