

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

JRPP No	2014SYE087
DA Number	14/129
Local Government Area	City of Botany Bay
Proposed Development	Integrated Development proposal for an eight storey mixed use development including the demolition of existing structures and site remediation; 175m ² of retail floor space at ground level; 64 residential apartments (21 x studio, 24 x 1 bedroom and 19 x 2 bedroom) and 4 levels of basement car parking to accommodate 98 car spaces and bicycle parking.
Street Address	593-595 Gardeners Road, Mascot
Applicant/Owner	A+ Design Group
No. of Submissions	One (1) objection with a petition containing 30 signatures
Regional Development Criteria	Development with a CIV of \$28,437,092
List of All Relevant s79C(1)(a) Matters	• 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 • Botany Bay Development Control Plan 2013
Documents submitted with this report for the panel's consideration	• Statement of Environmental Effects – LJB Urban Planning P/L; • Amended Clause 4.6 Variation – LJB Urban Planning P/L; • Amended Architectural Plans – A+ Design Group; • Traffic Impact Assessment – Varga Traffic Planning P/L; • Geotechnical Investigation – JK Geotechnics; • Phase 1 and 2 Environmental Site Investigation - EIS
Recommendation	“Deferred Commencement” consent
Report by	Christopher Mackey – Senior Assessment Planner

1.0 RECOMMENDATION

The Joint Regional Planning Panel (JRPP), as the Determining Authority resolve to:

- (a) Grant a "Deferred Commencement" consent to Development Application No. 14/129 under Section 80(3) of the Environmental Planning and Assessment Act 1979 for the demolition of existing structures, site remediation; construction of an eight storey mixed use development comprising of 175m² of retail floor space fronting Gardeners Road; 64 residential apartments (21 x studio, 24 x 1 bedroom and 19 x 2 bedroom) and 4 levels of basement car parking to accommodate 98 car spaces and bicycle parking at 593 Gardeners Road, Mascot, with such consent not to operate until the following condition is satisfied:

DC1 The architectural plans shall be amended to reduce the gross floor area by 439m². This is to be achieved by deleting Level 7 of the building.

- (b) The period of the "Deferred Commencement" Consent be limited to 3 months.

2.0 EXECUTIVE SUMMARY

Council received Development Application No. 14/129 on the 11 June 2014 seeking consent for the demolition of existing structures and site remediation; construction of an eight storey mixed use development comprising of 272m² of retail floor space fronting Gardeners Road; 65 residential apartments (25 x studio, 17 x 1 bedroom and 23 x 2 bedroom) and 4 levels of basement car parking to accommodate 112 spaces.

The development application is required to be referred to the Joint Regional Planning Panel pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the Capital Investment Value of the proposal is \$28,437,092.20.

The Development Application is also 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 and also involves the relocation of access driveways on Gardeners Road (a classified road) and requires approval from RMS. In a letter dated 11 July 2014, the NSW Office of Water has granted its General Terms of Approval to the proposed development. Under letter dated the 15 July 2014, NSW RMS provided conditions for the proposed development.

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

- On the 10 October 2014, amended plans to address overshadowing impacts to the adjoining properties to the immediate south. These plans increase the setback to the southern boundary of the upper levels 6 and 7. This results in a reduction in the total unit numbers from 65 down to 64 and increase in unit mix from 64% to 65% studio/1 bedroom units;
- On the 16 October 2014, a letter of support and Swept Path Analysis from Varga Traffic Planning regarding queuing and access to the site from Gardeners Road;

- On the 27 March 2015, amended architectural plans and an amended Clause 4.6 variation were received to further address the concerns of Council and the objector. The amended plans corrected the GFA discrepancy, by now including the internal common corridors in the GFA calculations. Through design amendments including increased rear and side setbacks, the overall GFA and FSR is reduced from 2.94 to 2.7:1. The amended plans now incorporate two bedroom apartments that do not comply with the minimum internal and external areas recommended in the Table to the SEPP 65 Residential Flat Design Code (RFDC). In addition, the amended plans do not increase the rear setback of the building at each level to an extent that would alleviate the overshadowing impacts onto adjoining private open space of dwellings to the south.

The development application was notified for a period of 30 days from 25 June 2014 to 25 July 2014. One (1) objection comprising petition with 30 signatures was received, which raises the issue of traffic impact, bulk, scale, height, FSR, overshadowing and amenity.

The development application has been assessed in accordance with the relevant requirements of the EP & A Act 1979. The proposal result in two bedroom cross through apartments which do not meet the minimum internal and external areas of the Table to the RFDC. The proposed development exceeds the maximum height of buildings development standard and the floor space ratio development standard for the subject site under Botany Bay Local Environmental Plan (BBLEP 2013). The applicant has submitted a Clause 4.6 variation in respect of the exceedence to the LEP height and FSR development standards. It is considered that the variations are not well founded as the proposed additional height and FSR is not in the public interest, is not consistent with the desired future character of the area and has an adverse visual impact on the locality.

The proposed development is not consistent with the development controls of BBDCP 2013, in respect of bulk, scale, height, visitor car parking, unit mix and unit/balcony sizes. In order to reduce the bulk and scale and bring the FSR into compliance with BBLEP 2013, it is recommended that a “Deferred Commencement” consent be granted requiring the applicant to submit an amended plan which reduced the GFA of the building to being compliant with the 2.5:1 FSR for the site.

3.0 DESCRIPTION OF SITE AND LOCALITY

The subject site is located in Mascot between O’Riordan Street to the west and Botany Road to the east, with a frontage to Gardeners Road to the north. The site is regular in shape and is known as Lots 9 and 10 in DP 11589, which make up a total site area of 1,195m².

The majority of the site is covered by a two storey brick warehouse building with first floor offices, set back from the northern, eastern, western and southern boundaries of the site. An open hardstand parking area is located at the south-eastern part of the site. Presently, there are limited landscape areas on site. The building has a metal roof with a parapet along the Gardeners Road. The properties surrounding the site are commercial/warehousing in nature to the immediate north, east and west. Semi-detached residential dwellings adjoin the site to the south, facing Miles Street and immediately to the south is an open hardstand car park in association with 589 Gardeners Road, with access from Miles Street.

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

Directly to the east is located 589 Gardeners Road, currently comprising of a two storey warehouse building currently divided into two separate tenancies. This building is constructed on the common boundary with the subject site, being setback approximately 5.2m from the northern boundary to Gardeners Road. These are occupied by a shutter company and automotive repair workshop.

Further to the east are located warehouses and showroom uses and a DA at 581-587 Gardeners Road was approved by the JRPP at its meeting on the 16 April 2013 for redevelopment to a scale and form similar to that currently proposed under this application. To the immediate west is located 597-603 Gardeners Road which comprises a series of two storey warehouse building with frontage to Gardeners Road, similar to that on the subject site.

To the north of the site on the opposite side of Gardeners Road is located the “Bourke Street Bakery” and the “Porsche” Centre in Alexandria. To the south of the site are located low scale semi-detached residential dwellings. These allotments are generally up to 56m in depth and a width of approximately 6 metres. An open hardstand car park in association with 589 Gardeners Road, with access from Miles Street is located to the immediate south at 56 Miles Street.

Locality Plan



Site Photo - Subject site as viewed from the north of Gardeners Road.



4.0 ZONING

The subject site is zoned B4 – Mixed use pursuant to Botany Bay Local Environmental Plan 2013.

The development comprises of a residential flat building with a ground floor commercial tenancy. Both uses are permissible with consent in the B4 – Mixed use zone.

The site is situated within the BBDCP 2013 Miles Street Sub Precinct which is bounded by O’Riordan Street to the west, Gardeners Road to the north, Miles Street to the south and Botany Road to the east. The precinct is comprised of a sequence of semi-detached dwellings fronting Miles Street to the south and commercial/warehouse buildings fronting Gardeners Road.

5.0 THE AMENDED PROPOSAL

The development application (as amended) requests consent for the demolition of existing structures and site remediation; construction of an eight storey mixed use development comprising of 175m² of retail floor space fronting Gardeners Road; 64 residential apartments (21 x studio, 24 x 1 bedroom and 19 x 2 bedroom) and 4 levels of basement car parking to accommodate 98 car spaces and bicycle parking.

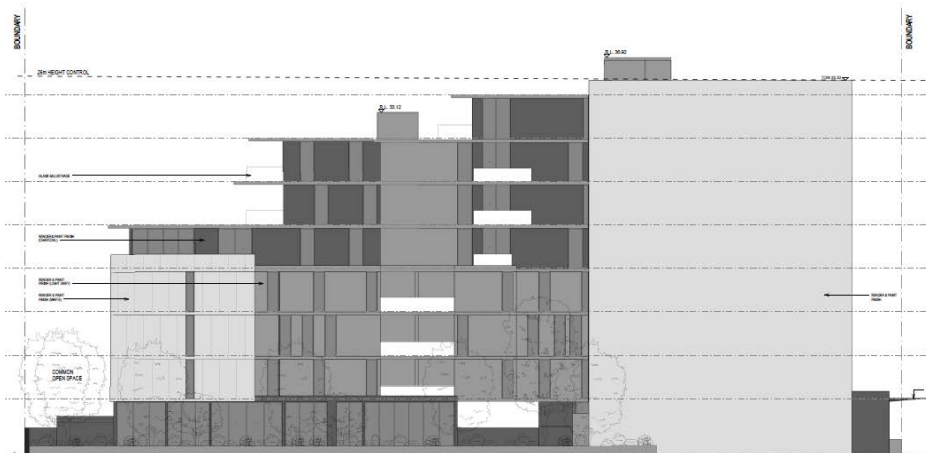
The proposed development is comprised of one residential flat building, which is accessible to pedestrians and vehicles from Gardeners Road. The building contains one central pedestrian entry with vehicular access at the western part of the frontage. Two lifts are located together within the entrance foyer to provide access to both the north and south wings. The upper levels are characterised by a central corridor with up to six units being accessed from the corridor. A communal landscaped terrace is proposed to the roof area. A total of 64 apartments are proposed (including four (4) adaptable apartments).



A perspective of the Gardeners Road elevation



The rear (southern) elevation.



The side (eastern elevation)

6.0 PLANNING MATTERS FOR 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:

6.1 Provisions of any Environmental Planning Instrument

6.1.1 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.

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

In this regard, the development application was referred to the NSW Office of Water. In a letter dated 11 July 2014, NSW Office of Water has provided its General Terms of Approval for the proposed development.

6.1.2 State Environmental Planning Policy (Infrastructure) 2007 Clause 104 - Traffic Generating Development

The proposed development falls within the provisions of Schedule 3 of the SEPP – Traffic Generating Development that is required to be referred to the NSW RMS. The application was accompanied by a Traffic Impact Assessment Report prepared by Varga Traffic Planning Pty Ltd, dated 6 June 2014.

Plans and documentation were referred to the NSW RMS for consideration and comment. In a letter dated 15 July 2014, RMS has advised there is no objection to the proposed development and has provided conditions.

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

The provisions of SEPP No. 55 have been considered in the assessment of the development application. Clause 7 of SEPP No. 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application. The applicant submitted a Preliminary Stage Environmental Site 1/Stage 2 Environmental Site Assessment prepared by Environmental Investigation Services dated 5 June 2014.

The report concludes that there is fill material across the site. Marginal elevations of TRH's and benzo(a)pyrene were encountered in some samples, however the report states that the site can be made suitable for the proposed use. The report indicates that data gaps will need to be addressed and once addressed, should a further report identify that remediation is required, a Remedial Action Plan (RAP) shall be prepared.

On this basis, a Detailed Stage 2 Investigation would need to be undertaken during demolition with a Remedial Action Plan to be submitted prior to the issue of the Construction Certificate for the building.

A condition would also be required for a Site Audit Report (SAR) to be submitted to Council prior to the issue of the Construction Certificate, which states that the site has been made suitable for the proposed development.

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

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

State Environmental Planning Policy (SEPP) No. 65 was amended on 19 June 2015. Clause 31(2) of the SEPP states:

“If a development application or an application for the modification of a development consent has been made before the notification on the NSW legislation website of the making of *State Environmental Planning Policy No 65- Design Quality of Residential Flat Development (Amendment No 3)* and the application has not been finally determined before the commencement of that amendment, the application must be determined as if the amendment had not commenced.”

Therefore based on the above, the application is assessed under the pre June 2015 SEPP 65 and Residential Flat Design Code (RFDC), and not the new Apartment Design Guide. (ADG).

A Design Verification and Residential Flat Design Code compliance table has been submitted with the application and generally satisfies the requirement of Clause 50 of SEPP 65.

Council’s Design Review Panel considered a similar design prior to the lodgment of the application on 15 August 2013. The current plans largely addressed the concerns raised by the Design Review Panel, however the latest amendments now reduce the size of each 2 bedroom cross through apartment to the point that they do not comply with the minimum internal and external areas Table on Page 69 of the Code.

Under Clause 30A(1)(b) of SEPP65, the Panel may refuse an application that will result in residential units that do not comply with the recommended minimum internal and external areas in the Table on Page 69 of the Code.

The ten design principles are addressed as follows:

Principle 1: Context

The site falls within the Miles Street Sub Precinct that has been identified for re-development in accordance with the Mascot Station Town Centre Precinct Masterplan. Whilst the BBDCP 2013 has been adopted by Council, the Miles Street

Sub Precinct has been excluded from the DCP and as such, the controls of Part 9A of BBDCP 2013 do not apply. Notwithstanding, it is appropriate to consider the principles in the Masterplan and its accompanying DCP.

The surrounding built form context consists of residential development to the south and commercial/warehouse development to the north, east and west. The new zoning for the subject site and adjoining sites to the immediate east and west allow for the redevelopment of the land fronting Gardeners Road for higher density residential development and commercial use. Land adjoining to the immediate south fronting Miles Street has also been identified under BBLEP 2013 for medium density residential development of a maximum building height of 11m (or 4 storeys).

The subject site is relatively flat with a frontage to Gardeners Road. This road is subject to heavy traffic movement, with associated pollution and noise impacts from the identified traffic movement.

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

Principle 2: Scale

The scale of the proposed development is that of a single storey retail/commercial podium fronting Gardeners Road and an eight storey tower above being setback from Gardeners Road and with zero lot setbacks to the eastern and western boundaries. Beyond to the south, the tower runs north/south, being setback from each boundary and with increased setback to the upper levels to the southern boundary to form a T-shaped building.

The height of the proposed development is 27.42 metres at the northern portion of the building, being 1.42 metres in excess of the maximum building height of 26m permitted under BBLEP 2013. Across the remainder of the site, the height is compliant and is progressively terraced to reduce overshadowing to the rear.

Principle 3: Built Form

The development form will comprise of a single residential tower accessible from Gardeners Road. A retail/commercial space comprising of a single storey/single tenancy area of 175m² is proposed to front Gardeners Road. The proposal provides an interesting built form with a simple glazed shopfront to Gardeners Road. Beyond, the tower rises above being setback from the respective boundaries.

The building facades are articulated through strong vertical elements, detailed balcony treatments, and a modern and varied material/finishes selection to provide visual interest. The overall built form is similar to that envisaged by Council, however the additional height and FSR is excessive. In order to reduce the bulk and massing of the proposal, it is recommended that a “Deferred Commencement” consent be granted to require the deletion of the GFA which exceeds the development standard.

Principle 4: Density

The proposed FSR of 2.7:1 (5,426.7m²) exceeds the maximum FSR permitted for the subject site of 2.5:1.

A total of 64 apartments are now proposed under the amended scheme, a reduction of 1 apartment. This will comprise of 21 x studio apartments and 24 x 1 bedroom apartments and 19 x 2 bedroom apartments. The two bedroom apartments have been reduced in size and now do not comply with the minimum internal or external areas in

the Table to Page 69 of the RFDC. This is not appropriate. The number of units provided within the building is excessive when considering that the built form results in adverse visual impacts in the locality.

The additional GFA over the 2.5:1 equates to 439m² or 6 x 1 bedroom apartments or approximately an entire floor of the building. It is recommended that a “Deferred Commencement” consent be granted to require the deletion of the GFA which exceeds the development standard.

Principle 5: Resource, energy and water efficiency

The location, orientation and design of the development provides for adequate solar access and cross ventilation to the majority of apartments in accordance with SEPP 65. The Residential Flat Design Code (RFDC) recommends that at least 60% of the proposed units shall achieve flow through ventilation with the proposal indicating 63% of proposed units able to achieve cross flow ventilation. The applicant has confirmed that all habitable spaces are adequately ventilated.

The RFDC recommends that at least 70% of all proposed units and balconies shall achieve 2 hours of direct sunlight during the period 9:00am and 3:00pm at mid-winter in dense urban areas. The proposal indicates that 71% of proposed units will receive at least 2 hours sunlight during mid-winter to living areas and balconies.

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

Principle 6: Landscape

There are three distinct types of landscape open space provided to the development. This includes private open space balconies, a communal roof top terrace and communal ground level open space. A landscape plan has been submitted with the application which demonstrates that a quality landscaped setting for the proposed development will provide a significant level of amenity for future occupants and the adjoining properties, with street planting to enhance the streetscape.

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

Principle 7: Amenity

All units within the building achieve a satisfactory level of amenity with regards to privacy, ventilation, and access to sunlight. However, the proposed 19 x 2 bedroom units do not meet either the internal or external minimum areas in the Table to the RFDC.

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

An assessment of environmental acoustic impacts as well as a road traffic noise and aircraft noise assessment have accompanied the application, which details measures to

be implemented to ensure that the occupants of the development are not adversely impacted upon.

The proposal complies with disability access requirements and incorporates sufficient service areas as required. The development satisfies the provisions with respect to layout and amenity, and therefore the development is consistent with this principle.

Principle 8: Safety and Security

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

Principle 9: Social Dimensions

The proposed number of studio and 1 bedroom apartments is 70% or 45 apartments. The Applicant has submitted an Economic Assessment of the proposed Unit Mix prepared by Hill PDA dated October 2014 to support the proposed unit mix.

The subject site is located in an area identified for higher density mixed development. The applicant proposes predominantly studio and 1 bedroom units. In addition, the proposed 19 x 2 bedroom units are each less than the minimum areas required by the RFDC. In this instance, the site is appropriately located to accommodate the proposed reduced sized two bedroom apartments and the proposed 70% unit mix.

Principle 10: Aesthetics

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

Design Review Panel Comments:

The Council's Design Review Panel (DRP) has considered the proposed development prior to the lodgement of the application on 17 April 2014.

It should be noted that the initial proposal presented to the DRP was similar to that now proposed. The DRP raised concerns in regards to built form, landscape, amenity, safety/security and social dimensions.

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

Built Form:

- *A separate awning projection over the pedestrian entry to provide shelter and further definition and legibility when viewed from the street;*
- *Reduction in height of the vehicular entry to reduce its visual impact, and with a grille gate at a position indented from the podium façade;*
- *Indent the substation enclosure to reduce its visual impact when viewed from the street;*
- *Further definition of the top most storey so it reads as visually lighter to provide a top to the building;*

Landscape:

- *Consider a raised landscape area of the southern end of the driveway to reduce the length of the driveway ramp open to the sky and increase soft planted area on slab;*
- *The rear landscape area could serve as common open space with direct access from the ground floor lift lobby or as private open space for the ground floor units;*

Amenity:

- *Increase the width of the ground floor lift lobby by local widening or by reconfiguration of the lifts through 90 degree rotation;*
- *Relocate the doors linking the retail space to the south wall behind the lift core;*
- *Separate the retail service access from the residential entry;*
- *Provide some borrowed natural light to the residential entry corridor over the top of the vehicular entry ramp;*
- *Ensure adequate privacy screening to the units oriented towards the rear boundary on Levels 1, 2 and 3 to minimise overlooking impact to the residential properties adjoining to the south;*
- *The design of the units closer to Gardeners Road at the lower levels should minimise impact of traffic noise by way of considering details of balcony balustrades and soffits, screening and glazing types;*
- *Maximise the usability of balconies by the use of some solid balustrading and screening for visual privacy. Such balustrade elements and screening should be incorporated as part of the overall composition of the facades;*
- *Where possible introduce some natural light and ventilation to at least the upper level car park, integrating openings from the perimeter planting areas or through the ground floor podium level;*

Social Dimensions:

- *Consider the provision of a small communal room at the ground floor level, which could adjoin the communal open space.*

In response to the recommendations made by the DRP, the proposal currently before the JRPP has been developed from the initial design presented to the DRP in April 2014. The proposal as now further amended has changed the unit sizes from firstly meeting the minimum internal and external areas in the Table to the RFDC to now

having 19 x 2 bedroom unit which do not meet these minimum areas, however they do exceed the 2 bedroom unit sizes under the new Apartment Design Guide (ADG).

6.1.5 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 BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed residential flat building and retail premises are permissible with Council's consent under BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives in the BBLEP 2013: ▪ <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>
What is the height of the building?	No – Refer to Note 1 Clause 4.6 variation	The proposed building height is 27.42m, which is greater than the 26 metres permitted by Clause 4.3 of BBLEP 2013. The Applicant has submitted a Clause 4.6 variation to the height limit.
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	No – Refer to Note 2 Clause 4.6 variation	Site Area = 1,995m ² GFA = 5,426.7m ² FSR = 2.7:1 which exceeds the maximum FSR of 2.5:1 permitted under Clause 4.4 of BBLEP 2013. A Clause 4.6 variation has been submitted in respect of Clause 4.4.
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 not affected by road widening on the Land Acquisition Map.
Is the site identified on the Key Sites Map?		The subject site is within the Mascot Station Town Centre Precinct. Refer to Clause 6.16 discussion below.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
The following provisions in Part 6 of the LEP apply to the development: 6.1 – Acid sulfate soils	Yes	Clause 6.1 – Acid Sulfate Soils. The subject site is affected by both Class 2 and Class 4 Acid Sulfate Soils. The development application is accompanied by an Acid Sulfate Soils Assessment and Preliminary Acid Sulfate Soils Management Plan prepared by Environmental Investigation

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
6.2 – Earthworks 6.3 – Stormwater management 6.8 - Airspace operations 6.9 – Development in areas subject to aircraft noise 6.16 – Design excellence		Services dated 5 June 2014. The report indicates that ASS was identified in soil samples on site. It is recommended that a condition be imposed to comply with the recommendations of the ASSMP. The development is consistent with Clause 6.1 of BBLEP 2013. Clause 6.2 – Earthworks. The proposed development seeks to demolish the existing building and excavate the subject site for basement car parking. The development application is Integrated Development and as such, the NSW Office of Water has provided its General Terms of Approval for the proposed development. These conditions are included in the draft Schedule of Conditions. The development is consistent with Clause 6.2 of BBLEP 2013. Clause 6.3 – Stormwater. The development application incorporates rainwater collection tanks at ground floor level for irrigation of landscape areas. The development is consistent with Clause 6.3 of BBLEP 2013. Clause 6.8 – Airspace Operations. The subject site lies within an area defined in the schedules of the Civil Aviation (Buildings Control) Regulations that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The application proposed buildings which exceed the maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration. SACL raised no objections to the proposed maximum height of 36.920 metres AHD, subject to conditions to be imposed on any consent. The development is considered to be consistent with Clause 6.8 of BBLEP 2013. Clause 6.9 – Aircraft Noise. The subject site is affected by the 20 ANEF contour. An acoustic report has been submitted with the development application, which indicates that the development has been designed to comply with the requirements of AS2021-2000. The development is consistent with Clause 6.9 of BBLEP 2013.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		Clause 6.16 Design Excellence. The proposed design has been the subject of consideration by Council's Design Review Panel on 17 April 2014. The bulk, scale and height of the proposed development is not appropriate as the development will create adverse impacts on the adjoining dwellings to the south in terms of visual impact, privacy and overshadowing. The current design before the JRPP is therefore not consistent with Clause 6.16 of BBLEP 2013.

Table 4 – BBLEP 2013 Compliance Table

The objectives and provisions of BBLEP 2013 have been considered in relation to the subject development application. The proposal is not consistent with objectives of height and floor space ratio and exceeds the stated development standards for the site under BBLEP 2013.

Note 1 – Clause 4.6 Variation to Maximum Height of Buildings

The maximum building height as required under the Clause 4.3 of BBLEP 2013 is 26m. The proposed building will have a height of 27.42 metres, being RL 36.920 metres, being 1.42 metres in excess to accommodate the lift overruns.

The proposal is inconsistent with the height development standard pursuant to Clause 4.3 of the BBLEP 2013. The applicant has submitted a variation to Clause 4.3 pursuant to Clause 4.6 requesting a greater height (refer to **Appendix B**).

In summary, the applicants key justification for the variation to the height is:

- *The bulk and scale of the development is consistent with the desired future character of the precinct in the following manner:*
 - *The redevelopment will significantly improve the public domain and activation of Gardeners Road;*
 - *Non residential uses will be provided along the road frontage and the generous lobby will activate and improve the public domain and the buildings address;*
 - *The building is eight storeys which is envisaged in this part of Mascot Station Town Centre Precinct and the height variation to accommodate the lift overrun does not present as an additional storey;*
 - *The setbacks are consistent with the existing building and the front portion of the building. The buildings steps back from the east, west and south providing a minimum 6m setback. The east and west setbacks increase to 9.5m and 13 and Levels 6 and 7;*
 - *Landscaping has been designed for the site that softens the built form while providing privacy and wind mitigation for future residents;*

- o *The development has been appropriately designed to minimise acoustic impacts;*
- o *The site is not suited for any required pedestrian linkages;*
- o *Amended shadow diagrams indicate that existing and future redevelopment of the land to the south can achieve the minimum solar access requirements;*
- o *Adequate car parking is provided to meet the requirements of Council;*
- o *No views will be affected;*

This Clause 4.6 variation has been assessed in accordance with the principles of *Wehbe v Pittwater Council* [2007] NSW LEC 827 (*Wehbe*) in which the Hon. Brian Preston, Chief Justice of the Land and Environment Court, set out a new test (the long-standing 5 part test was set out in *Winten Property v North Sydney* (2001) 130 LGERA 79). This test sets out the following assessment process:

1. *The applicant must satisfy the consent authority that "the objection is well founded", and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;*
2. *The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the Environmental Planning & Assessment Act 1979; and*
3. *It is also important to consider:*
 1. *whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
 2. *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

The Chief Justice then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

These matters are considered below.

A. Objection well founded and compliance with the development standard is unreasonable or unnecessary in the circumstance of the case (Cl 4.6(3)(a))

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard?*

The objectives of Clause 4.3 Height of the Botany Bay LEP 2013 are:

- a) *to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,*
- b) *to ensure that taller buildings are appropriately located,*
- c) *to ensure that building height is consistent with the desired future character of an area,*
- d) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
- e) *to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.*

The proposal is inconsistent with the objectives of the height development standard for the following reasons:

- The additional height requested is not consistent with the context of the area which is low density dwellings to the south in a medium density zone;
- The proposed development results in significant adverse visual impact on the locality.

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary*

The underlying objective and purpose of the height control has not been achieved as stated above, therefore the standard is relevant and strict compliance with the numerical requirement of 26m in the B4 zone is necessary in this instance as the proposal does not meet all the objectives of Clause 4.3. The proposed development is not compatible with the existing and desired future character of the area.

3. *The underlying object of the purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The underlying objectives and purposes of the height control remain relevant to the proposed development. The proposed development is not consistent with the objectives of the height control in the BBLEP 2013 as detailed above.

4. *The development standard has been virtually abandoned or destroyed by Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*

A minor variation to the height control has been approved for one other application at 581 Gardeners Road. However, in that instance the height transition adequately addressed visual impact, privacy and overshadowing issues. Therefore, the development standard has not been abandoned or destroyed. This development standard remains relevant and a variation to the standard is not supported where it results in adverse impacts in the locality.

5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

The zoning is appropriate for the locality and the height control in the LEP is appropriate.

It is considered that the applicant's Clause 4.6 is not well-founded and the departure is not in the public interest given the non-compliance with height and FSR which in conjunction with building placement, length and depth, result in unacceptable amenity impacts on adjoining development.

- B. Consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s5(a)(i) and (ii) of the EP&A Act.

The Policy referred to in this instance is SEPP 1 which is not relevant in this case since Clause 4.6 is the applicable instrument, however, the objectives of both are similar in that flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances is desirable.

The objects specified in section 5 (a) (i) and (ii) of the Act are:-

a) *to encourage:*

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land.*

In this instance, non-compliance with the planning controls is not acceptable. The proposal does not achieve the objectives of the development standard and will not allow for the co-ordination of the orderly and economic use and development of land, as the development results in unacceptable amenity impacts within the subject site and adjoining development.

A compliant building can be built which would significantly minimise the amenity impacts associated with this development, resulting in a better planning outcome and a development that is in the public interest. Compliance with the controls results in a more orderly outcome.

- C. Sufficient Environmental Planning Grounds (Cl 4.6(3)(b))

There are insufficient environmental planning grounds arising from the proposal to support the variation to the height development standard given:

- The built form of the proposed development is not consistent with the context of the locality in terms of its height, bulk and scale;
- The proposed development results in significant visual impact due to its excessive height and resulting bulk and scale.

Therefore, there are insufficient planning grounds for a variation to the height and the variation is not in the public interest.

D. Other Matters For Consideration (Cl 4.6(1), (4) & (5))

The following matters pursuant to Clause 4.6 also need to be considered:-

- Objectives of Clause 4.6;
- Public interest and public benefit of maintaining the development standard Cl 4.6(4)(a)(ii) and (5)(b) of BBLEP 2013); and
- Any matters of state or regional importance (Cl 4.6(5)(a) of BBLEP 2013)

Objectives of Clause 4.6

The objectives of Clause 4.6 (pursuant to Cl 4.6(1) of BBLEP 2013) are:

- a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The proposed development will not achieve a better outcome for the site as the proposal will adversely impact on the amenity for future residents and the locality.

On this basis and for the reasons outlined this assessment, flexibility cannot be applied to this development, as it does not achieve a better outcome for the locality.

Public Interest and Public Benefit

The applicant contends that the development will provide an improved public domain to Gardeners Road, an active street frontage to Gardeners Road, is eight storeys in height and is consistent with the built form envisaged by the Masterplan controls in Part 9A of BBDCP2013. However, the design in its current form results in adverse impacts in the locality in terms of visual impact, bulk and scale.

It is considered that in this current case, the planning control should not be varied as it will affect the general planning change in the area, as it will not be consistent with other mixed-use development and residential development already approved and under construction in the immediate vicinity of the site. Furthermore, the proposed development results in adverse amenity impacts to future residents and the locality.

Public objection has been received regarding the variation to the development standard and highlighting the amenity impacts. This has been discussed further in the report but in summary, the key objections relate to building placement, increase in

height, increase in FSR and the resulting amenity impacts regarding loss of solar access, loss of outlook and increased traffic impacts on the wider road network.

On the basis of this assessment, it is concluded that the variation is not in the public interest due to the substantial adverse amenity impacts and is not supported.

Matters of State or Regional Importance

The proposed variation to the height standard does not raise any matters of significance for state or regional planning.

The variation is not contrary to any state policy or ministerial directive.

Summary

The Clause 4.6 Exception to the height control has been assessed in accordance with relevant case law, being the principles of *Wehbe v Pittwater Council [2007] NSW LEC 827*. It is considered that the proposal is not consistent with the underlying objectives of the standard identified.

The proposed development provides for a mixed use development that does not comply with the height or FSR standard, and exhibits non-compliance with the DCP and SEPP 65 controls, particularly the unit sizes under the Table to Page 69 of the RFDC. In addition, there is no reasonable justification as to why the proposed development cannot achieve compliance with the LEP standards and SEPP 65 minimum internal and external areas in the Table to the RFDC. Therefore, the site will not be developed in an orderly and economic manner that is appropriate for the site and the locality.

While it is acknowledged that the development will meet the needs of the local community by providing a high quality residential flat development with commercial uses, it will impact on the existing area through the non-compliance with height which results in adverse amenity impacts.

It has been established that the proposed additional height is inappropriate and strict adherence to the development standard in this instance is reasonable and necessary. Maintaining and enforcing the development standard in this case is reasonable will result in the orderly and economic development of this site with reduced amenity impacts.

It is considered that the applicant's Clause 4.6 is not well-founded and the departure in height is not in the public interest. On this basis of, it is recommended that a "Deferred Commencement" consent be granted to require the deletion of Level 7 from the building. This will reduce the height of the building from 27.42m to approximately 23 metres and reducing the GFA to 4,958m² (FSR reduced from 2.7:1 to approximately 2.47:1).

The development standard relating to the maximum height for the site pursuant to Clause 4.3 of the BBLEP 2013 should not be varied in the circumstances as discussed above.

Note 2 – Clause 4.6 variation to maximum floor space ratio

The maximum FSR permitted under the Clause 4.4 of BBLEP 2013 is 2.5:1 (4,987m²) pursuant to Clause 4.4 of BBLEP 2013. The proposed FSR of 2.7:1 (5,426.7m²), represents a variation of 9% or 439m² which equates to 6 x 1 bedroom apartments.

The Applicant has submitted an amended Clause 4.6 Variation to the FSR on the 16 October 2014. This variation is considered below.

In summary, the applicants key justification for the variation to the FSR is:

- *The proposed departure within the B4 zone satisfies the objectives of the FSR development standard. An assessment of the objectives of the standard has been provided, and the proposal satisfies the objectives.*
- *The proposed FSR departure within the B4 zone retains compliance with the objectives of the zone. This is discussed further at Question 3 below.*
- *The proposed development has been appropriately designed to comply with Council's minimum unit sizes, **[now not amended to be only the 1 bedroom units]** car parking requirements, does not have any significant adverse impacts on the locality in terms of traffic generation, privacy, overshadowing or visual impact. The development is required to provide four (4) levels of basement car parking and the site is affected by shallow groundwater which requires additional construction methods to address permanent groundwater penetration to the basement slab and walls.*
- *The site was previously used for industrial purposes and as a result of these land uses, remediation of the site and the Precinct as a whole has been required. The remediation of the site does justify the contravention of the development standard as it has resulted in a better environmental amenity for the area and the future public open spaces to be providing within the Precinct.*
- *The proposed departure within the B4 zone does not raise any matters of significance or State or Regional environmental planning significance.*

This Clause 4.6 variation has been assessed in accordance with the principles of *Wehbe v Pittwater Council [2007] NSW LEC 827 (Wehbe)* as outlined on Page 18.

The matters for consideration for a Clause 4.6 variation area:

A. Objection well founded and compliance with the development standard is unreasonable or unnecessary in the circumstance of the case (Cl 4.6(3)(a))

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard?*

The objectives of Clause 4.4 Floor Space Ratio of Botany Bay LEP 2013 are:

- (1) *The objectives of this clause are as follows:*

- (a) *to establish standards for the maximum development density and intensity of land use,*
- (b) *to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- (c) *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- (d) *to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,*
- (e) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (f) *to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (g) *to facilitate development that contributes to the economic growth of Botany Bay*

The proposal is considered to be inconsistent with the objectives of the FSR development standard for the following reasons:

- The additional FSR results in an overdevelopment of the site and with the additional height sought will result in a bulk and scale that is not commensurate with the size of the site.
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary*

The underlying objective and purpose of the FSR control has not been achieved as stated above, therefore the standard is relevant and strict compliance with the 2.5:1 FSR standard is necessary in this instance as the proposal does not meet all the objectives of Clause 4.4. The proposed development in its current form, is not compatible with the existing and desired future character of the area.

3. *The underlying object of the purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The underlying objectives and purposes of the FSR control remain relevant to the proposed development. The proposed development in its current form is not consistent with the objectives of the FSR control in the BBLEP 2013 as detailed above.

4. *The development standard has been virtually abandoned or destroyed by Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*

There are no examples of variations to the FSR in the B4 zone within this precinct. Therefore, the development standard has not been abandoned or destroyed. This development standard remains relevant and a variation to the standard is not supported where it results in adverse impacts in the locality.

5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

The zoning is appropriate for the locality and the FSR control in the LEP is appropriate.

It is considered that the applicant's Clause 4.6 is not well-founded and the departure is not in the public interest given the non-compliance with height and FSR which in conjunction with building placement, length and depth, result in unacceptable amenity impacts on locality.

B. Consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s5(a)(i) and (ii) of the EP&A Act.

The Policy referred to in this instance is SEPP 1 which is not relevant in this case since Clause 4.6 is the applicable instrument, however the objectives of both are similar in that flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances is desirable.

The objects specified in section 5 (a) (i) and (ii) of the Act are:-

b) *to encourage:*

- (iii) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (iv) *the promotion and co-ordination of the orderly and economic use and development of land.*

In this instance, non-compliance with the planning controls is not acceptable. The proposal does not achieve the objectives of the development standard and will not allow for the co-ordination of the orderly and economic use and development of land, as the development results in unacceptable amenity impacts within the subject site and in the locality.

A compliant building can be built which would significantly minimise the amenity impacts associated with this development, resulting in a better planning outcome and a development that is in the public interest. Compliance with the controls results in a more orderly outcome.

C. Sufficient Environmental Planning Grounds (Cl 4.6(3)(b))

There are insufficient environmental planning grounds arising from the proposal to support the variation to the FSR development standard given:

- The additional FSR results in inadequate built form which creates adverse visual impacts in the locality and reduced size apartments that do not meet the minimum internal and external areas of the Table on Page 69 of the RFDC.

There are insufficient planning grounds for a variation to the FSR control and the variation is not in the public interest.

D. Other Matters For Consideration (Cl 4.6(1), (4) & (5))

The following matters pursuant to Clause 4.6 also need to be considered:-

- Objectives of Clause 4.6;
- Public interest and public benefit of maintaining the development standard Cl 4.6(4)(a)(ii) and (5)(b) of BBLEP 2013); and
- Any matters of state or regional importance (Cl 4.6(5)(a) of BBLEP 2013)

Objectives of Clause 4.6

The objectives of Clause 4.6 (pursuant to Cl 4.6(1) of BBLEP 2013) are:

- c) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- d) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The proposed development will not achieve a better outcome for the site as the proposal will adversely impact on the amenity for future residents and the locality.

On this basis and for the reasons outlined in this assessment, flexibility cannot be applied to this development, as it does not achieve a better outcome for the locality.

Public Interest and Public Benefit

The applicant contends that the development will provide an improved public domain to Gardeners Road, an active street frontage to Gardeners Road, is eight storeys in height and is consistent with the built form envisaged by the Masterplan controls in Part 9A of BBDCP2013. However, the design in its current form exceeds the maximum permitted height and floor space ratio development standards under BBLEP 2013 which results in reduced residential amenity for future residents of the site, a density which is not commensurate with the size of the site, resulting in an overdevelopment of the site.

Public objection has been received regarding the variation to the development standard and highlighting the amenity impacts. This has been discussed further in the report but as a summary, the key objections relate to building placement, increase in height, increase in FSR and the resulting amenity impacts. It is recommended that a “Deferred Commencement” consent be granted requiring the applicant to submit an amended plan which reduced the GFA of the building to being compliant with the 2.5:1 FSR for the site.

Matters of State or Regional Importance

The proposed variation to the FSR standard does not raise any matters of significance for state or regional planning.

The variation is not contrary to any state policy or ministerial directive.

Summary

The Clause 4.6 Exception to the FSR control has been assessed in accordance with relevant case law, being the principles of *Wehbe v Pittwater Council [2007] NSW LEC 827*. It is considered that the proposal is not consistent with the underlying objectives of the standard identified.

The proposed development provides for a mixed use development that does not comply with the height or FSR standard, and exhibits non-compliance with the DCP and SEPP 65 controls. As such, there is no reasonable justification as to why the proposed development cannot achieve compliance with the LEP standards and SEPP 65 minimum internal and external areas in the Table to the RFDC. Therefore it is considered that the site is not being developed in an orderly and economic manner that is appropriate for the site and the locality.

It has been established that the additional floor space ratio is inappropriate and strict adherence to the development standard in this instance is reasonable and necessary. Maintaining and enforcing the development standard in this case is reasonable and does not prevent the orderly and economic development of this site.

It is considered that the applicant's Clause 4.6 is not well-founded and the departure in FSR is not in the public interest. On this basis of, it is recommended that the development standard relating to the maximum FSR for the site pursuant to Clause 4.4 of the BBLEP 2013 should be maintained in the circumstances as discussed above.

6.1.6 Botany Bay Development Control Plan (BBDCP) 2013 - Amendment No. 1

Council resolved on 1 July 2015 to note the contents of a report regarding the Miles Street Sub Precinct. The report provided options to either maintain the current situation with no precinct specific controls and maintaining the BBLEP controls or to progress with specific controls to be included in further amendments to BBDCP 2013.

Council resolved to retain the current situation with no specific controls for the precinct.

Notwithstanding the above, the principles in the Mascot Station Town Centre Precinct Masterplan dated April 2012 and its accompanying DCP should be considered in the assessment of the application:

Part	Control	Proposed	Complies
Part	Control	Proposed	Complies
3A.2 Car Parking	<i>Residential Flat Buildings:</i> 1 space/ studio or one bedroom units 2 spaces/ two or 3 bedroom units; 1 designated visitor space per 5 dwellings <i>Commercial:</i> 1 space/25sqm GFA = 7 spaces	A total of 103 parking spaces are required as follows: • 83 residential; • 13 visitors; • 7 commercial.	No – Shortfall of 5 retail spaces – Refer to Note 3

3A.3.1 – Car Park Design	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.	All car parking areas have been designed to comply with AS2890.1 and AS2890.6. A condition can be imposed on any consent granted to ensure compliance is met.	Condition to comply
	C2 - Vehicle access points, loading /unloading area and the internal circulation of an off-street parking facility shall be designed in a manner that entry to and exit from the site is made in a forward direction (except for dwelling houses).	Vehicle access to the car parking areas is by way of a two lane access driveway of 6 metres width.	Yes
	C3 - Parking spaces for small cars shall comply with AS2890.1 and only be permitted to the off-street parking facilities that are open to the general public.	No small car parking spaces are proposed or required.	N/A
	C4 - For mixed use development, residential off-street parking facilities shall be separated from the other uses and security roller doors shall be installed to provide security to residents;	The commercial spaces are combined with resident spaces.	Acceptable
	C6 - All parking bays shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with AS2890.1. These markings shall be maintained at all times.	Condition for all parking bays to be clearly signposted and marked.	Condition to comply.
	Basement Car Parking C20 - Basement car parking facilities are preferred for large scale development.	Four levels of basement car parking are proposed.	Yes
	C21 - Basement parking areas are to be located directly under building footprints to maximize opportunities for deep soil planting.	Basement parking is located directly beneath the building footprint.	Yes
	C22 - Ventilation grills and screening devices of car park openings are to be integrated into the overall façade and landscape design of the development.	The basement car park will be mechanically ventilated.	Yes
	C26 – the minimum width of the access driveway shall be 5.5 metres for 6m inside the circulation roadway	6m width proposed.	Yes
	C34 - All off-street parking facilities shall allocate accessible parking spaces for people with disabilities at the rate in accordance with Part 3C -	In accordance with Part 3C and AS2890.6, 1 disabled car parking space is required. Seven (7) disabled car parking spaces are proposed.	Yes

	Access and Mobility. C37 - For residential development, accessible car parking spaces are to be allocated to adaptable unit, or as visitor parking	Condition for five (5) spaces to be allocated to the adaptable units and two (2) disabled spaces for retail/visitors respectively.	Condition to comply
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 Basement Level 1, located adjacent to the garbage rooms.	Considered acceptable
3C.2 – Access and Mobility	C1 - All development including community events must comply with Table 1. C2 - All development must comply with the provisions of the Disability Discrimination Act 1992, BCA, the Premises Standards and the relevant Australian Standards. C3 - All residential development must comply with AS4299 - 1995 Adaptable Housing for those developments required to provide adaptable housing.	The commercial tenancies are designed to be fully accessible. The development can be conditioned to comply. Five (5) adaptable dwellings are proposed.	Yes Condition to comply Yes
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.	The proposal incorporates a rainwater collection tank at ground level for irrigation re-use on landscape areas.	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 are discouraged. C2 - Developments shall facilitate a diverse range of activities that attract people, encourage interaction and provide a community focus. C4 - Mixed use and higher density developments are to be located in close proximity to activity centres or public transport networks 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. C6 - Pathways shall be direct with all barriers along pathways being permeable including landscaping and fencing.	The ground floor commercial tenancies will assist in providing a connection with the street. The development is mixed use in nature, providing both residential and commercial uses. Public transport networks are located on Gardeners Road, Botany Road and O’Riordan Street. An active street frontage is proposed at the frontage to Gardeners Road. A detailed landscape plan has been submitted, which indicates that the pathway into the building and along the street frontage is direct.	Yes Yes Yes Yes Yes

	C7 - Provide pedestrians and cyclists with a choice of formal pathways and routes. C8 - No entrapment spots should be included in any path. C9 - All paths shall be well lit.	As above. No entrapment spaces are proposed. Condition for lighting to comply with Australian Standards.	Yes Yes Condition to comply
3J.2 Aircraft Noise Exposure Forecast	C2 Where building site is classified as "conditional", development may take place, subject to Council consent and compliance with AS2021-2000.	The subject site is located within the 20 ANEF contour. An acoustic report has been submitted with the development application which indicates that the design of the building alterations have been designed to comply with the requirements of AS2021-2000.	Yes
3K - Contamination – Preliminary Investigation	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: (i) Is the information about the site's history adequate? (ii) Are the descriptions of activities on the site detailed enough to identify a potentially contaminating land use? (iii) Are there any gaps in the history that might mask a potentially contaminating land use? (iv) Are the sources reliable? (iv) Is the information verifiable? (v) Does the information conform to the Managing Land Contamination: Planning Guidelines (EPA)?	The applicant submitted a Preliminary Stage Environmental Site 1/Stage 2 Environmental Site Assessment prepared by Environmental Investigation Services dated 5 June 2014. This report concludes that site can be made suitable for the proposed development, subject to remediation works being undertaken to remove the contaminated soils. On this basis, it is recommended that a Detailed Stage 2 Investigation be undertaken during demolition with a Remedial Action Plan to be submitted prior to the issue of the Construction Certificate for the building. A condition will also be required for a Site Audit Report (SAR) to be submitted to Council prior to the issue of the Construction Certificate, which states that the site has been made suitable for the proposed development.	Yes
3L.1 - Landscaping General Requirements	C1 - Landscaping must comply with Council's Technical Guidelines for Landscaping on Development Sites. C2 - Existing trees including street trees must be preserved. 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	The development application has been accompanied by a detailed landscape design, which is consistent with Council's Technical Guidelines. There are two existing street trees proposed to be removed, both in poor condition located underneath the overhead cables on Gardeners Road. 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 Yes Yes

	circulation or parking areas. Emphasis should be placed landscaped setbacks designed to soften buildings. C4 - Landscape screening or buffers are to be included and designed so as to enhance privacy between properties and softening of walls and facades. 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. 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 Deep Soil Zones 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. Planter Beds C16 - All planter beds to be a min 1 metre wide except where otherwise stipulated in boundary setbacks for individual development types	Landscape setbacks are proposed to the eastern, western and southern boundaries to assist in reducing privacy impacts to adjoining properties. The submitted landscape plans have been assessed by Council's Landscape Architect and appropriate conditions are recommended to be imposed on any consent granted. All proposed utilities and services are appropriately located on the northern elevation. The deep soil zone is located along the southern, eastern and western boundaries which are contiguous with adjoining sites. Podium level planter beds are located within private open space terraces, which are of varied sizes/dimensions, generally exceeding 1m in width.	Yes Yes Yes Yes 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 height of buildings is 26m. The building height proposed is 27.42m. As such, a Clause 4.6 variation has been submitted.	No – Refer to Note 1 - Clause 4.6 variation above.
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 2.7:1 (5,426.7m ²)	No – Refer to Note 2 - Clause 4.6 variation above.
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.	Whilst not applicable to the subject site (Urban Block 2), the proposed development site comprises of two (2) separate allotments of land which are suitable for redevelopment.	Yes
9A.4.3.4	C1 All development within Urban	Whilst not applicable to the subject	Yes

Street Setbacks	Block 1 must comply with the street setbacks identified in Figures 30 and 31 .	site (Urban Block 2), a varied 3m setback is proposed to Gardeners Road. This is consistent with the Masterplan setbacks and is consistent with the setbacks for similar development fronting Gardeners Road in Mascot Station Precinct.	
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 frontage to Gardeners Road, the building has zero lot lines to both the eastern and western boundaries for a length of 12m and 18m respectively. Beyond, the north/south wing maintains a 6m setback to the eastern boundary and 9m setback to the western boundary, which is half of the required building separation distance for buildings of 5-8 storeys in height.	Yes
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 .	Whilst not applicable to the subject site (Urban Block 2), the subject site is required to have an active street frontage under BBLEP 2013. The proposed development incorporates two (2) commercial tenancies at ground level directly fronting Gardeners Road.	Yes
	C2 All development within Urban Blocks 1, 3 and 4 must provide awnings where shown in Figures 53, 54, 55 and 56 .	Whilst not applicable to the subject site (Urban Block 2), an awning is proposed to Gardeners Road which projects 1.8m. This awning enhances the streetscape, improves activation of the street and assists in wind mitigation. NSW RMS advises that they do not support the awning, however this is inconsistent with approvals for other sites along Gardener Road. It is recommended that RMS conditions be imposed to require no part of the building to overhang the road reservation, which will require deletion of the awning.	Condition to delete awning
9A.4.4.6 Building Articulation	C2 Blank external walls of greater than 100m ² must be avoided.	Both the eastern and western elevations are blank concrete walls on the boundary. Both adjoining sites to the east and west are capable of redevelopment and can be designed cohesively with the proposed blank walls.	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 70%.	No – Refer to Note 4
9A.4.4.9	C2 The minimum private open space		Yes

Private Open Space and Communal Open Space	requirement per dwelling for multi dwellings and residential flats are as follows: Studio/1 bedroom= 12m²; 2 Bedrooms: 15m²	Studio = 13-48m² 1 bedrooms = 7 - 19m² 2 bedrooms = 15-25m²	
9A.4.5.4 Solar Access and Shadow	C3 Development must demonstrate: (i) Living room and private open spaces for at least 70% of apartments in a development site (and 70% in neighbouring residential development) will achieve a minimum of 2 hours direct sunlight between 9am and 3pm on June 21; and (ii) 30% of any common open space will obtain at least two hours of direct sunlight between 9am and 3pm on 21 June.	71% of apartments in the proposed development achieve at least 2 hours of direct sunlight to living areas and private open space areas. 30% of the Communal open space area will obtain at least 2 hours sunlight between 9am and 3pm on June 21.	Yes – Refer to Note 5
9A.4.5.7 Wind Mitigation	C1 All new buildings are to meet the following maximum wind criteria: (i) 10 metres/second along commercial/retail streets; (ii) 13 metres/second along main pedestrian streets, parks and public places; and (iii) 16 metres/second in all other streets	A Wind Impact Assessment has been submitted with the application prepared by Windtech dated 5 June 2014. The recommendations to the building, which are included on the architectural plans for wind mitigation include: - Full height impermeable screens for the southern perimeter south facing balconies L4-7; - Dense hedge foliage planting along the western perimeter rooftop terrace; - Balustrade and blade walls to the perimeter balconies; - Rooftop landscaping; - Rooftop balustrades; - Awning to Gardeners Road.	Yes

Table 5 – BBDCP 2013 Compliance Table

Note 3 - Car parking

Control C2 of Part 3A.2 – Parking for specific uses states that car parking for residential flat buildings and commercial premises is as follows:

- Commercial = 1 space per 40m² of GFA;
- Studio or 1 bedroom dwelling = 1 parking space;
- 2 bedroom dwelling = 2 parking spaces;
- 1 space per 5 dwellings for visitors.

Based on the above requirements, the proposed development would therefore require 103 off street car parking spaces, being 83 resident spaces, 13 visitor spaces and 7 retail spaces.

The proposed development only provides a total of 98 car parking spaces. Therefore a shortfall of five (5) spaces is proposed, being retail spaces.

If the site was included in the Mascot Station Precinct, the visitor parking requirements for Part 9A of BBDCP 2013 are one (1) visitor space per 7 dwellings. Therefore, the proposed development would require only nine (9) visitor spaces which reduces the shortfall to one (1) space, being a total off street parking requirement of 99 spaces with 98 proposed.

The subject site has a direct frontage to Gardeners Road with public transport bus routes passing the site and on both Botany Road and O’Riordan Street. After hours, the commercial parking spaces would be available for additional visitor parking.

The retail floor area is of a size which is unlikely to attract excessive traffic generation. Uses which are permissible include shops, offices or food and drink premises to support the day to day needs of the resident and workforce population in the immediate vicinity of the site.

The applicant has submitted amended plans where the allocation of parking does not provide all required spaces for the residential units and additional spaces being given to visitor parking. The “Deferred Commencement” Condition DC1 requires the deletion of 6 apartments from Level 7. This will result in a total parking requirement of 91 off street car parking spaces, with 98 proposed.

Note 4: Unit Mix

The following table indicates the proposed unit mix.

	TOTAL	Unit Mix
Studio	21	33%
1 bedroom	24	37%
2 bedroom	19	30%
	64	100%

Table 6 – Unit Mix

Control C2 of Section 4.4.7 of BBDCP 2013 states that *the combined total number of studio units and one bedroom apartments/dwellings must not exceed 25% of the total number of apartments/dwellings within any single site area.*

The applicant has submitted an Economic Assessment of Proposed Unit Mix prepared by Hill PDA Consulting in October 2014 in response to the unit mix requirement of BBDCP 2013. The report states the following:

- “▪ *There is a strong demand for apartments in Mascot due to the suburbs attributes being in close proximity to the airport and the Sydney CBD and having good public transport infrastructure;*
- *Demand for studio and 1 bedroom dwellings in Mascot is particularly strong reflecting the profile of typical buyers being 1 and 2 person households occupied by young professionals who are predominantly price conscious and are attracted to the proximity to the train station;*

- *Demand for smaller units is likely to remain strong owing to declining household sizes in Mascot, a reduced fertility rate and increasing production costs;*
- *The market is price sensitive and studio and 1 bedroom units are highly demanded as these are more affordable and more aligned to the requirements of buyers;*
- *An undersupply of small apartments relative to demand has resulted in marked capital appreciation and rental escalation thereby undermining affordability for both home buyers and renters. The predominant stock available for rent is 2 bedroom units with very few 1 bedroom units being available further demonstrating the undersupply of smaller units and the mismatch between supply and demand;*
- *There is a strong relationship between the size of residential units and their price. In today's market, a 25sqm increase in the size of apartments in the Botany LGA results in a \$140,000 to \$150,000 price increase and further \$40,000 to \$50,000 with an additional basement car space. Strict enforcement of the unit mix/size control will lead to a fall in demand for apartments in the order of 20-30%. The result is a reduction in housing needs being satisfied.*
- *The DCP requirements undermine supply of dwellings because marginal revenue from the increase in floor space barely covers the marginal cost. There may even be some loss in profit which results in a decline in residual land values thereby undermining development feasibility."*

Comment: In December 2014, Council engaged SGS Economics and Planning to review its Unit Mix DCP control. The report concludes that:

- The 13% growth in demand for apartments between 2011 and 2031 is projected to be for studios and 1 bedroom dwellings, which is well beneath the current 25% cap for the Botany LGA.
- The fastest growing family/household type was 'couple family with no children' (31%), whereas the slowest percentage growth occurred in the 'one parent family' category (6%).

It is Council's view that the higher proportion required under the DCP, ie. 75% 2/3 bedroom apartments should be maintained in the DCP to cater for the increasing number of households (31%) in the Botany LGA that are 'couple family with no children' that will soon require a 2 and 3 bedroom apartment for a growing family, particularly if they choose not to transition into non-apartment dwellings and instead move into a 2 or 3 bedroom apartment.

The proposed 70% unit mix for the proposed development is not acceptable. The removal of Level 7 from the proposal will assist in creating a more balanced provision of unit types within the development.

Note 5: Solar Amenity

In accordance with Section 9A.4.5.4, 70% of apartments in the proposed development achieve a minimum 2 hours of direct solar access to living areas and private open space on June 21. Adjoining development to the south also retain a minimum of 2 hours direct solar access to the rear private open space area. The submitted shadow

diagrams demonstrate that the proposal complies with relation to adjoining properties solar access.

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

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

Comment: The subject site is located within the Miles Street Sub-Precinct, an area which has been identified for redevelopment for high density mixed use commercial/residential with a transition to medium density residential development fronting Miles Street to the south of the subject site and retention of the low density residential development on the southern side of Miles Street. It is therefore necessary to ensure that adjoining properties to the south of the subject site will retain a compliant level of solar access on June 21.

Shadow diagrams submitted with the development application indicate that the primary private open space areas of these dwellings in Miles Street will be in shadow between 9:00am to 3:00pm on June 21. The applicant was requested to make amendments to the design of the building to increase the setback at the upper levels to preserve solar access to these dwellings in Miles Street. In addition, where Council is faced with other development applications for development of a similar scale on the eastern and western adjoining properties on Gardeners Road, the overshadowing impacts are further exacerbated. Therefore, the cumulative overshadowing impacts are to be addressed by the Applicant under a pre-determined criteria set by Council, that at the rear of each dwelling located on the northern side of Miles Street (an east/west aligned street), a space of unbuilt upon land 6m in width by 4m in depth that has access to 2 hours of solar access at the winter solstice will be provided.

The applicant submitted amended plans and shadow analysis on 10 October 2014, that incorporate increased setbacks to the southern boundary for the upper levels of the proposed building, which adjoins Nos. 56-64 Miles Street. However, this was not considered sufficient and amended plans were then received on 27 March 2015 to further increase the upper level rear setbacks. The proposed building (as amended) has a southern boundary setback of 6 metres from Ground Level to Level 4, increasing to 15.5m for Levels 5 and 6, and 29.2m to the balcony balustrade of Level 7. The amendments indicate that the proposed development has now reduced adverse overshadowing impact to the rear private open space areas of the adjoining dwellings to the south between 9am and 3pm on June 21 and satisfies the solar access goal above.

- *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 proposed design has been further amended since the solar access analysis and therefore has reduced adverse overshadowing impacts.

- *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 rear private open space areas of the dwellings to the south will be provided with 2 hours of direct sunlight on June 21.

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

Comment:

Directly to the east is located 589-591 Gardeners Road, currently comprising of a part one and part two storey warehouse building. This building is constructed on the common boundary with the subject site, being setback approximately 2.5m from the northern boundary to Gardeners Road. Future redevelopment of this site is likely to be of a similar scale to that currently proposed at the subject site. It is anticipated that any future building at this adjoining site will achieve adequate solar access to future private open space balconies and communal areas.

Directly to the west is located No. 597-603 Gardeners Road which comprises of a two storey warehouse building divided into separate tenancies. Again, any future building at this adjoining site will achieve adequate solar access to private open space balconies on June 21.

As detailed above, the adjoining residential properties to the immediate south have been not been adequately addressed by the Applicant. The amended shadow analysis diagrams received on 10 October 2014, indicate that that the proposed development will provide 2 hours of direct sunlight to the private open space areas of dwellings to the south. The Applicant has made further amendments to the design of the development in March 2015 to increase the southern boundary setback to Level 6 and 7 to further reduce overshadowing caused by the proposed building.

- *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: The upper levels of the proposed building at the rear have an increasing setback relative to the increase in building height.

- *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 land to the immediate south has been identified for medium density residential development. As detailed above, the Applicant has adequately addressed overshadowing to the rear private open space areas of the dwellings to the immediate south. In terms of future development for medium density residential development, Council is currently in the process of developing specific development controls for inclusion in the BBDCP in the future. The proposed development will have an impact on any future medium density dwellings which are located outside of the private open space areas in the solar access analysis.

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

The proposed development will have an environmental, social or economic impact on the locality in terms of its reduced sized apartments and bulk and scale, which is not commensurate with the size of the site and will result in an overdevelopment of the site.

6.3 The suitability of the site for the development.

The subject site is currently a commercial warehouse building. Pockets of contamination have been identified on the site however adequate information has been submitted to confirm that the site can be made suitable for the proposed residential and commercial development. In addition, the subject site is affected by the 20-25 ANEF contour and also affected by road traffic noise from Gardeners Road. In this regard, the applicant has submitted an acoustic report which demonstrates that the development can meet the acoustic requirements of both affectations. Appropriate condition can be imposed to require compliance.

Accordingly, the site is suitable for the proposed development. The proposed development being for the demolition of existing structures and site remediation; construction of an eight storey mixed use development comprising of 175m² of retail floor space fronting Gardeners Road; 64 residential apartments (21 x studio, 24 x 1 bedroom and 19 x 2 bedroom) and 4 levels of basement car parking to accommodate 112 spaces, at 593-595 Gardeners Road, Mascot located within the B4 – Mixed Use zone is considered to be a suitable development in the context of the site and the locality.

6.4 Any submission made in accordance with the Act or Regulations.

In accordance with Botany Bay Development Control Plan 2013 Part 2 – Notification and advertising, the development application was notified to surrounding property owners for thirty (30) days from 25 June 2014 to 25 July 2014. One objection with an attached petition with 30 signatures was received in response to the proposed development, which raises the following issues:

- *This application represents a move east of O’Riordan Street and poses a significant threat to homes in the residential pocket of Miles Street, Hughes Avenue and Carinya Avenue. It is evident that this movement is the*

commencement of an expansion plan that will adversely affect the people in this pocket and place extreme pressure for owners to sell and escape.

Comment

The southern side of Gardeners Road between O’Riordan Street and Botany Road is land that is predominantly commercial/industrial in nature, having formerly been zoned 10(a) Mixed Commercial/Residential zone. With the gazettal of BBLEP 2013, the land is now zoned B4 – Mixed Use, where both retail premises and residential flat buildings remain permissible with the consent of Council. This land falls within the Urban Block 2 – Miles Street Sub Precinct under Part 9A of BBDCP 2013 which has been excluded from BBDCP 2013.

Council resolved on 1 July 2015 to note the contents of a report regarding the Miles Street Sub Precinct. The report provided options to either maintain the current situation with no precinct specific controls and maintaining the BBLEP controls or to progress with specific controls to be included in further amendments to BBDCP 2013.

Council resolved to retain the current situation with no specific controls for the precinct.

Notwithstanding the absence of controls for the precinct, BBLEP 2013 specifies a maximum building height of 26m and a maximum FSR of 2.5:1 for this precinct, subject to appropriate treatment of the interface between the taller residential flat buildings, the existing low density dwellings and also giving consideration to future medium density development on adjoining land to the immediate south.

In respect of the proposed development, the design is largely commensurate with the anticipated built form for this precinct, except that it exceeds the maximum height and floor space ratio development standards, which in this instance are not supported. It is noted that the design amendments have achieved the intention to reduce adverse privacy impacts to the rear and the building steps down to ameliorate overshadowing impacts.

- ***The planned 8 storey building is to the north of these homes and will have a direct impact upon the amount of light filtering through as well as the ability to reduce the value of our properties. Homes that are attempting to utilise the sun for environmental reasons (solar panels etc) will be affected, as well as the obvious negative consequences of a darkened environment. The proposal has not been aesthetically designed for the residents that it will adjoin, with no tapering and a sheer 8 storey monstrosity overshadowing them.***

Comment

As detailed above under the solar access discussion, the proposed development as amended will achieve 2 hours of direct solar access to the rear private open space area of those dwelling to the immediate south on the northern side of Miles Street.

6.5 The public interest.

The proposed development is not consistent with the maximum height of buildings development standard or the floor space ratio development standard for the subject site under BBLEP 2013. It is considered that approval of the proposed height and FSR exceedence will not be in the public interest.

The proposed development is not consistent with the development controls of BBDCP 2013, in respect of bulk, scale, height, visitor car parking, unit mix and unit/balcony sizes. It is therefore recommended that a “Deferred Commencement” consent be granted requiring the applicant to submit an amended plan which reduced the GFA of the building to being compliant with the 2.5:1 FSR for the site.

7.0 OTHER MATTERS

7.1 EXTERNAL REFERRALS

- *Sydney Water*

Sydney Water, by letter dated 27 June 2014, has provided comments and conditions. It is recommended these be imposed on any consent granted.

- *NSW Police – Botany Bay Local Area Command*

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

The NSW Police identified a ‘medium’ crime risk rating for the proposed development on a sliding scale of low, moderate, high, extreme crime risk. NSW Police raises no objection by letter dated 25 July 2014.

- *NSW Office of Water*

Groundwater levels encountered across the site vary between 6.6m-7.0m AHD. This is approximately 3m below ground surface within sandy soils. The proposed basement level will be constructed with a finished floor level of -3.3m AHD, requiring extensive dewatering and permanent construction. As such, the proposed development is Integrated Development and requires a Controlled Activity Approval for construction dewatering pursuant to the provisions of Section 91 of the EP&A Act.

In a letter dated 11 July 2014, NSW Office of Water has provided its General Terms of Approval for the proposed development.

- *Sydney Airports Corporation Limited (SACL)*

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

The development application was therefore referred to SACL for consideration. Under letter dated 30 July 2014 SACL provided concurrence for the development, subject to conditions, and on the following basis:

- Building height permitted to a maximum of 36.920m AHD;

SACL has raised no objection to the development.

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

The Application is “Traffic Generating Development” and was referred to RMS. The proposal was considered by RMS and in a letter dated the 15 July 2014, RMS have advised that they have no objection to the proposed development.

7.2 INTERNAL REFERRALS

The development application was referred to relevant internal departments within Council, including the Development Engineer, Traffic Engineer, Landscape Officer, Environmental Scientist and Environmental Health Officer for consideration. Appropriate conditions have been provided.

7.3 SECTION 94 CONTRIBUTIONS

Commercial Component

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 Plan 2005-2010, a contribution of **\$31,040.00** is required as follows:

Community:	\$3,392.00
Open Space:	\$25,384.00
Administration:	\$432.00
Shopping Centre Improvements	\$1,832.00

Residential Component

Pursuant to Botany Bay Section 94 Contribution Plan 2005-2010, the following contributions are required, based on the most recent indexation rates:

- 21 Small dwellings @ \$24,665.20 each = **\$517,969.20**
- 43 Medium Dwellings @ \$39,677.00 each = **\$1,706,111.00**

In total, the development would be required to pay a contribution for the residential component of **\$2,224,080.20**.

At Council’s Development Committee on 6 May 2009, Council was advised of the changes made to the Section 94 Contributions imposed by the State Government. The Minister for Planning issued a Section 94E Direction on 23 January 2009, which capped levies for residential development and residential subdivision to \$20,000.00. Council responded to the Direction by passing a resolution on the 18 March 2009 to comply with the cap. Therefore based on the cap the Section 94 Contributions may be applied to both small and medium sized dwellings, being 64 residential units. Therefore, the calculations for the residential component are as follows:

- DA14/129 = 64 units @ \$20,000.00 each = **\$1,280,000.00**

Credit

The Application is entitled to a Section 94 credit based on historic industrial use of the land. This is calculated based on 30 employees that were approved under DA97/553 and the rates within the Section 94 Contributions Plan 2005-2010. On this basis a total of **\$92,640.00** can be deducted from the total contribution.

Therefore a total Section 94 Contribution of **\$1,218,400.00** is required to be paid to Council in accordance with draft Condition No. 27.

Note: The Panel should note that if the recommendation of this report is adopted, then this calculation and Condition No. 27 will be required to be adjusted to reflect the total number of apartments approved following satisfaction of “Deferred Commencement” Condition DC1.

8.0 CONCLUSION

The Joint Regional Planning Panel, Sydney East Region (JRPP) is the consent authority for the development application. One objection containing a petition was received as a result of the public exhibition process and matters raised have been addressed in this report.

The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act. The design currently before the Panel has been the subject of a design review process which has largely addressed the crucial recommendations of Council and the Design Review Panel.

The proposal will result in two bedroom cross through apartments which do not meet the minimum internal and external areas of the Table to the RFDC, however do meet the minimum areas in the new Apartment Design Guide. The proposed development is not consistent with the maximum height of buildings development standard or the floor space ratio development standard for the subject site under Botany Bay Local Environmental Plan (BBLEP 2013).

The proposed development is not consistent with the development controls of BBDCP 2013, in respect of bulk, scale, height, visitor car parking, unit mix and unit/balcony sizes however provides a development which will enhance the locality by providing new residential accommodation with good amenity, adequate communal open space area and . Notwithstanding, it is recommended that a “Deferred Commencement” consent be granted requiring the applicant to submit an amended plan which reduced the GFA of the building to being compliant with the 2.5:1 FSR for the site.

9.0 SCHEDULE OF DRAFT CONDITIONS

Premises: 593-595 Gardeners Road, Mascot

DA No: 14/129

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
DA0.01 (Rev C) DA1.01 (Rev C) DA2.02 (Rev C) DA2.03 (Rev C) DA2.04 (Rev C) DA2.05 (Rev C) DA2.06 (Rev C) DA2.07 (Rev C) DA2.08 (Rev C) DA2.08-1 (Rev B) DA2.08-2 (Rev B) DA2.09 (Rev C) DA.3.01 (Rev C) DA3.02 (Rev C) DA.3.03 (Rev C) DA3.04 (Rev C) DA4.01 (Rev C) DA4.02 (Rev C) DA5.01 (Rev B) DA7.01 (Rev C) DA7.01-1 (Rev A) DA7.02 (Rev C) DA7.02-1 (Rev B)	A+ Design Group	27 March 2015
Landscape Plans,	Peter Glass & Associates	27 March 2015

Drawing No.	Author	Dated Received
4121-01 Issue D 4121-02 Issue E		
Survey Plan, Reference No. 140105_A	Geosurv	11 June 2014
Stormwater Concept Plans, Job No. 820.14, Drawing Nos.: D1 (Rev D) D2 (Rev E) D3 (Rev E)	LMW Design Group P/L	10 October 2014
Environmental Site & Management Plan, Sheets 1 & 2	LMW Design Group P/L	11 June 2014

Reference Document(s)	Author	Date Received
Statement of Environmental Effects	LJB Urban Planning P/L	11 June 2014
Amended Clause 4.6 Variation	LJB Urban Planning P/L	16 October 2014
SEPP 65 Design Verification Statement	Tony Leung	11 June 2014
BASIX Certificate No. 549477M	NSW DoPI	11 June 2014
BASIX Report No. WB903-01F02 (Rev1)	Windtech	11 June 2014
Preliminary Stage 1/Stage 2 Environmental Site Assessment and Acid Sulfate Soils Assessment, Ref E27426KPrpt	Environmental Investigation Services	11 June 2014
Site Waste Minimisation and Management Plan	A+ Design Group	11 June 2014
Pedestrian Wind Environment Statement, WB903-01F03 (Rev 1), dated 5 June 2014	Windtech	11 June 2014
Acoustic Assessment No. TG637-01F02 (Rev 1)	Renzo Tonin & Associates	11 June 2014
DA Access Report, dated 5 June 2014	Access Australia	11 June 2014
Geotechnical Investigation, Ref: 27426SBprpt, dated 27 May 2014	JK Geotechnics	11 June 2014
Traffic & Parking Assessment Report, Ref 14026, dated 6 June	Varga Traffic Planning	11 June 2014

Reference Document(s)	Author	Date Received
2014	Pty Ltd	
Traffic & Parking Addendum dated 16 October 2014	Varga Traffic Planning Pty Ltd	16 October 2014
Flood Impact Assessment, dated 10 October 2014	Brown Consulting (NSW) Pty Ltd	10 October 2014
Shadow Analysis, dated 24 September 2014	A+ Design Group	10 October 2014

- 2 This Consent relates to land in Lots 9 and 10 in DP 11589 and as such, building works must not encroach on to adjoining lands or the adjoining public place, except as permitted by this consent.
- 3 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.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 5
 - (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.

- 6 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the each building in the development are fulfilled.

(a) Note:

Relevant BASIX Certificate means:

- (i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
- (ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
- (iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

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

Potable Water

- (a) The proposed development is located in the Mascot Station Urban Activation Precinct;
- (b) The 150 mm drinking water main in Gardeners Road fronting the proposed development does not comply with the Water Supply Code of Australia (Sydney Water Edition – WSA 03-2002) requirement for minimum sized mains for this scope of development. Therefore, the proponent will be required to amplify the existing system, providing a 200mm water main frontage to service the proposed development.
- (c) Preliminary investigation shows that the preferred option would be to amplify the existing 150mm drinking water main in Gardeners Road to a 200mm water main off the existing 375mm main in Botany Road, to provide full frontage to the proposed development.

Wastewater

- (d) The wastewater main available for connection is the 450mm main traversing the property constructed under DL 1815;
- (e) 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

- (f) 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.
- (g) 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.

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

- (a) All buildings and structures are to be clear of the Gardeners Road, road reservation (unlimited in height or depth);
- (b) The design and construction of the proposed gutter crossing off Gardeners Road shall be in accordance with AS2890.1-2004 and the Roads and Maritime's requirements. Further details of these requirements could be obtained from the Roads and Maritime Project Services Manager, Statewide Delivery Section, Parramatta Ph. 8849 2144.

A certified copy of the design plans shall be submitted to the Roads and Maritime for consideration and approval prior to release of a Construction Certificate and commencement of road works.

The Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of the works.

Any redundant driveways along the sites frontage are to be removed and replaced with kerb and gutter to match existing.

- (c) The proposed development should be designed such that road traffic noise from Gardeners Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007;
- (d) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to RMS for approval in accordance with Technical Direction (GTD 2012/001);

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

The report and enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services

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

- (e) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of the Construction Certificate;
- (f) The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 1890.1-2004, AS 2890.2 – 2002 for heavy vehicle use and AS 2890.6:2009 for the disabled;
- (g) All vehicles are to enter and exit in a forward direction;
- (h) The post development storm water discharge from the subject site into the RMS drainage system must not exceed the pre-development discharge.

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the Roads and Maritime for approval, prior to the commencement of any works. Details should be forwarded to Sydney Asset Management at the above address;

- (i) All works and regulatory signposting associated with the development are to at no cost to RMS or Council.

9 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) Engineering measures designed to transfer groundwater around the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows;
- (k) Piping or other structures used in the management of pumped groundwater shall not create a flooding hazard. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge;
- (l) Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased;
- (m) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall

be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with;

- (n) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulphate soils management plan or remediation action plan) shall not be compromised by the dewatering activity;
- (o) The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation;
- (p) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety precautions;

Following excavation

- (q) 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.

10 The following conditions are imposed by the **NSW Police Service**:

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

This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
- (d) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime;

- (e) Any storage cages in the underground car park areas should not be constructed in an isolated area. CCTV cameras must cover this area, as they are easy targets when they have little supervision. Solid steel housing and quality key locks should be used to prevent access.
- 11 The following conditions are imposed by the **Sydney Airport Corporation Limited (SACL)** and must be complied with:
- (a) The property development at 593-595 Gardeners Road, 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 36.92 metres above Australian Height Datum (AHD).
 - (c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
 - (d) Should you wish to exceed the above heights, a new application must be submitted. Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
 - (e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. SACL advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by SACL prior to any approval is to include:
 - (i) the location of any temporary structure or equipment, ie. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
 - (ii) the swing circle of any temporary structure/equipment used during construction;
 - (iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
 - (iv) the period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
 - (f) Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.
 - (g) The development is to comply with the Civil Aviation Safety Authority (CASA) requirements as outlined in the Council's Development Application Guide for Multi-Unit Residential, Commercial and Industrial.

PRIOR TO COMMENCEMENT OF DEMOLITION WORKS

12

- (a) 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:
 - (i) All properties immediately adjoining the site;
 - (ii) Gardeners Road.
- (b) 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.
- (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;

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.)

13

- (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.

14

- (a) 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.

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

15 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.

- 16 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)*.
- 17 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 RMS and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.)

- (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.

- 18 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.
- 19 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 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.
- 20 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.
- 21 A detailed Traffic Management Plan for the pedestrian and traffic management of the site during demolition, excavation and construction shall be prepared and submitted to the relevant road authority (Council or Roads and Traffic Authority) for approval prior to commencement of any works. The plan shall:

- (a) be prepared by a RMS accredited consultant.
 - (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
 - (c) if required, implement a public information campaign to inform any road changes well in advance of each change.
 - (d) Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.
 - (e) During construction, all works and measures shall be implemented in accordance with approved Traffic Management Plan at all times.
- 22 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.
- 23 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 Avenue or Haran 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.
- 24 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.
- 25 During demolition, excavation, remediation (if required) 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

- 26 The applicant must prior to the issue of the Construction Certificate, pay the following:
- (a) Builders Security Deposit: \$50,000.00
 - (b) Development Control Fee: \$11,011.00
 - (c) Section 94 Contributions: **\$1,218,400.00** (See Condition 27)

- 27 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 Plan, a contribution of **\$1,218,400.00**.

The Section 94 Contribution of **\$1,218,400.00** is to be paid to Council prior to the issue of the first Construction Certificate for the erection of the building.

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 fees applicable at that time.

- 28 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.

- 29 Prior to the issue of the Construction Certificate, the concept landscape plans submitted by Peter Glass & Associates shall be the subject of **detailed, amended landscape documentation** to be submitted to and approved by the **City of Botany Bay 's Landscape Architect**. The following amendments to the concept plan are to be incorporated in the detailed documentation :

- (a) All planter beds must be no less than 1 metre in width;
- (b) The public footpath width and location in the road reserve and its construction shall be in accordance with Council landscape specification only;
- (c) The street tree species are to be substituted with 400 litre *Corymbia maculata* (Spotted Gum) at maximum 10 metre spacing.

- 30 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:

- (a) Ensure soil depths in accordance with Council's DCP Part 3L. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes;
- (b) A concrete hob or haunch shall be constructed at the internal joint between the sides and base of the planter to contain drainage to within the planter;
- (c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil;
- (d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns;

- (e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
- 31 An Acid Sulphate Soils Management Plan (prepared by a suitably qualified and experienced environmental/geotechnical consultant) shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:
- (a) Site specific mitigation measures to both minimise the disturbance of acid sulphate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
 - (b) Management of ASS affected excavated material;
 - (c) Measures taken to neutralise the acidity of any ASS affected material; and
 - (d) Run-off control measures for the ASS affected soil.
- All recommendations of the report shall be implemented prior to the commencement of building works.
- 32 Prior to the issue of the Construction Certificate, a Stage 2 Detailed Site Investigation shall be completed by a suitably qualified and experienced environmental consultant in accordance with:
- (a) NSW Office of Environment and Heritage (OEH) ‘Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites’;
 - (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;
- and shall be provided to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) for approval prior to the issue of the Construction Certificate.
- Following completion of the Stage 2 Detailed Site Investigation, if required a Stage 3 Remedial Action Plan shall be prepared. Approvals from appropriate government departments where required shall be obtained and full details of the investigation and site remediation are to be submitted to Botany Bay City Council, in accordance with Section 80(A)2 of the Environmental Planning and Assessment Act 1979 prior to any Construction Certificate being issued for the proposed development.
- 33 To ensure that the Detailed Site Assessment (DSA) has been completed appropriately and any Remedial Action Plan (RAP) proposed for the site will result in the land being made suitable for the proposed use, a Section B 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 Detailed Site Assessment (DSA) and Remedial Action Plan (RAP) required to be prepared has been completed in accordance with the NSW guidelines and that the land can be made suitable for the proposed use by implementation of any specified Remedial Action Plan (RAP). This shall be provided to Council and the accredited certifier prior to the issue of any construction certificate.

- 34 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.
- 35 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.
- 36 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.
- 37 Prior to the issue of the Construction Certificate, the measures required in the Acoustic Assessment No. TG637-01F02 (Rev 1) prepared by Renzo Tonin & Associates dated 3 June 2014 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
- 38
- (a) Prior to the issue of the Construction Certificate, a compliance report from a suitably qualified acoustic consultant shall be submitted to Council indicating any required noise mitigation measures to the approved dwelling, as detailed in the NSW Road Noise Policy 2011 in accordance with AS 3671-1989 – Acoustic – Road Traffic Intrusion;
- (b) 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.
- 39 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.
- 40 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.
- 41 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).
- 42 Prior to the issue of the Construction Certificate, detailed construction plans in relation to the development shall be revised and submitted to Council for approval. The plan shall be revised to include the following:
- (a) Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distances stipulated in AS 2890.2.
- 43
- (a) Prior to the issue of the Construction Certificate, detailed Stormwater Management Plans and specifications shall be prepared by a suitably qualified and experienced civil engineer and the design shall be submitted to Council for approval. These shall be generally in accordance with the Stormwater Concept Plans prepared by LMW Design Group P/L, Job No. 820.14, Drawing Nos. D1 (Rev D), D2 (Rev E) and D3 (Rev E) and received by Council on the 10 October 2014.
 - (b) The following issues to be complied with and shown on the plans:
 - (i) The stormwater drainage system from the roof and balcony of the building to the On-site detention (OSD) system shall be shown on the stormwater management plans. All stormwater runoff from the roof area and balcony shall be directed to the system.
 - (ii) The layout of the basement parking area and OSD system shown on the stormwater management plans shall correspond with the architectural plan. The location of the discharge control pit shall be revised accordingly.
 - (iii) The emergency overflow of OSD systems shall be shown on the plans to ensure any overflow from the OSD system will be conveyed to the public streets via surface overland flow.

- (iv) Additional access grates shall be provided to each corner of the OSD tank.
 - (v) In order to protect the buildings from stormwater inundation, the OSD tank shall be water-tight.
 - (vi) The outlet pipes of the OSD system and the GPT shall be minimum 300mm diameter.
 - (vii) Rainwater tanks shall be provided with a minimum 5,000 L capacity and shall service any landscape systems.
 - (viii) All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment prior to entering the public stormwater system.
 - (c) The detailed drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', AS/NSZ 3500 – *Plumbing and Drainage Code* and the BCA.
- 44 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.
- 45 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 or PCA approval.
- 46 The development shall make provision for the following car parking allocations:

Car Parking Rates	Required
1 space per studio/1 bedroom unit	45 spaces
2 spaces per 2 bedroom unit	38 spaces
1 visitor space per 7 dwellings	9 spaces
Commercial spaces	6 spaces
TOTAL REQUIRED	98

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

47

- (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.

48 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.

49 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.

50 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.

51 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.

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

53

- (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.

54 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.

55 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.

56

- (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.

- 57 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.
- 58 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.
- 59
- (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).
- 60 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.
- 61 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).
- 62 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**

- (a) Prior to the issue of the Occupation Certificate, the development is to be constructed to meet the requirements detailed in the Acoustic Assessment No. TG637-01F02 (Rev 1) prepared by Renzo Tonin & Associates dated 3 June 2014, received by Council 11 June 2014; and
- (b) All acoustic work including that acoustic work required at Condition No. 36 shall be completed prior to the issue of the Occupation Certificate and validated by a person with appropriate qualifications and experience.

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

- (a) Replace all the existing above ground electricity and telecommunication cables to underground cables within the site and from the road reserve area fronting Gardeners Road to the site in accordance with the guidelines and requirements of the relevant utility authorities. The applicant shall bear all the cost of the construction and installation of the cables and any necessary adjustment works. These works and payments shall be completed prior to the issue of the Occupation Certificate;
- (b) Provide appropriate and suitable street lighting to a suitable standard to both street frontages of the site, so to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements;
- (c) The public domain shall be upgraded with new paving and street tree planting, to be installed by the Applicant at the Applicant's expense in accordance with the approved landscape documentation. All improvements shall be in accordance with Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate;
- (d) New street trees at min. 400 litre pot size specified shall be installed in the Gardeners Road verge in accordance with the approved landscape documentation plans. The trees shall be sourced from a reputable nursery/supplier that grows trees in accordance with the NATSPEC requirements. A Dial-Before-You-Dig enquiry is required prior planting - Council is not liable for any damage to subsurface infrastructure during public domain works. NOTE: Three (3) hold point inspections are required: during construction of tree pits, prior-planting street trees to ensure plant stock is suitable and post-planting to verify final finishes; and
- (e) The public footpath in Gardeners Road shall be re-constructed in accordance with Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specification and the approved landscape documentation. Construction hold points and Council inspections are required at the following minimum points:
 - (i) at the commencement of paving works, and
 - (ii) at final completion.

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

- (a) The 98 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) Nine (9) 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) Six (6) spaces for the commercial tenancy.

66 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.

67 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval prior to the issue of the Occupation Certificate.

68 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.

69 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 Small Rigid Vehicle (SRV) entering and leaving the site and at 90° to the kerb and gutter in plain concrete. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant.
- (c) The redundant vehicular crossing, together with any necessary works shall be removed and the footpath, nature strip and kerb and gutter shall be reinstated in accordance with Council's specification.
- (d) Written confirmation / completion certificate obtained from Council.

- (e) Inspection report (formwork and/or final) for the works on road reserve obtained from Council's engineer.
 - (f) A copy of the approved public domain civil works plans showing Work-as-Executed details (together with an electronic copy) prepared by a registered surveyor.
 - (g) Driveways and vehicular access paths shall be designed and constructed to comply with the minimum requirements (including changes of grade) of AS/NZS 2890.1.
- 70 Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels shown upon the approved plans, with relation to drainage, boundary and road reserve levels, have been strictly adhered to.
- 71 The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
- 72
- (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.
- 73 Prior to the issue of the Occupation Certificate:
- (a) The construction of the stormwater drainage system of the proposed development shall be generally in accordance with the approved stormwater management construction plan(s), Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All downpipes shall be located within the property boundaries; and
 - (b) Documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system

has been constructed generally in accordance with the approved stormwater management construction plan(s) and accepted practice.

- 74 Any damage not shown in the dilapidation report required under Condition No. 12 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.
- 75 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.
- 76 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.
- 77 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.
- 78 An experienced Landscape Contractor shall be engaged to undertake the landscaping work referred to in Condition 79 above 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.
- 79 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.
- 80 New street trees at min. 400 litre pot size specified shall be installed in the Gardeners Road verge in accordance with the approved landscape documentation plans. The trees shall be sourced from a reputable nursery/supplier that grows trees in accordance with the NATSPEC requirements. A Dial-Before-You-Dig enquiry is required prior planting - Council is not liable for any damage to subsurface infrastructure during public domain works. NOTE: Three (3) hold point inspections are required: during construction of tree pits, prior-planting street trees to ensure plant stock is suitable and post-planting to verify final finishes.
- 81 Prior to the issue of the Occupation Certificate, the public footpath in Gardeners Road fronting the site shall be re-constructed in accordance with Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specification and the approved landscape documentation. Construction hold points and Council inspections are required at the following minimum points:
- (a) at the commencement of paving works, and
 - (b) at final completion.

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

- 82 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.
- 83 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.
- 84 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.
- 85 Prior to the issue of the Occupation Certificate, 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) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.
- The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if

the Council is not the Principal Certifying Authority for review and concurrence).

- 86 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 Site Audit Statement (SAS) prior to the issuing of 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.

87

- (a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.
- (b) Condition Numbers 10 and 63 to 87 of this consent are pre-conditions to the issue of the Occupation Certificate.

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

- 88 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.
- 89 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.
- 90 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.
- 91 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.
- 92 The landscape contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time monthly maintenance is required.
- 93 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.
- 94 No roller shutters are to be installed to any of the commercial shopfronts that front Gardeners Road.
- 95 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.
- 96 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.

97 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.

98

- (a) The residents of the building are not eligible to participate in a Resident Parking Scheme.
- (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 scheme/s.

99

- (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 10, shall be monitored by CCTV cameras at all times;

- 100 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.
- 101 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. 14/129 dated as 11 June 2014 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.
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APPENDIX A – COMPLIANCE TABLES

The unit mix of the development is as follows:

	TOTAL	Unit Mix
Studio	21	33%
1 bedroom	24	37%
2 bedroom	19	30%
	64	100%

Table 1 – Unit Mix

The following table provides a summary of compliance:

Control	Required	Proposal	Complies
Site Area	1,995 m ²	-	-
FSR	(4,987m ²) 2.5:1	(5,426m ²) 2.7:1 (ie. 9% variation)	No – Refer to Clause 4.6
Height	26 metres (8 storeys)	27.42 metres (8 storeys)	No – Refer to Clause 4.6
Car Parking BBDP 2013	110 spaces are required as follows for the proposal: 86 residential; 13 visitors; 11 commercial.	98 spaces are proposed as follows: 83 residential; 9 visitors; 7 commercial.	No – Shortfall of 1 visitor space
Deep Soil (SEPP65)	25% of communal open space area	331m ² = 17% of site area	Merit Based
Unit Sizes BBDP 2013	Studio: 60m ² 1 bedroom: 75m ² 2 bedrooms: 100m ²	Studios = 60-64m ² 1 bedroom: 75-79m ² 2 Bedroom = 86m ²	No – Refer to Note

Table 2 – Summary of Compliance

Summary table:

This table contains a summary of the proposed development based a total of 64 dwellings.

Unit No.	No. of Bedrooms	Dwelling Size	Complies with Table in RFDC	Private Open Space	Car parking provision	Cross Ventilation	2 Hours Sunlight
G01	1 bedroom	87m ²	Yes	75.6m ²	1	Yes	Yes
G02	2 bedrooms	101m ²	Yes	53.4m ²	2	Yes	Yes
G03	2 bedrooms	100m ²	Yes	26.21m ²	2	Yes	Yes
G04	2 bedrooms	96m²	No	46.55m ²	2	Yes	Yes
Unit 101	Studio	60m ²	Yes	10m ²	1	Yes	Yes
Unit 102	1 bedroom	76m ²	Yes	15.95m ²	1	Yes	Yes
Unit 103	1 bedroom	75m ²	Yes	15.95m ²	1	Yes	Yes
Unit 104	Studio	60m ²	Yes	10m ²	1	Yes	Yes
Unit 105	Studio	61m ²	Yes	10m ²	1	Yes	Yes

Unit No.	No. of Bedrooms	Dwelling Size	Complies with Table in RFDC	Private Open Space	Car parking provision	Cross Ventilation	2 Hours Sunlight
	(Adaptable)						
Unit 106	Studio (Adaptable)	61m ²	Yes	10m ²	1	Yes	Yes
Unit 107	Studio	58m ²	Yes	11.8m ²	1	Yes	Yes
Unit 108	1 bedroom	77m ²	Yes	16.2m ²	1	No	No
Unit 109	2 bedrooms	86m²	No	6.8m²	2	Yes	Yes
Unit 201	Studio	60m ²	Yes	10m ²	1	Yes	Yes
Unit 202	1 bedroom	76m ²	Yes	15.95m ²	1	Yes	Yes
Unit 203	1 bedroom	75m ²	Yes	15.95m ²	1	Yes	Yes
Unit 204	Studio	60m ²	Yes	10m ²	1	Yes	Yes
Unit 205	Studio (Adaptable)	61m ²	Yes	10m ²	1	Yes	Yes
Unit 206	Studio (Adaptable)	61m ²	Yes	10m ²	1	Yes	Yes
Unit 207	2 bedrooms	88m²	No	6.8m²	2	Yes	Yes
Unit 208	1 bedroom	77m ²	Yes	16.2m ²	1	Yes	Yes
Unit 209	Studio	58m ²	Yes	11.8m ²	1	No	Yes
Unit 210	1 bedroom	77m ²	Yes	16.2m ²	1	Yes	Yes
Unit 211	2 bedroom	86m²	No	6.8m²	2	Yes	Yes
Unit 301	Studio	60m ²	Yes	10m ²	1	No	Yes
Unit 302	1 bedroom	76m ²	Yes	15.95m ²	1	Yes	No
Unit 303	1 bedroom	75m ²	Yes	15.95m ²	1	Yes	Yes
Unit 304	Studio	60m ²	Yes	10m ²	1	Yes	No
Unit 305	Studio (Adaptable)	61m ²	Yes	10m ²	1	Yes	Yes
Unit 306	Studio (Adaptable)	61m ²	Yes	10m ²	1	Yes	Yes
Unit 307	2 bedrooms	88m²	No	6.8m²	2	Yes	Yes
Unit 308	1 bedroom	77m ²	Yes	16.2m ²	1	Yes	Yes
Unit 309	Studio	58m ²	Yes	11.8m ²	1	Yes	Yes
Unit 310	1 bedroom	77m ²	Yes	16.2m ²	1	No	Yes
Unit 311	2 bedroom	86m²	No	6.8m²	2	Yes	Yes
Unit 401	Studio	58m ²	Yes	8.8m ²	1	Yes	Yes
Unit 402	2 bedrooms	90m ²	Yes	39.08m ²	2	Yes	Yes
Unit 403	Studio	58m ²	Yes	8.8m ²	1	Yes	Yes
Unit 404	1 bedroom	82m ²	Yes	12.5m ²	1	Yes	Yes
Unit 405	2 bedrooms	88m²	No	6.8m²	2	No	Yes
Unit 406	1 bedroom	77m ²	Yes	16.2m ²	1	Yes	No
Unit 407	Studio	58m ²	Yes	11.8m ²	1	No	Yes
Unit 408	1 bedroom	77m ²	Yes	16.2m ²	1	Yes	No
Unit 409	2 bedroom	86m²	No	6.8m²	2	Yes	Yes
Unit 501	2 bedroom	85m²	No	30.25m ²	2	Yes	Yes
Unit 502	1 bedroom	82m ²	Yes	12.22m ²	1	Yes	Yes

Unit No.	No. of Bedrooms	Dwelling Size	Complies with Table in RFDC	Private Open Space	Car parking provision	Cross Ventilation	2 Hours Sunlight
Unit 503	2 bedrooms	88m²	No	6.8m²	2	Yes	Yes
Unit 504	1 bedroom	77m ²	Yes	16.2m ²	1	Yes	Yes
Unit 505	Studio	58m ²	Yes	11.8m ²	1	No	Yes
Unit 506	1 bedroom	77m ²	Yes	16.2m ²	1	No	Yes
Unit 507	2 bedroom	86m²	No	6.8m²	2	Yes	Yes
Unit 601	2 bedroom	85m²	No	30.25m ²	2	Yes	Yes
Unit 602	1 bedroom	82m ²	Yes	12.22m ²	1	Yes	Yes
Unit 603	2 bedrooms	88m²	No	6.8m²	2	Yes	Yes
Unit 604	1 bedroom	77m ²	Yes	16.2m ²	1	Yes	No
Unit 605	Studio	58m ²	Yes	11.8m ²	1	No	Yes
Unit 606	1 bedroom	77m ²	Yes	16.2m ²	1	No	No
Unit 607	2 bedroom	86m²	No	6.8m²	2	Yes	Yes
Unit 701	1 bedroom	82m ²	Yes	32.51m ²	1	Yes	Yes
Unit 702	2 bedrooms	88m²	No	6.8m²	2	Yes	Yes
Unit 703	1 bedroom	77m ²	Yes	16.2m ²	1	Yes	Yes
Unit 704	Studio	58m ²	Yes	11.8m ²	1	No	Yes
Unit 705	1 bedroom	77m ²	Yes	16.2m ²	1	Yes	Yes
Unit 706	2 bedroom	86m²	No	6.8m²	2	Yes	Yes

Table 3 – Apartment Summary

Residential Flat Design Code

Requirement	Comment	Complies
PART 01: LOCAL CONTEXT		
Building Height		
Development responds to the desired scale and character of the street and local area	The proposed height of 27.4m breaches the 26m building height control in BBLEP 2013.	No
Allow reasonable daylight access to all developments and the public domain	This has been resolved by the applicant, however with amended unit sizes which now do not comply with the minimum internal and external areas of the RFDC.	No
Building Depth		
Maximum internal depth of building – 18m from glass line to glass line. Where greater than 18m depth, must justify how satisfactory daylight and ventilation is achieved	19.3m east west across the site. 63% of units are naturally cross ventilated. 75% of units achieve 2 hours of solar access.	No – however daylight access and ventilation is achieved
Building Separation		

Development scaled to support desired area character with appropriate massing/spacing between buildings	With the exception of the zero lot alignments to the front wing: Level ground to Level 3 = 6m; Level 4-6 = 9m. This is half of the required setback to achieve separation with future adjoining development to the east and west.	Yes.
9 storeys +/-over 25m height: 24m between habitable rooms/balconies 18m between habitable/balconies and non-habitable rooms 12m between non-habitable rooms	No balconies or living areas are facing the rear boundary. Small slot windows are provided to a bedroom on each level which is obscure glazing.	Yes
Zero building separation only in appropriate context (between street wall building types – party walls)	Zero building separation is proposed along the eastern and western boundaries for an active street frontage as per BBLEP 2013.	Yes
Street Setbacks		
Minimise overshadowing of the street and/or other buildings	Gardeners Road will not be overshadowed. Solar access to adjoining development has been addressed by the amended scheme.	Yes
No part of building to encroach into a setback zone	There are no encroachments into the setback zone	Yes
Side and Rear Setbacks		
Side setbacks minimise impact of development on light, air, sun, privacy, views and outlook for neighbouring properties (including future buildings)	Side setbacks are appropriate, being half of the required separation distance and reducing overshadowing impacts.	Yes
Rear setbacks maintain deep soil zones	Deep soil landscaping is provided along the side and rear boundary setbacks.	Yes
Rear setbacks maximise opportunity to retain/reinforce mature vegetation	The rear setback of 15m includes 2.5m setback for deep soil from the basement shoring walls.	Yes
Rear setbacks should optimise use of land at rear and surveillance of the street at front.	The rear setback is 15 metres and provides ample communal open space.	Yes
Rear setbacks should maximise building separation to provide visual and acoustic privacy	The rear setbacks will provide adequate separation for future redevelopment of the sites to the south, east and west.	Yes
Floor Space Ratio		
Development in keeping with optimum capacity of site and local area	The proposal exceeds the permitted FSR of 2.5:1, being 2.7:1.	No
PART 02: SITE DESIGN		
Site Analysis		

Detailed site analysis required to be submitted with development application	A site analysis was prepared with the lodgement of this DA.	Yes
Deep Soil Zones		
Minimum 25% of open space area of a site should be deep soil zone – more is desirable	15% of site area (300m ²) is communal open space.	No considered acceptable
Optimise provision of consolidated deep soil zones by design of basement/sub basement car parking so not to fully cover the site and by use of front and side setbacks	This is reasonable given the shallow groundwater and extent of basement car parking required across the site.	No considered acceptable
Optimise extent of deep soil zones beyond the site by locating them contiguous with deep soil zones to adjacent properties	Deep soil zones along the perimeter boundaries will be aligned with those on adjoining sites.	Yes
Increase permeability of paved areas by limiting paved area and/or using pervious paving materials	Communal open space area is turfed over basement.	Yes
Fences and Walls		
Respond to identified architectural character for the street/area	No fencing proposed along street frontage due to active street frontage.	Yes
Delineate public and private domain without compromising safety or privacy	Ground floor units are delineated by a 1.8m high timber screen fence, softened by landscaping. Landscaping to the street frontage provides a soft delineation, whilst maintain casual surveillance of both the public and private domain within the site.	Yes
Contribute to amenity, beauty and useability of private and communal open space	Planter boxes, BBQ, water features and benches and seats are located within the communal open space at the rear.	Yes
Retain and enhance amenity of the public domain	Shopfront proposed in accordance with active street frontage requirement.	Yes
Comprise durable materials that are easy to clean and graffiti resistant	Materials proposed are durable and easily maintained	Yes
Landscape Design		
Improve amenity of open space by good landscape design	Detailed Landscape design submitted with the application, which details high quality treatments at grade.	Yes
Contribute to streetscape character and amenity of the public domain	New footpath and street trees appropriate to the site can be provided.	Yes
Improve energy efficiency and solar efficiency of dwellings and microclimate of private open spaces	Private open space areas receive in excess of 3 hours of direct sunlight.	Yes
Use of robust elements to minimise maintenance	Materials and elements are robust in nature and will assist with minimising maintenance.	Yes
Open Spaces		
Communal Open space should be minimum 25-30% of site area	23% of site area (280m ²)	Acceptable
Minimum private open space for	Unit G01 = 75.6m ²	Yes

ground level apartments is 25m ² with minimum 4m dimension in one direction	Unit G02 = 53.4m ² Unit G03 = 26.21m ² Unit G04 = 46.55m ²	
Orientation		
Position and orient buildings to maximise north facing walls – within 30° east and 20° west of north	The orientation optimises north, east and west facing unit. South facing units are therefore minimised to 2 units.	Yes
Align buildings to street on east-west streets and use courtyards, L-shaped configurations and increased setbacks to side boundaries on north-south streets	The buildings are sited towards Gardeners Road and east/west.	Yes
Orient living spaces and associated private open space to north	Private open space areas and living areas where possible are oriented to the north, east or west.	Yes
Building elements used to modify environmental conditions to maximise sun access in winter and sun shading in summer	No sun shade devices proposed however appropriate shading provided from balcony levels above.	No
Planting on Structures		
<i>Large trees</i> (16m canopy): min. soil volume 150m ³ , min soil depth 1.3m, min soil area 10m x 10m <i>Medium trees</i> (8m canopy): min soil volume 35m ³ , min soil depth 1m, min soil area 6m x 6m <i>Small trees</i> (4m canopy): min soil volume 9m ³ , min soil depth 800mm, min soil area 3.5m x 3.5m <i>Shrubs</i> : min soil depth 500-600mm <i>Ground cover</i> : min. soil depth 300-450mm <i>Turf</i> : min. soil depth 100-300mm	There is ample deep soil planting area across the site to accommodate large trees and smaller shrubs. Where the communal open space area is over basement, there is still adequate depth to accommodate quality landscaping with large shrubs.	Yes
Stormwater Management		
Minimise impervious areas by using pervious/open pavement materials	The proposal incorporates a combination of pavement and turf to the communal spaces at grade.	Yes
Retain runoff from roofs in water features for landscaping/reuse	The proposal incorporates on site stormwater detention system at the low point in the basement.	Yes
Landscape design to incorporate appropriate vegetation	The proposed landscape plan includes species which promote water minimisation.	Yes
Safety		
Reinforce development boundary to distinguish between public and private space	Ground floor apartments are distinguished from communal open space areas.	Yes
Orient building entrances to public street	The building entrances are orientated towards Gardeners Road. Commercial tenancies are oriented towards Gardeners Road.	Yes
Provide clear lines of sight between entrances, foyers and street	Clear lines of sight between entrances, foyers and street are provided.	Yes

Orient living areas with views over public or communal areas	Living areas are orientated over balcony aspect/communal open space.	Yes
Use bay windows/ balconies that protrude beyond main façade to enable wider angle of vision	The upper levels are setback from the rear to reduce overshadowing, privacy and visual impact.	Yes
Use corner windows to provide oblique views	There is some stepping within the building to create oblique views	Yes
Casual views available to common internal areas	South facing units are minimised, but do causally overlook	Yes
No blind/dark alcoves in design/layout	Corridors are wide and have windows to provide aspect and natural light.	Yes
Provision of well lit routes through the site and appropriate illumination to all common areas	Pedestrian paths through the site are wide and well lit.	Yes
Apartments to be inaccessible from balconies, roofs, windows of neighbouring buildings	Vertical fins or blade walls are provided between balconies.	Yes
Separate residential component of car parking from other building uses and control car park access from public/ common areas	Commercial/visitor car parking is at grade and separate from residential parking.	Yes
Direct access for car parks to apartment lobbies for residents	Lift access from basement car park levels to apartment lobbies for residents.	Yes
Separate access for residents in mixed-use buildings	As above	Yes
Visual Privacy		
Site layout to increase building separation	Building separation to the east and west are compliant, being half of the required separation distances under the SEPP.	Yes
Layout to minimise direct overlooking of rooms/ private open spaces	Where adjacent overlooking opportunity exists, privacy screens have been proposed.	Yes
Use of site and building design element to increase privacy without compromising access to light and air	Adequate rear and side setbacks are provided to adjoining properties. Vertical fins are provided between adjacent balconies. Fixed privacy louvres proposed which do not jeopardise solar access.	Yes
Site Access		
Entries to relate to existing street/ subdivision pattern, street tree planting, pedestrian access network	Entry to the building is defined.	Yes
Entries to be clearly identifiable element in the street	Main entries are clearly identifiable within the streetscapes.	Yes
Direct physical and visual connection between street and entry	Yes	Yes
Clear line of transition between public street, shared private, circulation spaces and individual units	Yes	Yes
Provide separate entries from the street for pedestrians and cars and different uses	The entrances to the Gardeners Road are at grade for all users.	Yes

Entries and circulation space of adequate size to allow movement of furniture	Corridor width of 1.8m with service lift.	Yes
Mailboxes to be convenient and not add to street clutter	The mailboxes are located within the ground floor level of the buildings.	Yes
Parking		
Appropriate parking provision	Parking is provided in accordance with BBDCP 2013, except that a shortfall in 1 visitor space is proposed.	No
Limit visitor parking on small sites where impact on landscape/open space is significant	64 apartments require 13 visitor spaces. As above, a shortfall on 1 visitor space is proposed.	No
Preference to underground parking – where above ground parking is proposed the design must mitigate impacts on streetscape/amenity	Resident parking is located across two levels of basement parking. Commercial and visitor parking is located within basement.	Yes
Provision of bicycle parking easily accessible from ground level	Bicycle spaces are located within basement.	Yes
Pedestrian Access		
Main building entrance accessible for all from the street – ramps to be integrated into overall building design	Entrances to both the Gardeners Road are at grade for all users.	Yes
Ground floor apartments and associated private open space to be accessible from street	Ground floor apartments do not have a street frontage due to active street frontage requirement.	No-Acceptable
Maximise accessible, visitable and adaptable apartments – min. AS1428 requirements	10% of units (ie.6 units) are adaptable. There is opportunity to ensure there are more adaptable units within the site.	Yes
Separate and clearly delineated pedestrian and vehicle entries	There is one vehicular access to the site from Gardeners Road. Pedestrian access is at this point.	Yes
Provision of public through-site pedestrian accessways in large developments	No requirement for public through site access.	Yes
Vehicle Access		
Max. driveway width = 6m	The driveway width at the Gardeners Rd boundary will be 6m.	Yes
Maintain pedestrian safety by minimising pedestrian/ vehicle conflicts	There are separate vehicular and pedestrian entry points to the building.	Yes
Limited number of vehicle accessways at site	One vehicle access driveway proposed.	Yes
Car park entry/access located to secondary frontages/lanes	As above.	Yes
PART 03: BUILDING DESIGN		
Apartment Layout		

Studio: Internal area = 38.5m ² External area = 6m ² 1 Bed cross through: Internal area = 50m ² External Area = 8m ² 1 bed maisonette/loft: Internal area = 62m ² External area = 9.4m ² 1 bed single aspect: Internal area = 63.4m ² External area = 10m ² 2 bed corner: Internal area = 80m ² External area = 11m ² 2 bed cross through: Internal area = 89m ² External area = 21m ² 2 bed cross over: Internal area = 90m ² External area = 16m ² 2 bed corner with study: Internal area = 121m ² External area = 33m ² 3 bed: Internal area = 124m ² External area = 24m ²	All studio and 1 bedroom units achieve the minimum internal areas. Each 2 bedroom cross through apartment is less than the minimum internal and external areas.	No Not acceptable
Single aspect apartments max 8m depth from window	All single-aspect apartments range from 6-9m.	No
Back of a kitchen max. 8m from window	The back wall to all kitchens are greater than 8m (ie. 9m) from a window/balcony.	No
Cross over/cross through apartments over 15m - min. 4m width	All apartments have a minimum width greater than 4m.	Yes
Units to accommodate a variety of furniture arrangements, range of activities, household types, furniture removal/ placement	Most have a variety of furniture arrangements. Some apartments feature a flexible floor plan.	Yes
Unit layout to respond to natural and built environment/ optimise site opportunities	Unit layouts maximise solar access to living space.	Yes
Kitchen not main circulation space of unit	Kitchens are located at the entrance to most units.	Yes

Apartment Mix		
Variety of unit types and appropriate mix dependant on population trends and location	Studio and 1 bedroom units equate to 65% of all proposed dwellings.	No
Balconies		

Where other private open space not provided, at least 1 balcony - primary balconies min. depth 2m, adjacent to living areas and accommodate dining table & 2 chairs (small unit) or dining table & 4 chairs (large unit)	All apartments provide a minimum balcony depth of 2m.	Yes
Balustrade design to enable views, casual surveillance, safety and visual privacy	Clear frameless balustrades are proposed.	Yes
Building services to be integrated with façade and balcony design	All services are proposed to be concealed.	Yes
Provision of tap and gas point on primary balconies	There are no details of whether a tap or gas point are provided.	TBA
<i>Ceiling Heights</i>		
Ceilings define spatial hierarchy between areas of a unit, enable better proportioned rooms, maximise heights in habitable rooms, promote use of ceiling fans	Ceiling height of 2.75 metres	Yes
Ceilings allow better access to natural light by use of taller windows, highlight windows and fanlights.	A range of window size and locations are proposed.	Yes
Ceiling heights promote building flexibility over time to accommodate other uses where appropriate (i.e. retail/commercial)	All residential apartments have a minimum ceiling height of approximately 2.75m.	Yes

<i>Flexibility</i>		
Building over 15m long - multiple building entries and circulation cores required	Single entry with corridor extension to rear wing lobby.	Yes
Unit layout accommodates changing use of rooms	6 apartments (ie. 10%) are adaptable with flexible layouts to accommodate changing households.	Yes
<i>Ground Floor Apartments</i>		
Front gardens and terraces contribute to spatial/visual structure of street whilst maintaining privacy	Each ground floor apartment is accessible only internally due to active street frontage requirement.	Yes
<i>Internal Circulation</i>		
Solar access increased through higher ceilings/ taller windows and appropriate landscape selection	All residential apartments have a minimum ceiling height of approximately 2.75m.	Yes
Maximum number of units accessible from single core/corridor = 8	6 apartments accessible from each corridor.	Yes
Long corridors articulated	Corridors are short, safe and have windows for natural light	Yes
<i>Mixed Uses</i>		
Complimentary mix of uses compatible with locality	The proposed residential and commercial uses are compatible with the desired land use of the local area.	Yes
Office = min. 3.3m ceiling height Retail = min. 3.3-4m ceiling height	The commercial/retail premises have a minimum ceiling height of 4.3m.	Yes
Max 10-18m building depth for	Commercial tenancy depth is 10.5m.	Yes

residential/ smaller commercial uses		
Separate commercial services (eg loading dock) from residential	Separate loading area for commercial tenancies.	Yes
Separate, clearly identified residential entry and commercial entry from street	Yes	Yes
Active uses front major streets	Ground floor commercial tenancy faces Gardeners Road	Yes
No blank walls on ground level	None proposed	Yes
Acoustic separation between uses (esp. for residential uses)	Solid wall construction proposed.	Yes
Storage		
Min 50% storage within apartment accessible from hall or living area Min. storage requirements: <i>Studio/1 bed</i> = 6m ³ <i>2 bed</i> = 8m ³ <i>3 bed & above</i> = 10m ³	100% of units achieve at least 50% of storage requirements within the units. 40% of the units achieve 100% of the unit requirements within the units.	Yes
Storage not within units appropriately secured	Basement storage is provided. Security of basement storage units will depend on the locks and building management.	Yes
Basement storage does not compromise ventilation, fire regulations	The basement level storage areas are located either behind certain car spaces, within the periphery of the basement levels	Yes
Basement storage excluded from FSR calculations	The basement level storage is excluded from FSR calculations.	Yes
Acoustic Privacy		
Building separated from neighbouring buildings	Building separation is compliant with adjoining sites to the east and west.	Yes
Like uses of adjoining units located together ie living rooms with living rooms, bedrooms with bedrooms	Adjoining apartments have like room uses.	Yes
Storage/circulation spaces used to buffer noise	Internal storage areas/circulation areas provide an adequate buffer.	Yes
Minimal amount of shared/party walls	Due to the site orientation, shared party walls are not minimised	Yes
Internal apartment layout separates living/service areas from bedrooms	Internal configuration separates living areas from bedrooms in most units	Yes
Daylight Access		
Living rooms/private open spaces for at least 70% of units receive min. 3 hours direct sunlight b/n 9am-3pm midwinter (possible reduction to 2 hours in dense areas)	Stage 1 70% of units receive at least 3 hours of direct sunlight in midwinter	Yes
Max. 10% single aspect units with southerly aspect (SW-SE)	7 units are south facing and each is a corner apartment or sole apartment with multiple aspects.	Yes
Oriented to optimise northern aspect	Due to the orientation of the buildings the majority of apartments either have a northerly, eastern or western aspect.	Yes
Direct daylight access to communal open space b/n March – September	Communal areas have adequate daylight access.	Yes

Lightwells not primary source of daylight to habitable rooms	Lightwells are not primary source of daylight to the habitable rooms of the north-facing apartments.	Yes
Natural Ventilation		
Max building depth = 10-18m	Despite the buildings having a proposed maximum building depth of greater than 18 metres they have an open north/south aspect for natural ventilation.	Yes
Min. 60% units naturally cross ventilated	60% of all apartments have natural ventilation.	Yes
All habitable rooms have direct access to fresh air	All habitable rooms have direct access to a window.	Yes
Awnings and Signage		
Awnings provided to retail strips giving continuous cover and complementary to existing awnings	A single awning is proposed to the Gardeners Road frontage.	Yes
Signage integrated with design of development	No details provided at this stage.	N/A
Signage provides clear and legible directions for residents and visitors	No details provided at this stage.	N/A

Facades		
Facades provide appropriate scale, rhythm and proportion given building use and context	There is strong horizontal and vertical framing elements with frameless glass balustrades and concrete blade and end walls.	Yes
Facades reflect orientation of site	The strong horizontal and vertical framing elements are more prominent on the northern elevation towards the Gardeners Road streetscape.	Yes
Important corners provided with visual prominence	Corner elements provide interest along the Gardeners Road frontage, whilst the curved facade to Kent Road reflect the gateway prominence of the site into Mascot from the inner west.	Yes
Building services (eg downpipes) integrated with façade and balcony design	All services are adequately concealed	Yes
Roof Design		
Roof design related to desired built form	Flat roof form	Yes
In dense areas roof area utilised for open space	No communal roof terrace proposed.	Yes
Design facilitates roof area to be utilised (now or in future) for sustainable functions	Roof can be utilised in the future as communal area if desired.	Yes

Table 4 - RFDC Compliance