

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

JRPP No	2015SYE121
DA Number	13/173/03
Local Government Area	City of Botany Bay
Proposed Development	Section 96(2) application to modify Development Consent No. 13/173 including lowering of the basement levels, reduction in number of tandem car spaces, relocation of plant rooms, adjustment to apartment storage, alterations to loading dock and garbage storage room; and introduction of a goods hoist for the commercial level to loading dock.
Street Address	246 Coward Street, Mascot, NSW 2020
Applicant/Owner	Allen, Jack and Cottier Architects Pty Ltd
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	Section 96(2) Application to modify a consent determined by the JRPP
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• s79C(1)(a)(i) <ul style="list-style-type: none"> <li>◦ Botany Bay Local Environmental Plan 2013;</li> </ul> </li> <li>• s79C(1)(a)(iii) <ul style="list-style-type: none"> <li>◦ Botany Bay Development Control Plan 2013;</li> </ul> </li> </ul>
List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none"> <li>1. Planning Assessment Report with amended conditions;</li> <li>2. Approved and amended architectural plans.</li> </ol>
Recommendation	Approval
Report by	Lincoln Lawler – Senior Development Assessment Planner

## **RECOMMENDATION**

That the Sydney Region East Planning Panel approve to modify DA 13/173 for the demolition of existing industrial building, excavation and site remediation; removal of 16 trees on the northern and southern boundaries, 92 dwellings (7 studios, 24 x one bedroom units and 61 x 2 bedroom units), 344m<sup>2</sup> of commercial floor space fronting Coward Street and 175 car parking spaces; Strata subdivision of Lot 1 into two retail lots and further Strata subdivision to create 92 residential lots at 246 Coward Street, Mascot under section 96(2) of the Environmental Planning and Assessment Act 1979 as follows:

1. Amend Condition 1 to refer to amended basement level plans;
2. Amend Condition 2(c) and 75 to refer to the revised Section 94 Development Contributions;
3. Amend Condition 4(c) to refer to the storm water system on the western side of Bourke Street;
4. Amend Condition 8 to refer to amended concurrence from Sydney Trains;
5. Amend Condition 11 to reflect updated General Terms of Approval from NSW Office of Water;
6. Amend condition 114 to refer to the development as amended by this modification approval.

## **EXECUTIVE SUMMARY**

Development Application No. 13/173 was approved by the Joint Regional Planning Panel - Sydney Region East on the 11 September 2014 for a 13 storey mixed use development comprising 92 dwellings and 175 car parking spaces at 246 Coward Street, Mascot.

The subject site is located on the northern side of Coward Street and has a secondary frontage to John Street and abuts Nancy Bird Walton reserve at the intersection of Coward and Bourke Streets.

This Section 96(2) Application (DA13/173/03) seeks to modify Development Consent No. 13/173 including the lowering of the basements levels, reduction in number of tandem car spaces and one additional car space, relocation of plant rooms, adjustment to apartment storage, alterations to loading dock and garbage storage room and introduction of a goods hoist for the commercial level to loading dock and to remove the stormwater upgrade requirement.

As a result of the above proposed changes, Condition Nos. 1, 2(c), 4(c) 8, 11, 75, and 114 are required to be amended together with the description of the approved development.

The main issue with the application is that due to the basement now being amended to go lower than originally approved, amended General Terms of Approval were required from the NSW Office of Water. In addition, given the proximity of the site to the rail tunnel servicing the airport, concurrence from Sydney Trains was also required. Advice from both agencies has now been provided.

The Section 96(2) Application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval.

## **APPROVED DEVELOPMENT**

Development Application No. 13/173 was approved by Joint Regional Planning Panel - Sydney Region East on the 11 September 2014 for a mixed use development comprising the following:

- Demolition of existing industrial buildings, excavation and site remediation.
- Removal of sixteen (16) existing trees along the southern and northern boundaries.
- Construction of an 13 storey mixed use development comprising of 92 dwellings (7 studio, 24 x one bedroom units and 61 x 2 bedroom units), 344m<sup>2</sup> of commercial floor space fronting Coward Street and 175 car parking spaces.
- Strata Subdivision to create 92 residential lots and 2 commercial lots.

The approved details of the development are as follows:

<b>Details</b>	<b>Approved</b>
<b>Site Area</b>	2,475m <sup>2</sup>
<b>Height</b>	44 metres
<b>Gross Floor Area (GFA)</b>	9607m <sup>2</sup>
<b>Floor Space Ratio (FSR)</b>	3.88:1

## **History of Development**

Council has received two other Section 96(1A) Applications. Section 96(1A) Modification DA13/173/02 was withdrawn. Section 96 (1A) Modification DA13/173/04 to make minor adjustments to the approved internal layouts and windows and adjustment to levels within the entire building is under assessment.

## **DESCRIPTION OF MODIFICATION**

The Section 96(2) application seeks to modify Development Consent No. 13/173 to incorporate the following changes:

### **Basement**

- Basement Level 3 had an approved RL of 6.8 and it proposed to modify this to RL6.0.

- Basement Level 2 had an approved RL of 4.00 and it is proposed to modify this to RL 2.83.
- Basement Level 1 had an approved RL of 1.20 and it proposed to modify this to RL - 0.27.
- Minor changes to Basement 1 configuration to incorporate storage for units, more functional car park design as in reduced the number of tandem spaces, a goods hoist. In addition the relocation of the loading dock and substation.
- Minor changes to Basement 2 and 3 configuration to incorporate storage for units, more functional car park design as in reduced the number of tandem spaces. Basement 2 also has 22 bicycle parking spaces.

Other changes also requested:

- Reassessment of Section 94 Development Contributions;
- Amend Condition 4(c) that relates to the stormwater line on the eastern side of Bourke Street;
- Amend Condition 8 which relates to concurrence from Sydney Trains, and
- Amend Condition 11 which relates to the updated General Terms of Approval from NSW Office of Water.

## **ASSESSMENT OF MODIFICATIONS**

The assessment of the components of the modification are as follows:

### **1. Lowering of Basement Levels**

The main reason for the proposed change to the basement levels through lowering them is purely to allow more room to build the rest of the building and comply with the height limit for the zone. The approved floor to floor height was only 3 metres as designed by the previous owner of the site with a different architect. The site was sold and the new owner along with a new architect have evaluated the approved scheme and identified that improvements were necessary and a revised floor to floor height of 3050mm is required.

The lowering of the basement levels requires concurrence from Sydney Trains as the site is within the 25m zone of influence of the rail tunnel. This is discussed in more detail under Sydney Trains (external referrals) later in this report.

### **2. Introduction of storage/ bicycle parking to car park levels.**

The original approval of the development was conditioned to ensure that storage was provided within the basement levels for the residential units. The plans have been amended to indicate storage within the basement levels. The storage space complies with the relevant controls.

### **3. Car Parking layout and design**

It is proposed to change the car parking layout to reduce the number of tandem spaces from 37 tandem, (totalling 74 single car spaces) to 32 tandem , (totalling 64 single spaces). Further, the applicant seeks to increase the overall car parking provision by one additional space by a

more rational design of the basement. The total car parking will now go from 175 to 176 spaces. This complies with the BBDCP 2013 requirements for car parking as an excess of one space is now provided. It is noted that it also complies with the ADG.

#### **4. Section 94 Contributions**

*Condition 2(c) and 75* are required to be amended to adjust the rate of development contributions to be in accordance with the relevant Section 94 Plans.

The Section 94 Contributions were calculated under the original development application, by applying a flat rate for residential dwellings of \$20,000 per unit, and not applying the contribution rates under the Section 94 Contributions Plans. It has been confirmed by legal advice (after this matter was determined) that this is not the correct approach.

The original application was approved with a development contribution based on 92 residential apartments and 344 sqm of commercial floor space. A credit for the existing commercial was also applied at the time of determination. This required a total contribution of \$1,880,721.35 to be paid prior to the issue of the occupation certificate.

Council's recalculation is that the contributions should be \$677,242.98 under the Mascot Station Precinct Section 94 Contributions Plan (MSP s94 Plan); \$866,024.00 under the City of Botany Bay Contributions Plan 2005 2010 (City Wide s94 Plan); and a credit is payable of \$16,882 based on 23 existing workers under the City Wide s94 plan resulting in a new total of \$1,526,384.98.

Council has determined that a credit should also be applied under the MSP s94 Plan. Therefore based on 23 workers an additional credit \$96,389.78 should be applied under the MSP s94 Plan. This will reduce the total Section 94 Contribution to **\$1,429,995.20**.

Conditions 2(c) and 75 of the consent should therefore be amended to reduce the contribution from \$1,880,721.35 to **\$1,429,995.20** (as indexed at 2015/2016 rates). The applicant has agreed with this figure.

The Section 94 Contribution is to be paid to Council prior to the issue of the Occupation Certificate. It is noted that according to the Plans, this should have be conditioned to be payable prior to the issue of the Construction Certificate.

#### **5. Other Changes**

##### *Amend Condition 1*

As a result of the above changes, Condition 1 will need to be amended to refer to the approved plans received on the 21 August 2015.

##### *Amend Condition 4(c) regarding stormwater upgrade*

Condition 4(c) currently reads

*Replace the public stormwater system on the eastern side of Bourke Street, between John and Church Street, the design hydraulic detail of which is to be submitted with the Construction certificate.*

The above condition refers to the opposite side of the street to that of the subject site. The application seeks to delete this condition as the applicant believes that it is not related to the development site. However the condition is required to be amended to correct Council's error to reflect that the upgrade applies to the western side of Bourke Street. It is noted that the condition is required to ensure that the stormwater system is capable of accommodating the additional demand produced from the development site.

*Amend Condition 8 regarding Sydney Trains concurrence*

This conditions needs to be amended to refer to the updated requirements of Sydney Trains as result of the amended basement.

The Section 96(2) modification was referred to Sydney Trains in accordance with Clause 86(4) of SEPP Infrastructure (2007) as the subject site lies within a 25m zone of influence of a rail tunnel below Bourke Street. Amened conditions have been received from Sydney Trains on 16 March 2016. Sydney Trains have made the following comments in regards to Condition 8:

*Condition 8(a): To be amended as follows:*

- (a) All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:*
- i. Geotechnical Engineering & Assessment Reports ref GS6328- 3A by Aargus Group dated 31/8/15 and G2015-03D dated 12/02/2016 by Mark Kiryakos;*
  - ii. Groundwater Assessment Report ref GS6328-3B dated 15/2/16 by CF Group & Mark Kiryakos;*
  - iii. Stress Deformation Report ref G2015-03D dated 12/2/16 by Mark Kiryakos;*
  - iv. Shoring Elevation drawings S0101 Rev C; S0102 Rev B; S0103 Rev F; S0106 Rev B; S0107 Rev A by Australian Consulting Engineers;*
  - v. Certification by Mott McDonald dated 16/2/16 ref 635808.*

*The Principal Certifying Authority is not to issue the Construction Certificate until it has provided written confirmation to Sydney Trains that all construction documentation comply with the above documentation.*

*Condition 8(b): to be deleted.*

*Condition 8(c): to be deleted.*

*Condition 8(i): to be amended as follows:*

*An acoustic assessment is to be submitted to Council and RailCorp prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".*

*The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principle [sic] Certifying Authority with the application for a Construction Certificate.*

*Condition 8(j): to be deleted.*

*All Conditions: replace any reference to RailCorp with Sydney Trains.”*

The above amendments are recommended to be made to Condition 8.

*Amend Condition 11 regarding General Terms of Approval from the NSW Office of Water*  
The application was referred to the NSW Office of Water as the basement levels are to be lowered and this has potential to impact the de-watering associated with construction.

The NSW Office of Water in their response dated 12 November 2015 have updated their General Terms of Approval which require Condition 11 to be updated. The updated condition is found with the schedule of conditions.

## **SECTION 96(2) and 79 C CONSIDERATIONS**

In considering the Section 96(2) Application, the matters listed in Section 96(2) and 79C of the Environmental Planning and Assessment Act 1979 have been taken into consideration in the preparation of this report and are as follows:

### **Section 96(2) Provisions**

Pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*, the consent authority has to be satisfied that:

- a) Development Consent No. 13/173 as proposed to be modified is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all);
- b) It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent; and
- c) it has notified the application in accordance with:
  - (i) the Regulations, if the regulations so require, or
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

The proposed Section 96(2) application seeks consent to modify Development Consent No. 13/173 by lowering of the basements levels, reduction in number of tandem car spaces and one additional car space, relocation of plant rooms, adjustment to apartment storage, alterations to loading dock and garbage storage room and introduction of a goods hoist for the commercial level to loading dock.

The development as modified is substantially the same development as approved and, which does not result in any change to the approved FSR, approved building heights,

or unit mix. Given that the proposed changes only seek to lower the basements, rationalise car parking and layout, include residential storage in the basement levels and bicycle storage, and do not seek to significantly change the development as physically approved, the amenity issue and potential impact to the adjoining property owners are minimal. As such, the proposed modification is satisfactory and is recommended for approval.

### **Section 79C Provisions**

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

#### **Botany Bay Local Environmental Plan (BBLEP) 2013**

Botany Bay Local Environmental Plan 2013 (BBLEP 2013) was gazetted on 21 June 2013 and commenced on 26 June 2013. In this regard, the following provides an assessment against the relevant provisions of BBLEP 2013:

<b>Principal Provisions of BBLEP 2013</b>	<b>Compliance Yes/No</b>	<b>Comment</b>
Landuse Zone	N/A	The site is zoned B2 – Local Centre under BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The approved residential flat building and commercial premises are permissible in the zone with Council's consent under BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives in the BBLEP 2013: <ul style="list-style-type: none"> <li>• To provide a range of retail, business, entertainment and community uses that serve the needs of people who live, work in and visit the local area;</li> <li>• To encourage employment opportunities in accessible locations, and</li> <li>• To maximise public transport patronage and encourage walking and cycling.</li> </ul>
Does Clause 2.6 apply to the site?	N/A	Clause 2.6 states that <i>land to which this Plan applies may be subdivided, but only with development consent.</i> The approved development involves the Strata subdivision of 92 residential lots and two commercial lots and the dedication of land in stratum to Council. This has previously been assessed.
What is the height of the building? Is the height of the building below the maximum building height?	Yes	The approved building height is 44m, which is the maximum permitted by Clause 4.3 of BBLEP 2013. This remains unchanged as part of this modification
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	No – but Clause 4.6 Submitted as part of original application	The approved FSR is 3.88:1, which does not comply with the maximum FSR of 3.2:1 permitted under Clause 4.4 of BBLEP 2013. The exceedence was assessed and approved under the previous application
Is the proposed development	N/A	The subject site is not located within an R3 or

<b>Principal Provisions of BBLEP 2013</b>	<b>Compliance Yes/No</b>	<b>Comment</b>
in a R3/R4 zone? If so does it comply with site of 2000m <sup>2</sup> min and maximum height of 22 metres and maximum FSR of 1.5:1?		R4 zone.
Is the site within land marked "Area 3" on the FSR Map	N/A	The subject site is not identified as being within "Area 3" on the FSR map.
Is the land affected by road widening?	N/A	The subject site is not affected by road widening on the Land Acquisition Map.
Is the site identified on the Key Sites Map?	Yes	The subject site is within the Mascot Station 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?	No	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <p>6.1 – Acid sulfate soils</p> <p>6.2 – Earthworks</p> <p>6.3 – Stormwater management</p>	Yes	<p>Clause 6.1 – Acid Sulfate Soils. The subject site is affected by both Class 2 and Class 4 Acid Sulfate Soils.</p> <p>The development application has been reviewed by Council's Environmental Scientist who advises that the Acid Sulfate Soil testing is required for the entire depth of excavation. This will be conditioned, however it is noted that the tests already carried out did not indicate potential or actual acid sulfate soils. The development is considered to be consistent with Clause 6.1 of BBLEP 2013.</p> <p>Clause 6.2 – Earthworks. The proposed development seeks to excavate the subject site for basement car parking to a lower level than previously approved. The development application is Integrated Development and as such, the NSW Office of Water has provided updated General Terms of Approval for the proposed modification. These conditions are included in the draft Schedule of Conditions. The development is considered to be consistent with Clause 6.2 of BBLEP 2013.</p> <p>Clause 6.3 – Stormwater. The development application involves appropriate stormwater management and will correct an error in Council's condition that will ensure the site can be appropriately serviced for stormwater. The development is considered to be consistent with Clause 6.3 of BBLEP 2013.</p>

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
6.8 - Airspace operations		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 as approved 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 50.8 metres AHD, subject to conditions to be imposed on any consent. The development is considered to be consistent with Clause 6.8 of BBLEP 2013.
6.9 – Development in areas subject to aircraft noise		Clause 6.9 – Aircraft Noise. The subject site is affected by the 20 ANEF contour. There are no changes proposed that will impact on the acoustic revetments already approved. The development is consistent with Clause 6.9 of BBLEP 2013.
6.16 – Design excellence		The modification will not affect any visible design elements.

#### Botany Bay Development Control Plan 2013

The provisions of Part 9A - Mascot Station Town Centre Precinct have been addressed. The proposed modifications will comply to the same extent with the provisions and objectives of the DCP as the original development consent and will not impact significantly upon the visible external appearance of the development when viewed from the public domain areas.

Car Parking – One additional space is provided through the redesign of the basement car parking levels. It is noted that this is one car space above the DCP car parking requirements and is therefore satisfactory.

The Section 96(2) modification will not impact upon the other requirements of the DCP.

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

The proposed amendment will have no adverse environmental, social or economic impacts on the locality.

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

The amendments will not affect the suitability of the site for high density residential development, as approved.

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

In accordance with Council's Notification Policy, the Section 96(2) Application was notified to adjoining property owners for a period of fourteen (14) days from 23 September 2015 until 23 October 2015. No submissions were received.

**(e) The public interest.**

Approval of the proposed amendment will have no adverse impact upon the public interest.

**OTHER MATTERS**

External Referrals

See above discussion on updated referrals from Sydney Trains and NSW Office of Water.

Internal Referrals

The Section 96(2) Application was not required to be referred to other Council Officers in this instance.

**CONCLUSION**

The Section 96(2) Application to seeks to modify Development Consent No. 13/173 to amend Condition Nos. 1, 2(c), 4(c) 8, 11, 75, and 114 by the lowering of the basements levels, reduction in number of tandem car spaces and one additional car space, relocation of plant rooms, adjustment to apartment storage, alterations to loading dock and garbage storage room and introduction of a goods hoist for the commercial level to loading dock to reflect the proposed changes. Further modifications are made to the connection of the public stormwater system and to the calculation of s94 development contributions payable.

The proposed modification application has been notified in accordance with the Regulations and Council's DCP. No submissions were received. The modification application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval.

**Premises: 246 Coward Street, Mascot**

**DA No: 13/173**

**SCHEDULE OF CONSENT CONDITIONS**

**GENERAL CONDITIONS**

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

Drawing No.	Author	Received
001 Issue DA-4	Olsson and Associates architects	7 August 2014
012 Issue DA-4		7 August 2014

<b>Drawing No.</b>	<b>Author</b>	<b>Received</b>
013 Issue DA-4	Allen Jack and Cottier	7 August 2014
<b>DA101 Issue <del>DA-4</del> Issue G</b>	Allen Jack and Cottier	<del>7</del> 21 August 2014 <sup>5</sup>
<b>DA102 Issue <del>DA-4</del> Issue G</b>	Allen Jack and Cottier	<del>7</del> 21 August 2014 <sup>5</sup>
<b>DA 103 Issue <del>DA-4</del> Issue G</b>		<del>7</del> 21 August 2014 <sup>5</sup>
202 Issue DA-4		7 August 2014
203 Issue DA-4		7 August 2014
204 Issue DA-4		7 August 2014
205 Issue DA-4		7 August 2014
206 Issue DA-4		7 August 2014
301 Issue DA-4		7 August 2014
302 Issue DA-4		7 August 2014
<b>DA 303 Issue C</b>	<b>Allen Jack and Cottier</b>	<b>21 August 2015</b>
401 Issue DA-4		
402 Issue DA-4		7 August 2014
403 Issue DA-4		7 August 2014
404 Issue DA-4		7 August 2014
501 Issue DA-1		7 August 2014
601 Issue DA-3		7 August 2014
602 Issue DA-3		7 August 2014
603 Issue DA-3		7 August 2014
		7 August 2014
Landscape Plans LA-01Rev 1 LA-02 Rev 1	JILA – Jane Irwin Landscape	
Survey Plan, Reference No. 2205/13	True North Surveys	6 September 2013
Stormwater Concept Plans, Project No. 213-1134, Drawing Nos.: H01 (Rev A) H02 (Rev A) H03 (Rev A) H04 (Rev A)	Greenarrow Pty Ltd	6 September 2013

<b>Drawing No.</b>	<b>Author</b>	<b>Received</b>
H05 (Rev A) H06 (Rev A) H07 (Rev A) H08 (Rev A) H09 (Rev A) H10 (Rev A) H11 (Rev A) H12 (Rev A)		

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

Reference Document(s)	Author	Date Received
30 August 2013		
Letter from Planning Ingenuity dated 21 March 2014	Planning Ingenuity	20 January 2014
Letter from Olsson and Associates dated 20 January 2014	Olsson and Associates	20 January 2014
Letter from Olsson and Associates dated 21 March 2014	Olsson and Associates	21 March 2014

**(Amended DA-13/173/03)**

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

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

- (a) Builders Security Deposit \$223,125;
- (b) Development Control \$12,300.00;
- (c) Section 94 Contribution (prior to OC) ~~\$1,880,721.35~~ **1,429,995.20**

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

**(Amended DA-13/173/03)**

- 3 This Consent relates to land in Lot 1 of DP773389 and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public works required by this consent.

- 4 It is a condition of consent that the applicant shall prior to the issue of an occupation certificates, at no costs or expense to Council, comply with the following:

- (a) Replace all the existing above ground electricity and telecommunication cables to underground cables within the site and road reserve area fronting Coward Street and John Street in accordance with the guidelines and requirements of the relevant utility authorities. The applicant shall bear all the cost of the construction and installation of the cables and any necessary adjustment works.
- (b) Provide appropriate and suitable street lighting to a high decorative standard to the Coward Street and John Street frontage of the site, so as to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements.
- (c) Replace the public stormwater system on the ~~eastern~~ **western** side of Bourke Street, between John and Church Street, the design hydraulic detail of which is to be submitted with the Construction Certificate.

**(Amended DA-13/173/03)**

- 5 The consent given does not imply that works can commence until such time that:
- (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
    - (i) The consent authority; or,
    - (ii) An accredited certifier; and,
  - (b) The person having the benefit of the development consent:
    - (i) Has appointed a principal certifying authority; and
    - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 6
- (a) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
  - (b) All plumbing stacks, vent pipes, stormwater downpipes and the like shall be kept within the building and suitably concealed from view;
  - (c) The basement of the building must be designed and built so that on completion, the basement is a “fully tanked” structure, i.e. it is designed and built to prevent the entry of ground water / ground moisture into the inner part of the basement;
  - (d) Air conditioning units must not be visible from any public place.
- 7 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the each building in the development are fulfilled.
- (a) Note:

Relevant BASIX Certificate means:

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

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

8 The following conditions are imposed by *Sydney Trains* RailCorp—NSW Transport and shall be complied with

- (a) ~~Unless amendments are required by RailCorp as part of the review and approval/certification of the documentation listed in Condition 10(c) all excavation and construction works are to be undertaken in accordance with the following documents:~~

*All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:*

- (i) ~~Geotechnical Investigation Report prepared by Aargus Pty Ltd dated 3rd February 2014 (Ref: GS5304/5A.~~

*Geotechnical Engineering & Assessment Reports ref GS6328- 3A by Aargus Group dated 31/8/15 and G2015-03D dated 12/02/2016 by Mark Kiryakos;*

- (ii) ~~Structural Report prepared by ABC Consultants Pty Ltd dated June 2014 (Ref: 13512-001-r-Rev B)~~

*Groundwater Assessment Report ref GS6328-3B dated 15/2/16 by CF Group & Mark Kiryakos;*

- (iii) ~~Shoring Layout Plan—Drawing No. S101.01 Revision D dated 11/6/14 prepared by ABC Consultants Pty Ltd.~~

*Stress Deformation Report ref G2015-03D dated 12/2/16 by Mark Kiryakos*

- (iv) ~~Shoring Elevations Sheet 1—Drawing No. S101.02 Revision D dated 11/6/14 prepared by ABC Consultants Pty Ltd.~~

*Shoring Elevation drawings S0101 Rev C; S0102 Rev B; S0103 Rev F; S0106 Rev B; S0107 Rev A by Australian Consulting Engineers;*

- (v) ~~Shoring Elevations Sheet 2—Drawing No. S101.03 Revision D dated 11/6/14 prepared by ABC Consultants Pty Ltd.~~

*Certification by Mott McDonald dated 16/2/16 ref 635808.*

- (vi) ~~Shoring Sections—Drawing No. S101.04 Revision C dated 3/6/14 prepared by ABC Consultants Pty Ltd.~~

- (vii) ~~Development Location Plan—Drawing No. S101.05 Revision F dated 11/6/14 prepared by ABC Consultants Pty Ltd.~~

- (viii) ~~Development Location Sections—Drawing No. S101.06 Revision F dated 11/6/14 prepared by ABC Consultants Pty Ltd.~~

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

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

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

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

- (d) The measures detailed in the documents approved/certified by *Sydney Trains RailCorp* under this Condition are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to *Sydney Trains RailCorp* that this condition has been complied with.
- (e) All excavation/ground penetration works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
- (f) No rock anchors/bolts are to be installed into *Sydney Train's RailCorp's* property or easements.
- (g) The Applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by *Sydney Trains RailCorp* if required by *Sydney Trains RailCorp*, prior to the commencement

of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from *Sydney Trains RailCorp* and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by *Sydney Trains RailCorp*.

- (h) The following items are to be submitted to *Sydney Trains RailCorp* for review and endorsement prior to the issuing of a Construction Certificate:

- Machinery to be used during demolition, excavation/ground penetration and construction

It should be noted that excavations undertaken in rock are to maintain and limit vibration levels to levels that will not adversely impact *Sydney Train's RailCorp* assets.

- (i) An acoustic assessment is to be submitted to Council and *Sydney Trains RailCorp* prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines". The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

- ~~(j) The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.~~

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

- (l) Prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to *Sydney Trains RailCorp* for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from *Sydney Trains RailCorp* confirming that this condition has been satisfied.

- (m) Prior to the issue of a Construction Certificate the Applicant must hold current public liability insurance cover for a sum to be determined by *Sydney Trains RailCorp*. This insurance shall not contain any exclusion in relation to works on or near the rail corridor. The Applicant is to contact *Sydney Train's RailCorp's* Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the

Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with *Sydney Train's RailCorp's* written advice to the Applicant on the level of insurance required.

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

*(Amended DA-13/173/03)*

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

Water

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

Wastewater

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

Sydney Water Servicing

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

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

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

Details should be forwarded to:

The Sydney Asset Management

Roads and Maritime Services

PO Box 973 Parramatta CBD 2124

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

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

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

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

The report and any enquiries should be forwarded to :

Project Engineer, External Works

Sydney Asset Management

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

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

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

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

General and Administrative Issues

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

Prior to Excavation

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

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

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

#### During Excavation

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

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

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

Following excavation

- (q) ~~Should pumping volumes or groundwater quality significantly differ from the predictions supporting the DA and licence applications, detailed monitoring records must be provided to the NSW Office of Water, together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.~~
- (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 levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.*
- (c) *Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:*
- (i) *any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and*
- (ii) *any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and*
- (iii) *where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.*
- (d) *Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater,*
- (e) *DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the*

*authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.*

**Prior to excavation**

- (f) *The following shall be included in the initial report:*

  - (i) *measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.*
  - (ii) *a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.*
  - (iii) *details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.*
  - (iv) *a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]*
- (g) *The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.*
- (h) *Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the*

*hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.*

- (i) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.*
- (j) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).*
- (k) A copy of a valid consent for the development shall be provided in the initial report.*
- (l) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.*
- (m) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.*

*During excavation*

- (n) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.*
- (o) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated offsite discharge.*
- (p) Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.*
- (q) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. 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.*

- (r) *18. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.*
- (s) *The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.*
- (t) *Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.*

***Following Excavation***

- (u) *Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:*
  - (i) *detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and*
  - (ii) *a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and*
  - (iii) *a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.*
- (v) *The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.*

***(Amended DA-13/173/03)***

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

- (a) As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
- (b) The CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas that are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or

more cameras should be strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance);

- (c) Any proposed landscaping and vegetation should adhere to the following principles:

- (i) Shrubs bushes, plants should remain under 900mm in height;
  - (ii) Branches or large trees should start at a height of two (2) metres and higher;

This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.

- (d) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime;
- (e) Any storage cages in the underground car park areas should not be constructed in an isolated area. CCTV cameras must cover this area, as they are easy targets when they have little supervision. Solid steel housing and quality key locks should be used to prevent access.

- 13 The following conditions are imposed by the **Sydney Airport Corporation Limited (SACL)** and must be complied with:

- (a) The PROPERTY DEVELOPMENT at 246 COWARD STREET, MASCOT lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of this Corporation.
- (b) The Civil Aviation Safety Authority (CASA) have no objection to the erection of the building to a height of 50.8 metres above Australian Height Datum (AHD).
- (c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
- (d) Should you wish to exceed the above heights, a new application must be submitted. Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- (e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. SACL advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by SACL prior to any approval is to include:
  - (i) the location of any temporary structure or equipment, ie. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
  - (ii) the swing circle of any temporary structure/equipment used during construction;

- (iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
    - (iv) the period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
  - (f) Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.
  - (g) The development is to comply with the Civil Aviation Safety Authority (CASA) requirements as outlined in the Council's Development Application Guide for Multi-Unit Residential, Commercial and Industrial.
- 14 Ausgrid have advised that until the electrical load requirements of the development are provided, the accommodation of an electrical substation should be allowed for within the premises. Accordingly, the applicant is to liaise with Ausgrid to obtain confirmation on this issue, prior to a Construction Certificate.

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

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

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

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

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

- (e) It is a condition of consent that should demolition, site clearing and site remediation works cause rise to public safety and/or workplace safety; works shall halt until absolute safety is restored;

**(Note:** Prior to commencement of the surveys, the applicant/ owner of the development shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information shall be submitted to Council.)

16

- (a) There shall be no loss of support to the Council's nature strip area as a result of the construction within the site. Details prepared by a practicing Structural Engineer of how this support will be maintained during the demolition works shall be submitted to Council prior to the commencement of works.
- (b) Council's property shall be supported at all times. Where any shoring is to be supporting (or located on) Council's property, certified engineering drawings showing all details including the extent of encroachment, the type of shoring and the method of removal, shall be submitted prior to the issue of the Construction Certificate. If the shoring cannot be removed, it shall be cut to 150mm below footpath level and the gap between the shoring and any buildings shall be filled with a 5Mpa lean concrete mix.

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

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

- (a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
- (b) Induction training for on-site personnel;
- (c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- (d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- (e) Disconnection of Gas and Electrical Supply;
- (f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;

- (g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
  - (h) Waterproofing of any exposed surfaces of adjoining buildings;
  - (i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
  - (j) Working hours, in accordance with this Development Consent;
  - (k) Confinement of demolished materials in transit;
  - (l) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”;
  - (m) Sewer – common sewerage system;
  - (n) On site monitoring both during asbestos removal and the remainder of demolition activities.
- 18 To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- (a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities to determine the position and level of services;
  - (b) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with:
    - (i) The additional load on the system; and
    - (ii) The relocation and/or adjustment of the services affected by the construction.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
- 19 Prior to demolition of any building constructed before 1970, the person acting on this consent shall ensure compliance with Australian Standard *AS2601-2001, Demolition of Structures* by a person with suitable expertise and experience. This may involve a Work Plan that identifies any hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimize any dust nuisance and the disposal methods for hazardous materials, including:
- (a) Removal, cleaning and disposal of lead-based paint shall conform to the current EPA guidelines. Demolition of materials incorporating lead is to be conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the *AS2601-1991 Demolition of structure*.
  - (b) Hazardous dust shall not be allowed to escape from the site. Any existing accumulations of dust (e.g.; ceiling voids and wall cavities) shall be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water shall not be allowed to enter the

street and stormwater systems. Demolition is not to be performed during high winds, which may cause dust to spread beyond the site boundaries.

- (c) All contractors and employees directly involved in the removal of hazardous dusts and substances wearing protective equipment conforming to Australian Standard *AS1716 Respiratory Protective Devices* and shall adopt work practices in accordance with the requirements of WorkSafe's *Control of Inorganic Lead At Work* (NOHSC: 102(1994) and NOHSC: 2015(1994).
- (d) All lead-contaminated materials being disposed of in accordance with the Environment Protection Authorities Environmental Guidelines; *Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999)* and *The Protection of the Environment Operations Act 1997 (NSW)*.

20 Prior to commencement of any works, the following approvals and permits on Council's property/road reserve under Roads Act 1993 and Local Government Act 1993 shall be made and obtained from Council's Customer Services Counter:

- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
- (b) Permit for roads and footways occupancy (long term/ short term);
- (c) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services;
- (d) Permit to place skip/waste bin on footpath and/or nature strip;
- (e) Permit to use any part of Council's road reserve or other Council lands;
- (f) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area;

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

- (g) Permit to establish "Works Zone" on public roads adjacent to the development site, including use of footpath area.

(Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Traffic Engineer for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s)).

Copy of the approved permits shall be submitted to the Principal Certifying Authority attesting this condition has been appropriately satisfied.

21 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition works upon the site in order to prevent sediment and silt from site works being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable

- condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 22 The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be **LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED**. The amount of Common Law liability shall be unlimited.
- 23 A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
- (a) stating that unauthorised entry to the work site is prohibited;
  - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
  - (c) the Development Approval number;
  - (d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
  - (e) any such sign is to be removed when the work has been completed.
- 24 A detailed Traffic Management Plan for the pedestrian and traffic management of the site during demolition, excavation and construction shall be prepared and submitted to the relevant road authority (Council or Roads and Traffic Authority) for approval prior to commencement of any works. The plan shall:
- (a) be prepared by a RMS accredited consultant.
  - (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
  - (c) if required, implement a public information campaign to inform any road changes well in advance of each change.
  - (d) Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.
  - (e) During construction, all works and measures shall be implemented in accordance with approved Traffic Management Plan at all times.
- 25 A detailed Construction Management Plan (CMP) shall be submitted to Council and the Principal Certifying Authority for approval prior to the commencement of any works. The plan shall address:

- (a) Excavation and construction vehicles access to and egress from the site;
  - (b) Parking for demolition and construction vehicles. All construction-related vehicles shall be parked on-site and no parking of these vehicles shall be allowed on Coward, John or Bourke Streets;
  - (c) Locations of site office, accommodation and the storage of major materials related to the project;
  - (d) Protection of adjoining properties, pedestrians, vehicles and public assets;
  - (e) Location and extent of proposed builder's hoarding and Work Zones, if there is any.
  - (f) Active measures to control and suppress dust, grit and the like that are associated with construction activity.
  - (g) Measures to control the arrival of plant and equipment associated with the construction process and the delivery of such plant and equipment during reasonable hours of the working day;
  - (h) Public Notification where working hours are extended for a particular construction activity;
  - (i) Provision of on-site car parking for employees, contractors and site personnel during the construction phase of the development; and
  - (j) During construction, all works and measures shall be implemented in accordance with approved Construction Management Plan at all times.
- 26 To ensure safe construction traffic flow on site a Traffic Management Plan (TMP) and report shall be prepared by an RMS accredited person and submitted to and approved by Council prior to issue of Construction Certificate.
- The TMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices” and the RMS’s Manual – “Traffic Control at Work Sites”. The TMP is to address but not be limited to the loss of on-street parking, construction vehicles travel routes, safety of the public and access, materials storage, handling and deliveries including construction traffic parking.
- Additionally, all traffic controllers utilise for the site must be RMS accredited and a minimum of seven (7) day notice shall be given to residents if they will be affected by the proposed construction activities.
- 27 All works carried out on the public roads shall be inspected and approved by Council’s engineer. Documentary evidence of compliance with Council’s requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
- (a) Initial pre-construction on-site meeting with Council’s engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
  - (b) Prior to placement of concrete (kerb and gutter and footpath);
  - (c) Prior to construction and placement of road pavement materials; and

(d) Final inspection.

**Note:** Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.

- 28 During demolition, excavation, remediation and construction, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:
- (a) Approved Erosion and Sediment Control Plan;
  - (b) Approved Traffic Management Plan and;
  - (c) Approved Construction Management Plan.

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

- 29 Prior to any excavation works below 7m below ground level an acid sulfate soil (ASS) assessment shall be undertaken to determine the presence and extent of any ASS.
- Note:
- (i) Should any potential acid sulfate soil (PASS) or actual acid sulfate soil (AASS) be identified then the an Acid Sulfate Soils Management Plan shall be prepared which shall include any site specific procedures and mitigation measures required and a site analysis from a NATA registered laboratory; and
  - (ii) All recommendations of the report shall be implemented prior to the commencement of excavation or building works below 7m below ground level.
- 30 The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 "Access for People with Disabilities" and Australian Standard AS1428.1 (2001) - Design for Access and Mobility - Part 1 General Requirements for Access - Buildings. This requirement shall be reflected on the Construction Certificate plans.
- 31 Prior to the issue of a Construction Certificate, the construction drawings shall indicate the following:
- (a) That water will be prevented from penetrating behind fittings/linings and into concealed spaces in laundry, sanitary areas and bathrooms etc;
  - (b) That floor to ceiling in laundry and bathroom areas to be tiled;
  - (c) That timbers used in the development are plantation, recycled or regrowth timbers of timbers grown on Australian farms or State forest plantations and that no old growth or rainforest timbers are to be used in any circumstances; and
  - (d) That plumbing to each dwelling will be separated and adequately contained to prevent noise transmission and vibration.

- 32 The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development. Dilapidation survey reports (one prior to commencement and one at completion) of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the release of Construction and Occupation Certificate.
- 33 Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant's expense.
- 34 Prior to the issue of the Construction Certificate, the planter boxes at the rear upper levels of the building shall have minimum dimensions of 1.2 metres in height and 1.0 metres in width. Details shall be submitted with the Construction Certificate.
- 35 Prior to the issue of the Construction Certificate, The landscape areas shown on the plan by Olssen & Associates *Dwg 201 Issue DA-4 dated March 2014*, and plans *LA-01 and LA-02 Rev 1 dated August 2013* by JILA shall be the subject of detailed landscape construction documentation (plans and specifications) that are to be submitted to and **approved by the City of Botany Bay's Landscape Architect**. The landscape documentation is to be prepared by a suitably qualified landscape architect, in accordance with DCP 2013. The detailed (construction level) plan shall include, but not be limited to:
- (a) A detailed planting plan at 1:100 scale showing all plant locations, centres, numbers and pot sizes. There is to be a dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas.
  - (b) All trees shall be min. 100 litre.
  - (c) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls.
  - (d) Areas of paving, schedule of materials, edge treatments and sectional construction details.
  - (e) All fencing, privacy screening and pergolas – elevations and materials. The steel pergola structures located in the communal open space area to the northern and western boundaries are to be detailed to ensure they are of high quality design and construction materials as they will be visible from adjoining residents and the public domain.
  - (f) Details of other landscape elements such as furniture, lighting, planter walls, in-situ masonry seating. Provide sectional construction details and elevations.
  - (g) Planter box on slab sectional details. Planter box depths to be in accordance with Council's DCP and SEPP 65 which requires 900mm soil depth for planting trees.
  - (h) Densely planted planter boxes of a minimum width of 2.5m on the western boundary of the proposed Courtyards on Level 5.
  - (i) Trees shall be used extensively throughout the site – private courtyards, through the centre of the site and in setbacks. Trees must be of an appropriate

scale to ameliorate and soften buildings, provide a measure of screening and privacy and improve pedestrian and communal open space areas. Deep soil zones (street setbacks) must include larger canopy trees to improve the public domain and meliorate buildings. Trees to be predominantly native, evergreen species using open canopy evergreens and some selected deciduous for solar penetration.

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

- 40 Prior to the issue of the Construction Certificate, the measures required in the Wind Impact Assessment, Report prepared by SLR Global Solutions Pty Ltd dated 15 August 2013 shall be detailed on the Construction Certificate plans.
- 41 Prior to the issue of the Construction Certificate, a Certificate under Section 73 of the Sydney Water Act 1994 shall be obtained and submitted to Council for each stage of construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges.
- Note: Immediate application should be made to Sydney Water for this Certificate to avoid problems in servicing the development.
- 42 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:
- (a) The rooms for the storage of garbage and recyclable materials shall be:
    - (i) fully enclosed;
    - (ii) adequately ventilated;
    - (iii) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
    - (iv) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.
    - (v) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
  - (b) Waste arising from the development (when complete) is to be removed from the John Street, the detail of which is to be submitted with the Construction Certificate.
- 43 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.
- 44 Prior to the issue of the Construction Certificate, detailed construction plans in relation to the development shall be revised and submitted to Council for approval. The plan shall be revised to include the following:
- (a) Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distances stipulated in AS 2890.2.
- 45 Submission for approval of the Principal Certifying Authority detailed stormwater drainage plans for the site together with certification from a chartered civil engineer indicating the plans have been prepared in accordance with all relevant sections of

Botany Council's Stormwater Management Technical Guidelines (SMTG). The stormwater plan shall also allow for, but not be limited to:

- (a) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure. The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement;
- (b) Incorporate water quality improvement system and WSUD strategy designed to capture and treat at least 85% flows generated from the site;
- (c) The OSD and water quality improvement system including rainwater tanks are to be relocated in an open publicly accessible area to ensure it can be readily accessed, inspected and maintained, including ensuring any surcharge flows due to the design being exceeded and/or blockage can escape via a physical overland flow path directly to the public road; and
- (d) The provision of a rainwater tank (Minimum capacity 5000l) to service the public amenities building to John Street.

46 To provide adequate flood protection all habitable floor levels and driveway/stairs access to basement parking are to have a minimum 500 and 100mm freeboard above the 1 in 100 year flood level respectively. Additionally, stair wells and driveway access to basement must be located above the Probable Maximum Flood level in accordance with Botany Council's Stormwater Management Technical Guidelines (SMTG). Plans together with engineering certification indicating compliance with this requirement are to be submitted with the Construction Certificate application.

47 Prior to the issue of the Construction Certificate, design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2 (for loading area) and AS2890.6.

48 In order to maximise visibility in the basement car parks, the ceilings shall be painted white. This requirement shall be reflected on the Construction Certificate plans.

49 The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council approval.

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

<b>Car Parking Rates</b>	<b>Required</b>
1 space per 1 bedroom unit	31 spaces
2 spaces per 2 bedroom unit	122 spaces
1 visitor space per 7 dwellings	14 spaces

Commercial spaces	6
Car Wash Bays	2
<b>TOTAL REQUIRED</b>	<b>175</b>

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

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

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

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

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

53 Plans submitted with the Construction Certificate shall demonstrate compliance with the following:

- (a) All residential unit size excluding balconies as minimum must be as following:
  - (i) Studio = 60m<sup>2</sup>
  - (ii) 1 bedroom = 75m<sup>2</sup>
  - (iii) 2 bedroom = 100m<sup>2</sup>

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

### **DURING WORKS**

- 56 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
- 57 If the work involved in the construction of a building:
- (a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
  - (b) involves the enclosure of a public place:
    - (i) a hoarding or fence must be erected between the work site and the public place.
    - (ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
    - (iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
    - (iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
  - (c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
- 58 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves the erection of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
- (a) Each toilet provided:
    - (i) must be standard flushing toilet; and,
    - (ii) must be connected:

- (1) to a public sewer; or
  - (2) if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
  - (3) if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
- (ii) The provisions of toilet facilities in accordance with this clause must be completed before any other work is commenced.

59

- (a) Any new information that comes to light during demolition, excavation, remediation and or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council;
- (b) Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

60 The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.

61 Throughout the demolition and construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.

62 During demolition and construction works, the applicant/builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.

63 The Applicant shall conduct all demolition, construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.

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

65

- (a) Existing structures and or services on this and adjoining properties shall not be endangered during any demolition associated with the above project. The Applicant is to provide details of any stabilisation works required to adjacent developments to Council.
- (b) As the development involves an excavation that extends below the level of the base of the footings of a building or road on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) Protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) Where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) Must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of his intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished.
- 66 If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
- 67 The operation shall not give rise to offensive odour or other air impurities in contravention of the Protection of the Environment Operations Act 1997. The Principle contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- (a) Covering excavated areas and stockpiles,
  - (b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
  - (c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,
  - (d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
  - (e) All loads entering or leaving the site are to be covered,
  - (f) The use of water sprays to maintain dust suppression,
  - (g) Keeping excavated surfaces moist.
- 68
- (a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion;
  - (b) Concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land;
  - (c) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;
  - (d) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve

or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.

- (e) During construction works the area in front of the premises and for the full width of the site, be maintained at all times and kept clean and tidy.
- (f) The operations of the site shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
- (g) All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.

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

(a) Construction Noise

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

(b) Level Restrictions

- (i) Construction period of 4 weeks and under:

- (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(A).

- (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

- (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

(c) Time Restrictions

- (i) Monday to Friday 07:00am to 06:00pm;
- (ii) Saturday 08:00am to 4:00pm;
- (iii) No Construction to take place on Sundays or Public Holidays.

(d) Silencing

- (i) All possible steps should be taken to silence construction site equipment.

70 During demolition, excavation, remediation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all

times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

71

- (a) All imported fill shall be validated in accordance with Department of Environment and Conservation approved guidelines to ensure that it is suitable for the proposed development from a contamination perspective. Imported fill shall be accompanied by documentation from the supplier, which certifies that the material is suitable for the proposed residential/recreational land use and not contaminated based upon analyses of the material.
- (b) To prevent contaminated soil being used onsite, all imported fill shall be certified VENM material and shall be validated in accordance with the Office of Environment and Heritage (OEH) approved guidelines to ensure that it is suitable for the proposed development. Imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- (c) Any soil disposed of offsite shall be classified in accordance with the procedures in the Department of Environment and Climate Change Waste Classification Guidelines (2008).

72

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

73

Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment and Climate Change and Water and with the provisions of:

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

74

The following shall be complied with:

- (a) The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW Environmental Noise Control Manual;

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

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

- 75 The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's *Mascot Station Precinct Section 94 Contributions Plan (MSP Plan) and City of Botany Bay Section 94 Contributions Plan 2005 – 2010 (City Wide Plan)* listed below a contribution of ~~\$1,880,721.35~~ **\$1,429,995.20** is required as follows:

***City of Botany Bay Section 94 Contributions Plan 2005–2010      \$849 142.00***

(a)	Community Facilities	<del>\$202,454.60</del>	91407.85
(b)	Administration	<del>\$6,285.78</del>	2838.02
(c)	Open Space & Recreation	<del>\$1,563,944.06</del>	706,117.67
(d)	Transport Management	<del>\$108,036.91</del>	48778.46

***Mascot Station Precinct Section 94 Contributions Plan-      \$580,853.20***

The Section 94 Contribution of ~~\$1,880,721.35~~ **\$1,429,995.20** is to be paid to Council prior to the issue of any Occupation Certificate.

The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year ~~in which your consent is granted 2015/2016~~. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

***(Amended DA-13/173/03)***

76

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

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

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

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

Note: A public domain improvements plan shall be submitted for approval by Council. The plan shall be undertaken by a suitably experienced landscape architect and shall include, but not be limited to, new street tree planting in Coward Street (to infill gaps and replace trees in poor condition), footpath paving (width and construction materials to be in accordance with the Mascot Station Town Centre Draft Public Domain Plan) in Coward and John Streets, street tree pit treatments and tree guards (where required), street furniture (to

Council specification) and in-ground verge landscaping. The treatment of the public open space area to be dedicated to Council shall be included, inclusive of the existing public park, to ensure the physical, visual and landscape connectivity between the two areas is addressed and appropriately designed. The existing masonry boundary wall should be demolished and upgrading of the existing reserve will be required to ensure connectivity between the two areas. The plan shall be in accordance with Council's specification and requirements. Civil drawings shall be included detailing providing levels and detailed footpath construction sections in accordance with Council's Engineering and Landscape requirements and are required to align with the landscape drawings.

- 78 Plans submitted with the Occupation Certificate shall demonstrate compliance with the following:
- (a) All residential unit size excluding balconies as minimum must be as following:
    - (i) Studio = 60m<sup>2</sup>
    - (ii) 1 bedroom = 75m<sup>2</sup>
    - (iii) 2 bedroom = 100m<sup>2</sup>
  - (b) The 175 car parking spaces shall be made available to residents and visitors at all times, with such spaces being clearly marked and signposted prior to issue of the Occupation Certificate;
  - (c) Allocation of the car parking shall be as follows:
    - (i) Each studio/one (1) bedroom unit shall be allocated 1 car parking space;
    - (ii) Each two (2) bedroom unit shall be allocated 2 car spaces;
    - (iii) Fourteen (14) visitors car spaces shall be provided. Such spaces being located nearby the entrance to the development.
    - (iv) Three (3) spaces per commercial tenancy.
    - (v) Two (2) Car wash bays.
  - (d) The plan shall also indicate the 215m<sup>2</sup> of land to be dedicated to Council as Parkland and also the land to be dedicated for the public toilet and required rainwater tank.
- 79 All services (Utility, Council, etc) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
- 80 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval prior to the issue of the Construction Certificate.
- 81 Prior to the issue of the Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the car parking area has been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6

requirements. The internal parking facilities shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standards.

82 The following shall be complied with prior to the issue of the Occupation Certificate:

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

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

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

85

- (a) In order to ensure that the required on-site detention, infiltration and rainwater reuse systems will be adequately maintained, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built on-site detention, infiltration and rainwater reuse systems. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. The relative location of the on-site detention, infiltration and rainwater reuse

systems, in relation to the building footprint, shall be shown on a scale sketch, attached as an annexure to the plans/ forms. Proof of registration shall be submitted to the Principal Certifying Authority prior to occupation of the premises.

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

86 Prior to the issue of the Occupation Certificate:

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

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

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

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

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

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

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

maintained on a regular basis. A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the premises;

- (b) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill; and,
- (c) All lighting shall comply with AS4282-1997 Control of the obtrusive effects.

95

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

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

- 96 Prior to the issue of Subdivision Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority showing all the structures are wholly located within the property boundary.
- 97 Positive Covenant and Restriction on Use of the land shall be created to all proposed lots to ensure that car parking for the residential part is not to be to sublet or used for any other purposes.
- 98 A copy of the Building Management Statement and By-Laws for each of the proposed lots shall be submitted to Council for approval prior to the issue of the Subdivision Certificate. The Building Management Statement and By-Laws shall address all conditions associated with the ongoing use of the development of Development Consent No. 13/173 and include:
  - (a) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 13/173;
  - (b) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 13/173;
  - (c) Responsibilities regarding the maintenance of the car wash bay the Owners Corporation / building owner;
  - (d) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste sterile, disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times;

- (e) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises before 12.00 noon;
- (f) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000;
- (g) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997;
- (h) The linen plan must include details of any easements, encroachments, rights of way, including right of footway, restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
- (i) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
- (j) The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines;
- (k) CCTV surveillance of all public areas within the development site; and
- (l) Maintenance of inbuilt acoustic measures for aircraft noise.

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

- 99 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
- 100 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified

landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

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

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

102 Vehicles making deliveries (including goods, merchandise and the like) and accessing the site shall comply with the following requirements:

- (a) The maximum size of vehicles making deliveries and accessing to the site shall be limited to Medium Rigid Vehicle MRV only as per AS/NZS 2890.2-2002 only.
- (b) All loading and unloading of vehicles shall be carried out wholly within the site. No deliveries to the premises shall be made direct from a public places, public streets or any road related areas (eg. footpath, nature strip, road shoulder, road reserve, public car park, service station etc).
- (c) Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or similar vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.

103 The ongoing maintenance of the nature strip shall then be undertaken by the occupier/owner/strata body. Maintenance shall include mowing, watering and maintaining an even coverage of grass at all times. Maintenance does not include pruning, trimming, shaping, or any work to street trees located on the road verge/nature strip at any time the removal of weeds and rubbish and maintaining a good, even coverage of grass at any time.

- 104 The landscape contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time monthly maintenance is required.
- 105 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a twelve (12) month period after planting. Maintenance includes watering twice weekly within the first four months then weekly thereafter to sustain adequate growth and health, annual feeding, weed removal within the mulched base and mulch replenishment at three (3) monthly intervals (to 75mm depth). It does not include trimming or pruning of trees under any circumstances.
- 106 No roller shutters are to be installed to any of the commercial shopfronts that front Coward Street.
- 107 The hours of operation of any future commercial use must be restricted to the hours of 7:00am to 9:00pm Monday to Saturday and 7:00am to 8:00pm Sunday and public holidays.
- 108 The use of the premises shall not give rise to any of the following when measured or assessed at “sensitive” positions within any other property. These “sensitive” positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
  - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
  - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
  - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
  - (e) Noise controls specific to the amenity of the residential neighbourhood
    - (i) The La10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5 dB between 9:00pm one day and 7:00am the day following Monday to Sunday when measured at the boundary of any residential property; and,
    - (ii) Notwithstanding compliance with the above (Condition No. 108(e)(i)), the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 9:00pm one day and 7:00am the day following Monday to Sunday.

- 109 Any air conditioning units shall comply with the following requirements:
- (a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
  - (b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
    - (i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
    - (ii) Before 7 am or after 10 pm on any other day.
  - (c) The transmission of vibration to any place of different occupancy above the requirements of AS2670, Australian Standard AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction. Australian Standard AS2107 2000: Recommended Design Sound levels and Reverberation levels for Building Interiors.
  - (d) Any air-conditioning unit shall comply with the City of Botany Bay's General Noise Criteria detailed in Condition 108 above.
- 110
- (a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
  - (b) The adaptable apartments approved under this development consent are to remain unaltered at all times; and
  - (c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces identified by the NSW Police in Condition 12, shall be monitored by CCTV cameras at all times.
- 111 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for 12 months after planting (ie. final hold-point inspection). Maintenance includes watering twice weekly to enable good establishment and sustain adequate growth. There shall be two (2) fertilizer applications using a suitable product for natives applied at manufacturer's recommendations, ongoing weed removal, mulch replenishment (minimum of 2) maintaining a 1 metre wide mulch ring at all times and removal of grass/weeds within the mulch ring. Maintenance does not include trimming or pruning the trees under any circumstances. Formative pruning will be undertaken by Council.
- 112 The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction at all times. The automatic drip irrigation system shall be maintained in working order at all times.
- 113 The landscape terraces on Level 5 (top of Podium) shall not be accessible for everyday use by inhabitants of the adjoining units and shall only be access for any maintenance purposes.

- 114 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 13/173 dated as 6 September 2013 ***and as amended by Section 96 modification dated 21 August 2015*** and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

***(Amended DA-173/03)***