

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

JRPP No	2015SYE170
DA Number	15/216
Local Government Area	City of Botany Bay
Proposed Development	Joint Regional Planning Panel and Integrated Development Application for the construction of a mixed use development incorporating 239 units across a 4 storey residential podium (including 3 levels of sleeved parking) and 3 x 10 storey residential towers above, 2 levels of basement; at grade parking for 391 cars, a 58sqm retail tenancy; strata subdivision; the construction of the northern half of a new east-west street and dedication to Council; a north-south oriented park and stratum subdivision; and excavation, earthworks and landscaping.
Street Address	1-5 Kent Road, Mascot NSW 2020
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
No. of Submissions	Nil
Regional Development Criteria	Development with a CIV of \$70,788,287
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 4A – Development for which regional panels may be authorised to exercise consent authority functions of councils • Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to development applications • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 – Contaminated Land • State Environmental Planning Policy 2004 (BASIX); • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • Botany Bay Local Environmental Plan 2013 • Botany Development Control Plan 2013
Documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Site Survey – B & P Surveys; • Architectural Plans & Photomontage – Turner Architects; • Proposed Envelope Plans for northern site – Turner Architects; • Landscape Plans – Context Landscape Design Pty Ltd; • SEPP 65 Report and Design Verification Statement – Turner Architects;

	<ul style="list-style-type: none"> • Apartment Design Guide Workbook for Applicants – Turner Architects; • Statement of Environmental Effects, Clause 4.6 Variation and DCP Assessment Table – Meriton; • Retail and Commercial Needs Analysis – Urbis; • Thermal Comfort & BASIX Assessment – Efficient Living; • Acoustic Report – Acoustic Logic; • Waste Management Plan – Elephants Foot; • Transport Impact Assessment, Addendum and Letter – Arup; • Access Report – Wall to Wall Design & Consulting; • BCA Compliance Assessment Report – AED Group; • Aeronautical Impact Assessment – The Ambidji Group Pty Ltd; • Arboricultural Assessment Report – Tree and Landscape Consultants (TALC); • Construction Management Plan – Meriton Property Services Pty Ltd; • Construction Traffic Management Plan – SBMG; • Civil Works Drawings – at&l; • Environmental Site Assessment – Coffey; • Geotechnical Site Investigation – Coffey; • Groundwater Management Plan – Coffey; • Flood Report – Calibre Consulting; • Stratum Subdivision Plans – Meriton Property Services Pty Ltd; • Qualitative Wind Impact Assessment – SLR; • Crime Risk and Security Report – Meriton Property Services Pty Ltd; • QS Report – Steven Wehbe.
Recommendation	<p>The Sydney East Joint Regional Planning Panel (JRPP), as the Determining Authority resolve to:</p> <ol style="list-style-type: none"> <i>a) Grant consent subject to amended General Terms of Approval from the Department of Primary Industries – Water;</i> <i>b) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum height of 47.2m (51m AHD); and</i> <i>c) Approve Development Application No. 15/216 for the demolition of existing structures on the site, construction of a mixed use development incorporating 239 units across a 4 storey residential podium (including 3 levels of sleeved parking) and 3 x 10 storey residential towers above, 2 levels of basement; at grade parking for 391 cars, a 58sqm retail</i>

	<i>tenancy; strata subdivision; the construction of the northern half of a new east-west street and dedication to Council; a north-south oriented park and stratum subdivision; and landscaping.</i>
Report by	Amy Groher – Senior Development Assessment Planner
Annexure A:	SEPP 65 Assessment: Apartment Design Guide
Annexure B:	RMS Map

RECOMMENDATION

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

- (a) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum building height of 47.2m metres (51m AHD); and
- (b) Approve Development Application No. 15/216 for the construction of a mixed use development incorporating 239 units across a 4 storey residential podium (including 3 levels of sleeved parking) and 3 x 10 storey residential towers above, 2 levels of basement; at grade parking for 391 cars, a 58sqm retail tenancy; strata subdivision; the construction of the northern half of a new east-west street and dedication to Council; a north-south oriented park and stratum subdivision; and landscaping.

EXECUTIVE SUMMARY

Council received Development Application No. 15/216 on the 13 November 2015 seeking consent for the demolition of existing structures on the site, excavation, earthworks, construction of a mixed use development incorporating 239 units across a 4 storey residential podium (including 3 levels of sleeved parking) and 3 x 10 storey residential towers above, 2 levels of basement; at grade parking for 391 cars, a 58sqm retail tenancy; stratum subdivision, landscaping, strata subdivision; the construction of the northern half of a new east-west street and dedication to Council; a north-south oriented park.

The development application is required to be referred to the Joint Regional Planning Panel (JRPP) pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the Capital Investment Value of the proposal is greater than \$20,000,000.

The development application is Integrated Development under Section 91 of the EP&A Act as the development is deemed to be an aquifer interference activity as part of the development intercepts or extracts groundwater.

Prior to lodgement, on 10 September 2015, the application was reviewed by the Design Review Panel (DRP) who supported the design in principle. Their recommendations are assessed further in this report. Resubmission to the Panel was not required as most recommendations were addressed in the revised design submitted to Council.

The development application was notified for a period of thirty (30) days from 16 December 2015 to 25 January 2016. One (1) submission was received which queried whether the proposed child care centre meets the true definition of mixed use. This submission also raised concerns regarding the forecast traffic growth in the area. These issues are discussed in detail further in the report.

Council briefed the JRPP on 4 February 2016 and on 5 February 2016 met with the applicant to discuss the amended design in response to Council's request for further information.

On 22 February 2016, Council received the plans (as amended) which addressed the issues raised in Council's request for further information and as discussed with the applicant during the meeting on 5 February 2016. The proposal was subsequently re-notified for a fourteen (14) day period from 9 March 2016 to 23 March 2016. No submissions were received during this period.

There are several non-compliances with the SEPP 65 – Apartment Design Guide (ADG) provisions including solar access, building separation, deep soil, balcony size and storage. Given the site to the north at 671-683 Gardeners Road has also been purchased by the applicant, preliminary discussions held with Council have noted that increased building separation, increased solar access and an over provision of deep soil on that site will be required to offset the non-compliance on this site.

Notwithstanding the above, the proposed development has been assessed against the current approved DA context. The minor non-compliances regarding balcony size and storage have been conditioned to comply and Council is satisfied that the applicant has demonstrated adequate regard to meeting the remaining ADG requirements.

Council's key issue with regard to the BBLEP 2013 of height has been addressed through an overall reduction of 1.66m to 47.2m (RL 51m AHD). Council is satisfied with the Clause 4.6 variation to address the 960mm height variation and the height no longer penetrates the OLS. The proposed FSR is compliant at 3.2:1.

With regard to the BBDCP 2013, the key issue is non-compliance with the new Family Friendly Apartment Controls, adopted 8 March 2016. Non-compliance with the key controls have been conditioned to provide increased compliance, but not full compliance, which has been assessed to be difficult in the circumstances and could result in significant external changes to the current design. Council is satisfied with the current approach.

In summary, the proposed DA has been assessed against the relevant controls and results in a development that Council supports.

BACKGROUND

Council received Development Application No. 15/216 on the 13 November 2015 seeking consent for the abovementioned development.

Prior to lodgement, on 10 September 2015, the application was reviewed by the DRP who supported the design in principle. Re-submission to the DRP was not required.

The development application was notified for a period of thirty (30) days from 16 December 2015 to 25 January 2016. One (1) submission was received.

An email dated 22 and 29 January 2016 was sent to the applicant requesting additional information. Council's key concerns are outlined in the left-hand column of the table below and commentary on the plans (as amended), submitted 22 February 2016, is in the right-hand column.

Table 1: Key issues and how they have been addressed in the plans (as amended)

Council's Key Issues		Comment
Height		
Height of 48.66m exceeds the height limit of 44m. The matter of public benefit has been requested to be addressed.		The amended design has reduced the overall height of the building by 1.66m from 48.86m (RL52.66m AHD) to 47.2m (RL51m AHD). The total height exceedance is 3.2m with 2.4m of this comprising Architectural Roof Feature (ARF), leaving 960mm exceedance attributed to the residential component. A Clause 4.6 variation has been submitted to address this.
FSR		
FSR of 3.27:1 exceeds the limit of 3.2:1. The matter of public benefit has been requested to be addressed.		The applicant has further clarified that previous sections of the building had been mistakenly included within the FSR calculation and have therefore lead to a total reduction in FSR. FSR of 3.2:1 is now compliant.
Road Dedication		
The proposed dedication of the north-south road over the private basement is not supported due to reasons of liability. Applicant has been requested to provide this as a private road with appropriate rights-of-way to adjoining land.		The east-west road will be dedicated to Council. The north-south road is now proposed as a new community park which will be privately owned with Council to condition an easement to allow for public access.
Kent Road Activation		
Amended plans have been requested showing commercial activation along Kent Road as required by Part 9A – Mascot Station Town Centre of the BBDCP 2013.		A commercial tenancy has been included at ground level along Kent Road. To provide better activation from the gymnasium and retail tenancy, Council requested that the RL be lowered from 4.9m AHD to 4.26m. This has been provided. The applicant advised that further activation along Kent Road is not viable. The applicant provided a Retail and Commercial Needs Analysis at the request of Council to support this statement. Council is satisfied with this analysis.
Flood Levels		
Council's flooding information indicates the Kent Road frontage can be lowered to facilitate activation. The lobby and ground floor apartments within Building C need to be raised to from RL 4.8m AHD to RL 4.9m AHD to comply with the 1 in 100 year ARI plus 500mm freeboard. The crest heights of the driveways are to comply with the 1 in 100 year ARI		During the meeting with the applicant, Council agreed to a lowered floor level of RL 4.26m AHD. This has been achieved for the retail and gymnasium component. The lobby of Building A and B remains at RL 4.9m AHD which complies. Council requested that the lobby of Building C be raised from RL 4.8m AHD to RL 4.9m AHD. This has been provided. The driveways have been relocated to the southern side of Building B and C to be accessed via the east-west road. The 1 in 100 year ARI along the east-west road is RL 4.4m AHD and as such the

Council's Key Issues	Comment
plus 300mm freeboard.	<p>driveway crests are required to be at RL 4.7m AHD to provide flood protection from the 1 in 100 year ARI plus 300mm freeboard.</p> <p>The driveway crest of Building C has been raised to comply with the 300mm above the 1 in 100 year ARI and the driveway crest to Building B is RL 4.96m AHD. The loading dock within Building C has a finished floor level of RL 4.5m AHD but is protected by a RL 4.7m AHD driveway crest.</p>
Waste Servicing	
<p>The clearance height to Basement C of 3.8m does not comply with the required 4.5m clearance for garbage servicing. MRV access of 4.5m will also be required for Buildings A & B.</p> <p>The waste collection point in Building C is a good design solution however; it is unclear how the garbage will be transferred to this point. The applicant is required to demonstrate/clarify how waste from the garbage collection room on the first basement level of Buildings A, B and C will be transferred to the garbage holding room within the Ground Level of Building C.</p>	<p>Council is satisfied that the Ground Floor Plan for Building C shows the accommodation of an MRV with a clearance height of 4.5m. Swept path diagrams have been provided in the amended Traffic Impact Assessment.</p> <p>The plans (as amended) provide a service lift within the Basement of Building C so that removalists can usher furniture through the combined basement to Building A and B and access the residential lifts there. This is considered acceptable as moving can be done under continuous cover.</p>
Child Care Centre	
Amended plans have been requested to demonstrate compliance with solar access and provide on-street pick-up/drop-off areas	Child care centre removed.
Cross Ventilation	
Cross Ventilation is achieved for 35% of units in the first nine storeys and does not meet the required 60% as per the ADG. Amended plans have been requested to demonstrate compliance	<p>The original count of 35% was an error and should have been 50.6%.</p> <p>The plans (as amended) now show compliance with the ADG at 66% and has been achieved by making amendments to the podium and also by the replacement of the childcare centre with more apartments.</p>
Separation distances	
Separation distances to 671-683 Gardeners Road (northern adjoining neighbour) do not comply for heights above 5 storeys. Amended plans have been requested.	Discussions have been held with the applicant in regard to the pending submission of an amended design over this site. It is understood that building separation will be increased.
Solar Access	
62.2% of units receive the required solar. Amended shadow diagrams have been requested to demonstrate compliance in light of the recent s96 for the northern site which proposes a 1 storey increase.	<p>In the current approved context, the site will receive 62.3% solar access to living areas and POS. This is considered satisfactory in a high density residential area.</p> <p>Meriton have bought 671-683 Gardeners Road to the north and are intending to withdraw the current s96 application. Meriton have confirmed that based on the envelope design submitted in support of this application, the development at 1-5 Kent Road will receive increased solar access due to an increased setback of the buildings</p>

Council's Key Issues	Comment
	on the northern site and a 4 storey podium to match.

The original application involved the creation of 4 new stratum lots. The plans (as amended) sought to remove the child care centre and replace with a retail tenancy fronting Kent Road. It also sought to convert the north-south road into a community park. An amended stratum subdivision plan has not been received reflecting these changes. Additionally, the alignment of the new east-west road has not been finalised by Council who are currently finalising a coordinated design for the new internal east-west and north-south road which service several of the mixed-use development in the immediate area. As such, a condition has been recommended that a separate application for stratum and strata subdivision be submitted to Council.

Also on 13 November 2015, Council received a concurrent DA for the same site (DA-15/215 – excavation DA) for integrated development seeking approval for excavation to accommodate a two level basement including footings, pile caps and lift shafts for the future mixed use development (i.e. DA-15/216). The detailed design of the proposed basement forms part of DA-15(216) and does not form part of DA-15(215) for excavation. Council is the consent authority as the cost of the development is \$6,588,552.00.

Given Council's recommendation for approval, Council may consider that there is enough certainty to process the Development Application for excavation which is currently under assessment.

Subsequent to the submission of amended documentation on 22 February 2016, a further meeting was held on 17 March 2016 to discuss the progression of the design for the new Development Application at 671-683 Gardeners Road.

The key changes involve:

- access to 671-683 Gardeners Road being gained via the basement of the development at 1-5 Kent Road;
- combined basement across the two sites;
- combined 4-storey podium across both sites;
- increased setback of the buildings on 671-683 Gardeners Road to provide greater solar access to 1-5 Kent Road;
- Possibility of retaining the access from Gardeners Road for waste servicing;
- Inclusion of a child care centre (removed from this proposal).

Whilst proposed envelope diagrams have been provided as part of this application, a number of issues were identified and raised with the applicant due to the likely impact on the subject development application.

Based on the current inconsistencies between the two proposals and the construction schedule of the development, Council supports in principle the lodgement of a new development application for the site at 671-683 Gardeners Road in conjunction with a Section 96 application to appropriately modify this development application, should it be approved for 1-5 Kent Road to address the issues of how both sites will be combined.

DESCRIPTION OF SITE & SURROUNDING LOCALITY

The subject site is known as 1-5 Kent Road, Mascot and is formally described as Lot 30 on DP 789177.

The subject site is located on the eastern side of Kent Road (classified road) with Gardeners Road (classified road) to the north, Bourke Street to the east and Church Avenue to the south. The site is approximately 315m (as the crow flies) to the north-west of the Mascot Railway Station.

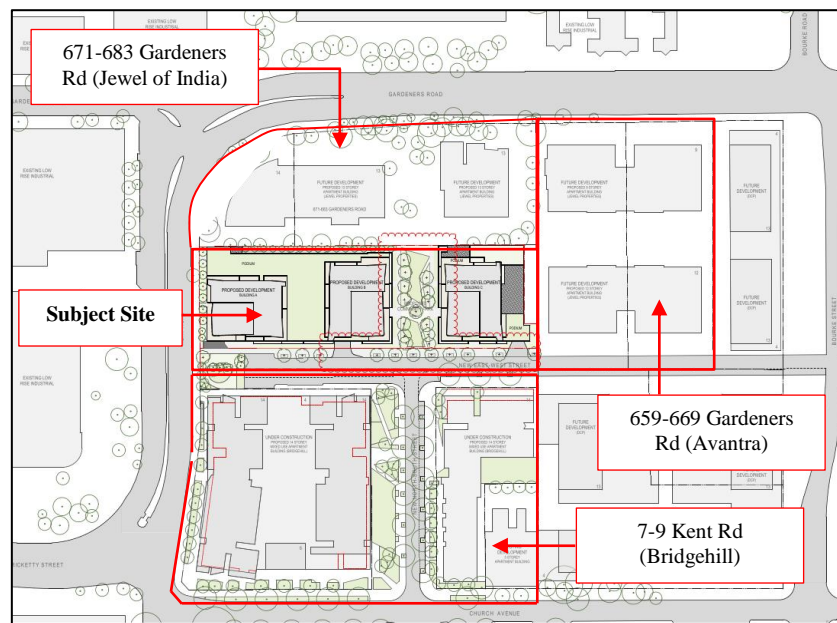


Figure 1: Locality Plan



Figure 2: Aerial map

The total site area is 7,820sqm (6,480sqm less Council road dedication) with a 53.44m frontage to Kent Road, 54.48m broken rear boundary, 143.03m northern side boundary and 148.48m southern side boundary.

The buildings on the site have been demolished under a complying development certificate C15-053 issued by Metropolitan Building Approvals on 28 September 2015, but previously contained 2 large industrial-style buildings. The northern building comprised a furniture manufacturing company (Pago Designs). The southern property comprised an indoor sports complex (Indoor Central Sports Complex). The site is accessed via two driveway entrances off Kent Road.



Figure 3: Previously existing buildings on the subject site. Northern building – Pago Designs (left) and southern building – Indoor Central Sports Complex (right)



Figure 4: Subject site undergoing demolition

The site is within the B4 Mixed Use zone of the BBLEP 2013 and is within Urban Block 1 of the Mascot Station Town Centre Precinct of the BBDCP 2013. The table below lists the relevant details of the surrounding mixed-use developments.

Table 2: Key details of subject site and adjoining properties

Site	Location	Approval Body	Units	FSR	Height
1-5 Kent Road (Meriton)	Subject site	JRPP	235	3.2:1	47.2m (RL 51)
671-683 Gardeners Road (Jewel of India)	Adjoins northern boundary	JRPP	242	3.34:1	42.5m (RL 49.15)

Site	Location	Approval Body	Units	FSR	Height
659-669 Gardeners Road (Avantra)	Adjoins eastern boundary	Court Appeal Refused by JRPP	328	3.33:1	45.5m (approx. RL 50.3)
7-9 Kent Road, Mascot (Bridgehill)	Adjoins southern boundary	Court Appeal Deemed refusal	510	3.78:1	47.4m (RL 51)

SITE HISTORY

The site was previously occupied by two separate, large warehouse buildings used for furniture manufacture and indoor sports uses. Coffey's initial Phase one desk-top study identified that one decommissioned Underground Petroleum Storage Systems (UPSS) and associated fuel bowser and fill/dip point, and two additional suspected USTs were identified on the site. It is unclear when the site was used as a service station as the Environmental Site Assessment (ESA – Phase 2) did not identify a service station use from the aerial photograph assessment.

DESCRIPTION OF DEVELOPMENT

The development application (in its amended form) requests consent for the construction of a mixed use development incorporating 239 units across a 4 storey residential podium (including 3 levels of sleeved parking) and 3 x 10 storey residential towers above, 2 levels of basement; at grade parking for 391 cars, a 58sqm retail tenancy; stratum subdivision, strata subdivision; the construction of the northern half of a new east-west street and dedication to Council; a north-south oriented park and landscaping.

The proposal also involves the construction of the northern portion of the new east-west road, and the new community park which is located over the combined 2 level basement. The new east-west road is proposed to be dedicated to Council while the community park will be privately owned with an easement for public access registered over. The proposed land dedication totals 1,340sqm, leaving a site area of approximately 6,480sqm.

The breakdown of 239 units is:

- 50 x 1 bedroom units;
- 92 x 2 bedroom units;
- 97 x 3 bedroom units.

The development is broken down as:

- Building A (fronts Kent Road)
 - 75 units;
 - 4 storey podium of residential & sleeved parking + 10 residential storeys above;
 - 1,135sqm of communal open space at podium level (shared with Building B);
 - Communal pool and gymnasium on Ground Floor;

- 58sqm retail tenancy on Ground Floor;
 - Lobby and lift core with 2 lifts;
 - Building Manager's Office;
 - Substation, sprinkler alarm room and booster fronting Kent Road.
- Building B
 - 75 units;
 - 4 storey podium of residential & sleeved parking + 10 residential storeys above;
 - 1,135sqm of communal open space at podium level (shared with Building A);
 - Lobby and lift core with 2 lifts.
- Building C
 - 89 units;
 - 4 storey residential podium + 10 residential storeys above;
 - 313sqm of communal open space across 2 levels (Ground, Level 1 and podium level);
 - Lobby and lift core with 2 lifts;
 - Garbage Holding Room and service lift.

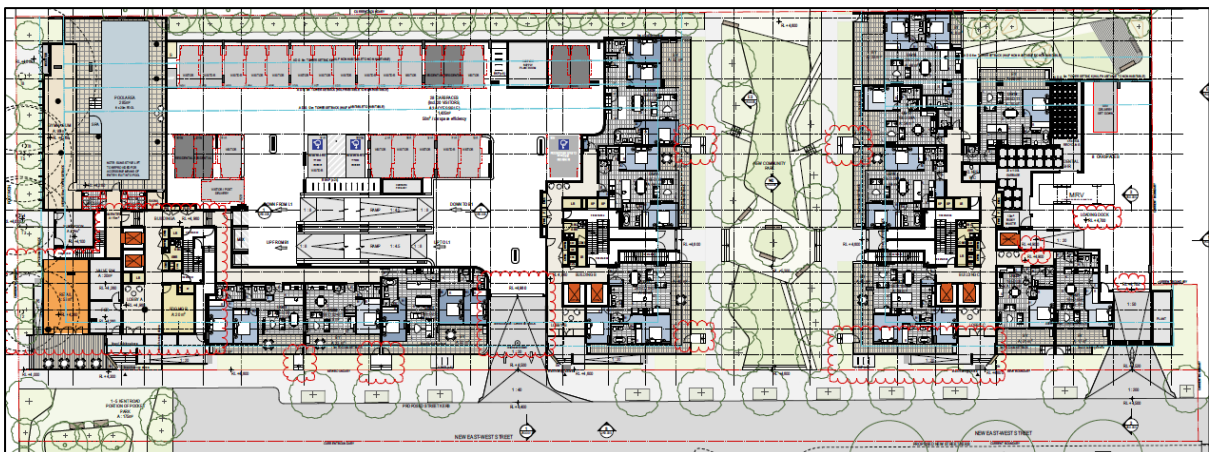


Figure 4: Proposed Ground Floor Level

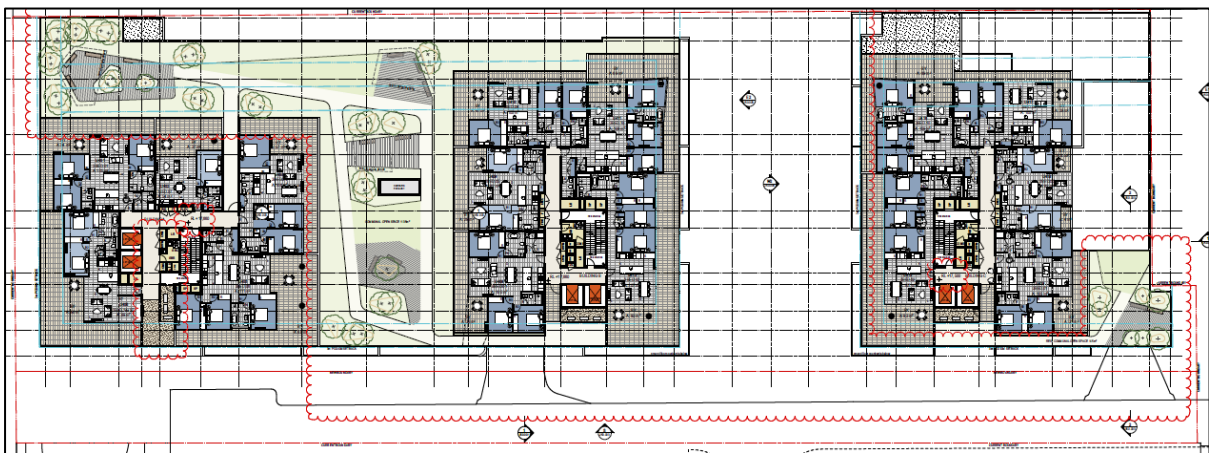


Figure 5: Proposed Podium Level

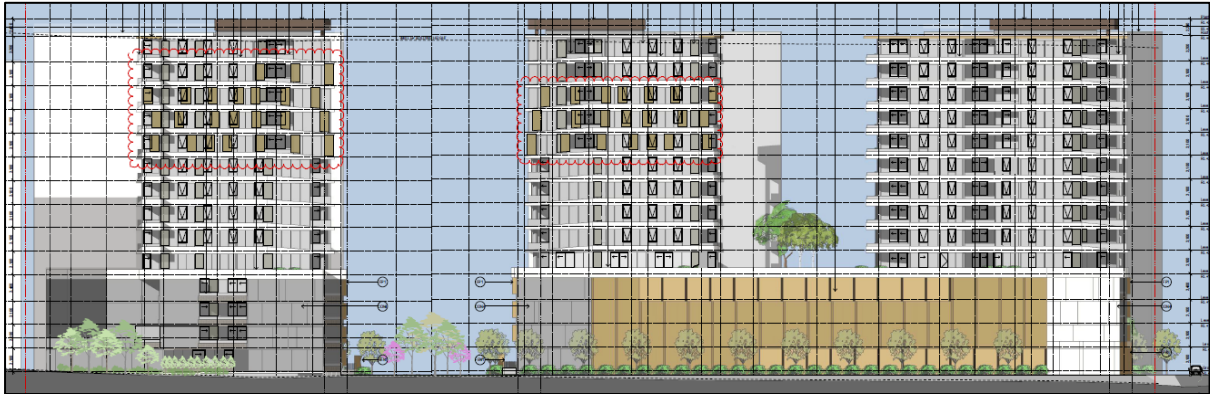


Figure 6: Northern elevation (view from 671-683 Gardeners Road)

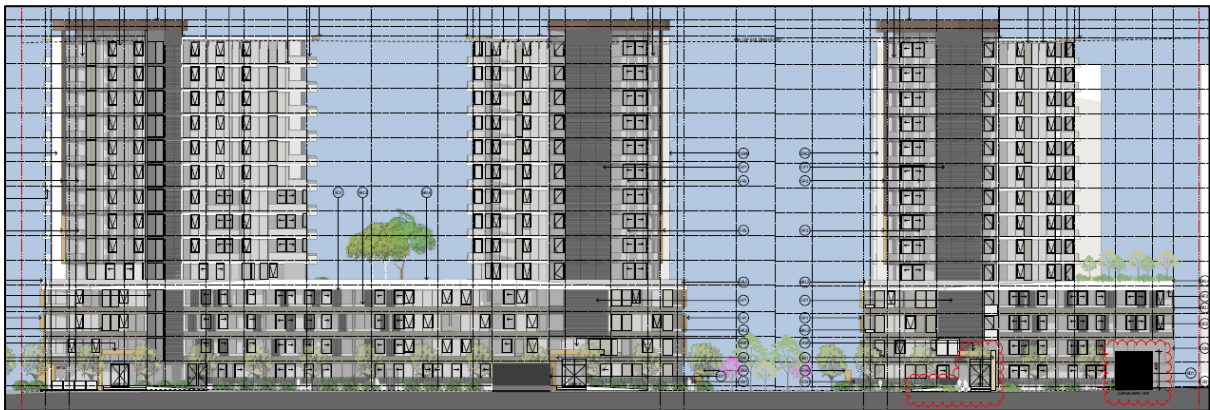


Figure 7: Southern elevation (view from 7-9 Kent Road)

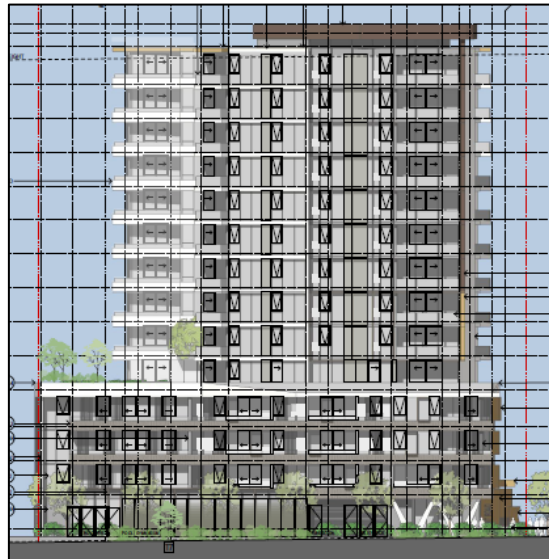


Figure 8: Eastern elevation (view from 659-669 Gardeners Road)



Figure 9: Montage of eastern elevation (view from Kent Road)



Figure 10: View from new east-west street looking at Building B (Building A in the background)

Key Controls

The key controls relevant to the proposal are provided below.

Table 3: Compliance with key provisions

Control	Required	Proposal	Complies (yes/no)
Site Area	-	Site Area: 7,820sqm. Land dedication: 1,340sqm (roads) Site Area (minus land dedication): 6,480sqm	N/A
SEPP 65 - ADG			
Car Parking (ADG / RTA Guide to Traffic Generating Dev.)	<u>Residential</u> 0.6 space x 50 1 bed unit = 30 0.9 space x 92 bed unit = 83 1.4 space x 3 bed unit = 136 Sub-total: 249 1 visitor space / 7 dwellings = 35 Total Residential: 284 <u>Retail</u> 6.1/100 units (4 req.) <u>Service Bays</u> 1 loading dock for residential is desirable Total required: 288 (excluding service vehicle requirements)	<u>Residential</u> 1 bed units: 50 spaces 2 bed units: 92 spaces 3 bed units: 194 spaces Sub-total: 336 Visitor spaces: 34 Total Residential: 370 <u>Retail</u> Nil* <u>Service Bays</u> Service Bay: 1 Total provided: 371 spaces * Condition is recommended to provide at least 1 space for the retail component	Yes
Dwelling Size	Minimum internal areas as follows: 1 bed unit: 50sqm 2 bed unit: 70sqm 3 bed unit: 90sqm	1 bed units: 50 – 70sqm 2 bed units: 70 – 98sqm 3 bed units: 103 – 116sqm	Yes Yes Yes
Ceiling Height	Habitable Rooms: 2.7m Non-habitable: 2.4m Mixed Use: 3.3m for ground and first floor	Habitable rooms: 2.7m Non-habitable rooms: 2.4m Mixed Use (GF): 3.3m (min.) Mixed Use (FF): 3.1m	Yes Yes Yes No Refer to Note 1
Deep Soil	Objective 3E-1 requires 7% of the site (for sites over 1,500sqm) as deep soil area with min. dimensions of 6m	The site achieves 1.9% (128sqm) of the site as deep soil with min. dimensions of 6m.	No Refer to Note 2
Communal Open Space	25% of site (1,620sqm)	34% (2,205sqm)	Yes
Solar Access	50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours during mid-	More than 50% of COS receives greater than 2 hours of sun. Building C Ground Level: 1hr	Yes Generally Refer to

Control	Required	Proposal	Complies (yes/no)
	winter Note: Part 4C requires that COS receives 3 hours in winter.	Building C Podium Level: 3 hours North-south park: 3 hours Building A & B Podium Level: No	Note 3
	Living rooms and POS for at least 70% of apartments (and in neighbouring development) to achieve 2 hours between 9am and 3pm	62.3%	No Refer to Note 4
Building Depth	Use a range of appropriate maximum apartment depths of 12-18 metres	Variety of depths. Smallest being 6m. None exceeding 18m	Yes
Building Separation	<u>Up to 4 storeys (approx. 12m):</u> 3m from non-habitable rooms to site boundary 6m from habitable rooms/balconies to site boundary	<u>Does not comply with 3m setback to non-habitable rooms:</u> Northern Boundary: Built to boundary pool (Bldg A) & basement (Bldg A, B & C). Eastern Boundary: Built to boundary basement (Bldg A, B & C). <u>Does not comply with 6m setback to habitable rooms/balconies</u> Northern Boundary: U103, U203 & U303 (Bldg A) and UG18, U119, U219 & U319 (Bldg C) Eastern Boundary: U222, U322 (Bldg C)	No Refer to Note 5
	<u>Five to eight storeys (25m):</u> 4.5m from non-habitable rooms to site boundary 9m from habitable rooms/balconies to site boundary	<u>Does not comply with 9m setback to habitable rooms/balconies</u> Northern boundary: U510, U511, U610, U611, U710, U711, U810, U811 (Bldg B), and U517, U518, U617, U618, U717, U718, U817 & U818 (Bldg C) Southern boundary: U505, U506, U605, U606, U705, U706, U805 & U806 (Bldg A), U508, U608, U708 & U808 (Bldg B) & U520, U620, U720 & U820 (Bldg C).	No Refer to Note 5
	<u>Nine storeys and above (over 25m):</u> 6m from non-habitable rooms to site boundary 12m from habitable rooms/balconies to site boundary	<u>Does not comply with 12m setback to habitable rooms/balconies:</u> Northern boundary: 2 northern units Bldg B & C. Eastern boundary: 3 eastern units on Bldg C. Southern Boundary: 2 southern units on each building. <u>Does not comply with 24m internal separation between habitable rooms:</u> Buildings A and B	No Refer to Note 5
Balcony Sizes	1 bed: 8sqm 2 bed: 10sqm 3+ bed: 12sqm	1 bed: 8-37sqm 2 bed: 8-40sqm	Yes No Refer to

Control	Required	Proposal	Complies (yes/no)
	Ground Floor: 15sqm	3 bed: 12-93sqm Ground Floor: 17-40sqm	Note 6 Yes Yes
Storage	1 bed: 6m ³ 2 bed: 8m ³ 3+ bed: 10m ³	1 bed: 8-28.4m ³ 2 bed: 9-26.9m ³ 3+ bed: 9-16.7m ³	Yes Yes No Refer to Note 7
BBLEP 2013			
Zone	B4	Mixed Use (Residential Flat Building and Commercial tenancy)	Yes
FSR	3.2:1 under BBLEP 2013	3.2:1	Yes
GFA	25,024sqm (maximum) calculated based on permissible FSR under BBLEP 2013	25,024sqm	Yes
Height	44 metres (maximum)	Top of roof/residential component: 44.96m (RL 48.76m AHD) Architectural roof feature (ARF): 2.24m Top of building: 47.2m (RL51m AHD) Note: Exceedance above ARF is 960mm.	No Refer to Note 8
BBDGP 2013			
Car Parking	<u>Commercial (shop)</u> 1 space / 25sqm (3 req.) <u>Service Bays</u> 1/100 units (3 req.) Note: 50% of service bays to be designed for MRV or larger) Note: No requirement for car wash bays	<u>Commercial</u> None proposed* <u>Service Bays</u> Service vehicle: 1 provided 1 car wash bay provided Service vehicles: 1 MRV space provided (Building C) 1 SRV space provided in Building A for visitor/post delivery * Condition is recommended to provide at least 1 space for the retail component	No ADG applies
Bicycle Parking	In every new building, where the floor space exceeds 600m ² GFA, bicycle parking equivalent to 10% of the required car spaces or part therefore as required in Table 1 shall be provided.	Residential: 68 bicycle spaces within the basement/ground level car park Visitor: 12 bicycle racks (east-west street) Total provided: 56 spaces	Yes

Control	Required	Proposal	Complies (yes/no)
	Total required: 29 (288 car spaces based on RTA Guide for Traffic Generating Development x 10%)		
Basement Access	Minimum clearance height of 4.5m for MRV	Building B (car park entry): 3.48m (SRV access) Building C (loading dock entry): 4.5m (MRV access)	Yes
Streetscape Presentation	The maximum length of a building is 24m	The length of all three buildings exceeds 24m.	No Refer to Note 9
Landscaped Area	Minimum of 35% (1,719sqm) based on site after road dedication	25.4% Note: Comprised of deep soil and landscaping on structures (including new north-south park). Note: Non-compliance of 69sqm.	No Refer to Note 10
Hard Landscaped Area (Unbuilt Upon Area)	Maximum of 20% (1,296sqm) based on site after road dedication	32.2% (2,088sqm) based on the reduced site	No Refer to Note 10
Dwelling Layout and Family Friendly Apartment Buildings	Satisfy the Family Friendly controls	Refer to Notes 11 and 12	No Refer to Notes 11 and 12
Setbacks	<u>Level 1-4</u> Kent Road: 3m Internal roads: 3m <u>Levels 5-13</u> Kent Road: 6m Internal Roads: 6m	<u>Level 1-4</u> Kent Road: 3.2m Internal roads: 2m <u>Levels 5-13</u> Kent Road: 3.3m – 6m Internal roads: 3.2m – 6m	No Refer to Note 13

SECTION 79C CONSIDERATIONS

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

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

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

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

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

In this regard, the development application was referred to the NSW Office of Water. In a letter dated 18 January 2016, the NSW Office of Water provided its General Terms of Approval (GTA) for the proposed development. On 15 March 2016 the amended proposal was re-referred to the NSW Office of Water due to the expansion of the basement levels to the northern boundary. This development application has been recommended for approval subject to amended GTAs (if applicable) from the NSW Office of Water.

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

The provisions of SEPP No. 55 have been considered in the assessment of the development application, as the proposed development involves excavation between 3m to 6 m across the site up to eight (8) metres below ground level to accommodate a common 1 to 2 level basement car park.

An Environmental Site Assessment (ESA – Phase 2), Geotechnical Site Investigation and Groundwater Management Plan, prepared by Coffey, are submitted in support of the application.

The ESA notes that *“historically, the site remained undeveloped until the late 1950’s where a large warehouse building was established on site. Land use of the site prior to this date is not known although aerial photography suggests that the site may have been used for market gardens. This warehouse structure was subsequently reconfigured and expanded between 1961 and 1981, and has remained substantially unchanged since this time.*

This assessment was based on an initial phase of desk study followed by a program of intrusive investigations. In summary, the desk study identified a number of AEC, including:

- *Underground Petroleum Storage Systems (UPSS) – one decommissioned UST and associated fuel bowser and fill/dip point, and two additional suspected USTs were identified.*
- *Uncontrolled Fill – present across the site associated with historic land uses and site development. Furniture manufacture – current uses of the site which includes the storage and use of small quantities of glues, paints and solvents.*
- *Mechanical workshop – current use of land immediately off-site, and up hydraulic gradient of the site.*

A program of investigation was completed to target the AEC, including the drilling of eleven hand-auger bores (HA01 to HA11) and six soil bores (BH1 to BH6). Five of the six soil bores were converted to groundwater monitoring wells.

Data from this investigation and that presented within a previous investigation was interpreted to characterise ground conditions at the site, and assess the potential ground contamination risks in the context of the current and proposed future redevelopment of the site for high density residential uses.”

Clause 7 of State Environmental Planning Policy 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application. The ESA concludes that the site can be made suitable for the proposed high density redevelopment subject to the implementation of a Remedial Action Plan (RAP). Therefore it is considered that the applicant has adequately demonstrated that the site can be made suitable to accommodate the intended use and it satisfies the provisions of SEPP No. 55.

The matter of contamination has been considered within this application as well as within the assessment of the excavation application, DA15/215. The application was referred to Council’s Environmental Contamination Scientists who raised no objection to the proposed development.

Conditions requiring a Stage 3 – Remedial Action Plan (RAP) and Site Audit Statement to be submitted prior to the commencement of any excavation or works on the site and a Stage 4 – Site Validation Report be submitted prior to the completion of excavation works have been conditioned within the consent for DA-15/215. The requirement for a Site Audit Statement has been included within this consent as a condition required prior to the issue of an Occupation Certificate.

State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building

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

The Council’s Design Review Panel (DRP) considered the proposed development on 10 September 2015 and prior to the lodgement of the application. The DRP supported the design in principle. It should be noted that the initial proposal presented to the DRP was of a similar form and scale to that currently before the JRPP and that the DRP only made minor recommendations. Resubmission to the Panel was not required as most recommendations were addressed in the revised design submitted to Council.

The specific recommendations of the Panel made at the meeting are detailed below with Council’s comment on how these have been addressed.

Table 4: Assessment of DRP recommendations

DRP Recommendation	Comment
Provision of a communal open space on the roof of each building A, B and C.	<p>The plans (as amended) indicate a large new area of communal open space in place of the northern arm of the new north-south road.</p> <p>In addition to this, the originally proposed child care centre at podium level has been removed, thereby providing an additional</p>

DRP Recommendation	Comment
	660sqm of communal open space at the podium.
Clearly legible common entries from the street frontages.	<p>The plans (as amended) provide separate pedestrian entries to each of the three buildings. These residential lobbies have been differentiated from the rest of the building with the following design elements and are clearly legible:</p> <ul style="list-style-type: none"> • Cantilevered steel framed metal cladding canopy with tapered edge in a powder coat dulux gold satin colour; and • Development street signage in metal cladding with a powder coat finish in dulux gold satin colour.
Further modulation of the horizontal façade elements.	The plans (as amended) have provided further modulation and articulation to the horizontal façade elements. In addition, a condition has been recommended for at least 2 sliding screens with operable louvres to be provided on all balconies. This will add to the articulation of the facades.
Ground floor units should have a separate entry and a private open space with gated entry.	The plans (as amended) show that each ground floor unit has separate access and a private open space area that complies with the balcony sizes of the ADG.
Internal, legible access to the proposed communal facilities at the ground floor level of Building A from all units in the development.	The plans (as amended) provide a service lift within the basement of Building C which allows for removalists to access each unit across all three towers via the combined basement, therefore providing full cover from the elements.
Retention of the existing site trees along the Kent Road boundary.	The proposal involves the removal of 8 trees along the Kent Road frontage. Council's Tree Preservation Officer raised no objection, stating that the trees were permitted to be removed due to their poor health.

The applicant has submitted an assessment against Part 3 and 4 of the ADG and has demonstrated adequate regard has been given to the design quality principles and objectives specified in the ADG for the relevant design criteria. An assessment against an abridged version of Part 3 and 4 of the ADG has been provided in **Annexure A**. An assessment against the significant non-compliances is provided in detail below.

Clause 30(1) of SEPP 65 states that if a development application satisfies the following design criteria, the consent authority cannot refuse an application because of those matters. These are car parking, internal area of each apartment and ceiling heights.

As identified in Table 1, the proposed development complies with the rates as set out in the RMS Guide to Traffic Generating Development and meets the minimum internal size requirements for 1, 2 and 3 bedroom apartments. The proposed development meets the minimum ceiling height provisions with the exception of the floor-to-ceiling heights at the first floor for mixed use developments. This is in detail below:

Note 1 – Ceiling Heights

The ADG specifies that a minimum height of 3.3m must be provided to allow for future flexibility. The proposed development provides a ceiling height of 3.1m and is accompanied by a Retail and Commercial Needs Analysis. Whilst the Retail and Commercial Needs Analysis refers specifically to the non-provision of full-frontage retail along Kent Road, it lends itself to the argument that further retail or commercial in this area other than what is currently proposed, is not sustainable or economically viable.

The original plans indicated a 3.7m ground floor, floor-to-ceiling height and a 3.1m first floor, floor-to-ceiling height. Council did not require an increased ceiling height at the first floor as this would have been inconsistent with the first floor, floor-to-ceiling height of the adjoining development to the south at 7-9 Kent Road which is 3.05m.

Further, in a meeting with the applicant dated 5 February 2016, Council agreed to a lower floor-to-ceiling height at ground floor (excluding the retail tenancy) in order to accommodate a decreased overall height. On balance, a non-compliant floor-to-ceiling height at first level is acceptable.

Note 2 – Deep Soil (E3)

The Design Criteria to Objective 3E-1 requires that 7% of the site (for sites over 1,500sqm) is required to be deep soil with minimum dimensions of 6m.

The site achieves 1.9% (128sqm) of the site as deep soil with minimum dimensions of 6m. The applicant has demonstrated adequate regard in trying to meet this criteria. Mounding has been achieved in the new community park in order to accommodate trees and shrubs but this is excluded from the deep soil definition as it is located over basement.

The minimal provision is considered acceptable as it is intended to be offset by a large area of deep soil on the site to the immediate north which will adjoin the community park to provide a continuous link from the new east-west street through to Gardeners Road.

Note 3 – Communal and Public Open Space (3D)

The Design Criteria to Objective 3D-1 states that developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

The proposed development has 5 separate communal open space (COS) areas (refer to **Figure 11**). These are listed below including the amount of solar access provided between 9am and 3pm in mid-winter:

1. Pocket park at the end of the new east-west road: 2 hours from 1pm-3pm to 100% of the park;
2. Podium level COS attached to the western façade of Building C: 3 hours from 10am – 12pm to at least 50% of the area;
3. Ground level COS attached to the western façade of Building C: 1 hour at 11am to 75% and 1 hour to 25% at 12pm;

4. New community park between Building B and C: 3 hours to at least 50% from 11am to 1pm;
5. Building A and B Podium level park: The eastern park/bench area gets 4 hours to 100% of this area from 12pm. The remainder of the area between Buildings A and B does not receive any solar access during mid-winter.

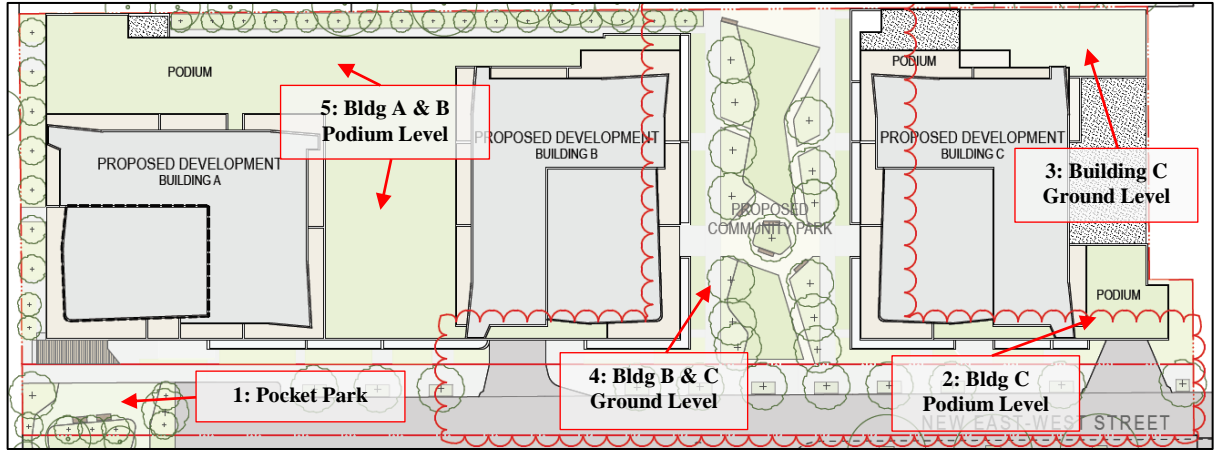


Figure 11: Proposed Community Open Space areas

On balance, enough of the COS areas receive the minimum required amount of solar access during mid-winter.

Note 4 – Solar and daylight access (4A)

The Design Criteria to Objective 4A-1 is two part and states that living rooms and POS for at least 70% of apartments (and in neighbouring development) are to achieve 2 hours between 9am and 3pm, and that a maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.

The proposed development provides solar access to living rooms and POS to 62.3% of apartments. This falls short by 6.7% and is based on the current approved DA context (i.e. current approved Jewel of India on the northern adjoining site). In a high-density urban environment such as the Mascot Town Centre Precinct, it is appreciated that compliance with the control is difficult, especially given the east-west orientation of the site and its location immediately behind a similar approved 13 storey mixed use development. The non-compliance is considered acceptable given the above. The development provides 28 apartments (12%) that receive no direct sunlight between 9am and 3pm at mid-winter. This is less than the maximum of 15%.

A solar access analysis of the potential impacts of the proposed development on the approved development to the south at 7-9 Kent Road has been provided by the applicant. This development contains 485 apartments. There will be 52 apartments (14%) that as a result of the Meriton development, that will now not receive 2 hours of sunlight between 9am and 3pm on 21 June (mid-winter). The latest solar access figures for 7-9 Kent Road are provided in a letter to Council dated 15 December 2014 (as part of the Land and Environment Court proceedings) which state that 80.41% of units receive solar access. It is therefore estimated that the compliance of that building will now be:

- 31.34% (2 hours to living rooms and principal POS between 8:30am and 3:30pm);
- 16.7% (2 hours to principal POS and 1 to living rooms between 8:30am and 3:30pm); and
- 21.44% (2 hours principal POS and less than 1 to living rooms).

This equates to a total of 70%. The previous figure of 80.41% was deemed satisfactory during the Land and Environment Court proceedings.

Note 5 – Visual Privacy (3F)

The Design Criteria to Objective 3F-1 provides for building separation between non-habitable rooms to the site boundary and habitable rooms/balconies to the site boundary. The proposed development exhibits non-compliances at each level. This is assessed in the table below.

Several discussions have been held between Council and the applicant due to the recent purchase of the site to the immediate north (No. 671-683 Gardeners Road, Mascot) by Meriton. As part of this application, envelope diagrams have been provided with the intent to provide a combined basement and podium between the two sites. As such, a new development application for the northern site, to be lodged with Council, is imminent.

Table 5: Building separation

Control	Comment
Up to 4 storeys (approx. 12m)	
3m from non-habitable rooms to site boundary	<p>The pool (Bldg A) is built to the northern boundary.</p> <p>The combined basement is built to the north and eastern boundary.</p> <p>As discussed above, the nil setback to the northern boundary is acceptable given the intent to provide a combined basement with the proposed new development on the northern adjoining site.</p>
6m from habitable rooms/balconies to site boundary	<p>Northern Boundary: U103, U203 & U303 (Bldg A) and U119, U219 & U319 (Bldg C) are built to the northern boundary. This is acceptable as there are no openings along the wall to the adjoining development.</p> <p>Eastern Boundary: U222, U322 (Bldg C). This is acceptable as there are no openings along the eastern wall to the adjoining development.</p>
Five to eight storeys (25m)	
9m from habitable rooms/balconies to site boundary	<p>Northern boundary: U510, U511, U610, U611, U710, U711, U810, U811 (Bldg B), and U517, U518, U617, U618, U717, U718, U817 & U818 (Bldg C). Only a small portion of the balcony and living area of the apartments protrudes into this setback. This is acceptable.</p> <p>Southern boundary: U505, U506, U605, U606, U705, U706, U805 & U806 (Bldg A), U508, U608, U708 & U808 (Bldg B) & U520, U620, U720 & U820 (Bldg C). Only a small portion of the balcony and bedrooms of these apartments protrude into this setback. This is acceptable considering that the setback is to the new boundary alignment and that there is a total separation distance of 24m to the</p>

Control	Comment
	adjoining building to the south.
Nine storeys and above (over 25m)	
12m from habitable rooms/balconies to site boundary	<p>Northern boundary: 2 northern units Bldg B & C. This is acceptable considering that a greater setback of the buildings on the northern site is intended as part of the new proposal.</p> <p>Eastern boundary: 3 eastern units on Bldg C. Only a small portion of the balcony and living area of these apartments protrude into this setback. This is acceptable.</p> <p>Southern Boundary: 2 southern units on each building. Almost half of each unit protrudes into this setback. This is acceptable considering that the setback is to the new boundary alignment and that there is a total separation distance of 24m to the adjoining building to the south.</p> <p><u>Does not comply with 24m internal separation between habitable rooms:</u></p> <p>Buildings A and B: The total separation distance between these two buildings is 19m. This is acceptable and a condition has been recommended for at least 2 movable screens to be installed on all balconies.</p>

Note 6 – Private Open Space and Balconies (4E)

The Design Criteria to Objective 4E-1 requires that balconies of 2 bedroom apartments are to have a minimum size of 10sqm.

The apartment schedule submitted with the application indicates that all 2 bedroom apartments have balconies ranging in size from 10-40sqm with the exception of Apartment U202 which has a balcony size of 8sqm.

A condition has been recommended to increase the balcony size to at least 10sqm given the size of the unit is 81sqm, which exceeds the minimum 70sqm requirement under the ADG.

Note 7 – Storage (4G)

The Design Criteria to Objective 4G-1 requires that all 3 bedroom apartments provide a total minimum of 10m³ of storage (of which at least 50% must be accommodated within the apartment).

The apartment schedule submitted with the application indicates that all 3 bedroom apartments have at least 10m³ of storage in total (with 50% accommodated within the apartment) with the exception of Apartment UG01 which has 4m³ within the apartment and 5m³ within the basement.

A condition has been recommended that this apartment be reconfigured to accommodate the minimum requirement of storage (i.e. 5m³) within the apartment. The apartment is 107sqm, which exceeds the required 70sqm for 3 bedroom apartments. Additionally, the balcony size is 32sqm which exceeds the required

10sqm for 3 bedroom apartments. As such, there is sufficient internal and external space to accommodate an additional 1m³ of storage.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the proposed development. The development application was accompanied by BASIX Certificate No. 617081M committing to environmental sustainable measures.

Botany Bay Local Environmental Plan 2013

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

Table 6: BBLEP 2013 Compliance

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Land use Zone	Yes	The site is zoned B4 Mixed Use under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed residential flat building and retail shop is permissible with Council's consent under the 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"> <i>To provide a mixture of compatible land uses.</i> <i>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</i>
Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Clause 2.5 does not apply to the subject site.
What is the height of the building?	No Refer to Note 8	Top of roof/residential component: 44.96m (RL 48.76m AHD) ARF: 2.24m Top of building: 47.2m (RL51m AHD) Note: Exceedance above ARF is 960mm.
What is the proposed FSR?	Yes	The maximum FSR allowed on the site is 3.2:1 (25,024sqm). The proposed FSR is 3.2:1 (25,024sqm) which complies.
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000sqm min and maximum height of 22 metres and maximum FSR of 1.5:1?	N/A	The subject site is not located within an R3 or R4 zone.
Is the site within land marked "Area	N/A	The subject site is not identified as being within

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
3” on the FSR Map		“Area 3” on the FSR map.
Is the land affected by road widening?	Yes	The subject site is affected by RMS widening of Kent Road. This widening has already been resumed and dedicated as a strip of land as road along the Kent Road frontage of the subject property. As such, no further widening into the site is required. Road widening is not required under the BBLEP 2013.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
The following provisions in Part 6 of the LEP apply to the development: 6.1 – Acid sulfate soils (ASS)	Yes	The site is identified as being affected by Class 2 ASS. Development overlying these soils requires development consent where the works are required below the natural ground and the water table is likely to be lowered. As such, a Preliminary Acid Sulfate Soils Management Plan, prepared by Consulting Earth Scientists has been submitted with the application. The report provides environmental management recommendations in order to safely manage the excavation and treatment of ASS. The application has also been referred to Council’s Environmental Scientist who raised no objection to the proposed development and recommended conditions of consent including the management of potential and actual ASS to be conducted in accordance with all recommendations within the Preliminary ASSMP. The development is considered to be consistent with Clause 6.2 of BBLEP 2013.
6.2 – Earthworks	Yes	The proposed excavation has been assessed within this application as well as within the assessment of the excavation application, DA15/215. The application has been referred to the Office of Water who, on 18 January 2016 provided their GTA. This development application has been recommended for approval subject to amended GTAs (if applicable) from the NSW Office of Water.
6.3 – Stormwater management	Yes	Clause 6.3 – Stormwater. The development application involves an underground On Site Detention system/rainwater tank for collection and reuse of rainwater for landscaping on site. The development is considered to be consistent with Clause 6.3 of BBLEP 2013.
6.8 - Airspace operations	Yes	Clause 6.8 – Airspace Operations. The subject

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
6.9 – Development in areas subject to aircraft noise	Yes	<p>site lies within an area defined in the schedules of the Civil Aviation (Buildings Control) Regulations that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The application proposed buildings to this maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration. SACL raised no objections to the proposed maximum height of 51 metres AHD, subject to conditions to be imposed on any consent. The development is considered to be consistent with Clause 6.8 of BBLEP 2013.</p> <p>Clause 6.9 – Aircraft Noise. The subject site lies within the 20-25 ANEF contour. An Acoustic Report, prepared by Acoustic Logic, has been submitted with the development application, which indicates that the development has been designed to comply with the requirements of AS2021-2000. The development is considered to be consistent with Clause 6.9 of BBLEP 2013.</p>
6.16 – Design excellence	Yes	<p>Clause 6.16 Design Excellence. The proposed design has been the subject of consideration by Council's Design Review Panel. This is discussed further in the report.</p> <p>The bulk, scale and height of the proposed development is appropriate as the development will not create any unreasonable impacts on the amenity of adjoining sites. The built form as proposed is contemporary in nature and presents an articulated façade providing enhanced interest to the streetscape and the precinct generally.</p> <p>The Applicant has adequately addressed the recommendations of the DRP and the proposed development is considered to be consistent with Clause 6.16 of BBLEP 2013.</p>

Note 8 – Clause 4.6 Variation to Maximum Height of Buildings

The BBLEP 2013 provides for a maximum height of 44m. The application proposes the following:

- Top of roof/residential component: 44.96m (RL 48.76m AHD) (i.e. without ARF)
- ARF: 2.24m
- Top of building: 47.2m (RL51m AHD)

The total height exceedance is 3.2m with 2.4m of this comprising the ARF, leaving 960mm exceedance attributed to the residential component.

The Applicant has submitted a Clause 4.6 variation to Clause 4.3(2A) in support of the height increase. As the ARF is considered to be legitimate, and as is provided for under Clause 5.6 of the BBLEP, the residential height exceedance relates only to 960mm, with the total height exceedance being 3.2m.

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the height of buildings development standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written request seeking to justify the contravention of the development standard pursuant to Clause 4.6(3) of BBLEP 2013, which is considered below. The matters for consideration pursuant to Clause 4.6(4) and (5) are also considered below. Clause 4.6 (6), (7) and (8) are not relevant to the current proposal.

In *Wehbe v Pittwater Council* [2007] NSW LEC 827 (*Wehbe*), the Land and Environment Court set out the following 5 different ways in which an objection to a development standard may be well founded:

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

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*), the Court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required by Clause 4.6(4)(a)(ii). The Court outlines, that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within *Wehbe*.

The requirements of 4.6(3)(a), 4.6(3)(b), and 4.6(4)(a)(ii) are each addressed separately below:

Is the development standard unreasonable or unnecessary in the circumstances of the case?

The applicant has submitted that compliance with the height control on this occasion is considered unreasonable and unnecessary, and there are sufficient planning grounds to justify the proposed variation. These reasons are set out below:

- *The proposed height seeks a 7.3% variation above the maximum 44-metre height. This is negligible and is within the generally recognised 10% rule for variations.*
- *The proposed buildings have been designed to match the heights of the approved developments on the adjoining sites to the north (14 storeys and maximum RL 49.10) and south (14 storeys and maximum RL 51.00).*
- *The rooftop plant has a (maximum) height of 2.24 metres, and it has been designed as architectural features that are integrated with the overall appearance of the building.*
- *Clause 5.6 of the LEP allows for architectural roof features to exceed the LEP height limit under given circumstances. The proposed rooftop plant is considered to be an architectural feature and satisfies each of the Clause 5.6 circumstances, as follows:*
 - *The architectural roof features are an integral part of the overall architectural vision and is fully integrated with the design. This is evident on the architectural plans and the photomontages submitted with the application.*
 - *The architectural roof features do not contain any signage.*
 - *The architectural roof features do not include any gross floor area and is not capable of being modified as such.*
 - *The architectural roof features will have minimal adverse overshadowing impacts.*
 - *In this regard, the proposal complies with regard to solar access to the communal open space solar access requirements of Council's DCP and the ADG.*
 - *The architectural roof features fully accommodates plant, which will not be visible from the public domain.*
- *If the architectural rooftop features are not considered in the height variation, the proposal seeks a variation of no more than 1.16 metres. This is insignificant and represents 2.6 % variation over the 44 metre height limit.*
- *The amended proposal has been altered to ensure full compliance with the floor space ratio / gross floor area development standard.*
- *The development displays minimal bulk and scale characteristics. The visual bulk is greatly reduced by the fine grain character of the buildings and the well-designed roof profile.*
- *The proposal will result in no adverse impacts such as unreasonable overlooking and overshadowing.*
- *The proposal is entirely consistent with the objectives of the land use zone and the height development standard, which is addressed below.*

The applicant has proposed that the height be permitted to meet the neighbouring buildings at parapet height, whilst Clause 5.6 of the BBLEP be applied to any additional height over this. As such, the following can be applied to the height above the parapet.

The application was referred to Council's Urban Designer who raised no objection to the ARF, stating that *"The architectural roof feature thus does comprise of a decorative element which is not an advertising structure and does not include gross floor area, and is not reasonably capable of modification to include floor space area. The additional elements are unlikely to cause significant additional overshadowing. The lift motor rooms and plants are wholly integrated into the design of the roof feature, and the design of these features has been holistically considered in terms of the overall architectural response. As such, the approach which has been taken is*

arguably acceptable; that is to meet the neighbouring developments in terms of building (parapet) height, and apply Clause 5.6 to the architectural roof features which exceed this height.”

Having regard to reasons 2-5 outlined in *Wehbe* above, the 4.6 variation request has demonstrated that the development standard is unreasonable or unnecessary in the case, and indeed, seems to have been abandoned in this area. While the total height exceedance is 3.2m, only 960mm of this is attributed to the residential portion of the building.

The application was also referred to Sydney Airport who raised no objection to the erection of this development to a maximum height of 51m AHD.

Are there sufficient environmental planning grounds to justify contravening the development standard?

The applicant has referred back to the response above.

Having regard to reasons 2-5 outlined in *Wehbe* above, the 4.6 variation request has demonstrated that the development standard is unreasonable or unnecessary in the case and seems to have been abandoned in this area. The above reasons are satisfactory in terms of justifying the contravention of the development standard.

Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

The objectives of the B4 zone are outlined as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The applicant has submitted that the proposal is consistent with the objectives of the B4 Mixed Use zone in that:

- *The proposed development is consistent with the above objectives, in that:*
- *The proposal comprises residential units which is a compatible landuse within the mixed use zone; and*
- *The site is located within a 7 minute walk to Mascot Railway Station and is close to other transport options.*

The relevant components of Clause 4.3 are provided below:

4.3 Height of Buildings [relevant clauses quoted]

1. *The objectives of this clause are as follows:*
 - a. *to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,*
 - b. *to ensure that taller buildings are appropriately located,*
 - c. *to ensure that building height is consistent with the desired future character of an area,*
 - d. *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*

- e. to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.*
- 2. The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The applicant has submitted that the proposal satisfies the stated and underlying objectives of that development standard (height) outlined in subclause 4.3(1) in that:

- a. The proposed development has been designed to coordinate with the approved heights of the developments on the adjoining sites to the north and south;*
- b. The buildings have been designed with setbacks that are compliant with Council's DCP and the SEPP 65 Apartment Design Guide, which will ensure bulk and scale are appropriate and minimised;*
- c. The proposed height of the development will match the heights being approved in the surrounding area;*
- d. The proposal will have no adverse impacts in relation to visual impact, loss of views, loss of privacy or solar access, which is largely a result of compliance with Council's DCP and the SEPP 65 Apartment Design Guide;*
- e. The buildings are situated on the site in accordance with the Council's DCP and provide compliant setbacks that will minimise impacts of the development when viewed from the public domain.*

Public Interest and Public Benefit

Preston CJ noted that there is a public benefit in maintaining planning controls and a variation to a development standard should not be used in an attempt to affect general planning changes throughout the area.

The variation is 3.2m and is acceptable as 2.24m is attributed to an architectural roof feature and only a small breach of 960mm is attributed to the residential portion of the building. The standard has been varied within the immediate locality with the majority of buildings reaching a height of RL 51m AHD. Additionally, the finished floor level at ground was required to be raised to meet the 1 in 100 year ARI flood level, as has other developments in the area due to flooding.

The variation is 3.2m and is acceptable and is not considered an attempt to affect general planning changes through the area.

On the basis of this assessment, it is concluded that the variation is not contrary to the public interest and is able to be supported.

Matters of State or Regional Importance

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

Summary

The Clause 4.6 Exception to the height of buildings development standard has been assessed in accordance with the BBLEP 2013 and relevant case law. It is considered

that the proposal is consistent with the underlying objectives of the standard identified.

It has been established that the proposed variation is appropriate and maintaining and enforcing the development standard in this case is unreasonable and unnecessary and would not allow the orderly and economic development of this site.

The proposal seeks a 7.3% variation above the 44-metre height limit and a 2.6% variation when excluding the architectural roof feature.

It is considered that the applicant's Clause 4.6 is well-founded and the departure to the height of buildings development standard is not contrary to the public interest. A reduction in height would not provide additional solar access to the proposed public open spaces on the site. On this basis, it is recommended that the development standard relating to the maximum building height for the site pursuant to Clause 4.3 of the BBLEP 2013, be varied in the circumstances as discussed above.

It is considered that the Applicant has adequately addressed the requirements of Clause 4.6(4) and the granting of consent is inconsistent with the aims and objectives of Clause 4.6 of BBLEP 2013. On this basis it is recommended that the development standard relating to the maximum height for the site pursuant to Clause 4.3(2A) of the BBLEP 2013 should be varied in the circumstances.

Botany Bay Development Control Plan (BBDCCP) 2013

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

Table 7: BBDCCP 2013 Compliance Table – General Provisions

Control	Proposed	Complies (yes/no)
3A Parking and Access		
3A.2. Parking Provisions of Specific Uses <u>Commercial (shop)</u> 1 space / 25sqm (3 req.) <u>Service Bays</u> 1/100 units (3 req.) Note: 50% of service bays to be designed for MRV or larger) Note: No requirement for car wash bays	<u>Commercial</u> Nil* <u>Service Bays</u> Service vehicle: 1 provided 1 car wash bay provided Service vehicles: 1 MRV space provided (Building C) 1 SRV space provided in Building A for visitor/post delivery * Condition is recommended to provide at least 1 space for the retail component	No However ADG provisions apply
3A.3.1 Car Park Design Pedestrian entrances and exits shall be separated from vehicular access paths.	Waste collection and servicing within Basement C. Traffic Assessment provided; Stormwater plans provided;	Yes

Control	Proposed	Complies (yes/no)
	Pedestrian access easily identifiable. Pedestrian entrances and exits are separated from vehicular access paths.	
C40 The waste collection point shall be designed to: (i) Allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles, internal roadways and ramps; and (ii) Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like.	The garbage holding room (to be serviced by the garbage truck) is located within the basement of Building C and also contains the bulky waste storage area. The basements of Buildings A and B also have garbage rooms and from here garbage will be transferred to the garbage holding room via the combined basement and service lift in Basement C.	Yes
3A.3.2 Bicycle Parking C1-C5 To comply with AS2890.3 & AUSTRROADS. (i.e. 10% of the required amount of car parking = 46)	The plans indicate that 68 bicycle spaces are provided within the basement and ground level car park. This complies with the requirement of 46 bicycle spaces.	Yes
3A.3.4 On-site Loading & Unloading C1-C11 1 service bay/50dwgs (50% to be Medium Rigid Vehicle (MRV) or larger)	Service vehicles: 1 MRV space provided (Building C) 1 SRV space provided in Building A for visitor/post delivery	Yes

The application was accompanied by a Traffic Impact Assessment Report prepared by Arup, dated 11 November 2015 and an addendum dated 19 February 2016.

As the proposed development is considered to generate a large volume of traffic, or development which will produce traffic impacts which are significant in the local context, the proposed development was also referred to Council's Traffic Advisory Committee (TAC) on 7 March 2016.

A Transport Impact Assessment, prepared by ARUP, a letter dated 29 January 2016 clarifying the traffic modelling, and an addendum to the Transport Impact Assessment have been submitted in support of the proposed development. The Traffic Impact Assessment concludes that while the development would be responsible for a modest increase (17%) in peak hour links flows along Bourke Street, traffic modelling in the TMAP demonstrates that the adjacent intersections operate satisfactorily following completion of the development up to 2031.

The TAC recommended that *"A Sidra Traffic Analysis should be carried out to ascertain the development traffic impact on the following intersections with and without the likely traffic impact from the Westconnex Project scenarios:*

- *Church Avenue/Kent Road;*
- *Bourke Street/Church Avenue;*
- *Bourke Street/Gardeners Road."*

Approval has been granted to numerous large-scale mixed use developments in the immediate area with no significant Sidra Traffic Analyses conducted, with the general justification relying on the Mascot Town Centre Transport Management and Access

Plan (TMAP). Therefore, it was determined that a Sidra Analysis would not be required for this DA.

The Mascot Station Town Centre Precinct (MSTCP) anticipated that the area would be fully developed by 2031 with an outcome of 4,950 dwellings and an FSR of 3:1 to 3.5:1. The MSTCP was supported by the Transport Management and Accessibility Plan (TMAP), a document prepared by SMEC in April 2012, which is intended to provide a basis to meet future growth and in doing so, provided assessments on the following:

- projected traffic generation of the envisaged development;
- identified the existing road and traffic circumstances;
- undertook micro-simulation traffic modelling and detailed SIDRA intersection modelling; and
- provided a ‘package of recommendations’ in relation to:
 - road network upgrades
 - public transport initiatives
 - pedestrian and cyclist facilities
 - parking provision
 - travel demand measures.

All previous development applications have relied on the data and Sidra analysis provided within the TMAP, which provides more conservative data than the RMS rates. These developments have been assessed and approved based on this information.

The plans and documentation were also referred to the NSW RMS for consideration and comment under the provisions of the SEPP. RMS has raised no objection to the development application and has provided conditions on the 27 January 2016.

Table 8: BBDCP 2013 Compliance Table – General Provisions cont.

Control	Proposed	Complies (yes/no)
3E Subdivision and Amalgamation		
Development Applications shall demonstrate that the proposed subdivision or amalgamation is consistent with the Desired Future Character of the area.	<p>The original application involved the creation of 4 new stratum lots. These are</p> <ul style="list-style-type: none"> • residential (limited in stratum) • child care centre (limited in stratum) • new north-south road (limited in stratum due to the car park below); • new east-west road (unlimited in stratum) <p>The plans (as amended) sought to remove the child care centre and replace with a retail tenancy fronting Kent Road. It also sought to convert the north-south</p>	Conditioned

Control	Proposed	Complies (yes/no)
	road into a community park. An amended stratum subdivision plan has not been received reflecting these changes. Additionally, the alignment of the new east-west road has not been finalised by Council who are currently finalising a coordinated design for the new internal east-west and north-south road which service several of the mixed-use development in the immediate area. As such, a condition has been recommended that a separate application for stratum and strata subdivision be submitted to Council.	
3G.2 Stormwater Management		
C1-C6 Comply with Stormwater Management Technical Guidelines; Part 3G.5 Stormwater Quality.	Stormwater plans submitted and reviewed by Council's Development Engineer. Conditions of consent have been recommended.	Yes
3H Sustainable Design		
C1-C6 BASIX; Solar hot water encouraged.	BASIX Certificate provided.	Yes
3I Crime Prevention Safety & Security		
Site layout, design & uses; Building design; Landscaping & lighting; Public domain, open space & pathways; Car parking areas; Public Facilities.	Comments received from NSW Police & have been included as conditions of consent.	Yes
3J Aircraft Noise & OLS		
ANEF; Aircraft height limits in prescribed zones.	SACL comments received – no objection.	Yes
3K Contamination		
Consider SEPP 55 & Contaminated Land Management Act 1997.	An Environmental Site Assessment (ESA), Geotechnical Site Investigation and Groundwater Management Plan, prepared by Coffey, are submitted in support of the application. The ESA concludes that the site can be made suitable for the proposed high density redevelopment. The site must be remediated in accordance with the requirements of the RAP (to be conditioned) and the conditions imposed under the SAS.	Yes Refer to SEPP55 discussion
3L Landscaping and Tree Management		
General Requirements; Planting design & species; Landscaping in car parks; Green roofs.	Of the 11 mature trees along the Kent Road frontage, the development will impact Trees 1-8, and therefore require their removal. An Arborist Report, prepared by Tree and Landscaped Consultants (TALC) assessed all 11 trees	Yes

Control	Proposed	Complies (yes/no)
	<p>to be in fair or poor condition.</p> <p>The development application was referred to Council's Tree Preservation Officer who advised that Trees 1-8 were permitted to be removed due to their poor health.</p> <p>The plans (as amended) show that Trees 9-11 will be retained and that the TPZ and SRZ are not impacted by the proposed building.</p>	
3N Waste Minimisation & Management		
General Requirements; Residential Development; Mixed Use Development.	A WMP, prepared by Elephants Foot, has been submitted for ongoing management of waste generated from the site.	Yes

Part 4C – Residential Flat Buildings

An assessment against Part 4C relating to Residential Flat Buildings has been provided below insofar as they relate to the proposed development.

Table 9: BBDCP 2013 Compliance Table – Part 4C Residential Flat Buildings

Control	Proposed	Complies (Yes/No)
4C.2.2 Streetscape Presentation		
C1 New development must be compatible in building bulk and scale with adjoining residential developments and reflect the patterns of buildings in the streetscape. It must respond to building setbacks, building height and treatment of the building facades.	As outlined in Table 2, the proposed development is consistent with other approved developments in the immediately surrounding area in terms of height and FSR. The setback to Kent Road complies with Part 9A and is consistent with the Bridgehill development to the immediate south.	Yes
C2 Development must comply with the following: (i) The maximum length of any building is 24 metres; (ii) All building facades must be articulated.	<p>(i) The length of all three buildings exceeds 24m.</p> <p>(ii) The building facades are modulated and articulated with balconies and privacy/acoustic screens.</p>	<p>No Refer to Note 9</p> <p>Yes</p>
4C.2.4 Landscaped Area and Deep Soil Planting		
C1 A residential flat development must have a minimum landscaped area of 35% and a maximum un-built upon area of 20%.	The plans (as amended) indicate that the proposed development provides 25.4% of landscaped area.	No Refer to Note 10
4C.2.5 Open Space		
C3 Open space will be designed to: (i) Encourage positive outlook, respite	The proposed development has 5 separate communal open space (COS)	Yes

Control	Proposed	Complies (Yes/No)
<p>and attractive internal views;</p> <p>(ii) Provide building separation and achieve a balance between open space and built form;</p> <p>(iii) Provide visual and acoustic privacy and an area of good solar access for recreational purposes; and</p> <p>(iv) Through location, arrangement and design provide functional, usable and liveable spaces for a mix of recreational pursuits</p>	<p>areas. These are listed below including the amount of solar access between 9am and 3pm in mid-winter:</p> <ol style="list-style-type: none"> 1. Pocket park at the end of the new east-west road: 2 hours from 1pm-3pm to 100% of the park; 2. Podium level COS attached to the western façade of Building C: 3 hours from 10am – 12pm to at least 50% of the area; 3. Ground level COS attached to the western façade of Building C: 1 hour at 11am to 75% and 1 hour to 25% at 12pm; 4. New community park between Building B and C: 3 hours to at least 50% from 11am to 1pm; 5. Building A and B Podium level park: The eastern park/bench area gets 4 hours to 100% of this area from 12pm. The remainder of the area between Buildings A and B does not receive any solar access during mid-winter. <p>On balance, enough of the communal open space areas receive the minimum required amount of solar access during mid-winter. The range of COS areas allow for the use for different activities and user groups within the development.</p>	
4C.2.6 Setbacks		
C2 All front, side and rear setbacks are to provide deep soil zones to allow unencumbered planting areas.	<p>Deep soil zones are located along the front setback, which complies with the 3m setback required in Part 9A. The setback is also consistent with the Bridgehill development to the south.</p> <p>The basement location also allows a 3m setback from the new site boundary to the south, allowing for deep soil planting.</p>	Yes
<p>Front Setbacks</p> <p>C1 Building setbacks from the existing front boundary must match the setback of adjoining properties, but must be a minimum of 3 metres or 4 metres if fronting a classified road.</p>	The 3.2m setback to Kent Road complies with the 3m setback required in Part 9A and is also consistent with the Bridgehill development to the south.	Yes
C2 Where land dedications are required resulting in a new boundary line all setbacks must be provided from this new boundary line, including basement car parking setbacks.	The proposed setbacks have been measured to the new boundary alignment.	Yes
4C.2.7 Through Site Links & View Corridors		

Control	Proposed	Complies (Yes/No)
C1 Building footprints are to take into account the requirement for consolidated open space as well as for view corridors.	There are no existing significant views.	N/A
C2 If a site has a frontage to two (2) or more streets with a boundary length greater than 25 metres, then one through site link to the other street/s must be provided.	The site has one street frontage with a secondary frontage created in accordance with the Urban Block 1 figures within Part 9A of the BBDGP 2013. This requires the construction and dedication of the northern part of a new east-west road which will provide vehicle and pedestrian access to the subject site.	Yes
4C.4.1 Dwelling Mix and Layout		
Apartment Size and Mix C1 Developments of ten or more apartments are to provide a range of apartment sizes, including studio, 1, 2, and 3+ apartments so as to meet the needs of residents and accommodate a range of household types.	The proposed development provides a range of apartment sizes and types.	Yes
C2 For development with ten or more apartments, the following unit mix control will apply: (i) A maximum of 25% of apartments are to be Studio and 1 Bedroom; (ii) All 2 Bedroom apartments are to satisfy the amenity controls for Family Apartments; and (iii) All 3+ Bedroom apartments are to satisfy the amenity controls for Family Apartments.	The proposal provides the following: <ul style="list-style-type: none"> • 1 bed apartments (20.9%) • 2 bedroom apartments (38.5%) • 3 bedroom apartments (40.6%) The number of 1 bedroom apartments does not exceed 25%. For a response to the family friendly controls, please refer to Note 11.	Yes No Refer to Note 11
Apartment Layout C1 Dwellings with 3 or more bedrooms are to have two (2) separate and appropriately sized living spaces. A study alcove may be located within the second living space. Should a freestanding study alcove be provided the height of the walls enclosing the study are to be a maximum of 1500mm	The 3 bedroom apartments do not have 2 separate living spaces. Refer to Note 12.	No Refer to Note 12
4C.4.2 Family Friendly Apartment Buildings		
C1 Family apartments are apartments with two or more bedrooms designed so as to accommodate the living needs of families with children.	The two and three bedroom apartments have generally been designed in accordance with the Family Friendly controls. Refer to the assessment below.	Yes
C2 Family apartments are to include a study to meet the needs of couple families with dependents households. The design of the study should allow for a parent to	92% of apartments do not have separately indicated studies, either as separate rooms or study nooks.	No Refer to Note 11

Control	Proposed	Complies (Yes/No)
easily work from home whilst supervising a child		
C3 Other than the master bedroom, each bedroom is to be large enough to accommodate a single bed, a desk or table, and floor space for playing, to be illustrated on a standard apartment layout plan	Each bedroom is shown to be able to accommodate a double bed and desk.	Yes
C4 The floor surface of the entry, dining room and kitchen floor and internal storage area are to be water-resistant and easy to be cleaned and maintained, not carpet	The floor areas are shown to be tiled. Only the bedrooms are shown as carpeted.	Yes
C5 Two bathrooms are required. One bathroom is to be a shared bathroom which is accessible off a common corridor. This shared bathroom is to have a bathtub, and is to be large enough to allow for parental supervision	Two bathrooms have been provided for all of the 2 and 3 bedroom apartments, however the ensuite has been provided with a bath tub and shower and the shared bathroom provided with a shower only (no bathtub). This is considered acceptable as flexibility has been provided across both bathrooms to accommodate the needs of families with children, and the children are still able to use the toilet and shower without having to use the ensuite.	Yes
C6 The private outdoor space is to be clearly visible from the kitchen	Approximately 56 (23%) of apartments do not have private outdoor spaces that are clearly visible from the kitchen.	No Refer to Note 11
C7 The entry areas and main corridors within apartments are to be generous in proportion to permit room for toys and sporting equipment, and for drying of wet shoes, boots and clothing	Refer to Note 11	No Refer to Note 11
C8 The Apartment Design Guide sets out storage space requirements. The storage room is to be located near the entry, and be of adequate proportions to accommodate large household items including strollers, wheeled toys, suitcases, and sporting equipment	Refer to Note 11	No Refer to Note 11
4C.5.2 Internal Circulation		
C1 Development will provide multiple cores within the building.	One core has been provided within each building.	Yes
C2 In buildings of more than four storeys served by elevators, ensure that alternative access to another elevator is available in the event that any elevator is out-of-service due to breakdown or routine servicing.	Two elevators service each building.	Yes
4C.5.1 Adaptable Housing		
Table 1 of Part 3C Access and Mobility: <u>Adaptable Housing</u>	A total of 52 (22%) apartments are adaptable, which complies with Council's requirement for 20%	Yes

Control	Proposed	Complies (Yes/No)
In developments containing 10 or more dwellings, a minimum of 20% of the dwellings are to be adaptable dwellings designed in accordance with Adaptable Housing Australian Standard 4299 Class B.	(minimum requirement of 24 apartments).	
<u>Accessible Parking</u> In developments containing 10 or more dwellings, accessible resident parking is required at 10% to be allocated to adaptable dwellings.	The BBDCP 2013 requires adaptable car parking to be allocated at 10% of the development. As such, 39.1 adaptable car parking spaces (rounded up to 40) are required. The plans indicate a total of 48 adaptable car parking spaces have been provided.	Yes
4C.5.2 Access		
C1 All applications are to include a statement on how the development will comply with the provisions of the Disability Discrimination Act and comply with Part 3C - Access and Mobility.	An Access Report, prepared by Wall to Wall Design & Consulting, has been submitted with the application. The architectural design in terms of the prescriptive provisions of each 'Essential feature' and 'Desirable feature' within AS4299 – 1995 (Adaptable Housing) have been complied with.	Yes

Note 9: Streetscape Presentation

Control C2 of Part 4C.2.2 of BBDCP 2013 states that *the maximum length of any building is 24m.*

The length of all three buildings exceeds 24m. This is consistent with other development in the immediate area and is consistent with the building envelopes provided with part 9A of the BBDCP 2013 for Urban Block 1.

Note 10: Landscaped Area and Deep Soil Planting

Control C1 of Part 4C.2.4 states that *a residential flat development must have a minimum landscaped area of 35% and a maximum un-built upon area of 20%.*

The plans (as amended) indicate that the proposed development provides 25.4% of landscaped area. This is considered satisfactory given that the ADG requires 20% and that the site to the north is intended to mirror the new community park on this site as completely deep soil, thereby offsetting the non-compliance on this site.

Note 11: Family Friendly Apartment Buildings

The two and three bedroom apartments have generally been designed in accordance with the Family Friendly controls. The following provides additional detail regarding some of these controls.

Control C2 requires a study in all family apartments – 16 apartments (8%) have a study and 92% of apartments do not have separately indicated studies, either as a separate room or nook.

Notwithstanding the above, this does not imply that there is not sufficient space within the open-plan living area to provide a desk so that parents can monitor children while working from home. Of the 92 x 2 bedroom apartments, 76 do not indicate a separate study or nook, however, all of these apartments are between 9sqm and 41sqm over the minimum apartment size (as required under the ADG). Additionally, all of the 97 x 3 bedroom apartments that do not indicate a separate study or nook, all of these are between 13sqm and 26sqm over the minimum required apartment size. This indicates that there is sufficient size within the apartment to accommodate a desk within the open plan living area and that there is sufficient size to support the separation of conflicting activities within the living spaces. This satisfies Objective O2 and O3 which state:

O2 To ensure that apartments are designed with appropriate amenity and space so that apartments can support the separation of conflicting activities within the living spaces.

O3 To encourage applicants to consider the varying needs of families and to design apartments accordingly.

While it is considered that there is sufficient size for the location of a nook or desk within the open-plan living area, a condition has been recommended that amended plans be submitted showing compliance with this requirement by indicating that within each 2 and 3 bedroom apartment, there is either a study nook/space or indicate that a desk can adequately be accommodated within the open-plan living area.

Control C5 requires two bathrooms – Two bathrooms have been provided for all of the 2 and 3 bedroom apartments, however the ensuite has been provided with a bath tub and shower and the shared bathroom provided with a shower only. This is considered acceptable as the ensuite is generally the larger bathroom of the two and flexibility has been provided across both bathrooms to accommodate the needs of families with children.

Control C6 states that the private outdoor space is to be clearly visible from the kitchen. Approximately 56 (23%) of apartments do not have private outdoors spaces that are clearly visible from the kitchen. This is considered acceptable given that the kitchen is integrated into the open-plan living area which comprises the kitchen, dining and living areas. The private outdoor area (balcony) is merely an extension to internal living area.

Control C7 & C8 requires a storage space near the entry which is to be of water-resistant materials.

The plans (as amended) indicate that 41 (17.44%) of apartments don't have storage within the entry area, however, 194 (52.56%) of apartments do have storage areas within the entry area.

Some apartments have generous enough space at the entry for the storage of household items. Some apartments, due to the layout of the floor plate, have a narrow entry but provide a water-resistant storage area further within the apartment, or area within a laundry. Council's Urban Design Officer raised no objection to the location of a storage area separate from the dwelling entry, or enclosed within a room or cupboard to screen potential mess from view. The entries of the remaining apartments open directly onto the living area, thereby no nook or cupboard can be provided. A condition has been recommended for compliance with this requirement in that these apartments to be internally revised to provide entries large enough to accommodate a storage area near the entry, or a separate storage area, from water-resistant materials.

Note 12: Dwelling Mix & Layout

Part 4C.6.4.1, Control C1 (Apartment Layout) states that dwellings with 3 or more bedrooms need to have two separate living areas. The development proposes 97 x 3 bedroom apartments.

The intent of the control is not to result in two physically separate rooms, but rather two separate areas/zones that can support the separation of conflicting activities within the living space. All 3 bedroom apartments propose one large open plan living space which is separated into two areas/zones through the placement of furniture. This satisfies the intent of the control.

The 'Dwelling Mix and Layout' objectives are centred around providing a high standard of internal amenity for residents. As outlined below, the proposed development achieves the relevant objectives.

Objective O2 states *to ensure that apartments are flexible to suit the occupant's requirements*. The 3 bedroom apartments satisfy Objective 2 as the two zones facilitate flexibility for families as several separate activities can be undertaken within the open-plan living area. For example, children can be playing in the lounge room while a parent is either at the dining table, kitchen or study nook/desk. As the living area is open-plan, parents are able to monitor the children from all areas.

The 3 bedroom apartments range in size from 103sqm – 116sqm, all of which are between 13sqm to 26sqm in excess of the minimum requirement of 90sqm (as per the ADG). As such, the open-plan living areas provide a high standard of internal amenity as the separate living areas are spacious and are of an adequate size to comfortably accommodate separate areas/zones. The open-plan living areas are located adjacent to the balcony, thus providing natural light and ventilation and extending the internal living space. This satisfies Objectives O1 and O5 which state:

O1 to ensure that dwellings are efficient, have high standards of amenity for residents and satisfy environmental performance criteria, such as ventilation and access to natural light.

O5 To provide adequate amenity for building occupants in terms of access to sunlight and natural ventilation.

Both points above also satisfy Objective O4 which states: *to ensure adequate provision, design and location of internal facilities.*

Part 9A – Mascot Station Town Centre

An assessment against Part 4C relating to Residential Flat Buildings has been provided below insofar as they relate to the proposed development.

Table 10: BBDCP 2013 Compliance Table – Part 9A Mascot Station Town Centre

Control	Proposed	Complies (Yes/No)
9A.3.2 Desired Future Character – Urban Block 1		
Land Uses Gardeners Road and Kent Road buildings are to have a continuous commercial ground floor, with residential or commercial uses above reflecting the commercial character of these major roads.	A commercial tenancy has been included at ground level along Kent Road. To provide better activation from the gymnasium, Council requested that the RL be lowered from 4.9m AHD to 4.26m. This has been provided. The applicant advised that further activation along Kent Road is not viable. The applicant provided a Retail and Commercial Needs Analysis at the request of Council to support this statement. Council is satisfied that the Retail and Commercial Needs Analysis addresses this issue.	Yes
Street Character New local streets within the Urban Block are to provide vehicular, pedestrian and cycle access to high rise residential and mixed use buildings. These streets are to be addressed by major building facades, with predominantly continuous low level street frontages and set back tower buildings. Part of the new north-south street is to be lined by ground floor retail to create activity and provide for safety and security throughout the day and evening.	The development proposes the construction of the northern portion of the new east-west road and a new community park between Buildings B and C instead of the northern arm of the north-south street as identified within the figures for Urban Block 1 within Part A of the BBDCP 2013. The new community park will be privately owned (due to the location of a basement below) but will have an easement to allow for public access. Council is satisfied with this approach. Council's Strategic Officer states that this is an acceptable variation to the BBDCP 2013 master plan stating that <i>"the proposed layout will offer greater public benefit"</i> . Council have met with the applicant to discuss the proposed potential integration with the site to the immediate north at No. 671-683 Gardeners Road by way of a combined podium and basement and the extension of the new community park through to Gardeners Road. This extension would consist entirely of deep	Yes

Control	Proposed	Complies (Yes/No)
	soil. This extension would facilitate pedestrian moveability from Gardeners Road and the development at No. 671-683 Gardeners Road, through the park to connect with the north-south street.	
Public Domain New local parks will provide for the recreation needs of a substantial new residential population. These parks are to have a public street along one or two sides of the park to provide them with a public character, and to allow for overlooking from the public domain for safety and security.	As mentioned above, the new community park will be privately owned but have an easement for public access. A condition has been recommended for public domain plans to be submitted to and approved by Council prior to the issue of a Construction Certificate.	Yes
9A.3.4 Setbacks		
C1 All development within Urban Block 1 must comply with the street setbacks identified in Figures 30 and 31 which is: <ul style="list-style-type: none"> 3m setback from Kent Road and the new east-west street at levels 1-4; and 5-7m setback along Kent Road and the new east-west street from levels 5-13. 	<u>Kent Road Frontage</u> The 3.2m setback to Kent Road for levels 1-4 complies. Levels 5 and above have a varied setback with some non-compliances. <u>New East West Frontage</u> The ground floor does not comply. Levels 1-4 comply. Levels 5 and above have a varied setback with some non-compliances.	No Refer to Note 13
9A.4.4.4 Active Street Frontages and Awnings		
C1 and C2 – must provide an awning along the Kent Road frontage.	An awning has not been indicated in the amended plans. As such, a condition has been recommended for an awning to be provided along the Kent Road frontage to the retail tenancy	Condition
9A.4.5.4 Wind Mitigation		
C1 All new buildings are to meet the following maximum wind criteria: <ul style="list-style-type: none"> (i) 10 metres/second along commercial/retail streets; (ii) 13 metres/second along main pedestrian streets, parks and public places; and (iii) 16 metres/second in all other streets 	A Qualitative Wind Impact Assessment, prepared by SLR, has been submitted with the application. The Qualitative Wind Impact Assessment has not to have considered the maximum wind criteria as identified at Part 9A.4.5.4 of the BBDCP 2013. The maximum criteria within the Qualitative Wind Impact Assessment for street has been identified as 16m/s which is above the 10m/s in the BBDCP 2013. Additionally, the Qualitative Wind Impact Assessment has not been revised to reflect the plans (as amended). A condition has been recommended that a revised Qualitative Wind Impact Assessment be submitted and approved by Council prior to the issue of a Construction Certificate and that any of	No

Control	Proposed	Complies (Yes/No)
	the recommendations be incorporated into the design of the building.	
9A.4.5.5 Reflectivity		
C3 Visible light reflectivity from building materials use on new building facades must not exceed 20%.	The SEE states that the development has been designed with a balance of glass and masonry that will ensure that excessive glare does not occur.	Yes
9A.5.1 Public Domain Works		
-	As previously discussed, the new community park will be privately owned but will have an easement to allow for public access. Council's Landscape Architect has reviewed the proposal and has recommended a condition for the new community park to be included in the required Public Domain Plans with regard to tree planting, paving, materials, edge treatments, construction details, etc. This is to ensure that there is a consistent treatment with regard to other public parks, despite this being privately owned.	Condition

Note 13 – Setbacks

Control C1 of Part 9A.3.4 states that the development requires;

- 3m setback from Kent Road and the new east-west street at levels 1-4; and
- 5-7m setback along Kent Road and the new east-west street from levels 5-13.

The proposal provides the following:

Kent Road Frontage

The 3.2m setback to Kent Road for levels 1-4 complies. Levels 5 and above have a varied setback being:

- 2.6m (10.6%) at 3.4m setback;
- 7.2m (29.8%) at 5m setback;
- 14.6m (59.8%) at 6m setback.

The setbacks for Level 5 and above are satisfactory given 89.3% of the frontage complies with the minimum requirement and the balcony is the only portion of the frontage that protrudes thereby resulting in a 3.4m setback for a length of 2.6m. This is minor.

New East-West Frontage

The ground floor provides a 2m setback which does not comply. The balconies of the ground level units and the ramping and stairs of the lobbies protrude into this space. Levels 1-4 provide a compliant 3m setback.

Levels 5 and above provide a generally compliant setback ranging between 5 and 6m with the exception of 1 balcony on each level (level 5 and above) on each of the buildings. These setbacks are as follows:

- Building A: 4.5m – 5m;
- Building B: 3.3m;
- Building C: 3.3m.

These setbacks are acceptable given they are balconies, at a height of Level 5 and above, and add to the articulation of the building façade.

(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 development will have no significant adverse environmental, social or economic impacts on the locality.

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

The site is affected by flooding and the plans (as amended) show that both basements are protected by a driveway crest that complies with the 1 in 100 year ARI plus 300mm freeboard and the residential lobbies, similarly, complies with a 500mm freeboard. As agreed with Council, the retail tenancy on the corner of Kent Road and the gymnasium have been lowered to RL 4.26m AHD to provide better activation with Kent Road.

Adequate information has been submitted to demonstrate that the site can be remediated and made suitable for the proposed development. Appropriate conditions have been recommended in the consent for DA-15(215) – Excavation DA for the same site.

The traffic impacts have been considered and are satisfactory. RMS raised no objection to the proposal and has not requested any additional information.

The plans (as amended) have reduced the overall height to comply with the OLS limit of 51m AHD. CASA have raised no objection to the height of the proposed development.

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

These matters have been considered in the assessment of the development application. In accordance with Part 2 Notification & Advertising of the BBDCP 2013, the proposed development was notified to surrounding property owners and advertised in the local newspaper for a period of thirty (30) days from 16 December 2015 to 25 January 2016. One (1) submission was received.

Subsequent to receiving amended plans, the proposed development was re-notified for a period of fourteen (14) days from 9 March 2016 to 23 March 2016. No submissions were received during this period.

The key issues from the submission, received during the first round of notification, are provided in the table below with Council's comment.

Table 11: Key issues of the objection

Objection	Comment
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Objection	Comment
A residential complex, with one child care centre attached, does not meet the true definition of mixed development.	The plans (as amended) have removed the child care centre and instead have included a 58sqm retail tenancy at the corner of Kent Road and the new east-west street. This meets the definition of mixed-use development. A wholly residential development is permitted in the zone.
There is serious concern about the forecast traffic growth, especially the section that halves traffic movements for the child care centre.	<p>As stated above, the plans (as amended) have removed the child care centre and therefore have lessened the car parking requirements applicable to the proposed development.</p> <p>The proposed development complies with the car parking requirements as set out in the ADG.</p> <p>Traffic has been discussed in detail further in the report.</p> <p>The plans and documentation were referred to the NSW RMS for consideration and comment under the provisions of the SEPP. RMS raised no objection to the development application and has provided conditions on the 27 January 2016.</p>

(e) The public interest.

It is considered that the proposed development is in the public interest as it will provide for housing stock within the Mascot Station Town Centre Precinct. It will provide services and employment opportunities through the provision of the retail tenancy, and will provide community benefits in terms of the the new community park located between Buildings B and C.

The proposed development will result in the completion of the new east-west road and the proposed integration with the site to the immediate north (at No. 671-683 Gardeners Road) is intended to provide a 'complete' development across both sites by way of a combined basement, podium and community park, with the northern site providing this area as deep soil.

The draft schedule of conditions includes a requirement for the new community park, privately owned, to register an easement over the top to allow for public access. The new community park will also have to meet the requirements of Council's Public Domain Works to ensure it is integrated with other public spaces within the precinct.

In addition, the new east-west street will be dedicated to Council as public road.

OTHER MATTERS

Internal and External Referrals

The development application was referred to Council's internal and external departments for comment. Appropriate conditions have been recommended to address the relevant issues raised. The following table is a brief summary of the comments raised by each referral department.

Table 12: Internal and external referrals

Referral Agency	Response Date	Comments
External Referrals		
Sydney Airport Corporation Limited (SACL)	4 March 2016	No objection to the erection of this development to a maximum height of 51m AHD. This information has been included in the Schedule of Consent Conditions.
Sydney Water	5 February 2016	Provided comments for Council's consideration. These comments have been included in the Schedule of Consent Conditions.
NSW Office of Water	18 January 2016	General Germs of Approval have been received. Amended plans have been provided to the NSW Office of Water. This development application has been recommended for approval subject to amended GTAs (if applicable) from the NSW Office of Water.
NSW Police	15 March 2016	Email provided with advice to include within the application where Council deem appropriate. The relevant conditions have been included in the Schedule of Consent Conditions.
RMS	27 January 2016	The conditions have been included in the Schedule of Consent Conditions.
Ausgrid	29 January 2016	Email response received requesting that the applicant lodge a Preliminary Enquiry and/or Connection Application. This requirement has been included in the Schedule of Consent Conditions.
Sydney Trains/ Sydney Trains RCMG	25 January 2016	Email received noting that no concurrence is required as the proposal is some distance away from the corridor.
Airport Link	18 December 2015	Any works at depths greater than 5m within 25m of the centreline of the Airport Line Tunnel has the potential to impact on the structural integrity of the Airport Line infrastructure and must require approval of Sydney Trains Rail Corridor Management Group. Note: Council have since referred the application to Sydney Trains RCMG
DRP	-	Held 10 September 2015
Internal Referrals		
Landscape Officer	30 March 2016	Conditions have been incorporated into the Schedule of Consent Conditions.
Tree Preservation Officer (TPO)	27 January 2016	Plans (as amended) have incorporated the comments provided by the TPO.
Development Engineer	29 March 2016	Plans (as amended) have incorporated the initial comments provided by the Development Engineer. Conditions have been incorporated into the Schedule of Consent Conditions.
Flood Engineer	20 January 2016	Plans (as amended) have incorporated the initial comments provided by the Flood Engineer.
Strategic Planning/ Urban Design Officer	16 March 2016	Plans (as amended) have incorporated the initial comments provided by the Strategic Planning Officer.

Referral Agency	Response Date	Comments
		Recommendations have been incorporated as conditions within the Schedule of Consent Conditions.
Environmental Contamination Officer	9 March 2016	Conditions have been incorporated into the Schedule of Consent Conditions.
Environmental Health Officer	14 January 2016	Conditions have been incorporated into the Schedule of Consent Conditions.
Traffic Engineer / Traffic Advisory Committee	22 January 2016 7 March 2016	Request a Sidra Analysis. The applicant has not provided this.

Section 94 Contributions

The s94 contributions pursuant to Council's Section 94 Contributions Plan 2005-2010 and Mascot Station Section 94 Plan are outlined below.

City of Botany Bay Section 94 Contributions Plan 2005-2010

The s94 contributions (as indexed to 2015/2016) are as follows:

Residential

- Community Facilities: \$ 1,047,340.00
- Administration: \$ 31,115.00
- Open Space & Recreation: \$ 933,520.00
- Transport: \$ 400,781.00
- **TOTAL:** **\$ 2,412,756.00**

Commercial/Retail

The development proposes a 58sqm retail tenancy, which works out to be 3 employees. The s94 contributions for the commercial/retail component (as indexed) are as follows:

- Community Facilities: \$1,272.00
- Open Space & Recreation: \$930.00
- Administration: \$162.00
- Shopping Centre Improvements: \$687.00
- **TOTAL:** **\$3,051.00**

The total s94 contribution for the residential and commercial (retail tenancy) under the City of Botany Bay Section 94 Contributions Plan 2005-2010 is **\$2,415,807.00**.

Mascot Station Precinct 94 Contributions Plan

The s94 contributions (as indexed) are as follows:

Residential

The rates within Table 2A have been applied below as the proposed new east-west road, pocket park and new community park are not identified within the s94 Contributions Plan. The s94 contributions (as indexed) are as follows:

- Open Space: \$610,058.36
- Roads and footpath works: \$1,183,629.70
- **TOTAL:** **\$1,793,688.08**

Commercial/Retail

The development proposes a 58sqm retail tenancy, which works out to be 1.45 employees. The s94 contributions for the commercial/retail component (as indexed) are as follows:

- Open Space: \$2,067.00
- Roads and footpath works: \$4,010.00
- **TOTAL:** **\$6,077.00**

The total s94 contribution for the residential and commercial (retail tenancy) under the City of Mascot Station Precinct 94 Contributions Plan is **\$1,799,765.00**.

The total s94 contribution under both plans is \$4,215,572.00 (as indexed and without a credit applied).

City of Botany Bay Section 94 Contributions Plan 2005-2010

Credit

The City of Botany Bay Section 94 Contributions Plan 2005-2010 states that where former industrial or commercial floor space is to be redeveloped for residential purposes or mixed use purposes, a credit may be given for the current use in the calculation of contributions for community facilities and open space based on the number of workers.

There are two buildings that previously existed on the subject site. These are detailed below with the relevant credit applicable:

- Northern Building: 1960's building containing a furniture manufacturing warehouse. DA-06(70) was approved on 22 November 2006 for a change of use of former weaving mill for use for wholesale, warehousing and distribution of office furniture, assembly of office furniture and ancillary office and trade display area under existing use rights and internal fit-out works. The consent allows for a maximum of 22 persons to be employed at the premises.
- Southern Building: 1980's building containing an indoor sports complex. DA-99(585) approved on 24 June 1999 for the conversion of the existing warehouse building to indoor sports facility involving internal alterations. The consent approved a maximum of 2 employees at the premises.

Table 13: Calculation of credit

	Northern Building (furniture)	Southern Building (indoor sports)	Total

	manufacturing warehouse: 22 employees)	complex): 2 employees	
Community Facilities	9,328.00	848.00	10,176
Open Space	6,820.00	620.00	7,440
Total			17,616

A total credit of \$17,616.00 is to be deducted from the s94 contribution payable under the City of Botany Bay Section 94 Contributions Plan 2005-2010.

Mascot Station Precinct 94 Contributions Plan

Credit

The Mascot Station Contributions Plan requires the payment of \$3,183.32 per employee. The credit for both previous uses is calculated as follows:

- Northern Building (furniture manufacturing warehouse): 22 employees @ \$4,190.86 = \$92,199.00;
- Southern Building (indoor sports complex): 2 employees @ @ \$4,190.86 = \$8,382.00.

A total credit of \$100,581.00 is to be deducted from the s94 contribution payable under the Mascot Station Precinct 94 Contributions Plan.

The total s94 contribution payable (provided for under both plans, indexed and including a credit) is \$4,097,375.00.

Land Dedications/Public Benefits

Park and Through Site Link – The application involves a new community park located between Building B and C. This park will be privately owned but has been conditioned to provide an easement over to allow for public access. The treatment of the new community park is to be in accordance with Council's Public Domain Plans. This has formed a condition of consent.

Additional Street – The application involves the creation of the northern portion of the new east-west street which will provide access to the basement of the proposed development.

CONCLUSION

In accordance with Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act, the Application is referred to the the Joint Regional Planning Panel Sydney East Region (JRPP) for determination.

The proposed development has been significantly amended to address issues raised during the assessment process, with the key amendments including an overall reduction in height from 48.86m to 47.2m (and no protrusion into the OLS), and a compliant FSR of 3.2:1.

Other design changes were effected as per Council's request to address flooding, Kent Road activation and increased communal open space. The removal of the proposed child care centre eliminated previous concerns and non-compliances regarding car parking, pick-up/drop-off arrangements, solar access and environmental health.

Due to the removal of the child care centre, the amended plans also increased the number of units from 235 to 239 and car parking from 373 to 391. These increases did not result in any additional non-compliances.

The proposal seeks a 3.2m height variation, comprised of a 2.4m architectural roof feature and 960mm of residential building. A Clause 4.6 Variation which demonstrates that the proposal satisfies the underlying objectives of the height control and that the proposal will result in the orderly and economic development of the site. The Variation to the maximum FSR is considered to be well founded and the variation to the height control is supported by Council in this case.

The final amended plans submitted to the JRPP for determination are considered to address the issues raised by the Council's DRP and Council's request for further information.

The application was the subject of one (1) objection which was received during the first round of notification and the matters have been addressed in the body of the report. No further objections were received during the second round of notification which related to the amended plans.

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*, the *Botany Local Environmental Plan 1995* and the *Botany Bay Local Environmental Plan 2013*. The proposal is permissible in the B4 – Mixed Use zone, and is considered to result in a development which is suitable in the context. It is therefore recommended that the Panel grant approval to the application subject to the conditions in the attached schedule.

5.0 CONDITIONS OF CONSENT

Premises: 1-5 Kent Road, Mascot

DA No: 15/216

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

Drawing No.	Author	Dated Received
Bulk Excavation & Sections and Sediment Control (Drawing No. E-1000-EX, Revision B)	Karimbla Construction Services (NSW) Pty Ltd	Dated 05/04/2016 Received by Council 05/04/2016
Cover Page (Revision S4)	Turner	Received by Council 31/03/2016
Site Plan – Proposed (Drawing No. DA-100-001, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Ground Level (Drawing No. DA-110-000, Revision S3)	Turner	Dated 30/03/2016 Received by Council 31/03/2016
Level 1 (Drawing No. DA-110-001, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Level 1 (Drawing No. DA-110-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Level 3 (Drawing No. DA-110-003, Revision S2)	Turner	Dated 19/02/2013 Received by Council 31/03/2016
Level 4 Podium (Drawing No. DA-110-004, Revision S2)	Turner	Dated 19/02/2016 Received by Council

Drawing No.	Author	Dated Received
		31/03/2016
Level 5-8 Lower Tower (Drawing No. DA-110-005, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Level 9-13 Tower (Drawing No. DA-110-006, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Plant Rooms (Drawing No. DA-110-007, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Roof Plant (Drawing No. DA-110-008, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Basement 1 (Drawing No. DA-110-B01, Revision S3)	Turner	Dated 30/03/2016 Received by Council 31/03/2016
Basement 2 (Drawing No. DA-110-B02, Revision S3)	Turner	Dated 30/03/2016 Received by Council 31/03/2016
North Elevation (Drawing No. DA-250-001, Revision S3)	Turner	Dated 25/02/2016 Received by Council 31/03/2016
East Elevation – Adjoining Boundary (Drawing DA-250-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
South Elevation (Drawing No. DA-250-003, Revision S4)	Turner	Dated 30/03/2016 Received by Council 31/03/2016
West Elevation – Kent Road (drawing No. DA-250-004, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016

Drawing No.	Author	Dated Received
East Elevation – North-South Street (Drawing No. DA-250-005, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
West Elevation – North-South Street (Drawing No. DA-250-006, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Cross Section looking East (Drawing No. 350-001, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Longitudinal Section looking North (drawing DA-350-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Ramp Sections (Drawing Da-350-003, Revision S1)	Turner	Dated 19/02/2016 Received by Council 31/03/2016

Referenced documents

Drawing No.	Author	Dated Received
Stratum Subdivision Plans (Sheets 1-7, Revision A)	Meriton Property Services Pty Ltd	Dated 11/11/2015 Received by Council 13/11/2015
Level & Feature Survey (Drawing No. 20308 B, Sheet 1 of 3, Revision A)	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
Level & Feature Survey (Drawing No. 20308 B, Sheet 2 of 3, Revision A)	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
Level & Feature Survey (Drawing No. 20308 B, Sheet 3 of 3, Revision A)	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015

Drawing No.	Author	Dated Received
Site Survey	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
SEPP 65 Report	Turner	Dated November 2015 Received by Council 13/11/2015
Design Verification Statement	Turner	Dated 13/11/2015 Received by Council 13/11/2015
Apartment Design Guide Workbook for Applicants	Turner	Received by Council 13/11/2015
Statement of Environmental Effects and DCP Assessment Table	Meriton Property Services Pty Ltd	Dated 11/11/2015 Received by Council 13/11/2015
Clause 4.6 Variation	Meriton Property Services Pty Ltd	Received by Council 22/02/2016
Retail and Commercial Needs Analysis	Urbis	Dated February 2016 Received by Council 22/02/2016
Thermal Comfort & BASIX Assessment (Issue A)	Efficient Living	Dated 06/11/2015 Received by Council 13/11/2015
Acoustic Report (Revision 1)	Acoustic Logic	Dated 12/10/2015 Received by Council 13/11/2015
Waste Management Plan	Elephants Foot	Dated 09/11/2015 Received by Council 13/11/2015
Transport Impact Assessment	Arup	Dated 11/11/2015

Drawing No.	Author	Dated Received
		Received by Council 13/11/2015
Transport Impact Assessment Letter (237457)	Arup	Dated 29/01/2016 Received by Council 22/02/2016
Transport Impact Assessment Addendum (Revision A)	Arup	Dated 19/02/2016 Received by Council 22/02/2016
Access Report	Wall to Wall Design & Consulting	Dated 07/11/2015 Received by Council 13/11/2015
BCA Compliance Assessment Report (1423-91, Rev 1)	AED Group	Dated 10/11/2015 Received by Council 13/11/2015
Aeronautical Impact Assessment (J0422)	The Ambidji Group Pty Ltd	Dated 16/10/2015 Received by Council 13/11/2015
Arboricultural Assessment Report	Tree and Landscape Consultants (TALC)	Dated 10/11/2015 Received by Council 13/11/2015
Construction Management Plan	Meriton Property Services Pty Ltd	Dated October 2015 Received by Council 13/11/2015
Construction Traffic Management Plan (Ref: SBMG1151-11)	SBMG	Dated 15/10/2015 Received by Council 13/11/2015
Civil Works Drawings (Drawing No. DAC01, 02, 05, 10, 15, 20, 30, 35, 40, 41, 60, 61, Issue A)	at&l	Dated 11/11/2015 Received by Council 22/02/2016
Sediment and Erosion Control Details (Drawing	At&l	Dated 11/11/2015

Drawing No.	Author	Dated Received
No. DAC41, Issue A)		Received by Council 13/11/2015
Environmental Site Assessment	Coffey	Dated 23/09/2014 Received by Council 13/11/2015
Geotechnical Site Investigation	Coffey	Dated 19/09/2014 Received by Council 13/11/2015
Groundwater Management Plan	Coffey	Dated 25/02/2016 Received by Council 22/02/2016
Flood Report	Calibre Consulting	Dated 12/10/2015 Received by Council 13/11/2015
Qualitative Wind Impact Assessment (Revision 0)	SLR	Dated 04/11/2015 Received by Council 13/11/2015
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 12/10/2015 Received by Council 13/11/2015
QS Report	Steven Wehbe	Dated 15/10/2015 Received by Council 13/11/2015
Landscape Plan – Cover Sheet (Drawing No. L-001, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Ground Level Streetscape (Drawing No. L-101, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Ground Level Courtyard (Drawing No.	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by

Drawing No.	Author	Dated Received
L-102, Issue C)		Council 22/02/2016
Landscape Plan – Level 4 Podium (Drawing No. L104, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Level 1 Courtyard (Drawing No. L103, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Level 4 Podium Courtyard 2 (Drawing No. L105, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Site Plan – Existing (Drawing No. DA-100-000, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Site Analysis Plan (Drawing No. DA-100-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Demolition Plan (Drawing No. DA-101-001, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
GFA Diagrams (Drawing No. DA-710-000, Revision S3)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 9am (Drawing No. DA-720-001, Revision S2)	Turner	Dated 20/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 12pm (Drawing No. DA-720-002, Revision S2)	Turner	Dated 20/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 3pm (Drawing No. DA-720-003, Revision S2)	Turner	Dated 20/11/2015 Received by Council

Drawing No.	Author	Dated Received
		31/03/2016
Shadow Diagrams, Site Plans Winter Solstice (Drawing No. DA-720-004, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Site Plans Spring Equinox (Drawing No. DA-720-005, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 10am (Drawing No. DA-720-006, Revision S1)	Turner	Dated 20/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 11am (Drawing No. DA-720-007, Revision S1)	Turner	Dated 20/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 1pm (Drawing No. DA-720-008, Revision S1)	Turner	Dated 20/11/2015 Received by Council 31/03/2016
Shadow Diagrams, Winter Solstice 2pm (Drawing No. DA-720-009, Revision S1)	Turner	Dated 20/11/2015 Received by Council 31/03/2016
Shadow Diagrams Gardeners Road Winter Solstice 9am & 10am (Drawing No. DA-720- 010, Revision S1)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Shadow Diagrams Gardeners Road Winter Solstice 11am & 12pm (Drawing No. DA-720- 011, Revision S1)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Shadow Diagrams Gardeners Road Winter Solstice 1pm & 2pm (Drawing No. DA-720- 012, Revision S1)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Shadow Diagrams Gardeners Road Winter Solstice 3pm (Drawing No. DA-720-013, Revision S1)	Turner	Dated 19/02/2016 Received by Council 31/03/2016

Drawing No.	Author	Dated Received
Solar Amenity Ground Level – L5 (Drawing No. DA-721-000, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Solar Amenity 6 – L11 (Drawing No. DA-721-001, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Solar Amenity L12 – L13 (Drawing No. DA-721-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Cross Ventilation Ground Level – L5 (Drawing No. DA-722-000, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Cross Ventilation 12 – L13 (Drawing No. DA-722-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Calculations (Drawing No. DA-723-000, Revision A)	Turner	Dated 30/03/2016 Received by Council 31/03/2016
Supplementary Drawings Adaptable Apartments (Drawing No. DA-813-000, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
Proposed Envelopes for Northern site (Drawings SK001 - 5, Revision A)	Turner	Dated 19/02/2016 Received by Council 22/02/2016
Materials and Finishes (Drawing No. DA-910-001, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
Photomontage – View from South West – Kent Road (Drawing No. DA-920-001, Revision S1)	Turner	Dated 09/11/2015 Received by Council 31/03/2016
Photomontage – View from	Turner	Dated 09/11/2015

Drawing No.	Author	Dated Received
North West – Kent Road (Drawing No. DA-920-002, Revision S1)		Received by Council 31/03/2016
Photomontage – View West at New Street Junction (Drawing No. DA-920-003, Revision S1)	Turner	Dated 09/11/2015 Received by Council 31/03/2016
8.00 Apartment Schedule (Revision 5)	Turner	Dated 31/03/2016 Received by Council 31/03/2016

- 2 No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.
- 3 This Consent relates to land in Lot 30 on DP 789177 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 4 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.
- 5 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 6 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the each building in the development are fulfilled.
 - (a) Note:

Relevant BASIX Certificate means:

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

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

7 The following condition is imposed by **Ausgrid** and is to be complied with:

Ausgrid has identified the following assets to be affected by the development works:

Close proximity of overhead and/or underground cable/s on public land.

The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (e.g. whether a substation is required on site). In general, works to be considered by Ausgrid include, but are not limited to, the following

- a) Changes in electrical load requirements
- b) Changes to Ausgrid's infrastructure (i.e. asset relocations, decommissioning substations etc.)
- c) Works affecting Ausgrid's easements, leases and/ or right of ways
- d) Changing the gradients of any roads or paths
- e) Changing the level of roads or foot paths
- f) Widening or narrowing of roads
- g) Closing roads or laneways to vehicles
- h) Land subsidence and vibration impact on Ausgrid assets as a result of excavation / reinforcement activities
- i) In all cases Ausgrid is to have 24 hour access to all its assets.

Any work undertaken near Overhead Power lines needs to be done in accordance with:

- a) Workcover Document ISSC 23 "Working Near Overhead Power Lines"
- b) Ausgrid's Network Standards;
- c) Ausgrid's Electrical Safety Rules.

The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.

- 8 The following conditions are imposed by **Sydney Water** and is to be complied with:

Water

- (a) A drinking water extension will be required off the proposed 200mm main (to replace part of the existing 150mm main) located at the intersection of Kent Road and Church Street.
- (b) An accredited WSC/Designer will need to ensure that the submitted design is sized and configured according to the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012). Evidence of Code compliance should be attached with the design.
- (c) Detailed drinking water requirements will be provided at the Section 73 application phase.

- 9 Wastewater

- (a) An extension of the wastewater system will be required from the existing 225mm main located in Kent Road which will provide a point of connection at least 1 m inside all the proposed lot boundaries.
- (b) An accredited Hydraulic Designer will be engaged by the developer to ensure that the proposed wastewater infrastructure for this development will be sized & configured according to the Sewerage Code of Australia WSA 02-2002-2.2 (Sydney Water Edition 1 - Version 3). Evidence of Code compliance should be attached with the design.
- (c) Detailed wastewater requirements will be provided at the Section 73 application phase.

Sydney Water E-Planning

- 10 Sydney Water has an email address for planning authorities to submit statutory or strategic planning documents for review. This email address is surbangrowth@sydneywater.com.au. Further advice and requirements for this proposal are at attachments 1 and 2 (overleaf). If you require any further information, please contact Beau Reid of Urban Growth Strategy on 02 8849 4357 or e-mail beau.reid@sydneywater.com.au

Further advice and requirements for this proposal are at attachments 1 and 2 (overleaf). If you require any further information, please contact Beau Reid of Urban Growth Strategy on 02 8849 4357 or e-mail beau.reid@sydneywater.com.au

11 Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. Make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing> Developing Land development or telephone 13 20 92.

12 Building Plan Approval

You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see Plumbing, building and developing> then Building over or next to assets).

13 Requirements for Business Customers for Commercial and Industrial Property Developments

If this property is to be developed for Industrial or Commercial operations, it may need to meet the following requirements:

Trade Wastewater Requirements

If this development is going to generate trade wastewater, the property owner must submit an application requesting permission to discharge trade wastewater to Sydney Water's sewerage system. You must wait for approval of this permit before any business activities can commence.

The permit application should be emailed to Sydney Water's Business Customer Services at

businesscustomers@sydneywater.com.au. It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

A Boundary Trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment.

If the property development is for Industrial operations, the wastewater may discharge into a sewerage area that is subject to wastewater reuse. Find out from Business Customer Services if this is applicable to your development.

14 Backflow Prevention Requirements

Backflow is when there is unintentional flow of water in the wrong direction from a potentially polluted source into the drinking water supply.

All properties connected to Sydney Water's supply must install a testable Backflow Prevention Containment Device appropriate to the property's hazard rating. Property with a high or medium hazard rating must have the backflow prevention containment device tested annually. Properties identified as having a low hazard rating must install a non-testable device, as a minimum.

Separate hydrant and sprinkler fire services on non-residential properties, require the installation of a testable double check detector assembly. The device is to be located at the boundary of the property.

Before you install a backflow prevention device:

- Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.
- Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300889099.

For installation you will need to engage a licensed plumber with backflow accreditation who can be found on the Sydney Water website: <http://www.sydneywater.com.au/Plumbing/BackflowPrevention/>

15 Water Efficiency Recommendations

Water is our most precious resource and every customer can play a role in its conservation. By working together with Sydney Water, business customers are able to reduce their water consumption. This will help your business save money, improve productivity and protect the environment.

Some water efficiency measures that can be easily implemented in your business are:

- Install water efficiency fixtures to help increase your water efficiency, refer to WELS
(Water Efficiency Labelling and Standards (WELS) Scheme, <http://www.waterrating.gov.au/>)
- Consider installing rainwater tanks to capture rainwater runoff, and reusing it, where cost effective. Refer to <http://www.sydneywater.com.au/Water4Life/InYourBusiness/RWTCalculator.cfm>
- Install water-monitoring devices on your meter to identify water usage patterns and leaks.
- Develop a water efficiency plan for your business.

It is cheaper to install water efficiency appliances while you are developing than retrofitting them later.

16 Contingency Plan Recommendations

Under Sydney Water's customer contract Sydney Water aims to provide Business Customers with a continuous supply of clean water at a minimum pressure of 15 meters head at the main tap. This is equivalent to 146.8kpa or 21.29psi to meet reasonable business usage needs.

Sometimes Sydney Water may need to interrupt, postpone or limit the supply of water services to your property for maintenance or other reasons. These interruptions can be planned or unplanned.

Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority.

The following conditions are imposed by the **NSW Roads and Maritime Service**

- 17 Roads and Maritime has previously resumed and dedicated a strip of land as road along the Kent Road frontage of the subject property, as shown by grey colour on the attached Aerial- "X" (see Annexure B to the conditions).

Therefore, all buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Kent Road boundary.

- 18 The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

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

The report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.
Telephone 8849 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. The notice is to include complete details of the work.

- 19 The redundant driveways on Kent Road shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Kent

Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 88492138).

Detailed design plans of the proposed kerb and gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

- 20 Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:
The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 88492766

- 21 The proposed development should be designed such that road traffic noise from Kent Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.
- 22 The developer shall be responsible for all public utility adjustment/relocation works necessitated by the above work and as required by the various public utility authorities and/or their agents.
- 23 Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclist travelling along the footpath of Kent Road.
- 24 A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Kent Road during construction activities.
- 25 All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Kent Road.
- 26 All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.
- 27 The following conditions are imposed by the **Sydney Airport Corporation Limited** (SACL) and must be complied with:

- (a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
- (b) The application sought approval for the property development to a height of 51.0 metres Australian Height Datum (AHD).
- (c) In the capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, the Airfield Design Manager has no objection to the erection of this development to a maximum height of 51.0 metres AHD. Should you wish to exceed this height a new application must be submitted.
- (d) Should the height of any temporary structure and/or equipment be greater than 15.24 metres 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. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- (f) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)). The height of the prescribed airspace at this location is 51 metres above AHD.
- (g) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)). The height of the prescribed airspace at this location is 51 metres above AHD.
- (h) Planning for Aircraft Noise and Public Safety Zones: Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF). Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.
- (a) Application for Approval of Crane Operation

- (i) Pursuant to s. 183 of the Airports Act 1996 and Reg 7 of the Airports (Protection of Airspace) Regulations 1996, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("controlled activity") set out in the Schedule.
- (ii) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
- (iii) The operation must not commence without approval, and must only proceed in compliance with any conditions imposed on such approval.
- (iv) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
- (v) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
- (vi) The Secretary and the Airport, as applicable, may request further information before determining an application.
- (vii) The "Important Notes" must be read and accepted.
- (viii) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY EXCAVATION OR BUILDING WORKS

- 28 Prior to the issue of the construction certificate a contractual arrangement shall be entered into with the owner/s of 689-669 Gardeners Road, Mascot, to relinquish the right-of-way from Gardeners Road to the site at 1-5 Kent Road in accordance with Condition No. 86 of DA-13/135. This condition does not remove any of the requirements at Condition No. 86(a) and (b) of DA-13/135.
- 29 The applicant must prior to the issue of the Construction Certificate, pay the following fees:
- | | | |
|-----|------------------------------|---------------------------------|
| (a) | Development Control | \$2,890.00 |
| (b) | Waste Levy | \$12,391.20; |
| (c) | Builders Security Deposit | \$157,500.00 (Condition No. 30) |
| (d) | Street Tree Maintenance Bond | \$10,000.00 (Condition No. 33) |
- 30 Prior to the issue of any commencement of any excavation or building works, the applicant shall lodge a Damage Deposit of **\$157,500.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded

subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupation Certificate has been issued.

- 31 Prior to the issue of a construction certificate for excavation, 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 and excavation if necessary to determine the position and level of services,
 - (b) Negotiate with the utility authorities (e.g. AusGrid, Sydney Water, 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.
- 32 Prior to commencement of any works, 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.
- 33 The applicant is to submit payment of a Street Tree Maintenance Bond of \$10,000.00. The duration of the Bond shall be limited to a period of 24 months after final inspection of new street trees by Council. At the completion of the 24 month period the Bond shall be refunded pending a satisfactory inspection of the trees by Council. If any tree is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work.
- 34 Prior to the commencement of excavation or any building works, 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.
- 35 Prior to the commencement of any excavation or building works, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other

Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

36 A Construction Management Program shall be submitted to, and approved in writing by the Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:

- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
- (b) The proposed phases of construction works on the site and the expected duration of each construction phase,
- (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
- (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
- (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- (f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- (g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- (h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- (i) Proposed protection for Council and adjoining properties, and
- (j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

- (k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- 37 A detailed Traffic Management Plan for the pedestrian and traffic management of the site during the proposed works shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. 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) during construction, if access from Kent Road is required, the applicant is to submit documentary evidence to the Principal Certifying Authority that the required Section 138 Consent under the Roads Act, 1993 has been issued by the New South Wales Roads and Maritime Services, and
 - (d) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

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.

- 38 Prior to the commencement of any excavation or building works, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.

Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

- 39 A Stage 3 – Remedial Action Plan (RAP) shall be prepared by a suitably qualified and experienced contaminated land consultant and shall be in accordance with:
- (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - (b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997; and
 - (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The RAP shall incorporate all findings and recommendations in the Environmental Site Assessment by Coffey dated 23 September 2014 for the site, it shall clearly state proposed cleanup objectives, and demonstrate how the site can be made suitable for the proposed use.

The RAP shall be submitted to Council prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP.

40 In accordance with SEPP 55, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.

41 A Site Audit Statement will be required for this site. To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse the any additional investigation and remediation proposed prior to the commencement of any works.

Evidence of this appointment shall be provided to council prior to the issue of any construction certificate.

42 The applicant shall provide Council with a 24 hour contact number for the manager of the remediation works prior to the commencement of any works at the site.

43 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.

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.

44 The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.

45 Shaker pads and a wheel washer are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.

46 The proposed development shall comply with the following:

(a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- (i) Stating that unauthorised entry to the work site is prohibited;
 - (ii) 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;
 - (iii) The Development Approval number; and
 - (iv) The name of the Principal Certifying Authority including an afterhours contact telephone number.
 - (b) Any such sign is to be removed when the work has been completed.
- 47 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- (a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - (b) Each toilet provided:
 - (i) must be standard flushing toilet; and,
 - (ii) must be connected:
 - (iii) to a public sewer; or
 - (iv) if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - (v) if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - (c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 48 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.
- 49 Prior to the commencement of any demolition, excavation or remediation works, the applicant must inform Council, in writing, of:
- (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - (b) The name and permit number of the owner-builder who intends to do the work;
 - (c) The Council also must be informed if: -

- (i) A contract is entered into for the work to be done by a different licensee; or
- (ii) Arrangements for the doing of the work are otherwise changed.

50 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993, where relevant: -

It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.

- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
- (b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
- (c) Permit to install temporary ground anchors in public land,
- (d) Permit to discharge ground water to Council's stormwater drainage system,
- (e) Permit for roads and footways occupancy (long term/ short term),
- (f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
- (g) 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,
- (h) Permit to place skip/waste bin on footpath and/or nature strip, and
- (i) Permit to use any part of Council's road reserve or other Council lands.

51 Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practicing engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.

52 In order to ensure that tree #9, tree #10 and tree#11 at the north west of the site along Kent Road, together with two (2) Harpulia pendula trees and four (4) Casuarina trees within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street are retained and protected during construction, and their health and structural stability ensured, the following is required:

- (a) The six (6) existing retained trees (2 x *Harpulia pendula* and 4 x *Casuarina*) within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street shall be shown on all plans.
- (b) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
- (c) All tree works and tree management shall be undertaken in accordance with the Arborist report by Tree and Landscape Consultants (TALC) (dated 10th November 2015). For all tree root and canopy work to trees, comply with the recommendations and requirements and management plan contained within this report.
- (d) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.
- (e) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.
- (f) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
- (g) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
- (h) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- (i) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
- (j) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.

- (k) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
 - (l) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
 - (m) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
 - (n) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
 - (o) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained, including the Council Street tree on the southern corner of Church Avenue and Kent Road. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.
 - (p) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.
 - (q) If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.
- 53 The Applicant has permission to remove trees Tree #1, Tree #2, Tree #3, Tree #4, Tree #5, Tree #6, Tree #7 and Tree #8 as identified by the Consultant Arborist in the report by Tree and Landscape Consultants (TALC) (dated 10th November 2015).
- 54 Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:
- (a) A qualified Arborist with their own public liability insurance must be engaged.
 - (b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access

otherwise road and footpath closures require a Council Road Occupancy Permit.

- (c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.

Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.

- 55 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- (a) The Erosion and Sediment Control Plan;
- (b) “Managing Urban Stormwater - Soils and Construction” (2004) Landcom (‘The Blue Book’); and
- (c) Protection of the Environment Operations Act 1997.

- 56 Prior to the commencement of any works, the applicant must inform Council, in writing, of:

- (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
- (b) The name and permit number of the owner-builder who intends to do the work;
- (c) The Council also must be informed if: -
 - (i) A contract is entered into for the work to be done by a different licensee; or
 - (ii) Arrangements for the doing of the work are otherwise changed.

CONDITIONS WHICH MUST BE SATISFIED AT THE COMPLETION OF EXCAVATION WORKS

- 57 An assessment of the status of asbestos in soil at the site shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

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

The validation report shall provide a notice of completion of any required remediation works identified during the additional assessment of asbestos in soils at the site

required prior to the issue of the construction certificate and commencement of works on the site, and include a clear statement on the suitability of the site for residential use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works.

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

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

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

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

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

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

The following conditions shall be satisfied prior to the issue of the relevant construction certificate unless otherwise stated

60 Prior to the issue of the Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Certifying Authority and Council for approval.

The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council’s Development Control Plan ‘Stormwater Management Technical Guidelines’, AS/NSZ 3500 –

Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.

The plans shall incorporate but not be limited to the following:

- (a) Provision of an On-site Detention system (OSD) in accordance with but not limited to Part 6 of the SMTG,
- (b) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the “State of Nature” condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
- (c) Stormwater discharge to Council/RMS Kerb & Gutter shall be limited to a single outlet with maximum capacity of 10L/s. If greater discharge rate is proposed (up to the maximum discharge rate stated in the point above), the a direct connection to Council/RMS pit and pipe system is required,
- (d) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of Botany Bay’s SMTG,
- (e) The rainwater tank size shall be designed based on a supply/demand management approach. In addition, please note that in order to contribute to environmental sustainability and apply Water Sensitive Urban Design (WSUD) principles, consideration can be given to offset the storage requirements of the onsite detention system provided that the rainwater tank for reuse and all downpipes are connected to the rainwater tank. The volume to be offset from the onsite detention system is equivalent to 50% of the size of the rainwater tank(s),
- (f) 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,
- (g) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- (h) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
- (i) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay’s SMTG,
- (j) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- (k) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line

with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and

- (l) The submission of detailed calculations including computer modelling where required to support the proposal.

- 61 The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans, a contribution of **\$4,097,375.00** is payable as calculated below:

City of Botany Bay Section 94 Contributions Plan 2005-2010

The s94 contributions (as indexed as at 2015/16) for residential and commercial/retail are as follows (including application of credit):

a) Community Facilities:	\$ 1,038,436.00
b) Administration:	\$ 31,277.00
c) Open Space & Recreation:	\$ 927,010.00
d) Transport:	\$ 400,781
e) Shopping Centre Improvements:	\$687.00
f) TOTAL:	\$ 2,398,191.00

Mascot Station Precinct 94 Contributions Plan

The s94 contributions (as indexed as at 2015/16) for residential and commercial/retail (including application of credit) is: **\$1,699,184.00**.

The total Section 94 Contribution of **\$4,097,375.00** is to be paid to Council prior to the issue of the Construction Certificate for above ground works.

Note: The Section 94 Contributions 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.

- 62 Prior to the issue of the Construction Certificate for above ground works, the applicant shall submit amended plans to Council for approval, showing the following:
- (a) At least one car parking space allocated to the retail component;
 - (b) An awning over the ramp (along Kent Road) and outdoor seating area of the retail tenancy;

- (c) Studys not enclosed with walls or a door. Note: Should a freestanding study alcove be provided the height of the walls enclosing the study are to be a maximum of 1500mm;
 - (d) Internal reconfiguration of the 2 and 3 bedroom apartments to indicate a study nook/ area or indicate that a desk can be comfortably accommodated within the open-plan living area (Part 4C.4.2, Control 2 of the BBDCP 2013);
 - (e) Internal reconfiguration of the 2 and 3 bedroom apartments to provide an open storage area within/close to, the entry way of the apartment (Part 4C.4.2, Control 7 of the BBDCP 2013) and be in addition to storage in kitchens, bathrooms and bedrooms;
 - (f) The balcony size of U202 is at least 10sqm;
 - (g) Internal reconfiguration of Apartment UG01 to provide at least an additional 1m³ of storage within the apartment in order to comply with the total minimum requirement of storage of 5m³ (to be provided within the apartment);
 - (h) The bottom half of the gymnasium glass fronting Kent Road as frosted glass up to a maximum height of 1.2m;
 - (i) Hose taps and gas outlets on all balconies;
 - (j) All balconies to be provided with a minimum of 2 operable louvre sliding screens with a minimum width of 800mm; and
 - (k) The location of mailboxes within the lobby of each building are to be identified on the amended plans.
- 63 Storage cages located in car parking areas are to be provided with a perforated roof/ceiling that is located a minimum of 500mm away from any sprinkler heads. This will ensure compliance with Part E1.5 of the BCA & Australian Standard 2118 is maintained. Details are to be submitted to the certifying authority for approval prior to the issue of a Construction Certificate.
- 64 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the above ground Construction Certificate. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
- 65 Prior to the issue of the Construction Certificate for above ground works, the plans and specification including sections information showing compliance with the following requirements are to be submitted to and approved by Council in relation to passenger vehicles

- (a) All driveways/access ramps/vehicular crossings conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
 - (b) Longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 66 Prior to the release of the Construction Certificate, the plans and specification including sections showing the following are to be submitted to and approved by Council in relation to garbage truck access:
- (a) All driveways/access ramps/vehicular crossings conform with Australian Standards AS 2890.2 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines;
 - (b) All service vehicles shall enter the property front in front out;
 - (c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck;
 - (d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - (e) A longitudinal section plotting headroom clearance above driveway access. .
- 67 Prior to the release of the Construction Certificate for above ground works, plans and specifications including section are required to be submitted to and approved by Council:
- (a) Disabled car parking spaces shall be provided and clearly marked as per the Transport Impact Assessment, by ARUP, dated 19 February 2016, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - (b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
- 68 The drawings for the construction certificate for the basement car park shall show the following parking requirements:

Car Parking Rates	Required
0.6 space / 1 bed unit	30 spaces
0.9 space / bed unit	83 spaces

Car Parking Rates	Required
1.4 space / bed unit	136
1 visitor space / 7 dwellings	35 spaces
Retail Spaces	4
TOTAL REQUIRED	288
TOTAL PROVIDED	371

Any excess parking is to be allocated to an apartment or the retail tenancy.

- 69 Prior to the issue of the Construction Certificate for above ground works, an amended Qualitative Wind Assessment Report is to be submitted to Council modelling the proposed development within the current DA approved context of the immediately surrounding area. Any recommendations from the amended Qualitative Wind Assessment Report are to be incorporated into the design in order to ensure compliance with Council's maximum wind criteria (as set out at Part 9A.4.5.4 Wind Mitigation, Control C1): as follows:

- (a) 10 metres/second along commercial/retail streets;
- (b) 13 metres/second along main pedestrian streets, parks and public places; and
- (c) 16 metres/second in all other streets.

- 70 The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.

The measures required in the acoustical assessment report prepared by **Acoustic Logic, dated 12/10/2015, Report reference number 20141049.1 R1** shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.

The work detailed in the report includes:

- (a) Appropriate acoustic glazing to stated windows and doors,
- (b) Detailed roof and ceiling construction,
- (c) Wall and ceiling corner details and,
- (d) External door specification,

- (e) Acoustically treated mechanical ventilation.

Note: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner.

- 71 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 Certifying Authority prior to the issue of the Construction Certificate and its location and specifications endorsed on the construction drawings.
- 72 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.
- 73 The private domain landscape areas shown on the plan by Context, Plans L01 to L105 (Issue D, dated 19th February 2016) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to issue of the onstruction certificate for above ground works. The landscape documentation is to be prepared by Context Landscape Architects and shall include, but not be limited to:
- (a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
 - (b) Canopy trees are required to be incorporated within the landscape setback along Kent Road frontage and New East West Street frontage.
 - (c) Canopy trees are to be used extensively within the community park at the north of the new North South Street. Planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with DCP Part 10 Part 4.6.
 - (d) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees.
 - (e) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the development that is appropriate to the scale of the building heights.
 - (f) Indicate the location of all basement structures relative to the landscape areas.
 - (g) The six (6) existing retained trees (2 x *Harpulia pendula* and 4 x *Casuarina*) within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street shall be shown on all plans.
 - (h) Barbeque facilities to be incorporated within the Level 4 Podium Courtyard 1.

- (i) Within the new community park at the northern end of New North South Street, areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- (j) The car park vent, which protrudes at the podium level, to be adequately screened from the view of surrounding apartments.

74 A detailed public domain landscape plan shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to the issue of the Construction Certificate for above ground works. The applicant shall meet with Council prior to any submission to discuss Council's requirements. Following this, detailed landscape construction documentation (plans and specifications) must be submitted to and approved by the City of Botany Bay Council Landscape Architect. The landscape documentation is to be prepared by Context Landscape Architects and shall include, but not be limited to:

- (a) The clear delineation of all public domain areas as follows:
 - (i) Kent Road, New East West Street footpath areas
 - (ii) The public park located at the western end of New East-West Street
- (b) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
- (c) Street trees are required along Kent Road, the new East West Street, and within the community park north of new North South Street.
- (d) All street trees are to be in tree pits that are at grade with the footpath.
- (e) All deep soil areas are to include evergreen canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration comparable to the scale of the buildings.
- (f) Canopy trees are to be used extensively within the community park at the north of the new North South Street. Planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with Councils DCP (Part 10 Part 4.6).
- (g) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking. Canopy trees are to be a minimum litreage of 200 litres and street trees 400 litre.
- (h) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictors, tree pits, tree grates, tree guards, tree pit treatments and so on in accordance with Council's Draft Public Domain specifications.

- (i) New in road blister islands between parking bays are to be incorporated along New East-West Street. The blister islands shall be of adequate dimensions for the required street tree and are to function as WSUD pits to capture and filter storm water. Full detailing is required.
- (j) Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. This includes areas within the new community park at the northern end of New North South Street. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- (k) Details of all fencing, privacy screening, arbors and the like – elevations and materials, impacting or visible to public domain areas.
- (l) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, playground and recreational equipment, water features and water stations, bins, bollards, public toilets, signage suite. Locations to be clearly identified on plan. Provide sectional construction details and elevations.
- (m) Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
- (n) A detailed public art proposal.
- (o) A way finding signage proposal.
- (p) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP (Part 10 Part 4.6) and capable of supporting medium and large canopy trees.
- (q) Trees are to be used extensively throughout the site and shall be of an appropriate scale to complement and ameliorate buildings and for appropriate scaling within pedestrian areas – footpaths and open spaces. Deep soil zones must include larger trees. Trees are to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration.
- (r) Indicate the location of all basement structures relative to the landscape areas.
- (s) The six (6) existing retained trees (2 x *Harpulia pendula* and 4 x *Casuarina*) within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street shall be shown on all plans.
- (t) The Ausgrid lighting poles along Kent Road, will need to be decommissioned and new lighting poles shall be constructed satisfying V3 lighting requirements for Kent Road and any other requirements as specified by Council, RMS and any other service provider,
- (u) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and

- (v) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council. 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.

DURING WORKS

- 75 An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) 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. The 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 regular and ongoing maintenance is required.
- 76 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas, inclusive of the street tree pits in Kent Road, New East West Street. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. 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.
- 77 The public footpaths in Kent Road, New East West Street and in the new community park shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
- 78 New street trees at the pot size specified shall be installed in the accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.
- 79 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - (a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. 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 join 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.
- 80 Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
- 81 During Construction, the applicant must ensure compliance with the SWMP, CMP and CTMP.
- 82 During 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 demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made 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.
- 83 During Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas.
- 84 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Construction Traffic Management Plan and Construction Management Plan at all times.
- 85 Any new information that comes to light during works which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination

- in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 86 The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Preliminary Acid Sulfate Soils Management Plan (Consulting Earth Scientists, 2015, or as updated and submitted to council).
- 87 For any water from site dewatering is to be managed in accordance with the Groundwater Management Plan (Coffey, 25 February 2016, or as updated and submitted to council).
- 88 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 89 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill (should this be required) shall be appropriately certified material and shall be validated in accordance with the:
- (f) Office of Environment and Heritage (OEH) approved guidelines; and
 - (g) Protection of the Environment Operations Act 1997; and
 - (h) Protection of the Environment Operations (Waste) Regulation 2014.
 - (i) All 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.
- 90 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- (j) The Erosion and Sediment Control Plan;
 - (k) “Managing Urban Stormwater - Soils and Construction” (2004) Landcom (“The Blue Book”); and
 - (l) Protection of the Environment Operations Act 1997.
- 91 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 construction works.
- 92 Throughout the construction period, Council’s warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council’s Customer Service Counter.
- 93 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.

- 94 Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
- 95 The following shall be complied with during construction and demolition:
- (m) 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.
 - (n) 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 20dB(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).
 - (o) Time Restrictions
 - (i) Monday to Friday 07:00am to 05:00pm
 - (ii) Saturday 08:00am to 01:00pm
 - (iii) No demolition or construction to take place on Sundays or Public Holidays.
 - (p) Silencing
 - (i) All possible steps should be taken to silence construction site equipment.
- 96 During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
- 97 During excavation 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.

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

- 98 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to any use or occupation of the premises. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 99 Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
- 100 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Kent Road, and all the new stormwater drainage lines constructed on new East-West Street and Kent Road.
- (a) The camera and its operation shall comply with the following:
 - (b) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
 - (c) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
 - (d) Distance from the manholes shall be accurately measured, and
 - (e) The inspection survey shall be conducted from manhole to manhole.
 - (f) The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council for review. Any damage to the culvert/pipeline since the commencement of construction on the site shall be repaired in full to the satisfaction of Council. A written acknowledgement shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.
- 101 Prior to the issue of the Occupation Certificates, 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 all relevant standards.
- 102 Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
- (a) On Kent Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council and RMS

Infrastructure Specifications. Location of kerb & gutter to be confirmed with RMS and Council prior to construction,

- (b) On Kent Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications,
 - (c) Construct new east-west road as per civil engineering design provided by Council, in accordance with Council Infrastructure specifications and with the written approval by Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer.
- 103 Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
- 104 Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- (a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
 - (b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.

- 105 Prior to the issue of any Occupation Certificate, the following is to be complied with:
- (a) Dedicate to Council and at no expense to the Council and generally in accordance with the draft Subdivision Plan ref. no. 20974 by B & P Surveys, dated 11 November 2015 and the following:
 - (i) Along the southern boundary, dedicate a 9.0metre wide portion of land to Council for the purpose of constructing a new East-West Road. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The draft Plan of Dedication shall be lodged with Council for approval. The proposed new road shall be unlimited in stratum. Once approval from Council is granted, the plan shall be registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes, and

- (ii) Over the proposed North-South oriented community park, register a new 16.6 wide “Easement for Public Access”. The draft plan of easement shall be lodged with Council for approval. The proposed new easement shall be limited in stratum. Once approval from Council is granted, the plan shall be registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes.

106

- (a) The Stratum and Strata subdivision of the development shall be the subject of a further Development Application to Council; and
- (b) The subdivision application must be accompanied by a formal copy of the by-laws which shall be in accordance with the plans and documentation approved under this Consent and must also include the following:
 - (i) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 15/216.
 - (ii) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 15/216.
 - (iii) Responsibilities regarding the maintenance of the car wash bay by the Owners Corporation / building owner.
 - (iv) Responsibilities for ensuring owners and/or tenants have adequate and hygienic disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times in accordance with a Plan of Management.
 - (v) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997.
 - (vi) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.
 - (vii) The linen plan must include details of 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;

- (viii) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
 - (ix) 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;
 - (x) Maintenance of required acoustic measures of Development Consent No. 15/216; and
 - (xi) CCTV surveillance of all public areas within the development site.
- 107 That before entering a lease/occupancy agreement, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
- 108 Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a notice board in the communal room, where it can easily be observed and read by persons entering the building
- 109 Prior to release of the Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 110 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.
- 111 Prior to the issue of the Occupation Certificate, 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.
- 112 Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
- (a) All reduced levels shown upon the approved plans, with relation to the required solar panels, drainage, boundary and road reserve levels, have been strictly adhered to; and

- (b) A Floor Space Ratio (FSR) of 3.2:1 and height of 51m AHD (47.2m) as approved under this Development Consent No. 15/216, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
- (c) The development as built, stands within Lot 30 in DP 789177.
- 113 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.
- 114 Any damage not shown in the photographic survey as required under Condition No. 35 of Development Consent DA-15/215 (submitted to Council before excavation works have commenced), will be assumed to have been caused as a result of the site works undertaken as part of DA-15/215 or DA-15/216 and must be rectified at the applicant's expense, prior to the issue of the Occupation Certificate.
- 115 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 and installed in a manner not be inconsistent with the relevant provisions of the Building Code of Australia (BCA).
- 116 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.
- 117 Landscaping on the property and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. This amended plan supersedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
- 118 The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$50,000.00 after practical completion of landscape works within all public domain areas, to ensure establishment and maintenance of the landscaping in accordance with the approved plans until handover to Council. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years. The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan. The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the

preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

- 119 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.

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

- 120 The use of the retail tenancy is subject to a separate approval (DA or complying development certificate).
- 121 The proposal for any new application over the site at No. 671-683 Gardeners Road is to comply with the relevant plans and policies including, but not limited to the controls outlined in the SEPP 65 – ADG, BBLEP 2013 and BBDCP 2013. If a combined podium and basement access is proposed with the development at No. 1-5 Kent Road, then discussions are to be held with Council prior to lodgement and an appropriate s96 application to modify 1-5 Kent Road is to be lodged in conjunction with any new application over No. 671-683 Gardeners Road.
- 122 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.
- 123 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
- 124 Ongoing maintenance of the road verges and footpaths and nature strips in Kent Road and the new East-West Street shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
- 125 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.
- 126 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.
- 127 All loading and unloading associated with the retail tenancy is to be undertaken within the basement of Building C.
- 128 No garbage collection associated with the retail premises is permitted between 10pm and 6am.
- 129 The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.
- 130
- (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 as identified by the NSW Police, shall be monitored by CCTV cameras at all times.
- 131 All parking bays shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.
- 132 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. 15/216 dated as 13 November 2015 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

ADVISORY CONDITIONS

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

Surveillance

- (a) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. All access areas to the building be covered by such equipment including mail delivery ports. This equipment needs to be checked and maintained on a regular basis.
- (b) It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.
- (c) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
- (d) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external lighting.
- (e) Main entrance of all parking, lift entries and lobbies to be covered with CCTV footage.
- (f) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.

- (g) 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.

Lighting

- (a) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.
- (b) 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).
- (c) 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.
- (d) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.
- (e) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.

Territorial Reinforcement

- (a) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (currently \$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.
- (b) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
 - (i) Warning, trespassers will be prosecuted
 - (ii) Warning, these premises are under electronic surveillance
- (c) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This

can also assist in access control and reduce excuse making opportunities by intruders.

- (d) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.
- (e) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
- (f) Signage needs to be provided to assist occupants to identify fire suppression equipment, e.g. extinguishers, fire hoses etc.
- (g) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development or at least ground levels situated on the outsides of the buildings.

Space/Activity Management

- (a) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.
- (b) It is NOT advised to install storage cages or similar for the residents in the underground car park. If it is required, consider that they should NOT be constructed in an isolated area. The cages are easy targets when they have little supervision. CCTV cameras must cover this area if they are constructed. Solid steel housing and quality key locks should be used to prevent access. All cages to be at least 8ft in height with adequate roofing, cages below this allow people access over the top.

Access Control

- (a) The door and door frames to these premises should be of solid construction.
- (b) Doors should be fitted with locks that comply with the Australian Standard – Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises.

Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are required for residential units.

- (c) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space.
- (d) The doors in the required exits must be readily open-able without a key from the side that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor.
- (e) Any sliding doors **MUST** be fitted with lockable bolts in the bottom and top of the door frame.
- (f) The windows and window-frames to these premises should be of solid construction. These windows should be fitted with locks with comply with the Australian Standard – Mechanical Locksets for windows in buildings, AS:4145 <http://www.standards.org.au> to restrict unauthorised access. This standard specifies the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical windows, such a wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses and factories. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms).
- (g) The main access to the underground car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering.
- (h) The main entry/egress doors to the development should have an electronically operated lock which require security swipe pass for entry. The lifts operating in the building should have the same security swipe pass technology. When an occupant buzzes in a visitor the lift should recognise the floor the occupant resides and only allow the visitor access to that floor in the lift.

ANNEXURE A: SEPP 65 ASSESSMENT – APARTMENT DESIGN GUIDE

Objective / Control	Proposal	Complies (yes/no)
Part 3: Siting the development		
3D Communal and public open space		
Objective 3D-1 An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	See response to Design Criteria below.	-
Design criteria Communal open space has a minimum area equal to 25% of the site (see figure 3D.3).	34% (2,205sqm).	Yes
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	<p>The proposed development has 5 separate communal open space (COS) areas. These are listed below including the amount of solar access between 9am and 3pm in mid-winter:</p> <ol style="list-style-type: none"> 6. Pocket park at the end of the new east-west road: 2 hours from 1pm-3pm to 100% of the park; 7. Podium level COS attached to the western façade of Building C: 3 hours from 10am – 12pm to at least 50% of the area; 8. Ground level COS attached to the western façade of Building C: 1 hour at 11am to 75% and 1 hour to 25% at 12pm; 9. New community park between Building B and C: 3 hours to at least 50% from 11am to 1pm; 10. Building A and B Podium level park: The eastern park/bench area gets 4 hours to 100% of this area from 12pm. The remainder of the area between Buildings A and B does not receive any solar access during mid-winter. <p>On balance, enough of the communal open space areas receive the minimum required amount of solar access during mid-winter.</p>	Yes
Objective 3D-2 Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting	See response to Design Guidance below.	-
Design Guidance Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following elements: <ul style="list-style-type: none"> • seating for individuals or groups 	The COS provided allow for a range of activities and age groups. The plans are concept at this stage and a condition has been recommended for detailed public domain works plans to be submitted and approved by Council prior to issue of the	Conditioned

Objective / Control	Proposal	Complies (yes/no)
<ul style="list-style-type: none"> • barbecue areas • play equipment or play areas • swimming pools, gyms, tennis courts or common rooms 	Construction Certificate for above ground works.	
The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts.	Please refer to the response to the Design Criteria for Objective 3D-1 with regard to solar access to COS. The variety of different communal open spaces ensures each building has direct access to a COS area and different areas maximise different aspects during the year.	Yes
Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks.	The car park vent protrudes at the podium level. A condition has been recommended that as part of the submission of detailed landscape plans, the applicant is to adequately screen the vent from the view surrounding apartments.	Yes
Objective 3D-3 Communal open space is designed to maximise safety.	All COS areas are overlooked by the balconies of the nearby residential apartments.	Yes
Design Guidance Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include: <ul style="list-style-type: none"> • bay windows • corner windows • balconies 	See response to Objective 3D-3.	Yes
Communal open space should be well lit.	A range of lighting is provided to the COS areas. Lighting levels to prevent/minimise crime has been recommended as a condition by the NSW Police.	Yes
Where communal open space/facilities are provided for children and young people they are safe and contained.	The COS areas allow for a range of activities and age groups. The plans are concept at this stage and a condition has been recommended for detailed public domain works plans to be submitted and approved by Council prior to issue of the Construction Certificate for above ground works.	Yes
Objective 3D-4 Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.	The new community park is proposed in the space between Buildings B and C. This area will be privately owned (as it is over the combined basement) with an easement for public access. The plans are concept at this stage and a condition has been recommended for detailed public domain works plans to be submitted and approved by Council prior to	Yes

Objective / Control	Proposal	Complies (yes/no)												
	issue of the Construction Certificate for above ground works. These plans will detail the pavement and pathway treatments, types and species of trees, plants, shrubs and ground covers, benches, amenities and playground equipment.													
3E Deep soil zones														
Objective 3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.	See response to Design Criteria below.	-												
Design Criteria Deep soil zones are to meet the following minimum requirements: <table border="1" data-bbox="306 846 778 1160"> <thead> <tr> <th>Site area</th><th>Min. dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>less than 650sqm</td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650sqm - 1,500sqm</td><td>3m</td></tr> <tr> <td>greater than 1,500sqm</td><td>6m</td></tr> <tr> <td>greater than 1,500sqm with significant existing tree cover</td><td>6m</td></tr> </tbody> </table>	Site area	Min. dimensions	Deep soil zone (% of site area)	less than 650sqm	-	7%	650sqm - 1,500sqm	3m	greater than 1,500sqm	6m	greater than 1,500sqm with significant existing tree cover	6m	The site achieves 1.9% (128sqm) of the site as deep soil with min. dimensions of 6m.	No Refer to Note 2 within report
Site area	Min. dimensions	Deep soil zone (% of site area)												
less than 650sqm	-	7%												
650sqm - 1,500sqm	3m													
greater than 1,500sqm	6m													
greater than 1,500sqm with significant existing tree cover	6m													
Design guidance On some sites it may be possible to provide larger deep soil zones, depending on the site area and context: <ul style="list-style-type: none"> 10% of the site as deep soil on sites with an area of 650m² - 1,500sqm 15% of the site as deep soil on sites greater than 1,500sqm 	If 671-683 Gardeners Road is to be developed as indicated, the large open space area immediately adjoining the new community park to the north will be completely deep soil. Council is supportive of this approach and that the deep soil area on the site of 671-683 Gardeners Road will offset the minimal provision within this application.	Acceptable												
Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and stability for mature trees. Design solutions may include: <ul style="list-style-type: none"> basement and sub-basement car park design that is consolidated beneath building footprints use of increased front and side setbacks adequate clearance around trees to ensure long term health co-location with other deep soil areas on adjacent sites to create larger contiguous areas of deep soil 	The basement and podium are setback 3.2m from the Kent Road frontage. Council's Landscape Architect requested a greater setback to allow for the establishment of canopy trees along this frontage however the 3.2m setback is in accordance with the minimum required 3m setback specified within the BBDCP 2013 (Part 9A – Urban Block 1). The development has consolidated the basement car park beneath the building footprint; however in this instance the building footprint comprises almost the entire site.	Yes												

Objective / Control	Proposal	Complies (yes/no)												
	<p>Additionally, underneath the new community park is the developments combined basement carpark. As such, there is not much opportunity for large deep soil areas that accommodate the root systems of large canopy trees. Mounding on the new community park will achieve a level of tree cover satisfactory for the residents. If 671-683 Gardeners Road is to be developed as indicated, the large open space area immediately adjoining the new community park to the north will be completely deep soil. Council is supportive of this approach and that the deep soil area on the site of 671-683 Gardeners Road will offset the minimal provision within this application.</p>													
<p>Achieving the design criteria may not be possible on some sites including where:</p> <ul style="list-style-type: none"> the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres) there is 100% site coverage or non-residential uses at ground floor level Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure 	<p>The COS is separated into five different areas. The pocket park at the end of the new east-west street provides deep soil planting however the remaining COS areas are either on podium levels or over the combined car park.</p> <p>This is considered acceptable as the concept plans submitted for the adjoining site to the north will continue the new community park between Buildings B and C but will be completely deep soil. This will offset the minimal provision of deep soil on the subject site.</p>	Acceptable												
3F Visual privacy														
<p>Objective 3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy</p>	<p>See response to Design Criteria below.</p>	-												
<p>Design Criteria Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="300 1736 774 1993"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<p>Refer to Note 5 within report</p>	<p>No Refer to Note 5 within report</p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
up to 12m (4 storeys)	6m	3m												
up to 25m (5-8 storeys)	9m	4.5m												
over 25m (9+ storeys)	12m	6m												

Objective / Control	Proposal	Complies (yes/no)
<p>Note: Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>		
<p>Design Guidance</p> <p>Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance</p>	Refer to Note 5 within report	Refer to Note 5 within report
<p>For residential buildings next to commercial buildings, separation distances should be measured as follows:</p> <ul style="list-style-type: none"> • for retail, office spaces and commercial balconies use the habitable room distances • for service and plant areas use the non-habitable room distances 	Refer to Note 5 within report	Refer to Note 5 within report
<p>New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings. Design solutions include:</p> <ul style="list-style-type: none"> • site layout and building orientation to minimise privacy impacts (see also section 3B Orientation) • on sloping sites, apartments on different levels have appropriate visual separation distances (see figure 3F.4) 	Refer to Note 5 within report	Refer to Note 5 within report
<p>Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5).</p>	Refer to Note 5 within report	Refer to Note 5 within report
<p>Direct lines of sight should be avoided for windows and balconies across corners</p>	Refer to Note 5 within report	Refer to Note 5 within report
<p>No separation is required between blank walls</p>	Refer to Note 5 within report	Refer to Note 5 within report
3J Bicycle and car parking		
<p>Objective 3J-1</p> <p>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.</p>	<p>Car parking has been provided in accordance with the RMS Guide To Traffic Generating Development.</p>	-
<p>Design Criteria</p>	<p>The site is within 800m of the Mascot Railway Station and as such, car</p>	Yes

Objective / Control	Proposal	Complies (yes/no)
<p>For development in the following locations:</p> <ul style="list-style-type: none"> on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less <p>The car parking needs for a development must be provided off street.</p>	<p>parking has been provided in accordance with the RMS Guide To Traffic Generating Development as follows:</p> <p><u>Residential</u> 0.6 space / 1 bed unit (30 req.) 0.9 space / 2 bed unit (83 req.) 1.4 space / 3 bed unit (136 req.) 1 visitor space / 7 dwellings (35 req.)</p> <p><u>Retail</u> 6.1/100 units (4 req.)</p> <p><u>Service Bays</u> 1 loading dock for residential is desirable</p> <p>Total required: 288 (excluding service vehicle requirements)</p> <p>Total provided: 371 – complies</p>	
Part 4: Designing the building – amenity		
4A Solar and daylight access		
Objective 4A-1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	Refer to the response to the Design Criteria below.	-
Design Criteria Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter	62.3% of solar access is provided to living rooms and POS between 9am and 3pm during mid-winter. This almost complies with the minimum requirement of 70%.	No Refer to Note 4 within report
A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.	28 apartments (12%) receive no direct sunlight between 9am and 3pm at mid-winter.	Yes
Design Guidance The design maximises north aspect and the number of single aspect south facing apartments is minimised	Refer to Note 4 within report	Refer to Note 4 within report
Single aspect, single storey apartments should have a northerly or easterly aspect	Refer to Note 4 within report	Refer to Note 4 within report
Living areas are best located to the north and service areas to the south and west of apartments	Refer to Note 4 within report	Refer to Note 4 within report
To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used: <ul style="list-style-type: none"> dual aspect apartments shallow apartment layouts two storey and mezzanine level apartments bay windows 	Refer to Note 4 within report	Refer to Note 4 within report

Objective / Control	Proposal	Complies (yes/no)
To maximises the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m ² of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes	Refer to Note 4 within report	Refer to Note 4 within report
<p>Achieving the design criteria may not be possible on some sites. This includes:</p> <ul style="list-style-type: none"> • where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source • on south facing sloping sites • where significant views are oriented away from the desired aspect for direct sunlight <p>Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the objective</p>	Refer to Note 4 within report	Refer to Note 4 within report
4B Natural ventilation		
Objective 4B-1 All habitable rooms are naturally ventilated	Refer to the response to the Design Guidance below.	-
Design Guidance The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms	66% (159 apartments) are naturally cross ventilated. 60% (99 apartments) within the first 9 storeys are naturally cross ventilated. This complies with the requirement of 60%. Refer to response to the Design Criteria for Objective 4B-3.	Yes
Depths of habitable rooms support natural ventilation	See above.	-
The area of unobstructed window openings should be equal to at least 5% of the floor area served	See above.	-
Light wells are not the primary air source for habitable rooms	See above.	-
Doors and openable windows Maximises natural ventilation opportunities by using the following design solutions: <ul style="list-style-type: none"> • adjustable windows with large effective openable areas • a variety of window types that provide safety and flexibility such as awnings and louvres • windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvres, casement windows and externally opening doors 	See above.	-
4C Ceiling heights		
Objective 4C-1 Ceiling height achieves sufficient natural	Refer to the response to the Design Criteria below.	-

Objective / Control	Proposal	Complies (yes/no)												
ventilation and daylight access														
<div>Design Criteria</div> <div>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</div> <table><tr><td colspan="2">Minimum ceiling height for apartment and mixed use buildings</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table> <div>These minimums do not preclude higher ceilings if desired</div>	Minimum ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	Habitable rooms: 2.7m Non-habitable rooms: 2.4m Mixed Use (GF): 3.3m (min.) Mixed Use (FF): 3.1m	No (Mixed Use First Floor) Refer to Note 1 within report
Minimum ceiling height for apartment and mixed use buildings														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope													
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use													
<div>Design Guidance</div> <div>Ceiling height can accommodate use of ceiling fans for cooling and heat distribution</div>	Compliant ceiling heights provided that can accommodate ceiling fans.	Yes												
4D Apartment size and layout														
<div>Objective 4D-1</div> <div>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</div>	Refer to the response to the Design Criteria below.	-												
<div>Design Criteria</div> <div>Apartments are required to have the following minimum internal areas</div> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m2</td></tr><tr><td>1 bedroom</td><td>50m2</td></tr><tr><td>2 bedroom</td><td>70m2</td></tr><tr><td>3 bedroom</td><td>90m2</td></tr></table> <div>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m2 each</div> <div>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m2 each</div>	Apartment type	Minimum internal area	Studio	35m2	1 bedroom	50m2	2 bedroom	70m2	3 bedroom	90m2	1 bed units: 50 – 70sqm 2 bed units: 70 – 98sqm 3 bed units: 103 – 116sqm	Yes		
Apartment type	Minimum internal area													
Studio	35m2													
1 bedroom	50m2													
2 bedroom	70m2													
3 bedroom	90m2													
Every habitable room must have a window	All habitable rooms have a window	Yes												

Objective / Control	Proposal	Complies (yes/no)						
in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	to an external wall							
Objective 4D-2 Environmental performance of the apartment is maximised	Refer to the response to the Design Criteria below.	-						
Design Criteria Habitable room depths are limited to a maximum of 2.5 x the ceiling height	The applicant states that habitable rooms are less deep than 2.5x the ceiling height (6.75m) from glass to rear wall or glass to face of kitchen island, or no greater than 8.7m when the kitchen is within the habitable space as an open island bench shape form (due to the need for a minimum 6m clear for the living/dining room).	Yes						
In open plan layouts (where the living, dining and kitchen are combined) the Maximum habitable room depth is 8m from a window	The applicant states that the habitable living/dining components of plans are a maximum of 7m deep from the glazing.	Yes						
Objective 4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs	Refer to the response to the Design Criteria below.	-						
Design Criteria Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	The applicant confirms that the master bedrooms have a minimum area of 10sqm and other bedrooms have minimum area of 9sqm	Yes						
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	The applicant confirms that the all bedrooms have minimum dimensions of 3m.	Yes						
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	The applicant confirms that the plans comply with this requirement.	Yes						
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	N/A – there are no cross-over apartments.	N/A						
4E Private open space and balconies								
Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity	Refer to the response to the Design Criteria below.	-						
Design Criteria All apartments are required to have primary balconies as follows <table border="1"> <thead> <tr> <th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr> </thead> <tbody> <tr> <td>Studio</td><td>4m²</td><td>-</td></tr> </tbody> </table>	Dwelling type	Minimum area	Minimum depth	Studio	4m ²	-	1 bed: 8-37sqm 2 bed: 8-40sqm 3 bed: 12-93sqm Ground Floor: 17-40sqm 1 x 2 bedroom apartment is 8sqm. A	No Refer to Note 6 within report
Dwelling type	Minimum area	Minimum depth						
Studio	4m ²	-						

Objective / Control			Proposal	Complies (yes/no)
apartments			condition has been recommended for compliance. Refer to Note 6 within report.	
1 bedroom apartments	8m2	2m		
2 bedroom apartments	10m2	2m		
3+ bedroom apartments	12m2	2.4m		
The minimum balcony depth to be counted as contributing to the balcony area is 1m				
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.			See above.	Yes
4F Common circulation and spaces				
Objective 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments			Refer to the response to the Design Criteria and Design Guidance below.	-
Design Criteria Maximum apartments off a circulation core on a single level is eight.			Maximum number of apartments off the circulation core is 10. This occurs within Building C on Levels 2 and 3 only. All other cores have a maximum of 6. Notwithstanding this, the Design Guidance notes that if this cannot be achieved, then o more than 12 apartments are permitted off a single core. The proposed development complies with this.	Acceptable
10 storeys and over, maximum apartments sharing a single lift is 40.			Maximum number of apartments off the circulation core for 10 storeys and above is 24.	Yes
4G Storage				
Objective 4G-1 Adequate, well designed storage is provided in each apartment			Refer to the response to the Design Criteria below.	-
Design criteria			1 bed: 8-28.4m ³ 2 bed: 9-26.9m ³ 3+ bed: 9-16.7m ³ 1 x 3 bedroom apartment has 4m3 of storage within the apartment. This has been conditioned to comply. Refer to Note 7 within the report for a detailed assessment.	No Refer to Note 7 within report
Dwelling type	Storage size volume			
Studio	4m ²			
1 bed	6m ²			
2 bed	8m ²			
3 bed	10m ²			
This is in addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: At least 50% of the required storage is located within apartment				

ANNEXURE B: RMS MAP

