

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

JRPP No	2016SYE072
DA Number	DA-13/135/04
Local Government Area	Bayside Council
Proposed Development	<p>Section 96AA Application to modify Development Consent No. 13/135 as follows:</p> <ul style="list-style-type: none"> <li>• Increase in the size of the southern commercial units thereby an increase in the total GFA by 238sqm and shift the construction of the commercial tenancies from Stage 2 construction to Stage 1;</li> <li>• Amend project staging so that car parking spaces in Stage 1 of construction are reduced by 24 spaces. No change to the total number of car spaces approved at Stage 2;</li> <li>• Design amendments to include revisions to the northern lobby &amp; adjacent commercial tenancies, changes to amenities area of the northern &amp; southern commercial tenancies, reduce and modify 3 balconies to accommodate requirements for a substation, and changes to the egress of the southern building;</li> <li>• Amend level 2 podium landscaping as a result of design development changes; and</li> <li>• Amend Condition No. 34 relating to stormwater management.</li> </ul>
Street Address	659-669 Gardeners Road, Mascot
Applicant	Dedico Development Service
Owner	Mascot Circle Pty Ltd
Number of Submissions	Two (2) submissions
Regional Development Criteria (Schedule 4A of the Act)	Section 96AA Application to modify a consent determined by the NSW Land and Environment Court, pursuant to Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• List all of the relevant environmental planning instruments: s79C(1)(a)(i) <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment</li> </ul> </li> </ul>

	<p>Development;</p> <ul style="list-style-type: none"> <li>○ Botany Bay Local Environmental Plan 2013.</li> </ul> <ul style="list-style-type: none"> <li>● List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii); <ul style="list-style-type: none"> <li>○ Nil</li> </ul> </li> <li>● List any relevant development control plan: s79C(1)(a)(iii); <ul style="list-style-type: none"> <li>○ Botany Bay Development Control Plan 2013.</li> </ul> </li> <li>● List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv); <ul style="list-style-type: none"> <li>○ Nil</li> </ul> </li> <li>● List any coastal zone management plan: s79C(1)(a)(v) <ul style="list-style-type: none"> <li>○ Nil</li> </ul> </li> <li>● List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> <li>○ Nil</li> </ul> </li> </ul>
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> <li>● S.96AA report addressing modifications; prepared by BBC Consulting Planners dated 22 June 2016</li> <li>● Amended Architectural Plans; prepared by MD+A Architects dated May and August 2016</li> <li>● Amended Landscape Plans; prepared by 360 Degrees dated 24 August 2016</li> <li>● Design Verification Statement; prepared by Nettletontribe dated June 2016</li> <li>● Amended Stormwater Plans; prepared by Northrop Consulting Engineers dated 28 May 2016</li> <li>● Traffic and Parking Statement; prepared by Traffix dated 7 June 2016</li> </ul>
Report by	Angela Lazaridis – Senior Development Assessment Officer

### **RECOMMENDATION**

It is RECOMMENDED that the Joint Regional Planning Panel resolve pursuant to Section 96AA of the Environmental Planning and Assessment Act 1979, to modify Development Consent No. 13/135 at 659-669 Gardeners Road, Mascot, as indicated within the updated Schedule of Conditions.

### **EXECUTIVE SUMMARY**

Development Application No. 13/135 was approved by the Land and Environment Court on 21 August 2014 for a mixed use residential and commercial development comprising, in its approved form, 328 apartments and approximately 955sqm of commercial space at 659-669 Gardeners Road, Mascot.

The application had been refused by the Sydney East Region Planning Panel (the Panel) on 4 June 2014 for the following reasons:

1. *The proposed exceedence in building height and FSR results in a building envelope with unacceptable impacts within the site.*
2. *The non-compliance with the requirement of SEPP 65 in terms of building separation, solar access and building depth is unacceptable.*
3. *The variation in urban form, from that proposed in the DCP results in unacceptable impacts in adjoining lands and the future public domain.*
4. *There is insufficient separation between living areas and bedrooms off the "streets in the sky" results in inadequate residential amenity.*

The application proceeded to a Section 34 hearing in which it was approved after amended plans were received.

On 22 June 2016, the applicant lodged the subject Section 96AA Application to modify certain aspects of the approved development relating to the staging of construction, size of the commercial tenancies, car parking, design elements i.e. egress, balcony sizes and landscaped area and minor changes to the wording of conditions.

The application was placed on public exhibition and was advertised under the *Environmental Planning and Assessment Regulation* for a fourteen (14) day period from 13 July 2016 to 27 July 2016. Two (2) objections were received raising concerns to the existing right-of-carriageway benefitting 1-5 Kent Road which is located along the western side of the subject site and the reduction in car parking spaces over the two construction stages. These issues are discussed in further detail in the report below.

While the development was not approved as Staged Development, the applicant has programmed the development to be constructed in two stages. The first Stage involves construction of the development with access off Gardeners Road while the second Stage involves the closing off of the Gardeners Road access once the construction of Galloway Street to the south has been completed. The report has been referenced to address these two stages of construction.

Key points that are discussed relate to the increase in overall floor area by 238sqm. This is primarily within the Ground Level commercial tenancies. This will result in a further exceedance of the FSR to 3.35:1 at the completion of Stage 1 of construction and 3.36:1 at the completion of Stage 2 of construction. The L&E Court had previously approved 3.33:1 at the completion of Stage 1 and 3.34:1 at the completion of Stage 2. As the application is a section 96 application, the applicant was not required to provide a Clause 4.6 variation. As there is no change to the external building footprint, the variance is supported.

Another modification is the staging of the construction in regards to the construction of the commercial tenancies along the southern portion of the site. These retail shops were approved to be built at the Stage 2 process however the modification proposes construction at Stage 1 which will allow construction to be more streamlined. This results in a change to the car parking allocated at the two stages. The development was approved with 505 car spaces at Stage 1 and a total of 481 car spaces at Stage 2. The

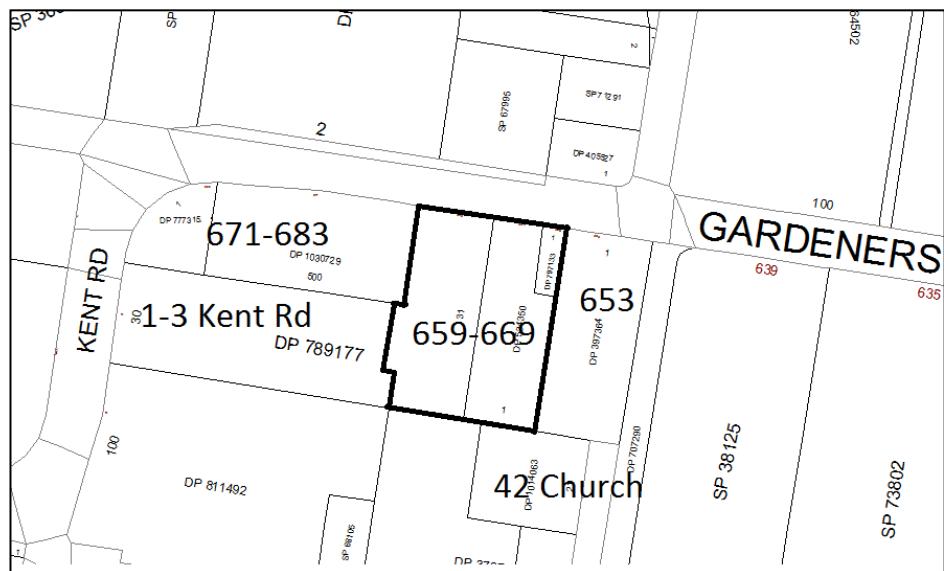
applicant proposes to construct the commercial tenancies at Stage 1 therefore a total of 481 car spaces are allocated. This is acceptable by Council as this does not alter the amount of car spaces approved by the Court.

The application does not significantly alter the approved building. The modification is considered to be substantially the same development is not considered to create any likely impacts to the surrounding development.

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

## BACKGROUND

The subject site is located on the southern side of Gardeners Road between the intersections of Bourke Road and Kent Road. The site will be bounded by the future construction of Galloway Street to the south which will run through the southern portion of the site. The site consists of three separate allotments, which when amalgamated will have a combined 78.5 metre frontage to Gardeners Road and a site area of 8,756.8m<sup>2</sup>.



**Figure 1. Locality Plan**



**Figure 2. Subject site at No. 665-669 when viewed from Gardeners Road**

Council received Development Application No. 13/135 on the 2 August 2013, which originally sought consent for a mixed use development comprising the following:

- Demolition of existing buildings, site works and remediation;
- Construction of one x 9-storey mixed use building (Northern Tower) and one x 13-storey residential flat building (Southern Tower) with a total floor space ratio of 3.22:1 and a maximum building height of 45.5 metres providing: A total of 309 residential apartments; 2,637m<sup>2</sup> of commercial premises; basement and at grade parking for 427 vehicles;
- Dedication of new public land with a total area of 795m<sup>2</sup> for the planned construction of Galloway Street; Embellishment of the public domain along Gardeners Road and Galloway Street frontages; and
- Amalgamation of three existing lots into one allotment and Torrens stratum subdivision.

The development application was amended on 14 April 2014 as follows:

- Demolition of existing building, site works and remediation;
- Construction of one x 12-storey mixed use building (Northern Tower) and one x 13-storey residential flat building (Southern Tower) with a total floor space ratio of 3.34:1 and a maximum building height of 45.5 metres providing: A total of 337 residential apartments; 980m<sup>2</sup> of commercial/retail floor space to Gardeners Road; one level of basement, one level at grade and one level of podium car parking for 485 vehicles;
- Dedication of new public land with a total area of 795m<sup>2</sup> for the future construction New Road; Embellishment of the public domain along Gardeners Road and Galloway Street frontages; and
- Amalgamation of three existing lots into one allotment and Torrens stratum subdivision.

The Applicant on 31 March 2014 lodged a Class 1 proceedings in the Land and Environment Court (No: 10196 of 2014) against the deemed refusal of the application to preserve the appeal rights. Call-over was 30 April 2014, where it was agreed that the matter be adjourned until the 6 June 2014 pending the outcome of the JRPP determination.

A report was prepared by Council to the Panel, recommending that a deferred commencement consent be granted in order to resolve the matters of stormwater, vehicle access and service to the site, as well as other matters that related to the existing right of way and the construction of the Galloway Street.

On 4 June 2014, the Panel refused the application on the following reasons:

1. *The proposed exceedence in building height and FSR results in a building envelope with unacceptable impacts within the site.*
2. *The non-compliance with the requirement of SEPP 65 in terms of building separation, solar access and building depth is unacceptable.*
3. *The variation in urban form, from that proposed in the DCP results in unacceptable impacts in adjoining lands and the future public domain.*
4. *There is insufficient separation between living areas and bedrooms off the “streets in the sky” results in inadequate residential amenity.*

The Section 34 Conference was held on 26 June 2014 and presided over by Commissioner Pearson. The Section 34 Conference was adjourned for six weeks for the Applicant to provide amended architectural plans. Amended plans and documentation were received on 24 July 2014. The Section 34 Agreement was filed and dated on 18 August 2014 and Court Orders were issued on 21 August 2014. The appeal was upheld.

## APPROVED DEVELOPMENT

The development was approved by the Land and Environment Court on 21 August 2014. In its approved form, the development is for the:

- Demolition of the existing buildings, site works and remediation;
- Construction of one x 12 storey mixed use building (Northern Tower) and one x 13 storey residential flat building (Southern Tower) with a total floor space ratio of 3.34:1. The development will have a total of 328 residential apartments; 955sqm of commercial premises; basement and 505 car parking spaces at Stage 1 construction being reduced to 481 car parking spaces at Stage 2;
- Dedication of new public land with a total area of 795sqm for the planned construction of Galloway Street; embellishment of the public domain along Gardeners Road and Galloway Street frontages;
- Amalgamation of three existing lots into one allotment and Torrens stratum subdivision.

## **PREVIOUS MODIFICATIONS**

Two previous Section 96AA Applications have been considered by the JRPP. Details relating to the two modifications are provided below:

- DA-13/135/02- Application was approved on 17 November 2015 correcting an error with the calculation of the Section 94 Contributions; and
- DA-13/135/03- Application was approved on 24 November 2015, amending the wording of various conditions to allow the approved development to be constructed in stages, with separate Construction Certificates to be issued for each of the following stages:
  - Site Establishment/Shoring/Excavation;
  - Footings/In-ground Services/Structure;
  - Façade/Services/Finishes; and
  - External Works.

Notwithstanding the issuing of the four separate Construction Certificates, the development will continue to be constructed in two stages. The first stage (northern building/stage) has access off Gardeners Road. The second stage (or southern stage) is approved to follow when the New Street to the south (Galloway Street) is constructed, with access off Galloway Street.

## **DESCRIPTION OF MODIFICATIONS**

While the development was not approved as Staged Development, the applicant has programmed the development to be constructed in two stages. The first Stage involves construction of the development with access off Gardeners Road while the second Stage involves the closing off of the Gardeners Road access once the construction of Galloway Street to the south has been completed. The report has been referenced to address these two stages of construction. The proposed modifications have implications on the construction staging process and this is discussed in the assessment section of the report below. The current Section 96AA application seeks to approve the below modifications:

### Modification No. 1

This modification proposes to bring forward the construction of the southern commercial units on the ground floor from Stage 2 of construction to Stage 1. These commercial units will not commence trading until Galloway Street has been built. This change will improve the efficiency of the construction process by bringing the construction of the units forward. Due to this change, the number of car parking spaces available at the conclusion of Stage 1 will be reduced by 24 car parking spaces, however the overall number of car parking spaces approved for the completed development remains the same (481).



**Figure 3. Approved Ground Level (Street Level)- Stage 1**



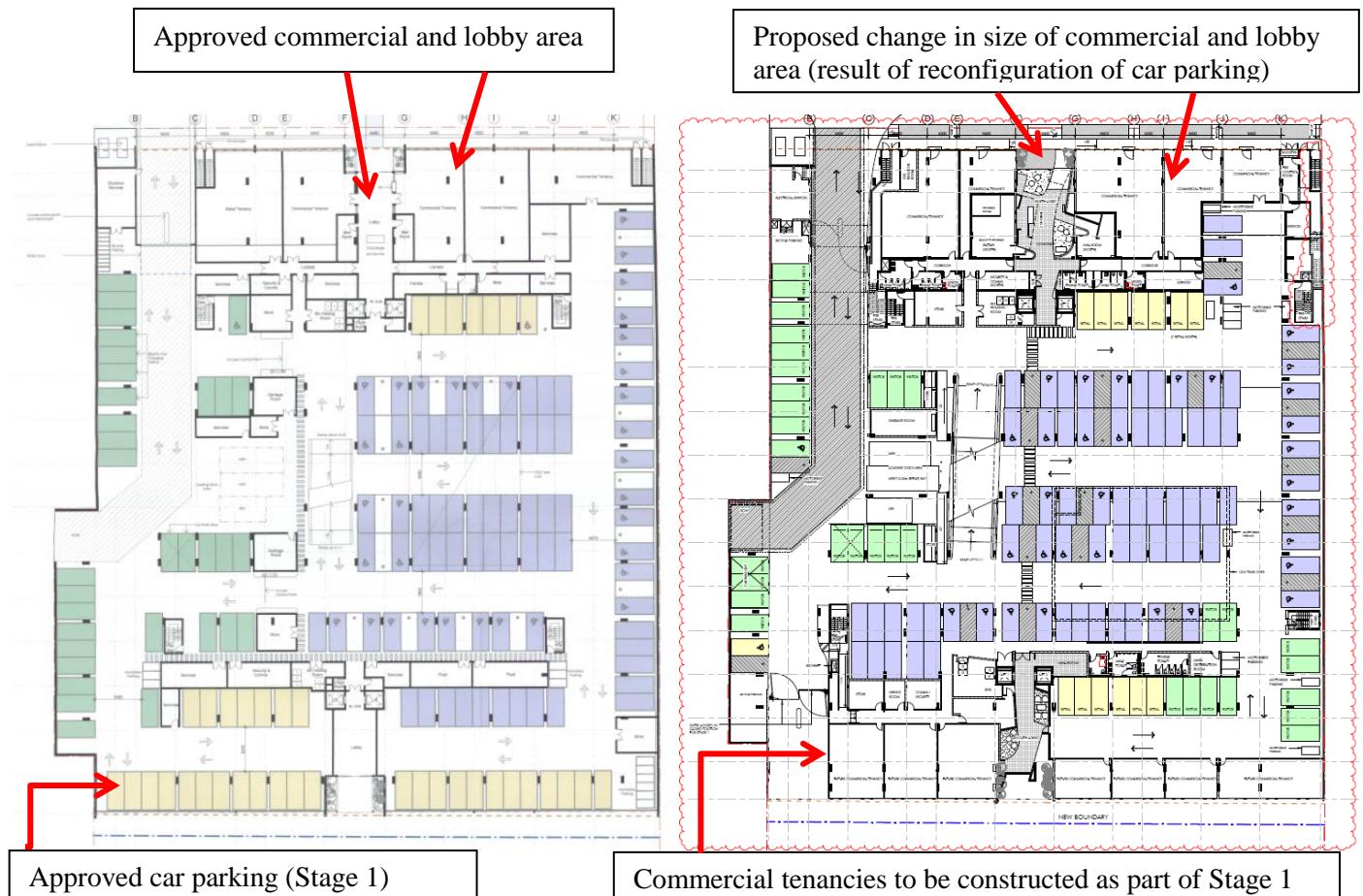
**Figure 4. Proposed construction of the southern commercial tenancies in Stage 1**

## Modification No. 2

This modification proposes an increase in the size of the southern commercial units and lobby to create better and more useable/flexible commercial tenancies and lobby. The overall GFA of the development increases from 29,220m<sup>2</sup> to 29,458m<sup>2</sup>, an increase of 238m<sup>2</sup>, however the approved building envelope footprint remains unchanged. The commercial units were to be originally built during Stage 2 of construction however have been proposed to be shifted to Stage 1. Modifications between the approved development and the current proposal are as follows:

Level	Approved Development (GFA)	Proposed Modifications (GFA)
<b>Stage 1 of Construction (commercial tenancies and lobby)</b>		
Ground Level (Street Level)	798sqm	1,188sqm
<b>Stage 2 of Construction (Additional commercial)</b>		
Ground Level (Street Level)	240sqm	88sqm
<b>Total</b>	<b>1,038sqm</b>	<b>1,276sqm</b>

Therefore, the difference is 238sqm between the two stages. There is no change to the GFA of the residential component of the development, only to the commercial and lobby areas located on Ground Level (Street Level).



**Figure 5. Approved commercial (Stage 1)**

**Figure 6. Proposed commercial (Stage 1)**

Approved additional commercial tenancy (Stage 2)



Proposed additional commercial tenancy (Stage 2) (reduced in size)



Approved commercial tenancies (Stage 2)

Commercial tenancies to be constructed as part of Stage 1

**Figure 7. Approved commercial (Stage 2)**

#### Modification No. 3

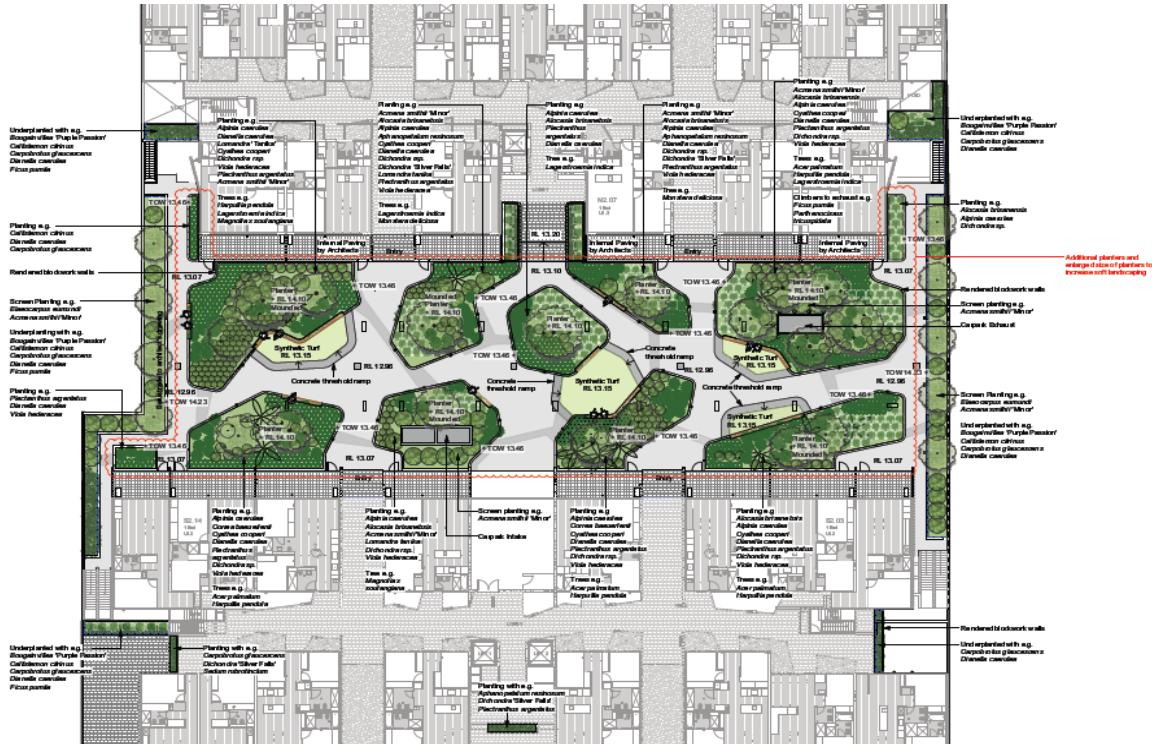
This modification proposes to make various design amendments to the development including:-

- design revisions to the northern lobby and adjacent commercial tenancies, to accommodate adjustments to the northern lobby;
- changes to the back of house/amenities areas of the northern and southern commercial tenancies;
- the balconies on Units N1.09, N2.11 and N3.11 (on Levels 1, 2 and 3 respectively) have been reduced/modified to accommodate the requirements of the energy provider in relation to the substation;
- changes to the egress from the southern building. As a result of the changes, the egress from the southern building is now across the podium at Level 2 and then down through the northern egress stair to Gardeners Road.

#### Modification No. 4

This modification proposes to amend the Level 2 podium landscaping area as a result of the design development changes requested by Council and the Land and Environment Court within the conditions of consent, including changes to the egress from the southern building. The applicant seeks to improve the pedestrian flow across the podium in addition to providing increased privacy to the residential private open spaces.

The original consent approved a total of 3,125sqm of landscaped area. The proposed modification to the landscaped area results in a total of 2,907sqm which is 218sqm less than the amount approved. The proposal has been further amended by increasing the amount of landscaped area to 3,098sqm or 35.4% landscaped area.



**Figure 9. Proposed Podium Planting Landscaped Area**

The table below is a breakdown of the approved and proposed modifications to the landscaped area over the site:

Landscaped Area/Levels	Approved Development	Proposed Modifications
Deep Soil 01- Ground Level (Street)	456sqm	456sqm
Deep Soil 02- Ground Level (Street)	722sqm	722sqm
Ground Level (Street)	15sqm	11sqm
Level 1	79sqm	67sqm
Level 2	1,046sqm	1,035sqm
Level 3	15sqm	15sqm
Level 4	19sqm	19sqm
Level 5	19sqm	19sqm
Level 6	19sqm	19sqm
Level 7	19sqm	19sqm
Level 8	19sqm	19sqm
Level 9	19sqm	19sqm
Level 10	19sqm	19sqm
Level 11	17sqm	17sqm
Level 12	307sqm	307sqm
Roof Level- South Tower	335sqm	335sqm

<b>Grand Total</b>	<b>3,125sqm</b>	<b>3,098sqm</b>
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The proposed modification will result in a reduction of 27sqm of landscaped area.

The applicant has stated that the ground floor landscape plans have been amended to match the Architect's lobby drawings. The planting on the northern entry has been revised from two planters to one singular garden bed, whilst a water feature has replaced the planters within the southern lobby.

### Modification No.5

This modification proposes to amend Condition No. 34 which relates to the stormwater management and disposal system for the approved development, to reflect the details in the amended stormwater plans prepared by Northrop Consulting Engineers. Additionally, the applicant seeks to insert a new condition (Condition No. 34A) which refers to stormwater discharge onto the two street frontages.

#### **Condition No. 34**

Approval is sought to amend Condition No. 34 in the following manner:-

“Prior to the issue of the relevant Construction Certificate, detail design and construction plans in relation to the stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval. The plans shall incorporate but shall not be limited to the following:

- i. ~~An On-Site filtration system shall be designed according to Part 5 of the SMTG. The system shall be designed to detain the stormwater runoff from the site for all storm events up to and including the 1 in 100 ARI storm event.~~
- i. **An on-site detention tank shall be provided.**
- ii. ~~Any stormwater discharge to the RMS or Council kerb and gutter is limited to 10L/s. If higher discharge is proposed, provision must be made to connect to the Sydney Water, RMS or Council stormwater pit and pipe system.~~ Maximum 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. site being fully grassed/turfed), rather than predevelopment condition;
- iii. No pump out shall be used to drain seepage from the basement due to the elevated water table level. The basement shall be designed as a ‘fully tanked’ structure;
- iv. The pump out can only be utilised to dispose runoff that may enter the basement carpark from the driveway access to the basement;
- v. The pump out system from the basement carpark proposed shall discharge to the on-site ~~stormwater infiltration system~~ **detention tank**;
- vi. All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment (e.g. Gross Pollutant Trap, (GPT)) prior to entering Sydney Water’s, RMS and Council drainage systems. Details of the pollution control device shall be shown on stormwater management plan;

- vii. The rainwater tank size shall be designed based on a supply/demand management approach. Also 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 infiltration 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 infiltration system is equivalent to 50% of the size of the rainwater tanks; and
- viii. Detailed calculations including computer modelling (electronic and paper) shall be submitted demonstrating the adequacy of the stormwater management plan in fulfilling all requirements of Council's SMTG.”

Note: Detailed drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code, Sydney Water regulations, the BCA and these conditions of consent. All drawings shall correspond with the approved architectural plans.”

### **Condition No. 34A**

Approval is sought to insert a new condition in the following manner (as worded by the applicant):-

- i. “Stormwater shall be temporarily discharged to kerb outlets in Gardeners Road until completion of the drainage system in Galloway Street.
- ii. Upon completion of the drainage system in Galloway Street, the kerb outlets in Gardeners Road shall be removed;
- iii. The site stormwater drainage system shall be reconfigured so that all site stormwater is discharged to the Galloway Street drainage system.”

Note: New Street is now known as Galloway Street.

### **Modification No. 6**

This modification proposes to amend Condition Nos. 45 and 63(b) which relates to the design verification of the approved plans and changes to the room and unit layouts. The Principal Certifying Authority has raised concerns that the current wording of the Conditions do not allow for any variations to be made to the approved unit layouts depicted on Drawing Nos. DA101 to DA108 (Rev B) dated 24 July 2014. The applicant seeks to ensure that there will be no uncertainty regarding the condition in relation to Clause 145(1)(a) of the *Environmental Planning and Assessment Regulation*.

### **Condition No. 45**

Approval is sought to modify Condition No. 45 in the following manner:-

“Prior to the issue of the relevant Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is

**generally** in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development. (DA13/135/03)”

### **Condition No. 63(b)**

Approval is sought to modify Condition No. 63(b) in the following manner:-

*“Plans submitted with the relevant Construction Certificate shall demonstrate compliance with the following:*

- a) *All residential unit size excluding balconies as minimum must be as following:*
  - i. *Studio = 60m2*
  - ii. *1 bedroom = 75m2*
  - iii. *2 bedroom = 100m2*
  - iv. *3 bedroom = 130m2*
- b) *No consent is given or implied for the room layouts as shown on the architectural plans, Drawing No. DA14 to DA25 (Rev H) dated 24 July 2014. In this regard, the plans submitted with the relevant Construction Certificate shall **generally** incorporate the approved Unit Layout in accordance with Drawing No. DA101 to DA108 (Rev B) dated 24 July 2014.*
- c) *Adaptable units must be provided in accordance with Part 3C-Access and Mobility of Botany Bay Development Control Plan 2013. Such units shall be designed in accordance with AS 4299 and BBDCP 2013 (Part 3C). Details to be submitted with the relevant Construction Certificate. (DA13/135/03)”*

### Modification No. 7

This modification proposes to amend Condition No. 62 and 98 which relates to the car parking provided between Stage 1 and 2 (and as modified by Modification No. 1 above).

### **Condition No. 62**

Approval is sought to modify Condition No. 62 in the following manner:-

*“Prior to the issue of the relevant Construction Certificate, the development shall make provision for the following car parking allocations:*

<b>Car Parking Rates</b>	<b>Required</b>
1 space per studio/1 bedroom unit	222 spaces
2 spaces per 2/3 bedroom unit	212 spaces
1 visitor space per 10 dwellings	33 spaces
Commercial spaces	14 spaces

<b>TOTAL REQUIRED</b>	481
<b>TOTAL PROVIDED (Prior to New Street Construction)</b>	505
<b>TOTAL PROVIDED (After New Street Construction)</b>	<b>481</b>

This requirement shall be reflected on the relevant Construction Certificate plans. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times. (DA13/135/03)."

### **Condition No. 98**

Approval is sought to modify Condition No. 98 in the following manner:-

- a) ~~The five hundred and five (505) car parking spaces prior to the construction of New Street and the four hundred and eighty five one (481) car parking spaces after the construction of *Galloway* Street shall be made available to residents and visitors at all times, with such spaces being clearly marked and signposted prior to issue of the Occupation Certificate;~~
- b) ~~The allocation of the car parking for Stage 1 shall be as follows:~~
  - i. ~~Each studio/one (1) bedroom unit shall be allocated 1 car parking space;~~
  - ii. ~~Each two (2)/three (3) bedroom unit shall be allocated 2 car spaces;~~
  - iii. ~~Thirty eight (38) car spaces shall be allocated to the commercial tenancies; and~~
  - iv. ~~Thirty three (33) visitor car spaces shall be provided.~~
- c) ~~The allocation of the car parking for Stage 2 shall be as follows:~~
  - i. ~~Each studio/one (1) bedroom unit shall be allocated 1 car parking space;~~
  - ii. ~~Each two (2)/three (3) bedroom unit shall be allocated 2 car spaces;~~
  - iii. ~~Fourteen (14) car spaces shall be allocated to the commercial tenancies; and~~
  - iv. ~~Thirty three (33) visitor car spaces shall be provided."~~

### Modification No. 8

This modification proposes to amend Condition No. 101 which relates to the revised floor space ratio for the two stages of construction as a result of an increase in the overall commercial gross floor area on the site. As stated above and will be discussed in the assessment section of the report, the development increases the combined GFA by 238sqm.

### **Condition No. 101**

Approval is sought to modify Condition No. 101 in the following manner:-

"A Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that the maximum Floor Space Ratio (FSR) of ~~3.3:1~~ **3.35:1** on completion of Stage 1 and ~~3.34:1~~ **3.36:1** on completion of Stage 2 and maximum height of 45.5 metres for the North Tower and 45.3 metres for the South Tower (when calculated in accordance with the provisions of

Botany Bay Local Environmental Plan 2013) as approved under this Development Application, has been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.”

### Modification No. 9

This modification relates to the Condition No.1 which is to be updated with the amended plans.

## **ASSESSMENT OF MODIFICATIONS**

An assessment of the modifications is as follows:

### Modification No. 1

This modification proposes to bring forward the construction of the southern commercial units on the ground floor from Stage 2 of construction to Stage 1. The original application was approved with 481 car spaces at the completion of the southern portion of the development and with the construction of Galloway Street. Council considers that the construction of the commercial tenancies to occur within the first stage of construction and not the second stage allows for a more streamlined construction process. Additionally, the development was approved under the RFDC and Council’s Car Parking Controls within the BBDCP 2013. Should the development have been approved under the ADG, the development would require less car parking spaces for both the residential and commercial components as it is located within 800m of Mascot Train Station. The commercial tenancies fronting the southern street (Galloway Street) will not commence operation prior to the construction of the street. Due to its approval and location, the reduction in car parking spaces at Stage 1 construction is supported.

### Modification No. 2

The overall GFA of the development increases from 29,220sqm to 29,458sqm, an increase of 238sqm. This results in a total FSR of 3.35:1 at Stage 1 and 3.36:1 at Stage 2. This is an exceedance of the maximum FSR for the site which is at 3.2:1 however the parent development application was approved by the L&E Court with a 3.33:1 FSR at Stage 1 and a 3.34:1 at Stage 2. As this is a Section 96 Application, a Clause 4.6 variation is not required in this case. The increase in size of the commercial units allows for the use to be used more practically. Access off Gardeners Road from the right-of-carriageway will be replaced by the construction of an 88sqm commercial tenancy as part of Stage 2 when access off Galloway Street is provided. The building envelope will not change as a result of the increase in commercial tenancies. The only change is to the back of house amenities and the size of the lobby areas which is discussed in greater detail in modification 3 below. There is no change to the GFA of the residential component of the development, only to the commercial and lobby areas located on Ground Level (Street Level). Therefore, the modification is supported.

### Modification No. 3

The increase in the size of the lobbies and the reduction in the size of the back of house amenities is acceptable. The size of the lobbies is more practical and now more visually aesthetic, both at the northern and southern building entrances off Gardeners Road and Galloway Street. The repositioning and size of the commercial tenancies has been addressed in Modification No.2 above and is also supported. The applicant has not deleted any necessary amenity that has been required by Council but has further amended it for the better.

The applicant has modified the size of the approved balconies of three units. The units impacted are N1.09, N2.11 and N3.11. The size of the balconies approved and proposed is as follows:

**Approved Development:**

N1.09- 21sqm, N2.11 - 21sqm, N3.11- 21sqm

**Proposed Development:**

N1.09- 8sqm, N2.11- 23sqm, N2.11- 23sqm

Additionally, further amendments have occurred to the following balconies in regards to the size of their private open space:

**Approved Development:**

N1.08- 22sqm, N2.12- 22sqm, N3.12- 22sqm

**Proposed Development:**

N1.08- 20sqm, N2.12- 20sqm, N3.12- 20sqm

The repositioning of the balconies will allow for a substation to be installed at the front of the site in accordance with the requirements of the energy provider. The reduction/increase in balcony size will continue to comply with the minimum requirements for private open space within the ADG. The balcony of N1.09 is being reduced significantly from 21sqm to 8sqm. This complies with the ADG requirements and is considered acceptable by Council. This modification is supported.

The change in the egress from the southern building at the Level 2 podium level is supported due to the change in the layout of the basement levels to provide greater efficiency in access. The egress does change the layout and location of landscaped area approved as part of the parent DA, however amended plans were provided demonstrating that the landscaped area continues to comply with the minimum landscaping required under Part 4C of the BBDGP 2013. Any egress or access is to comply with the BCA. Therefore, the modification is supported in its form.

**Modification No. 4**

The original consent approved a total of 3,125sqm of landscaped area. Modifications to the landscaped area results in a total of 2,907sqm which is 218sqm less than the amount approved. The proposal has been further amended by increasing the amount of

landscaped area to 3,098sqm or 35.4% landscaped area. In accordance to Part 4C.2.4 of the BBDCP 2013, Council requires high density developments to have a minimum landscaped area of 35%. The proposed modifications will continue to comply with the minimum amount of landscaped area.

In regards to deep soil area, there is no proposed change to the approved amount of deep soil provided on the site. The application was referred to Council's Landscape Architect for comment. Originally, the applicant provided less landscaped area at 2,907sqm or 33% which was not supported by Council. The applicant has now revised these figures to ensure compliance with the 35% or 3,064.88sqm. The revised landscaped plans are referenced in Condition No. 1 of the consent.

### Modification No. 5

Condition No. 34 and the new Condition No. 34A have been reviewed by Council's Development Engineer for comment. The officer does not have any issue with the wording of the conditions, particularly as the applicant is not proposing an on-site infiltration system but a detention tank. Condition No. 34 has been amended to reflect an on-site detention tank and Condition No. 34A has been worded to allow for temporary discharge onto Gardeners Road until the completion of Galloway Street. RMS were also referred the modification application and have requested that Condition No. 34 be altered to include amended stormwater management plans to be submitted to RMS prior to the issue of the Construction Certificate. The wording of the two conditions is as follows:

### **Condition No. 34**

“Prior to the issue of the relevant Construction Certificate, detail design and construction plans in relation to the stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and **Council and Roads and Maritime** for approval. The plans shall incorporate but shall not be limited to the following:

- i. An ~~On-Site Infiltration System~~ **Detention Tank** shall be designed according to Part 5 ~~6~~ of the SMTG. The system shall be designed to detain the stormwater runoff from the site for all storm events up to and including the 1 in 100 ARI storm event.
- ii. ~~Any stormwater discharge to the RMS or Council kerb and gutter is limited to 10L/s. If higher discharge is proposed, provision must be made to connect to the Sydney Water, RMS or Council stormwater pit and pipe system.~~ Maximum 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. site being fully grassed/turfed), rather than predevelopment condition;
- iii. No pump out shall be used to drain seepage from the basement due to the elevated water table level. The basement shall be designed as a ‘fully tanked’ structure;
- iv. The pump out can only be utilised to dispose runoff that may enter the basement carpark from the driveway access to the basement;

- v. The pump out system from the basement carpark proposed shall discharge to the on-site ~~stormwater infiltration system~~ **detention tank**;
- vi. All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment (e.g. Gross Pollutant Trap, (GPT)) prior to entering Sydney Water's, RMS and Council drainage systems. Details of the pollution control device shall be shown on stormwater management plan;
- vii. The rainwater tank size shall be designed based on a supply/demand management approach. Also 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 infiltration 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 infiltration system is equivalent to 50% of the size of the rainwater tanks; and
- viii. Detailed calculations including computer modelling (electronic and paper) shall be submitted demonstrating the adequacy of the stormwater management plan in fulfilling all requirements of Council's SMTG.”

Note: Detailed drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code, Sydney Water regulations, the BCA and these conditions of consent. All drawings shall correspond with the approved architectural plans.”

### **Condition No. 34A**

- i. “Stormwater shall be temporarily discharged to kerb outlets in Gardeners Road until completion of the drainage system in Galloway Street.
- ii. Upon completion of the drainage system in Galloway Street, the kerb outlets in Gardeners Road shall be removed;
- iii. The site stormwater drainage system shall be reconfigured so that all site stormwater is discharged to the Galloway Street drainage system.”

### Modification No. 6

Council agrees that the word 'generally' be included in Condition No. 45 to allow for some flexibility to the design of the approved plans. Any changes to the plans are generally to be in accordance with the approved development and will continue to comply with SEPP 65.

Council agrees that the wording of Condition No. 63(b) does not provide flexibility in the layout of the units. The applicant has provided indicative floor layouts of the units which demonstrate minor changes to the orientation of the living, kitchen and dining areas. There is no proposed change to the bedroom locations and window locations. The kitchens and living areas will continue to comply with SEPP 65 and the ADG requirements for distances away from a window. Therefore, the wording of Condition No. 63(b) (as provided above in Modification No. 6) is supported. Both conditions have been modified to reflect the new wording.

### Modification No. 7

The proposed wording for Condition Nos. 62 and 98 as provided above (under Modification No. 7) is supported due to the change in the amount of car spaces provided at Stage 1 and 2 of Construction. The conditions have been updated to reflect the new wording.

### Modification No. 8

The proposed wording for Condition No. 101 as provided above (under Modification No. 8) is supported due to the increase in FSR for the overall development. The condition now reflects a FSR of 3.35:1 at Stage 1 of construction and 3.36:1 at Stage 2 of construction as a result of the commercial tenancy replacing the Gardeners Road access entry following the construction of Galloway Street to the south.

### Modification No. 9

The amended plans and documentation is supported. Condition No. 1 has been updated to reflect the revised plans with the correct revised date.

## **SECTION 96AA CONSIDERATIONS**

In accordance with Section 96AA, a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:

- a) *it is satisfied that the development to which the consent as modified related is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and;*
- b) *it has notified the application in accordance with:*
  - i. *the regulations, if the regulations so require, and*
  - ii. *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- c) *it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*
- d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

The development, as modified, will remain substantially the same development for which Development Consent No. 13/135 was granted by the Court and will have minimal environmental impacts.

**(a) Substantially the same development**

The Section 96AA Modification Application relates to amendments predominantly to the Ground Street Level and podium as well as minor changes to the landscaped area, balconies and car parking, and as such, the modifications will result in substantially the same development as approved under DA-13/135 and then subsequently modified. It is considered that the proposed amendments are suitable in the context of the site and the locality. The proposed scheme as modified will not have any material impacts on the development approved by the Court. The proposed modifications do not seek to alter the description, use and nature of the mixed use proposal.

**(b) Notification**

In accordance to the above, the Section 96AA application was required to be notified for a fourteen day period between 13 July 2016 to 27 July 2016 as the development was defined as an advertised development in accordance with the *Environmental Planning and Assessment Regulations*.

**(c) Submissions**

Two (2) submissions were received for the modification application. Concerns raised by the objectors are as follows:

Existing Right-Of-Carriageway benefiting 1-5 Kent Road

The owners of 1-5 Kent Road have raised concern with the extinguishment of the right-of-carriageway (ROC) which benefits their site and which is located along the western side of the subject site with access off Gardeners Road. The objector has issues relating to the closure of the ROC and its impact on possible access and fire egress from their site.

Two conditions were imposed on the consent for 1-5 Kent Road (DA-15/216) to allow for development at 659-669 Gardeners Road to progress in place of the ROC. The conditions were worded in a way to ensure that the ROC is not extinguished until 1-5 Kent Road is provided with alternate public road access. 1-5 Kent Road presently gains primary access to the site via Kent Road and eventual access will be from Galloway Street. The second condition requests the ROC to be extinguished prior to the issue of the Occupation Certificate for the development as there is no requirement for access to the site (1-5 Kent Road) from the ROC. The conditions of consent relating to the ROC have been worded to emphasise the conditions imposed on the original consent (DA-13/135) approved by the Land and Environment Court.

Additionally, RMS required as part of the original consent that access from Gardeners Road must be extinguished after the completion of construction of Galloway Street and the applicant is to infill the redundant vehicular access with commercial floor space for the site. At the time, due to the uncertainty regarding the delivery of Galloway Street, and to ensure that the cost burden of relocating the access is not transferred to the body corporate, the condition

requiring a Deed of Agreement on the Applicant to carry out the construction and design works for the extinguishment of the right of way and vehicular access from Gardeners Road was proposed.

The owners of 1-5 Kent Road generally do not agree to these conditions as part of their consent and do not agree with the subject proposal relating to the ROC. The owner/developers of the subject site and the owners of 1-5 Kent Road have entered into a contractual agreement regarding to the ROC. The objector states that there is no agreement between the parties to extinguish the easement as they are yet to determine whether they need the easement for access and/or fire egress as part of their development on the benefitting land. There are no changes proposed on Condition Nos. 85 and 86 of the subject consent as proposed in the modification. The objector has the right to contest the conditions placed on their own consent.

Generally, Council considers the temporary extinguishment of the ROC during construction to be acceptable as it will allow the neighbouring property to have access off Gardeners Road during their construction phase while waiting on the completion of Galloway Street. Once Galloway Street is completed, there is no need for the ROC, particularly as the neighbouring site will have access from Galloway Street, and access off Kent Road. The applicant has also provided alternate access from the subject site at its south-western portion to allow for continuous access during the construction of 1-5 Kent Road. The owner/developer of 1-5 Kent Road and the owner of the subject site will still need to comply with their contractual agreement.

The ROC is an historical one and it is considered that there is no longer a need for its retention, particularly as there will be alternative access to the beneficiary site. Condition Nos. 85 and 86 have been imposed by the Land and Environment Court with no contention by the beneficiary. The applicant is to comply with Condition No. 85 and 86 of the consent in regards to the right of carriageway prior to the issue of the Occupation Certificate. This will allow for orderly and efficient development.

Proposal to amend project staging (Stage 1 and 2) so that car parking spaces in Stage 1 are reduced by 24 spaces

The objector has concerns regarding to the staging of the development and the reduction of car spaces provided at the completion of the development. The original application was approved with 481 car spaces at the completion of the southern portion of the development and with the construction of Galloway Street. Council considers that the construction of the commercial tenancies to occur within the first stage of construction and not the second stage allows for a more streamlined construction process. Additionally, the development was approved under the RFDC. Should the development have been approved under the ADG, the development would require less car parking spaces for both the residential and commercial components as it is located within 800m of Mascot Train Station. The second stage of construction is limited to the construction of Galloway Street which is scheduled for completion within 24 months.

The proposed modifications are therefore considered to address the relevant provisions of Section 96AA.

## SECTION 79C CONSIDERATIONS

The relevant matters for consideration pursuant to Section 79C are addressed as follows:

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

State Environmental Planning Policy 65- Design Quality of Residential Apartment Development

The modifications have been assessed against SEPP 65 and the ADG. The primary application was lodged prior to the ADG enforced and had been assessed against the RFDC. The modifications do not trigger any non-compliance with the SEPP or the guidelines (other than what was approved by the L&E Court). The applicant has provided a revised design verification which is supported by Council.

Botany Bay Local Environmental Plan 2013

The subject site is zoned B4 Mixed Use in accordance with the provisions of the Botany Bay Local Environmental Plan (BBLEP) 2013.

Accordingly, it is considered that granting approval to the proposed modifications will not be inconsistent with the objectives of the BBLEP 2013 with regard to development in the B4 Mixed Use zone.

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 buildings and commercial tenancies are 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"><li><i>To provide a mixture of compatible land uses.</i></li><li><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></li></ul>
What is the height of the building?	No change	There is no change to the maximum height of the development.

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
What is the proposed FSR?	Acceptable – existing non-compliance	<p>The maximum FSR allowed on the site is 3.2:1 (28,021.76sqm).</p> <p>The site has a combined area of 8,756.8sqm.</p> <p>The development will increase the floor area by 238sqm.</p> <p>The approved FSR by the L&amp;E Court is:</p> <p>Stage 1: 28,980sqm (3.33:1)</p> <p>Stage 2: 29,220sqm (3.34:1)</p> <p>The proposed FSR is:</p> <p>Stage 1: 29,370sqm (3.35:1)</p> <p>Stage 2: 29,458sqm (3.36:1)</p>
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 3” on the FSR Map	N/A	The subject site is not identified as being within “Area 3” on the FSR map.
Is the land affected by road widening?	Yes	Road widening has been addressed as part of the parent development application.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <p>6.1 – Acid sulfate soils (ASS)</p> <p>6.2 – Earthworks</p> <p>6.3 – Stormwater management</p> <p>6.8 - Airspace operations</p> <p>6.9 – Development in areas subject to aircraft noise</p> <p>6.16 – Design excellence</p>	Yes	There is no change to the development relating to Clause 6.1, 6.2, 6.3, 6.8, 6.9 and 6.16.

Accordingly, it is considered that granting approval to the proposed modifications will not be inconsistent with the objectives of the BBLEP 2013 with regard to development in the B4 Mixed Use zone and is substantially the same development. The development does increase the floor space ratio and total gross floor area by 238sqm however it is not considered to impact on the building footprint and amenities of the surrounding area.

#### Botany Bay Development Control Plan 2013

The below table addresses Part 4C and Part 9A of the BBDPC 2013 against the modifications proposed that are applicable:

Control	Proposed	Complies (Yes/No)
<b>4C.2.2 Streetscape Presentation</b>		
<b>C1</b> 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.	There is no significant change to the streetscape presentation other than modifications to the lobby entrances to make them more visually aesthetic. Minor changes to the balconies will not alter the façade of the development when viewed from Gardeners Road.	Yes
<b>4C.2.4 Landscaped Area and Deep Soil Planting</b>		
<b>C1</b> A residential flat development must have a minimum landscaped area of 35% and a maximum un-built upon area of 20%.	The amended plans propose 3,098sqm or 35.4% which complies with Council's controls.	Yes
<b>C2</b> Development Applications must include a plan clearly identifying how hard and landscaped areas have been calculated.	An amended landscape plan and a separate landscape calculation plan have been provided with the modification application.	Yes
<b>C3</b> Landscaped areas must be effectively distributed on the site to minimise the dominance of buildings, structures and paving when viewed from the street, public places and surrounding properties.	Changes to the podium landscaped area are minimal. The original application distributes landscaped area on the podium, street level and rooftop.	Yes
<b>4C.4.1 Dwelling Mix and Layout</b>		
<b>Apartment Size and Mix</b> <b>C1</b> 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.	There is no change to the size and unit mix approved under DA-13/135 by the Court.	N/A
<b>4C.4.9 Car Parking and Vehicle Access</b>		
<b>C1</b> Development that is not located within 800m of Mascot Train Station (refer to Figure 13) must comply with the car parking and bicycle rates and design requirements within Part 3A - Car Parking.  Development that is located within this area must comply with the provisions of the ADG. The ADG states:- For development in the following locations: <ul style="list-style-type: none"><li>• on sites that are within 800 metres</li></ul>	The site is located within 800m and requires to comply with the ADG provisions.  There is no change to the approved amount of car parking at the completion of the development. The BBDPC 2013 requires the site to provide 479 car spaces while the ADG requires the development to provide approximately 296 car spaces. The development was approved with 481 car spaces.  The only change to the car parking is the amount provided at the different	Yes

Control	Proposed	Complies (Yes/No)
of a railway station or light rail stop in the Sydney Metropolitan Area; 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	stages of construction. The approved development required Stage 1 construction to have 505 car spaces and Stage 2 to have 481 car spaces. The modification will provide 481 car spaces as part of Stage 1 of construction to allow for the construction of the commercial tenancies.	
<b>C2</b> All internal circulation roadways, aisles, ramps driveways and car parking areas and loading area must be designed to comply with the requirements in Part 3A - Car Parking and the relevant Australian Standards	There are no significant changes to the internal circulation of the basement level other than relocation of car parking and increasing the back of house amenities in a more structured manner.	Yes
<b>4C.5.2 Access</b>		
<b>C1</b> 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.	There are no changes to the residential component. Access to public areas is to continue to comply with the BCA.	Yes
Control	Proposed	Complies (Yes/No)
<b>9A.3.2 Desired Future Character – Urban Block 1</b>		
<b>Land Uses</b> 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.	Commercial tenancies have been approved at ground level along Gardeners Road (northern portion) and off Galloway Street (southern portion). The commercial tenancies have been increased in size to allow for better amenity however will not alter the building footprint of the approved development. The residential component will not be altered and will remain as approved.	Yes
<b>Street Character</b> 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	There is no change to the street character along Gardeners Road and Galloway Street.	N/A

Control	Proposed	Complies (Yes/No)
evening.		
<b>9A.4.4.1 Design Excellence</b>		
<b>C1</b> The development application must identify through a SEPP 65 Design Statement and/or annotated drawings how design excellence will be achieved in the proposed development.	A revised design verification has been provided with the modification application.	Yes
<b>C2</b> Development must comply with Part 4 - Residential Development.	The modifications have been assessed against Part 4C of the BBDPC 2013.	Yes
<b>C3</b> The proposed building design and form must identify and justify: <ul style="list-style-type: none"> <li>• How it will define the public domain and contribute to the character of the streetscape; and</li> <li>• How it will meet the SEPP 65 Apartment Design Guide recommendations</li> </ul>	There is no change to the building design as viewed from the public domain. Minor changes to balconies are proposed however the size of the balconies complies with the requirements under the ADG.	Yes
<b>C4</b> Drawings and examples must be provided regarding the building features, textures, materials, finishes and colours suitable to the site, building type and context.	No change is proposed to the building features, colours and materials used.	N/A
<b>9A.4.4.3 Public Domain Interface at Ground Level</b>		
<b>C1</b> Development must be designed so that it has a clearly definable entry and addresses the street	Amendments to the lobby area are proposed to allow for a more aesthetic and practical space both off Gardeners Road and Galloway Street.	Yes
<b>C6</b> The visual connection between the building frontage and the public domain must be considered carefully in all development. This may require the floorplate of development to step up/down with the topography to ensure that the floor level of the building frontage is generally at footpath level.	The relationship between the building frontage and the public domain is still achieved.	Yes
<b>9A.4.4.4 Active Street Frontages and Awnings</b>		
<b>C1</b> All development within Urban Blocks 1, 3 and 4 must provide retail or commercial street frontages where shown in Figures 49, 50, 51 and 52.	There are no changes proposed other than pushing forward the construction of the commercial tenancies along the southern portion of the development.	Yes
<b>C2</b> All development within Urban Blocks 1, 3 and 4 must provide awnings where shown in Figures 53, 54, 55 and 56. Awning widths must accommodate street tree planting to Council specifications.	There are no changes to the awnings of the approved development.	N/A

The provisions of the BBDCP 2013 have been considered and the proposed modifications raise no concerns in regard to the minor alterations to the facades.

The proposed modifications have been considered and do not raise any inconsistencies with the BBDCP 2013 and do not alter the development's compliance with the BBDCP 2013.

**(b) Likely impacts**

The proposed modifications relate only to the podium, ground street level and minor amendments to the private open space of units, landscaped area and the staging of the construction process, and as such, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality. The proposed modifications will have no additional environmental impacts beyond those considered by Council and the Court during the assessment and determination of DA-2013/135/1 (Court Order 14/10196).

**(c) Suitability of the site**

The suitability of the site was addressed in the original approval of DA-13/135.

**(d) Submissions**

Two (2) submissions were received for the modification application. The concerns raised by the objectors have been discussed in the report above.

**(e) The public interest.**

The proposed amendments will have no significant adverse impact upon the public interest.

## **OTHERS**

Internal Departments

The modification application was referred to Council's Development Engineer, Landscape Architect and Traffic Engineer. Comments received back from these departments do not object to the development and the conditions have been updated accordingly.

External Authorities

The Section 96AA application was referred to Water NSW and to RMS for comments. Water NSW has revised the comments originally provided from NSW Office of Water as there are very minor amendments to the basement. RMS also provided comments in particular to Condition No. 34 of the consent relating to stormwater discharge to Gardeners Road. The conditions have been imposed in this consent.

## SECTION 94 CONTRIBUTIONS

Council has adopted a new Section 94 Contributions Plan 2016 which came into effect on 22 June 2016 however as the development was approved under the old Section 94 Contributions Plan 2005-2010 and Mascot Station Precinct Plan, the Section 94 Application will adopt the figures provided in the previous plans.

The modified development will increase the demand for public amenities within the area and in accordance with the Botany Bay Section 94 Contributions Plan 2005-2010 and the Mascot Station Precinct Plan. Therefore, Section 94 Contributions shall be applied for the additional 238sqm of commercial space created by the proposal.

The contribution for the additional commercial gross floor area is calculated as follows under the Section 94 Contributions Plan 2005-2010:

**Additional gross floor area:**

238sqm

**Gross Floor Area for one employee (sqm):**

22.3sqm (row shops with frontage to a street)

**Additional gross floor area / GFA for employee (sqm)= number of workers**

238sqm/22.3sqm = 10.7 workers (round up to 11)

Therefore, the additional floor space triggers an additional 11 workers.

A breakdown of the employment rate (indexed at time of June 2015) is as follows:

Public Amenity	Rate	Workers	Total
Community Facility	\$424	11	\$4,664
Administration	\$54	11	\$594
Shopping Centre (City Wide)	\$229	11	\$2,519
Open Space and Recreation	\$310	11	\$3,410
<b>Total</b>			<b>\$11,187.00</b>

Therefore, the total additional contribution is **\$11,187.00** within the Section 94 Contribution Plan 2005-2010. This is in addition to the total contributions of \$3,020,066 previously charged under the plan. The total Section 94 Contribution is **\$3,031,253.11**.

There is no change to the residential component of the development.

The contribution for the additional commercial gross floor area is calculated as follows under the Mascot Station Precinct Plan:

Commercial component (additional commercial GFA)		
Commercial Space	238sqm	

Worker Density		40
Workers		6
Rate		\$4,190.86
Total		\$4,190.86 x 6 = \$25,145.16

Therefore the additional commercial rate under the Mascot Station Precinct Plan is **\$25,145.16**. This is in addition to the total contributions of \$1,936,177.00 previously charged under the plan. The total Mascot Station Precinct Contribution is **\$1,961,322.16**.

There is no change to the credits applied on the site.

The revised total Section 94 Contribution Rate is **\$4,839,904.59**.

It is noted that the applicant has paid the total Contribution rate of \$4,803,572.00 on 15 August 2016. The balance of **\$36,332.16** will need to be paid. Condition Nos. 3(c) and 32 have now been updated as provided below:

Condition No. 3(c)

3.

(c) *Section 94 Contribution* **\$4,803,572 \$4,839,904.59**

Condition No. 32

32. The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans listed below a contribution (*as indexed*) of ~~\$4,803,572 (DA13/135/02)~~ **\$4,839,904.59 (DA-13/135/04)** is required as follows:

**Section 94 Development Contribution Plan 2005-2010**

Residential

Community Facilities:	\$1,292,088.00
Administration:	\$38,376.00
Transport:	\$494,462.00
Open Space and Recreation:	\$1,151,612.00

Commercial

Community Facilities:	<b>\$18,159.92 \$22,823.92</b>
Administration:	<b>\$2,312.82 \$2,906.82</b>
Shopping Centre (City Wide)	<b>\$9,808.07 \$12,327.07</b>
Open Space and Recreation:	<b>\$13,277.30 \$16,687.30</b>
<b>Section 94</b>	<b>Total \$3,020,066 \$3,031,253.11</b>

**Mascot Station Precinct Plan**

Residential

60 x Studios, 162 x 1 Bedrooms, 104 x 2 Bedrooms, 2 x 3 Bedrooms	\$1,835,596.68
Commercial based on <del>955sqm</del> 1,193sqm	<del>\$100,580.64</del> \$125,725.80
<b>MSP Total</b>	<b>\$1,936,177.00</b> \$1,961,322.48

**Credit**

Mascot Station Precinct Plan	\$129,917.00
Section 94 Development Contribution Plan 2005-2010	\$22,754.00
<b>Credit Total</b>	<b>\$152,671.00</b>

**Grand total** **\$4,803,572.00** **\$4,839,904.59**

The Section 94 Contribution of **\$4,839,904.59** is to be paid to Council prior to the issue of the first Construction Certificate.

Note: The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time. (DA13/135/02)

Note: The applicant is to pay the remaining balance of the Section 94 Contributions if a portion of the contributions have been paid to Council. (DA-13/135/04.)

## **CONCLUSION**

The Section 96AA Application seeks to modify Development Consent No. 13/135 which approved the demolition and construction of a mixed use development. The modifications include changes to the size of the commercial tenancies and lobby areas with an increase in GFA of 238sqm, project staging of construction relating to commercial tenancies and car parking, design amendments and revisions relating to private open space, landscaped area and egress and amendments to a number of conditions relating to stormwater management, car parking allocation and design verification to unit layouts. The development, as modified, is substantially the same development as that originally approved. The proposed modification will not alter the built form or character of the development, and will continue to ensure the development is carried out in an orderly manner.

## **RECOMMENDATION**

It is RECOMMENDED that the Panel resolve pursuant to Section 96AA of the *Environmental Planning and Assessment Act 1979*, in respect of Development Consent No. DA-13/135 for the construction of a mixed development at 659-669 Gardeners Road, Mascot to:

- Increase in the size of the southern commercial units thereby an increase in the total GFA by 238sqm;

- Amend project staging so that car parking spaces are reduced by 24 spaces and commercial tenancies in the southern portion of the development be constructed at Stage 1 of construction;
- Design amendments to include revisions to the northern lobby & adjacent commercial tenancies, changes to amenities area of the northern & southern commercial tenancies, reduce and modify balconies to accommodate requirements for a substation, and changes to the egress of the southern building;
- Amend level 2 podium landscaping as a result of design development changes; and
- Amend Condition No. 1 relating to the address the revised plans;
- Amend Condition Nos. 3(c) and 32 to reflect updated S.94 Contribution rates;
- Amend Condition No. 34 relating to the stormwater management system on site;
- Add Condition No. 34A relating to the discharge of stormwater to the street;
- Amend Condition No. 45 relating to the design verification and design flexibility of the plans;
- Amend Condition No. 62 relating to the number of car parking spaces provided at the different construction stages;
- Amend Condition No. 63(b) relating to the flexibility in altering the unit layout
- Amend Condition No. 98 relating to the number of spaces allocated at the different construction stages;
- Amend Condition No. 101 relating to the revision of the updated FSR at Stage 1 and 2;
- Amend Condition No. 130 to refer to the current Section 96AA Application No. DA-13(135).04.

**Premises: 659-669 Gardeners Road, Mascot**

**DA-13/135/04**

### **SCHEDULE OF CONSENT CONDITIONS**

#### **GENERAL CONDITIONS**

1. The development is to be carried out 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
Site Analysis – Drawing No. 01 Revision D	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Site Survey & Demolition Plan – Drawing No. 03 Revision E	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.

Drawing No.	Author	Dated Received
Site/Roof Plan– Drawing No. 04 Revision G	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Landscaped Area + DSL Areas – Drawing No. 06 Revision <b>D F</b>	MD+A Architects	Dated <b>24 July 2014 19 August 2016.</b> Received by council <b>24 July 2014 24 August 2016.</b>
Common Open Space Diagrams & Calculations – Drawing No. 07 Revision D	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Private Open Space – Drawing No. 08 Revision <b>D E</b>	MD+A Architects	Dated <b>24 July 2014 26 May 2016.</b> Received by council <b>24 July 2014 22 June 2016.</b>
Private Open Space – Drawing No. 09 Revision C	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
FSR & GFA Calculation Diagrams – Drawing No. 10 Revision <b>F G</b>	MD+A Architects	Dated <b>24 July 2014 26 May 2016.</b> Received by council <b>24 July 2014 22 June 2016.</b>
Basement Plan Level 1 plan Stage 1– Drawing No. 12 Revision <b>F G</b>	MD+A Architects	Dated <b>24 July 2014 26 May 2016.</b> Received by council <b>24 July 2014 22 June 2016.</b>
Ground Level Plan (Street Level) – Drawing No. 13 Revision <b>F G</b>	MD+A Architects	Dated <b>24 July 2014 26 May 2016.</b> Received by council <b>24 July 2014 22 June 2016.</b>
Level 1 Plan – Drawing No. 14 Revision <b>H I</b>	MD+A Architects	Dated <b>24 July 2014 26 May 2016.</b> Received by council <b>24 July 2014 22 June 2016.</b>

Drawing No.	Author	Dated Received
Level 2 Plan – Drawing No. 15 Revision <b>H I</b>	MD+A Architects	Dated <b>24 July 2014</b> <b>19 August 2016.</b> Received by council <b>24 July 2014 24 August 2016.</b>
Level 3 Plan – Drawing No. 16 Revision <b>H I</b>	MD+A Architects	Dated <b>24 July 2014</b> <b>26 May 2016.</b> Received by council <b>24 July 2014 22 June 2016.</b>
Level 4 Plan – Drawing No. 17 Revision H	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Level 5 Plan – Drawing No. 18 Revision H	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Level 6 Plan – Drawing No. 19 Revision H	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Level 7 Plan – Drawing No. 20 Revision H	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Level 8 Plan – Drawing No. 21 Revision H	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Level 9 Plan – Drawing No. 22 Revision H	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Level 10 Plan – Drawing No. 23 Revision H	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Level 11 Plan – Drawing No. 24 Revision H	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Level 12 Plan – Drawing No. 25 Revision H	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.

Drawing No.	Author	Dated Received
Roof Level Plan – Drawing No. 26 Revision H	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Ground Level Plan (Street Level)- Stage 2 – Drawing No. 27 Revision <b>D E</b>	MD+A Architects	Dated <b>24 July 2014</b> <b>26 May 2016.</b> Received by council <b>24 July 2014 22 June 2016.</b>
North Elevation- Northern Building – Drawing No. 31 Revision G	MD+A Architects	Dated 24 July 2014. Received by council 15 August 2014.
North Elevation- Southern Building – Drawing No. 32 Revision G	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
South Elevation- Northern Building – Drawing No. 33 Revision G	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
South Elevation- Southern Building – Drawing No. 34 Revision <b>G H</b>	MD+A Architects	Dated <b>24 July 2014</b> <b>26 May 2016.</b> Received by council <b>24 July 2014 22 June 2016.</b>
East Elevation – Drawing No. 35 Revision G	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
West Elevation – Drawing No. 36 Revision G	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Materials and Finishes – Drawing No. 37 Revision C	MD+A Architects	Dated 24 July 2014. Received by council 15 August 2014.
South Elevation – Southern building (Stage 2) – Drawing No. 38 Revision B	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Section 1 – Drawing No. 41 Revision I	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.

Drawing No.	Author	Dated Received
Unit Layout Plans 01 – Drawing No. 101 Revision B	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Unit Layout Plans 02 – Drawing No. 102 Revision B	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Unit Layout Plans 03 – Drawing No. 103 Revision B	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Unit Layout Plans 04 – Drawing No. 104 Revision B	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Unit Layout Plans 05, Drawing No. 105, Issue B	MD +A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Unit Layout Plans 06, Drawing No. 106, Issue B	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Unit Layout Plans 07, Drawing No. 107, Issue B	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Unit Layout Plans 08, Drawing No. 108, Issue B	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Shadow Diagrams March – Drawing No. 51A Revision D	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Shadow Diagrams March – Drawing No. 51B Revision C	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Shadow Diagrams March – Drawing No. 52A Revision D	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Shadow Diagrams March –	MD+A Architects	Dated 24 July 2014. Received by council

Drawing No.	Author	Dated Received
Drawing No. 52B Revision C		24 July 2014.
Shadow Diagrams March – Drawing No. 53A Revision D	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Shadow Diagrams March – Drawing No. 53B Revision C	MD+A Architects	Dated 24 July 2014. Received by council 24 July 2014.
Cover Page- Drawing Schedule and Plant Schedule. LAN-DA-000 Revision <del>E</del> E	360 Degrees	Dated <del>24 July 2014 8 June 2016.</del> Received by council <del>24 July 2014 22 June 2016.</del>
Key Plan LAN-DA-001 Revision C	360 Degrees	Dated 24 July 2014. Received by council 24 July 2014.
Landscape Plan- Ground Level LAN-DA-002 Revision <del>C</del> D	360 Degrees	Dated <del>24 July 2014 22 August 2016.</del> Received by council <del>24 July 2014 24 August 2016.</del>
Landscape Typical- Street Elevations LAN-DA-003 Revision C	360 Degrees	Dated 24 July 2014. Received by council 24 July 2014.
Landscape Plan – Level 1- Sky Garden LAN-DA-004 Revision C	360 Degrees	Dated 24 July 2014. Received by council 24 July 2014.
Landscape Plan- Level 1- Central Park LAN-DA-005 Revision C	360 Degrees	Dated 24 July 2014. Received by council 24 July 2014.
Landscape Typical Elevations – Level 2 – Central Park LAN-DA-006 Revision <del>E</del> G	360 Degrees	Dated <del>24 July 2014 18 August 2016.</del> Received by council <del>24 July 2014 24 August 2016.</del>
Landscape Plan- Level 3 LAN-DA-007 Revision C	360 Degrees	Dated 24 July 2014. Received by council 24 July 2014.

Drawing No.	Author	Dated Received
Landscape Plan – Level 4 and Typical Planters to Levels 5, 6, 7 and 8 LAN-DA-008 Revision C	360 Degrees	Dated 24 July 2014. Received by council 24 July 2014.
Landscape Plan – Typical Planters to Levels 9, 10 ,11 and 12 LAN-DA-009 Revision C	360 Degrees	Dated 24 July 2014. Received by council 24 July 2014.
Landscape Plan-Typical 'Streets in the Sky' (Level 11) LAN-DA-010 Revision C	360 Degrees	Dated 24 July 2014. Received by council 24 July 2014.
Landscape Plan- Level 12-Roof Garden –North Building- Sky Park LAN-DA-011 Revision C	360 Degrees	Dated 24 July 2014. Received by council 24 July 2014.
Landscape Plan – Level 13-Roof Garden – South Building-Sky Park LAN-DA-012 Revision C	360 Degrees	Dated 24 July 2014. Received by council 24 July 2014.
'Streets' Concept Details, Drawing No. 111, Revision A	MD+Architects	Dated 24 July 2014. Received by council 24 July 2014.

**(DA-13/135/04)**

Reference Documents	Author	Date
Amended Development Application Report – Volume 1/ Job No. 13-013	BBC Consulting Planners	Report dated April 2014. Received by council 14 April 2014.
Illustrative Figures - Amended Development Application Report – Volume 1.	BBC Consulting Planners	Report dated April 2014. Received by council 14 April 2014.
Phase 2 - Environmental Site assessment Ref: e27228kgrpt	Environmental Investigation Services	Report dated 21 March 2014. Received by council 14 May 2014.
REMEDIAL ACTION PLAN (RAP). Ref: E27228KGrpt2-	Environmental	Report dated 7 April 2014. Received by

Reference Documents	Author	Date
RAP	Investigation Services	Council on 1 May 2014.
WASTE CLASSIFICATION ASSESSMENT. Ref: E27228KGlet1	Environmental Investigation Services	Report dated 31 March 2014. Received by Council on 1 May 2014.
Quantity Surveyors Statement	Altus Page Kirkland	Report dated 14 April 2014. Received by Council on 28 April 2014.
Solar Access Studies	SLR Consulting Pty Ltd (SLR)	Report dated 10 April 2014. Received by Council on 28 April 2014.
Urban Design Report	Olsson Associates Architects	Report dated 14 April 2014. Received by Council on 14 April 2014.
Economic Assessment	Hill PDA	Report dated April 2014. Received by Council on 14 April 2014.
Arboricultural Impact Report – 659-669 Gardeners Road Mascot – Amended Development Proposal.	Landscape Matrix Pty Ltd	Dated 8 April 2014. Received by Council on 14 April 2014.
Qualitative Wind Impact Assessment	SLR Consulting Pty Ltd (SLR)	Report dated 29 July 2013. Received by Council on 2 August 2013.
Qualitative Natural Ventilation Assessment. Report Number 610.13863-R1	SLR Consulting Pty Ltd (SLR)	Report dated 11 April 2014. Received by Council on 14 April 2014.
Waste management plan	Leigh Design Pty Ltd	Report dated 10 April 2014. Received by Council on 14 April 2014.
BCA compliance capability	Environet Consultancy Pty	Report dated April

Reference Documents	Author	Date
report	Ltd	2014. Received by Council on 14 April 2014.
Landscape Architect's Design Statement	360 Degrees	Report dated April 2014. Received by Council on 14 April 2014.
Traffic Impact Assessment Reference 13.031r02v03	Traffix Traffic and Transport Planners	Report dated 14 April 2014. Received by Council on 14 April 2014.
Access Report	Environet Consultancy Pty Ltd	Report dated April 2014. Received by Council on 14 April 2014.
Design Verification Statement	MD+A Architects Australia P/L	Report dated April 2013. Received by Council on 14 April 2014.
Architectural Statement Amended Development Application	MD+A Architects Australia P/L	Report dated 14 April 2014. Received by Council on 14 April 2014.
DA Noise Impact Assessment	Acoustic Logic	Report dated 25 April 2013. Received by Council on 02 August 2013
Geotechnical Assessment Report (Ref: 26374Zrpt)	JK Geotechnics GEOTECHNICAL & ENVIRONMENTAL ENGINEERS	Report dated 5 March 2013. Received by Council on 02 August 2013
Acid Sulfate Soils Report (Ref: E26374Kletrev1)	Environmental Investigations Services	Report dated 29 July 2013. Received by Council on 02 August 2013
Arboricultural Impact Report	Landscape Matrix Pty Ltd.	Report dated 30 July 2013. Received by Council on 02

Reference Documents	Author	Date
		August 2013
BASIX Certificate No. 492622M_02	Max Brightwell	Dated 24 July 2014. Received by Council on 24 July 2014.
NATHERS Certificate No. 1006658072	Max Brightwell	Dated 24 July 2014. Received by Council on 24 July 2014.

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

2. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees:
  - a) Development Control \$11,200.00;
3. The applicant must prior to the issue of the *first* Construction Certificate, pay the following fees:
  - a) Builders Security Deposit \$50,000.00;
  - b) Public Works Bond \$60,000.00;
  - c) *Section 94 Contribution* \$4,803,572 \$4,839,904.59
  - d) Waste Levy \$5,000.00
  - e) Subdivision Certificate (Torrens) \$530.00;
  - f) Linen Handling Fee (Torrens) \$495.00.

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

*(Section 94 contribution amended DA13/135/02; Reference to first CC added DA13/135/03)(DA-13/135/04)*

- 3A. *The construction of the development will be timed in four stages with the following separate Construction Certificates for each stage:*

- a) *Site establishment/shoring/excavation;*
- b) *Footings/in-ground services/structure;*
- c) *Façade/services/finishes; and*

*d) External works.*

*Note: The consent is structured to include conditions to be satisfied prior to the issue of the first construction certificate or prior to the relevant construction certificate. (Condition inserted DA13/135/03)*

4.
  - a) This Consent relates to land in Lot 1 in DP 797133 and Lot 1 in DP534350 and Lot 31 in DP789177 and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public works required by this consent; and
  - b) Separate development applications must be lodged with Council for the use of the individual retail tenancies and associated signage.
5. The Applicant is to remove the two street trees as shown on the approved landscape plan (LAN-DA-002) at their expense. The trees may only be removed after a Construction Certificate has been issued. The following is stipulated:
  - a) A qualified Arborist with their own public liability insurance must be engaged to undertake the work;
  - 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 trunks. Tree removal work shall occur without damage to Council infrastructure or underground services and utilities;
6. It is a condition of consent that the applicant shall, at no cost or expense to Council, comply with the following:
  - a) Dedicate the portion of land to Council for the purpose of a new public road. The area of the land to be dedicated shall be the full length of the southern property boundary for a width of 9 metres as shown on the stamped approved plans. The Plan of Dedication shall be lodged with Council prior to the issue of the relevant Construction Certificate and registered with the Department of Lands prior to the issue of the Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes; (DA13/135/03)
  - b) The construction of New Street and public domain such as footpaths, street lighting, landscaping, etc. shall be constructed by the Applicant at no cost to Council or the body corporate. The developer may enter into a Voluntary Planning Agreement (VPA) with Council to provide a monetary contribution in lieu of the construction works for the new road.

A signed undertaking shall be submitted by the applicant prior to the issue of the Occupation Certificate;

- c) A Public Domain Plan shall be submitted to and approved by Council for public domain improvements along the frontage of the development to Gardeners Road. The Public Domain Plan shall include but not be limited to footpath treatments, service adjustments/access lids and street trees (as provided by the Landscape Consultant), adjoining the site together with the provision of appropriate street light standards, drainage (if any), kerb and gutter, footway, bicycle paths, landscaping, traffic signs). The landscape component shall be in accordance with Council's City Identity Program and any other Council specification or requirement. All public domain/footpath improvements shall be installed in accordance with Council specifications by the Applicant and at the Applicant's expense. All improvements shall be completed prior to the issue of an final Occupation Certificate;
- d) Replace all the existing above ground electricity and telecommunication cables to underground cables within the site and road reserve area fronting Gardeners Road in accordance with the guidelines and requirements of the relevant utility authorities. The applicant shall bear all the cost of the construction and installation of the cables and any necessary adjustment works. These works and payments shall be completed prior to the issue of the Occupation Certificate;
- e) Provide appropriate and suitable street lighting to a high decorative standard to the Gardeners Road street frontage of the site, so as to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements;
- f) The public footpaths in Gardeners Road shall be constructed in accordance with Council specifications and the Draft Public Domain Manual. 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); and
- g) New street trees at the pot size specified shall be installed in the accordance with the approved Public Domain 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.
- h) The completion of works at (a) to (g) above are pre-conditions to the issue of the Occupation Certificate.

7. 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.
8. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
9. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments identified in the 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
      - i) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
      - ii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

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

10. The following conditions are imposed by **Ausgrid**:
  - a) Provision shall be made for accommodation of an electricity substation with the premises.

- b) There are existing substations adjoining the lot on the Western and Eastern side. The requirement for fire segregation must be met as per Ausgrid Network Standard 141 *Site Selection and Site Preparation Standards for Kiosk Type Substations*, clause 6.

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

- a) Any redundant driveways off Gardeners Road shall be removed and replaced with kerb and gutter.
- b) The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site as well as manoeuvrability through the site, shall be in accordance with AUSTROADS.
- c) The temporary vehicular access on Gardeners Road shall be removed within 6 months of the construction of the new east-west road along the southern site boundary is completed. The redundant vehicular access on Gardeners Road shall be replaced with kerb and gutter to match existing.
- d) The design and construction of the vehicular crossing and kerb and gutter works on Gardeners Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime's Project Services Manager, Traffic Projects Section, Parramatta on 8849 2496.
- e) The proposed new east/west road shall be dedicated as road at no cost to Roads and Maritime or Council.
- f) The post development stormwater discharge from the subject site into the RMS drainage system should not exceed the pre development discharge.

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to RMS for approval, prior to commencement of any works. Details should be forwarded to:

The Sydney Asset Management  
 Roads and Maritime Services  
 PO Box 973 Parramatta CBD 2124

A plan checking fee will be payable and a performance bond may be required before RMS approval is issued. With regard to the Civil Works requirements please contact the RMS Project Engineer, External Works Ph: 8849 2114 of Fax: 8849 2766

- g) The developer is to comply with the requirements of the attached Technical Direction (GTD 2012/001). This will require the developer to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to the Roads and Maritime for assessment. The developer is to meet the full cost of the assessment by the Roads and Maritime.

The report would need to address the following key issues:

- i. The impact of excavation/rock anchors on the stability of the Gardeners Road and detailing how the carriageway would be monitored for settlement.
- ii. The impact of the excavation on the structural stability of the Gardeners Road.
- iii. Any other issues that may need to be addressed (Contact: Roads and Maritime's Project Engineer, External Works Ph: 8849 2114 or Fax 8849 2766 for details).

h) The proposed residential component of the development should be designed such that road traffic noise from Gardeners Road is mitigated by durable materials to satisfy requirements under Clause 102(3) of State Environmental Planning Policy (Infrastructure) 2007. The Roads and Maritime's Environmental noise Management Manual provides practical advice in selecting noise mitigation treatments.

i) 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. All works associated with the development are to be at no cost to RMS or Council.

j) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.

k) The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 1890.1-2004, AS 2890.2 – 2002 for heavy vehicle usage and AS 2890.6:2009 for the disabled.

l) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of the Construction Certificate.

12. The following conditions form the General Terms of Approval by the ~~NSW Office of Water~~ Water NSW dated 11 August 2016 and must be complied with:

**General**

a) ~~An authorisation shall be obtained from NSW Office of Water for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified in the authorisation.~~

- b) ~~The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be in contact with groundwater watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for reasonably foreseeable high water table elevations to prevent potential future inundation.~~
- c) ~~Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.~~

**Prior to excavation**

- d) ~~Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken. These measurements should be included in a report provided to the NSW Office of Water in support of the dewatering licence application, along with a schedule and indicative level predictions for the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.~~
- e) ~~A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the parameters (e.g. permeability predicted by slug testing, pump testing or other means) and calculation method shall be included in the report submitted to the NSW Office of Water in support of the dewatering licence.~~
- f) ~~A copy of a valid development consent for the project shall be provided in the report to the NSW Office of Water.~~
- g) ~~Groundwater quality testing shall be conducted on a suitable number of samples using a suitable suite of analytes and completed by a NATA-certified laboratory, with the results collated and certificates appended to a report supplied to the NSW Office of Water. Samples must be taken prior to the substantial commencement of dewatering, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.~~
- h) ~~The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (sometimes referred to as "tailwater") must comply with the provisions of the Protection of the~~

~~Environment Operations Act 1997 and any requirements of the relevant controlling authority.~~

i) ~~Contaminated groundwater (i.e. above appropriate NEPM 2013 investigation thresholds) shall not be reinjected into any aquifer without the specific authorisation of the NSW Environment Protection Authority (any such discharge would be regulated through a licence issued under the Protection of the Environment Operations Act 1997 (POEO Act)). The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.~~

~~During excavation~~

j) ~~Engineering measures designed to transfer groundwater around the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.~~

k) ~~Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.~~

l) ~~Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.~~

m) ~~Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.~~

n) ~~Dewatering shall be undertaken in accordance with groundwater related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.~~

o) ~~The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.~~

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

**Following excavation**

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

**General**

- a) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.*
- b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.*
- c) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:*
  - 1) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and*
  - 2) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and*
  - 3) where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.*
- d) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.*
- e) Documentation (referred to as a 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for*

*various matters related to the dewatering process must be provided. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.*

**Prior to excavation**

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

- 1) *measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.*
- 2) *a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.*
- 3) *details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.*
- 4) *a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [Note that groundwater level measurements should be undertaken on a continuous basis using automatic loggers in monitoring bores.*

g) *The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.*

h) *Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably*

*qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.*

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

**During excavation**

- n) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.*
- o) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.*
- p) Measurement and monitoring arrangements to the satisfaction of the approval body are to be implemented. Weekly records of the volumes of*

*all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.*

- q) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.*
- r) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.*
- s) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.*
- t) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the approval body under appropriate safety procedures.*

**Following excavation**

- u) Following cessation of the dewatering operations, the applicant shall submit the completion report which shall include:*
  - 1) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and*
  - 2) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and*
  - 3) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.*
- v) The completion report is to be assessed by the approval body prior to any certifying agency's approval for occupation or use of the completed construction. (DA-13/135/04)*

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

- a)

- i. As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
  - ii. The CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas that are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or more cameras should be strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance); and
  - iii. 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.
- b) Any proposed landscaping and vegetation to the street frontage should adhere to the following principles:
  - i. Shrubs bushes, plants should remain under 900mm in height;
  - ii. Branches or large trees should start at a height of two (2) metres and higher;
- c)
  - i. 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;
  - ii. Any storage cages in the underground car park areas should not be constructed in an isolated area. CCTV cameras must cover this area, as they are easy targets when they have little supervision. Solid steel housing and quality key locks should be used to prevent access.
- d) 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>.

14. The following conditions are imposed by **Sydney Water** and must be complied with:
  - a) An extension of the wastewater system will be required from the 300mm main constructed under WO 40700, which will provide a connection point of at least one metre inside all the proposed lot boundaries.
  - b) The proposed wastewater infrastructure for this development will be sized and configured according to the Sewerage Code of Australia WSA 02-2002-2.2.
  - c) The applicant should engage a Water Servicing Coordinator to obtain a Section 73 Certificate and manage the servicing aspects of the development including building over and adjacent to Sydney Water assets.
15. The following conditions are imposed by the **Sydney Airport Corporation Limited** (SACL) and must be complied with:
  - a) The PROPERTY DEVELOPMENT at 659-669 GARDENERS ROAD, MASCOT lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of this Corporation.
  - b) The Civil Aviation Safety Authority (CASA) have no objection to the erection of the building to a height of 45.5 metres above Australian Height Datum (AHD).
  - c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
  - d) Should you wish to exceed the above heights, a new application must be submitted. Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
  - e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. SACL advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by SACL prior to any approval is to include:
  - f) the location of any temporary structure or equipment, ie. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);

- g) the swing circle of any temporary structure/equipment used during construction;
- h) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
- i) the period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
- j) Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.
- k) The development is to comply with the Civil Aviation Safety Authority (CASA) requirements as outlined in the Council's Development Application Guide for Multi-Unit Residential, Commercial and Industrial.
- l) All trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.

#### **PRIOR TO COMMENCEMENT OF ANY DEVELOPMENT OR WORK**

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

- a) All properties immediately adjoining the site; and
- b) Gardeners Road.

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

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

together with the accompanying photographs shall be given to Council, public utilities authorities and all adjoining properties owners;

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

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

17.

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

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

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

- a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001);
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with

continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;

- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- h) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
- i) Working hours, in accordance with this Development Consent;
- j) Confinement of demolished materials in transit;
- k) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”;
- l) Sewer – common sewerage system;
- m) On site monitoring both during asbestos removal and the remainder of demolition activities.

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

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

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

20. Prior to demolition of any building constructed before 1970, the person acting on this consent shall ensure compliance with Australian Standard *AS2601-2001, Demolition of Structures* by a person with suitable expertise and experience. This may involve a Work Plan that identifies any hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be

employed to minimize any dust nuisance and the disposal methods for hazardous materials, including:

- a) Removal, cleaning and disposal of lead-based paint shall conform to the current EPA guidelines. Demolition of materials incorporating lead is to be conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the *AS2601-1991 Demolition of structure*.
- b) Hazardous dust shall not be allowed to escape from the site. Any existing accumulations of dust (e.g.; ceiling voids and wall cavities) shall be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water shall not be allowed to enter the street and stormwater systems. Demolition is not to be performed during high winds, which may cause dust to spread beyond the site boundaries.
- c) All contractors and employees directly involved in the removal of hazardous dusts and substances wearing protective equipment conforming to Australian Standard *AS1716 Respiratory Protective Devices* and shall adopt work practices in accordance with the requirements of WorkSafe's *Control of Inorganic Lead At Work* (NOHSC: 102(1994) and NOHSC: 2015(1994)).
- d) All lead-contaminated materials being disposed of in accordance with the Environment Protection Authorities Environmental Guidelines; *Assessment, Classification and Management of Liquid and Non Liquid Wastes* (1999) and *The Protection of the Environment Operations Act 1997 (NSW)*.

21.

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

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

- a) New South Wales Occupational Health and Safety Act, 2000;
- b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
- c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;

- d) Protection Of the Environment Operations Act 1997 (NSW); and
- e) Department of Environment and Climate Change Waste Classification Guidelines (2008).

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

- i. Permit to erect hoarding on or over a public place, including Council's property/road reserve;
- ii. Permit for roads and footways occupancy (long term/ short term);
- iii. 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;
- iv. Permit to place skip/waste bin on footpath and/or nature strip;
- v. Permit to use any part of Council's road reserve or other Council lands;
- vi. Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area;
- vii. (It should be noted that the issue of such permits may involve approval from RTA and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.)
- viii. Permit to establish "Works Zone" on public roads adjacent to the development site, including use of footpath area.

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

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

24. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition works upon the site in order to prevent sediment and silt from site works being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

25. 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.
26. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
  - a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
  - c) the Development Approval number;
  - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
  - e) any such sign is to be removed when the work has been completed.
27. A detailed Traffic Management Plan for the pedestrian and traffic management of the site during demolition, excavation and construction shall be prepared and submitted to the relevant road authority (Council or RMS) for approval prior to commencement of any works. The plan shall:
  - a) be prepared by a RMS accredited consultant.
  - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
  - c) if required, implement a public information campaign to inform any road changes well in advance of each change.
  - d) Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.
  - e) During construction, all works and measures shall be implemented in accordance with approved Traffic Management Plan at all times.

28. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves the erection of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
  - a) Each toilet provided:
  - b) must be standard flushing toilet; and,
  - c) must be connected:
    - i. to a public sewer; or
    - ii. if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
    - iii. 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.
- d) The provisions of toilet facilities in accordance with this clause must be completed before any other work is commenced.

29. A detailed Construction Management Plan (CMP) shall be submitted to Council and the Principal Certifying Authority for approval prior to the commencement of any works. The plan shall address:
  - a) Excavation and construction vehicles access to and egress from the site;
  - b) Parking for demolition and construction vehicles. All construction-related vehicles shall be parked on-site and no parking of these vehicles shall be allowed on Gardeners Road;
  - c) Locations of site office, accommodation and the storage of major materials related to the project;
  - d) Protection of adjoining properties, pedestrians, vehicles and public assets;
  - e) Location and extent of proposed builder's hoarding and Work Zones, if there is any.
  - f) Active measures to control and suppress dust, grit and the like that are associated with construction activity.
  - g) Measures to control the arrival of plant and equipment associated with the construction process and the delivery of such plant and equipment during reasonable hours of the working day;
  - h) Public Notification where working hours are extended for a particular construction activity;
  - i) Provision of on-site car parking for employees, contractors and site personnel during the construction phase of the development; and

- j) During construction, all works and measures shall be implemented in accordance with approved Construction Management Plan at all times.

30. During demolition, excavation, remediation and construction, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:

- a) Approved Erosion and Sediment Control Plan;
- b) Approved Traffic Management Plan and;
- c) Approved Construction Management Plan.

31. In order to ensure that the street trees proposed to be retained on the approved landscape plan are protected during construction, and their health and structural stability ensured, the following is required :

- a) 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;
- b) All tree works and tree management shall be undertaken in accordance with the Arborist report by Landscape Matrix Pty Ltd dated 30 July 2013. For all tree root and canopy work to trees, comply with the recommendations and requirements and management plan contained within this report;
- c) Trees to be retained during development 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/Landscape Plan;
- d) Prior to commencing demolition/any works the trees are to be physically protected by fencing underneath the canopy dripline or as indicated in the Arborist's report using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete;
- e) 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;
- 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 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) All TPZ's are a "No-Go" zone. There shall be no access, 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 canopy dripline or within an area extending 3 metres outward of the canopy dripline of any tree shall be carried out manually using hand tools to minimise root damage or disturbance and in accordance with the Arborists' report;
- l) Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer or the consulting Arborist after a site inspection so as not to unduly impact or stress the tree;
- m) It is the Applicant's responsibility to ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under separate application. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373;
- n) There shall be no walls retaining or otherwise, pavements, change in levels, trenching for new subsurface utilities or the location of new overhead services within the primary root zone or canopy of any tree. Any such structures in close proximity to trees must accommodate tree roots without damage or pruning;
- o) All waste concrete and debris shall be removed from areas to be landscaped on the site, not buried, to minimise soil contamination;
- p) The Applicant shall undertake any tree maintenance/remedial pruning as required by Council or the Consultant Arborist at the completion of construction;

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

*(heading amended DA13/135/03)*

32. The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans listed below a contribution (*as indexed*) of ~~\$4,803,572 (DA13/135/02)~~ **\$4,839,904.59 (DA-13/135/04)** is required as follows:

### **Section 94 Development Contribution Plan 2005-2010**

#### Residential

Community Facilities:	\$1,292,088.00
Administration:	\$38,376.00
Transport:	\$494,462.00
Open Space and Recreation:	\$1,151,612.00

#### Commercial

Community Facilities:	<b>\$18,159.92</b>	<b>\$22,823.92</b>
Administration:	<b>\$2,312.82</b>	<b>\$2,906.82</b>
Shopping Centre (City Wide)	<b>\$9,808.07</b>	<b>\$12,327.07</b>
Open Space and Recreation:	<b>\$13,277.30</b>	<b>\$16,687.30</b>
<b>Section 94</b>	<b>Total</b>	<b>\$3,020,066</b>
		<b>\$3,031,253.11</b>

### **Mascot Station Precinct Plan**

#### Residential

60 x Studios, 162 x 1 Bedrooms, 104 x 2 Bedrooms, 2 x 3 Bedrooms	\$1,835,596.68
Commercial based on <del>955sqm</del> <b>1,193sqm</b>	<b>\$100,580.64</b>
<b>MSP Total</b>	<b>\$1,936,177.00</b>
	<b>\$1,961,322.48</b>

#### Credit

Mascot Station Precinct Plan	\$129,917.00
Section 94 Development Contribution Plan 2005-2010	\$22,754.00
<b>Credit Total</b>	<b>\$152,671.00</b>

**Grand total** **\$4,803,572.00** **\$4,839,904.59**

The Section 94 Contribution of ~~\$4,803,572.00~~ **\$4,839,904.59** is to be paid to Council prior to the issue of the first Construction Certificate.

Note: The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time. (DA13/135/02)

Note: The applicant is to pay the remaining balance of the Section 94 Contributions if a portion of the contributions have been not been paid to Council. (DA-13/135/04)

33. Prior to the issue of the *relevant* Construction Certificate, detailed plans shall be submitted to and approved by Council and the Principal Certifying Authority to demonstrate compliance with the following requirements: (DA13/135/03)

- a) Demonstrate that a safe headroom clearance of 4.5m is achieved along the existing right of way (ROW) and the proposed travel path, parking and manoeuvring areas for a Medium Rigid Vehicle (MRV) and Council Garbage Truck, to the access point to Gardeners Road and also the future access point to the New Road as per AS 2890.2-2002. Evidence to be provided shall include but not be limited to a longitudinal section.
- b) The access driveway from Gardeners Road shall be redesigned where required to demonstrate compliance with Section 3.4 of AS 2890.2-2002. Additionally, the building at the location of the future access to the new road must be designed to accommodate the future access compliance with AS 2890.2-2002. Amended swept paths and architectural plans demonstrating compliance with this requirement shall be provided.

34. Prior to the issue of the relevant Construction Certificate, detail design and construction plans in relation to the stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council **and Roads and Maritime** for approval. The plans shall incorporate but shall not be limited to the following:

- i. An On-Site **Infiltration System Detention Tank** shall be designed according to Part 5 of the SMTG. The system shall be designed to detain the stormwater runoff from the site for all storm events up to and including the 1 in 100 ARI storm event.
- ii. ~~Any stormwater discharge to the RMS or Council kerb and gutter is limited to 10L/s. If higher discharge is proposed, provision must be made to connect to the Sydney Water, RMS or Council stormwater pit and pipe system.~~ Maximum 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. site being fully grassed/turfed), rather than predevelopment condition;
- iii. No pump out shall be used to drain seepage from the basement due to the elevated water table level. The basement shall be designed as a 'fully tanked' structure;
- iv. The pump out can only be utilised to dispose runoff that may enter the basement carpark from the driveway access to the basement;
- v. The pump out system from the basement carpark proposed shall discharge to the on-site **stormwater infiltration system detention tank**;
- vi. All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment (e.g. Gross Pollutant Trap, (GPT)) prior to entering Sydney Water's, RMS and Council drainage systems. Details of the pollution control device shall be shown on stormwater management plan;
- vii. The rainwater tank size shall be designed based on a supply/demand management approach. Also 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 infiltration 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 infiltration system is equivalent to 50% of the size of the rainwater tanks; and

viii. Detailed calculations including computer modelling (electronic and paper) shall be submitted demonstrating the adequacy of the stormwater management plan in fulfilling all requirements of Council's SMTG.”

Note: Detailed drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code, Sydney Water regulations, the BCA and these conditions of consent. All drawings shall correspond with the approved architectural plans. **(DA13/135/04)**

**34A.**

- a) *Stormwater shall be temporarily discharged to kerb outlets in Gardeners Road until completion of the drainage system in Galloway Street;*
- b) *Upon completion of the drainage system in Galloway Street, the kerb outlets in Gardeners Road shall be removed;*
- c) *The site stormwater drainage system shall be reconfigured so that all site stormwater is discharged to the Galloway Street drainage system.* **(DA-13/135/04)**

35. To ensure satisfactory performance of the completed external public infrastructure works, a maintenance period of six (6) months shall apply to all external engineering works completed in relation to this application. The performance period shall commence from Council's Compliance Certificate issue date.

The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification. A bond in the form of a cash deposit or an unconditional Bank Guarantee of sixty thousand dollars (\$60,000) shall be lodged with Council prior to issue of *the relevant* Construction Certificate to guarantee this requirement will be met. The bond will only be refunded when the works are determined to be satisfactory to Council after the expiry of the six (6) months maintenance period. **(DA13/135/03)**

36. Prior to the issue of the *first* Construction Certificate, the applicant is to submit payment for a Street Tree Maintenance Bond of \$10,000. The duration of the Bond shall be limited to a period of 12 months after planting of the new street trees. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the tree by Council. If the 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. **(DA13/135/03)**

37. Prior to the issue of the *relevant* Construction Certificate, subject to the approval of CASA, the applicant is to provide roof mounted solar collector panels below a height of 51m AHD, to the rooftop area of each building, of which 20% of power

generated shall be returned to the Ausgrid network together with tariff rebates. Details of the panel system are to be provided with the Construction Certificate including the approval from the Civil Aviation Safety Authority. (DA13/135/03)

38. Prior to the issue of the *first* Construction Certificate, the applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant’s expense. (DA13/135/03)
39. Prior to the issue of the *first* Construction Certificate, a Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004) and submitted to the Principal Certifying Authority. (DA13/135/03)
40. This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
41. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP) prior to the release of the *first* construction certificate. This plan shall incorporate and reference the construction environmental management plan and address site limitations. (DA13/135/03)
42. Prior to the issue of the *first* Construction Certificate, an Acid Sulphate Soil Management Plan (prepared by a suitably qualified and experienced environmental/geotechnical consultant) shall be submitted to the Principal Certifying Authority. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:
  - a) Site specific mitigation measures to both minimise the disturbance of acid sulphate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
  - b) Management of ASS affected excavated material;
  - c) Measures taken to neutralise the acidity of any ASS affected material; and
  - d) Run-off control measures for the ASS affected soil.

All recommendations of the report shall be implemented prior to the commencement of building works.  
(DA13/135/03)

43. *Prior to the release of the relevant Construction Certificate:*
  - a) All plumbing stacks, vent pipes, stormwater downpipes and the like shall be kept within the building and suitably concealed from view. This

Condition does not apply to the venting to atmosphere of the stack above roof level.

b) The basement of the building must be designed and built so that on completion, the basement is a “fully tanked” structure, i.e. it is designed and built to prevent the entry of ground water / ground moisture into the inner parts of the basement.

(DA13/135/03)

44. Prior to the issue of the *first* Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice. (DA13/135/03)

45. Prior to the issue of the *relevant* Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is **generally** in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development. (DA13/135/03)(DA-13/135/04)

46.

a) Prior to the issue of the *relevant* Construction Certificate, the measures required in the acoustical assessment report prepared by Acoustic Logic, dated 25 April 2013 shall be undertaken in accordance with the provisions of *AS2021-2000: Acoustics – Aircraft Noise Intrusion – Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021-2000 shall be incorporated into the construction of the building; and

b) Prior to the issue of the *relevant* Construction Certificate, a compliance report from a suitably qualified acoustic consultant shall be submitted to Council indicating any required noise mitigation measures to the approved building, as detailed in the NSW Road Noise Policy 2011 in accordance with AS 3671-1989 – Acoustic – Road Traffic Intrusion.

(DA13/135/03)

47.

a) Prior to the issue of the *relevant* Construction Certificate, the measures required in the Qualitative Wind Impact Assessment, prepared by SLR Consulting Pty Ltd, dated 29 July 2013 shall be detailed on the Construction Certificate plans. These shall include additional wind mitigation treatments to exposed

b) Prior to the issue of the *relevant* Construction Certificate, a compliance report from a suitably qualified consultant shall be submitted to Council

indicating any required wind mitigation measures to the approved building, as recommended in the Qualitative Wind Impact Assessment, dated 29 July 2013, (DA13/135/03)

48. ~~Prior to the issue of the first Construction Certificate, a Certificate under Section 73 of the Water Board (Corporation) Act 1994 shall be obtained and submitted to Council for each stage of construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges. (DA13/135/03)~~

~~Note: Immediate application should be made to Sydney Water for this Certificate to avoid problems in servicing the development.~~

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92.

i) Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design. The Section 73 Notice of Requirements must be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate. (DA13/135/03)

49. Prior to the issue of the relevant Construction Certificate, the construction drawings shall indicate the following:

- That water will be prevented from penetrating behind fittings/linings and into concealed spaces in laundry, sanitary areas and bathrooms etc;
- That floor to ceiling in laundry and bathroom areas to be tiled;
- That timbers used in the development are plantation, recycled or regrowth timbers of timbers grown on Australian farms or State forest plantations and that no old growth or rainforest timbers are to be used in any circumstances; and
- That plumbing to each dwelling will be separated and adequately contained to prevent noise transmission and vibration.
- The rooms for the storage of garbage and recyclable materials shall be:
  - fully enclosed;
  - adequately ventilated;

- iii. constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
- iv. the floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.
- v. washing facilities shall be provided within close proximity to the garbage and recycling storage area.

(DA13/135/03)

- 50. A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Principal Certifying Authority prior to the issue of the relevant Construction Certificate and its location and specifications endorsed on the construction drawings. (DA13/135/03)
- 51. Prior to the issue of the relevant Construction Certificate, the following documentation shall be submitted to Principal Certifying Authority:
  - a) Longitudinal sections along centreline of all the ramps between each basement parking levels;
  - b) Design certification, prepared by a suitably qualified engineer, showing the longitudinal sections shall be designed in accordance with AS2890.1 (including gradients and gradient transitions). (DA13/135/03)
- 52.
  - a) Prior to the issue of the relevant Construction Certificate, design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2 (for loading area) and AS2890.6; and (DA13/135/03)
  - b) Detailed construction plans in relation to the development shall be revised and submitted to Council for approval. The plan shall be revised to include details of any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distances stipulated in AS 2890.2.
- 53. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system prior to the issue of the first Construction Certificate. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer. (DA13/135/03)

54. As this development involves an excavation below the water table these works are subject to a Council Drainage Charge for discharge of site dewatering to storm water. As such a formal application is to be submitted to Council prior to the issue of the *first* Construction Certificate.

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

- a) An Application to Council for permission to discharge water from site dewatering to Council's stormwater drainage system.
- b) A copy of a current bore license from the NSW Office of Water for dewatering.
- c) A report prepared by a suitably qualified person is to be provided together with results from a NATA approved laboratory confirming that the quality of the water meets the 95% freshwater trigger values applying to typically slightly-moderately disturbed systems as detailed in the Australian and New Zealand Guidelines for Fresh and Marine Water Quality, Australian and New Zealand Environment and Conservation Council and Agriculture and Resource Management Council of Australia and New Zealand, Paper No 4, October 2000.
- d) If the groundwater is not suitable for direct disposal to the stormwater, any proposed treatment methods must be noted and accompanied by relevant documentation demonstrating the processes involved as well as engineering evidence of its applicability. (Note that Council reserves the right to refuse any proposed treatment methods. In the advent Council does not have the technical expertise to review a treatment method an independent third party review may be requested. The proponent will be required to pay for these works).

*(DA13/135/03)*

55. The proposed car parking facility (space size, aisle widths, headroom clearance gradients and safe sight distance etc) shall be redesigned where required to ensure all vehicles visiting the site can safely enter and leave in a forward direction in accordance with relevant sections of AS 2890. Traffic engineering certification confirming compliance with this condition shall be submitted for approval prior to the issue of the *relevant* Construction Certificate.  
*(DA13/135/03)*

56. In order to maximise visibility in the basement car parks, the ceilings shall be painted white. This requirement shall be reflected on the *relevant* Construction Certificate plans. *(DA13/135/03)*

57. *Prior to the issue of any relevant Construction Certificate*, the fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council approval. *(DA13/135/03)*

58. *Prior to the issue of any relevant Construction Certificate*, the public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) contrasting colour schemes, artwork surface finishes, and timber mid rails/skirting boards within public area/corridors, etc. (DA13/135/03)
59. *Prior to the issue of any relevant Construction Certificate*, 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. (DA13/135/03)
60. Prior to the issue of the *relevant* Construction Certificate, a public domain improvements plan shall be submitted for approval by Council for Gardeners Road and New Street. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, amenity area lighting. The Plan shall be in accordance with Council's Draft Mascot Station Precinct Public Domain Manual and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. The preparation of the public domain plan shall include consultation with Council's Landscape Architect. (DA13/135/03)
61. Prior to the *relevant* issue of the Construction Certificate, the concept landscape documentation submitted by 360 Degrees shall be the subject of detailed, amended landscape documentation to be submitted to and approved by the City of Botany Bay's Landscape Architect. The following amendments to the concept plan are to be incorporated in the detailed documentation:
  - a) A planting plan showing all plant locations, groupings and centres. There is to be a dense layered planting treatment of trees, shrubs and groundcovers in all landscaped areas;
  - b) A plant schedule listing all plants by botanical name, total plant numbers, plant spacing, pot sizes and staking;
  - c) Amend the street tree selection to incorporate *Corymbia maculate* and setback tree to *Waterhousia 'Green Avenue'*
  - d) Incorporate addition small to medium trees (including mix of evergreen species) within the communal open spaces. A row of small to medium trees (i.e. *Elaeocarpus eumundii*) shall be provided along both side setbacks of the Level 2 landscape area at approximately 6-8 metre spacing to provide visual separation and screening to adjacent buildings.
  - e) Incorporate sufficient additional canopy tree planting within the central open space area to ameliorate the development;

- f) All planter beds must be no less than the minimum soil depths as required by SEPP 65 (i.e. large trees – 1.3m, medium – 1m, small – 0.8m, shrubs – 500-600mm, groundcover – 300-450mm, turf – 100-300mm);
- g) Show the location of underground stormwater tanks, ensuring deep soil availability for landscaping and tree planting is maximised.
- h) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls;
- i) Areas of paving, schedule of materials, edge treatments and sectional construction details.
- j) All fencing, privacy screening and pergolas including elevations and materials.

*(DA13/135/03)*

62. *Prior to the issue of the relevant Construction Certificate*, the development shall make provision for the following car parking allocations:

<b>Car Parking Rates</b>	<b>Required</b>
1 space per studio/1 bedroom unit	222 spaces
2 spaces per 2/3 bedroom unit	212 spaces
1 visitor space per 10 dwellings	33 spaces
Commercial spaces	14 spaces
<b>TOTAL REQUIRED</b>	<b>481</b>
<b>TOTAL PROVIDED (Prior to New Street Construction)</b>	<b>505</b>
<b>TOTAL PROVIDED (After New Street Construction)</b>	<b>481</b>

This requirement shall be reflected on the *relevant* Construction Certificate plans. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times. *(DA13/135/03)(DA-13/135/04)*

63. Plans submitted with the *relevant* Construction Certificate shall demonstrate compliance with the following:

- a) All residential unit size excluding balconies as minimum must be as following:
  - i. Studio =  $60\text{m}^2$
  - ii. 1 bedroom =  $75\text{m}^2$
  - iii. 2 bedroom =  $100\text{m}^2$
  - iv. 3 bedroom =  $130\text{m}^2$
- b) No consent is given or implied for the room layouts as shown on the architectural plans, Drawing No. DA14 to DA25 (Rev H) dated 24 July

2014. In this regard, the plans submitted with the *relevant* Construction Certificate shall **generally** incorporate the approved Unit Layout in accordance with Drawing No. DA101 to DA108 (Rev B) dated 24 July 2014. (**DA-13/135/04**)

- c) Adaptable units must be provided in accordance with Part 3C-Access and Mobility of Botany Bay Development Control Plan 2013. Such units shall be designed in accordance with AS 4299 and BBDPC 2013 (Part 3C). Details to be submitted with the *relevant* Construction Certificate. (**DA13/135/03**)

#### **PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK**

*(Heading deleted) (DA13/135/03)*

#### **DURING WORKS**

64.

- a) All management measures recommended and contained within the Soil and Water Management Plan (SWMP) submitted as part of the construction certificate shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times and made available to council officers on request;
- b) Erosion and sediment control devices shall be installed and functioning prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines;
- c) 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; and
- d) 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.

65. If the work involved in the construction of a building:

- a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
- b) involves the enclosure of a public place:

- i. a hoarding or fence must be erected between the work site and the public place.
- ii. If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
- iii. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
- iv. Any such hoarding, fence or awning is to be removed when the work has been completed.

c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.

66. All remediation work must be carried out 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;
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
- d) the *Remedial Action Plan* (Report Ref: E27228KGrpt2-RAP) completed by EIS and dated 7 April 2014.

67.

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

68. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.

69. The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Acid Sulfate Soil Management Plan submitted prior to the construction certificate including:

- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
- b) Management of ASS affected excavated material;
- c) Measures taken to neutralise the acidity of any ASS affected material; and
- d) Run-off control measures for the ASS affected soil.

70. The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition *or excavation* works commence. (DA13/135/03)

71. 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.

72. During demolition, *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. (DA13/135/03)

73. The Applicant shall conduct all demolition, *excavation and* construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department. (DA13/135/03)

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

75.

- a) Existing structures and or services on this and adjoining properties shall not be endangered during any demolition *and excavation* associated with the above project. The Applicant is to provide details of any stabilisation works required to adjacent developments to Council. (DA13/135/03)
- b) As the development involves an excavation that extends below the level of the base of the footings of a building or road on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - i. Protect and support the adjoining premises from possible damage from the excavation, and
  - ii. Where necessary, underpin the adjoining premises to prevent any such damage.

- iii. Must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of his intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished.
- 76. 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.
- 77. All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
  - a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
  - b) Prior to placement of concrete (kerb and gutter and footpath);
  - c) Prior to construction and placement of road pavement materials; and
  - d) Final inspection.

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

- 78. The operation shall not give rise to offensive odour or other air impurities in contravention of the Protection of the Environment Operations Act 1997. The Principal contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
  - a) Covering excavated areas and stockpiles;
  - b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas;
  - c) Maintenance of equipment and plant to minimise vehicle exhaust emissions;
  - d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources;
  - e) All loads entering or leaving the site are to be covered;
  - f) The use of water sprays to maintain dust suppression; and
  - g) Keeping excavated surfaces moist.

79.

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

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

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

- i. Construction period of 4 weeks and under:
    1. The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(A).
  - ii. Construction period greater than 4 weeks and not exceeding 26 weeks:
    1. The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- c) Time Restrictions
  - i. Monday to Friday 07:00am to 06:00pm;
  - ii. Saturday 08:00am to 04:00pm
  - iii. No Construction to take place on Sundays or Public Holidays.
- d) Silencing
  - i. All possible steps should be taken to silence construction site equipment.

81. During *excavation*, remediation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council. (DA13/135/03)

82. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:

- a) Office of Environment and Heritage (OEH) approved guidelines; and
- b) Protection of the Environment Operations Act 1997; and
- c) Protection of the Environment Operations (Waste) Regulation 2005.

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.

83. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
  - a) The Soil and Water Management Plan;
  - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
  - c) Protection of the Environment Operations Act 1997.
84. The following shall be complied with:
  - a) The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW Environmental Noise Control Manual;
  - b) Vibration levels induced by the demolition and construction activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
  - c) Vibration levels induced by the demolition and construction activities shall not exceed 3mm/sec peak particle velocity (ppv) when measured at the footing of any unoccupied building.
  - d) The upper noise level from the demolition and construction operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).

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

85. Prior to the issue of any Occupation Certificate the legal right to be obtained or written consent and agreement from the beneficiary of the Right-of-way shall be provided indicating concurrence to the proposed development access arrangement, including acceptance of any likely access interruptions and/or impact that may arise during the construction phase and the future operation.
86. Prior to the issue of any Occupation Certificate the person who is entitled to act on this consent must give to Council in writing an irrevocable offer to enter into a Deed of Agreement, the terms of which must provide a process to:-
  - a) Extinguish the Right of Way and infill the temporary vehicular access from Gardeners Road with a commercial land use together with all the necessary building work to allow the space to be adapted for that purpose or other such arrangement as agreed to by Council or determined by legal jurisdiction; and
  - b) Dedicate land to be occupied for the New Street to Council, without cost to Council, together with proportional costs for its design and construction.

87.

- a) Prior to the issue of the Occupation Certificate, Lot 1 DP 797133, Lot 1 DP 534350 and Lot 31 DP 789177 shall be consolidated into one title. The linen plans for the consolidation shall be registered with Land & Property Information.
- b) Prior to the issue of an Occupation Certificate a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. (DA13/135/03)

88. To ensure the constructed On Site Infiltration System, water quality management system including rainwater tanks and WSUD system will be maintained in operable condition a Positive Covenant under Section 88 E of the Conveyancing Act 1919, shall be created and registered on the subject land requiring the proprietor of the land to maintain the system in a satisfactory working order. The terms of the 88 E instruments are to be generally in accordance with the Council's draft terms for Maintenance of Drainage Systems and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Note: The covenant is to be submitted to Council for approval prior to lodgement with the Land and Property Information Service of NSW

- 89. All vehicular crossings are to be constructed prior to the issuing of Occupation Certificate (or the completion of work or the use of the building). Accordingly, the applicant shall make a separate application to Council's Customer Service Counter to construct (or reconstruct) a vehicular crossing (either using Council or own forces) to all proposed vehicular entry points to the site. This work shall also include the removal and replacement of all redundant vehicular crossings with vertical concrete kerb and gutter with the disturbed areas restored to Council's satisfaction.
- 90. Prior to issue of the Occupation Certificate, engineering certification shall be submitted to the Principal Certifying Authority confirming the following:
  - a) Site stormwater drainage system has been constructed in accordance with approved plans and Botany Council's Stormwater Management Technical Guidelines (SMTG).
  - b) Certification from Council confirming all external public infrastructure engineering works have been completed to Council satisfaction.

(DA13/135/03)

91.

- a) Prior to the issue of the Occupation Certificate, the development is to be constructed to meet the requirements detailed by the acoustic assessment report prepared by Acoustic Logic, dated 25 April 2013, received by Council 2 August 2013; and

- b) All acoustic work including that acoustic work required at Condition No. 46 shall be completed prior to the issue of the Occupation Certificate and validated by a qualified acoustic engineer in accordance with AS 2021-2000 and other relevant standards.
- c) *Prior to the issue of the Occupation Certificate, a survey report must be submitted to Council to verify that Condition 4(a) above has been complied with. (Condition moved) (DA13/135/03)*

92.

- a) Prior to the issue of the Occupation Certificate, the development is to be constructed to meet the requirements detailed by the Qualitative Wind Impact Assessment, prepared by SLR Consulting Pty Ltd, dated 1 April 2014, received by Council 14 April 2014; and
- b) All wind mitigation measures required by the report at Condition No. 47 shall be completed and validated by a person with appropriate qualifications and experience.

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

- a) A Plan of Dedication shall be registered with the Department of Lands for the dedication of the new public road, at no cost to Council. The area of the land to be dedicated shall be the full length of the southern property boundary for a width of 9 metres as shown on the stamped approved plans. A copy of the registered document shall be submitted to Council for record purposes.
- b) Replace all the existing above ground electricity and telecommunication cables to underground cables within the site and road reserve area fronting Gardeners Road in accordance with the guidelines and requirements of the relevant utility authorities. The applicant shall bear all the cost of the construction and installation of the cables and any necessary adjustment works. These works and payments shall be completed prior to the issue of the Occupation Certificate.
- c) Provide appropriate and suitable street lighting to a high decorative standard to the Gardeners Road street frontage of the site, so as to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements.
- d) The public domain shall be upgraded with new paving and street tree planting, to be installed by the Applicant at the Applicant's expense in accordance with the approved Public Domain Plan. All improvements shall be in accordance with Council's Landscaping Engineering specifications and requirements, and shall be constructed and completed prior to the issue of an Occupation Certificate.

- e) New street trees at the pot size specified shall be installed in the accordance with the approved Public Domain 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.
- f) The public footpaths in Gardeners Road shall be constructed in accordance with Council specifications and the Draft Public Domain Manual. 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).

94. Prior to the issue of any Occupation Certificate, landscaped areas on the property and in the public domain shall be installed and maintained in accordance with the Council approved amended, detailed landscape documentation, the conditions of consent (inclusive of the landscape amendments required) and Council's DCP at all times. An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved amended landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance.

95. Rigid polyethylene sheet type tree root barriers shall be installed alongside the kerb and footpath edge for all new street trees for a depth of 900mm, for 3 metres each side of the tree centre and shall be located 150mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the rootball are not permissible. The Applicant is required to contact Council's Landscape Architect for an inspection of root barriers located within the public domain prior to backfilling and turfing.

96. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required to all site boundary landscape setbacks and frontages the communal/public open space areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

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

- a) Ensure soil depths in accordance with Council's DCP Part 3L. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes;
- b) A concrete hob or haunch shall be constructed at the internal 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.

98.

- a) ~~The five hundred and five (505) car parking spaces prior to the construction of New Street and~~ the four hundred and eighty ~~five one~~ (481) car parking spaces after the construction of **Galloway** Street shall be made available to residents and visitors at all times, with such spaces being clearly marked and signposted prior to issue of the Occupation Certificate;
- b) ~~The allocation of the car parking for Stage 1 shall be as follows:~~
  - i. ~~Each studio/one (1) bedroom unit shall be allocated 1 car parking space;~~
  - ii. ~~Each two (2)/three (3) bedroom unit shall be allocated 2 car spaces;~~
  - iii. ~~Thirty eight (38) car spaces shall be allocated to the commercial tenancies; and~~
  - iv. ~~Thirty three (33) visitor car spaces shall be provided.~~
- c) The allocation of the car parking for **Stage 2** shall be as follows:
  - i. Each studio/one (1) bedroom unit shall be allocated 1 car parking space;
  - ii. Each two (2)/three (3) bedroom unit shall be allocated 2 car spaces;

- iii. Fourteen (14) car spaces shall be allocated to the commercial tenancies; and
- iv. Thirty three (33) visitor car spaces shall be provided. **(DA-13/135/04)**

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

100. Prior to the issue of the Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the car parking area has been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6 requirements. The internal parking facilities shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standards.

101. A Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that the maximum Floor Space Ratio (FSR) of ~~3.3:1~~ 3.35:1 on completion of Stage 1 and ~~3.34:1~~ 3.36:1 on completion of Stage 2} and maximum height of 45.5 metres for the North Tower and 45.3 metres for the South Tower (when calculated in accordance with the provisions of Botany Bay Local Environmental Plan 2013) as approved under this Development Application, has been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate. **(DA-13/135/04)**

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

- a) A new vehicular crossing including layback and/or gutter and any associated road restoration shall be constructed in accordance with Council's requirements. The applicant shall make a separate application to Council's Customer Service Counter for the construction/reconstruction of vehicular crossing (either by Council or own forces) to the vehicular entry point of the site as shown on the submitted approved plan.
- b) The crossing shall be able to accommodate the turning movement of Medium Rigid Vehicle (MRV) entering and leaving the site and at 90° to the kerb and gutter in plain concrete. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant.
- c) The redundant vehicular crossing, together with any necessary works shall be removed and the footpath, nature strip and kerb and gutter shall be reinstated in accordance with Council's specification.
- d) Written confirmation / completion certificate obtained from Council.

- e) Inspection report (formwork and/or final) for the works on road reserve obtained from Council's engineer.
- f) A copy of the approved public domain civil works plans showing Work-as-Executed details (together with an electronic copy) prepared by a registered surveyor.
- g) Driveways and vehicular access paths shall be designed and constructed to comply with the minimum requirements (including changes of grade) of AS/NZS 2890.1.

103. Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels shown upon the approved plans, with relation to drainage, boundary and road reserve levels, have been strictly adhered to as well as the location of the building (when complete) in relation to the boundary limits of the allotment.

104. 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.

105. Prior to the issue of the Occupation Certificate:

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

106. Any damage not shown in the dilapidation report required under Condition No. 16 submitted to Council before site works have commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to the issue of the Occupation Certificate.

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

108. Prior to the issue of the Occupation Certificate; the footpath at the commercial tenancy frontages must for reasons of public safety and presence be illuminated between sunset one day and sunrise the day following - 7 days a week and in accordance with the following standard:

- a) Lighting is to comply with the requirement for pedestrian areas in the current AS/NZS 1158;
- b) Lighting must be recessed into the facade;
- c) All associated wiring and conduits are to be completely concealed; and
- d) Light fittings should be readily accessible to support their regular maintenance.

109. Prior to the issue of the Occupation Certificate:

- a) Lighting (lux) levels for this development must include the installation of low glare/high uniformity lighting levels in line with Australian Standard AS:1158. Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens). The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis. A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the premises;
- b) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill; and
- c) All lighting shall comply with AS4282-1997 Control of the obtrusive effects.

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

- a) NSW Office of Environment and Heritage (OEH) ‘Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites’;
- 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 proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority for review and concurrence). The report is to be submitted after completion of remediation works.

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

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

112.

- a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.
- b) Condition Numbers 6 and 85 to 112 of this consent are pre-conditions to the issue of the Occupation Certificate.

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

113. Submission of a subdivision certificate application accompanied by a linen plan with six (6) copies and appropriate fees.
114. Prior to the issue of Subdivision Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority showing all the structures are wholly located within the property boundary.
115. A Positive Covenant and Restriction on Use of the land shall be created to all proposed lots to ensure that car parking for the residential part is not to be to sublet or used for any other purposes.
116. 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:
  - a) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 13/135.
  - b) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 13/135.
  - c) Responsibilities regarding the maintenance of the car wash bays the Owners Corporation / building owner.

- d) 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 the Plan of Management required under the conditions of this consent.
- e) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises by 12.00 noon;
- f) 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.
- g) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000.
- h) The linen plan must include details of any easements, encroachments, rights of way, including right of footway, restriction as to user or positive covenants and include a Section 88B Instrument under the Conveyancing Act, 1919. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
- i) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface reinstatement;
- j) The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines;
- k) Maintenance of the swimming pool;
- l) Maintenance of required acoustic and wind mitigation measures of Development Consent No. 13/135; and
- m) CCTV surveillance of all public areas within the development site.

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

117. 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.
118. Vehicles making deliveries (including goods, merchandise and the like) and accessing the site shall comply with the following requirements:
  - a) The maximum size of vehicles making deliveries and accessing to the site shall be limited to Medium Rigid Vehicles (as denoted by the current version of AS/NZS 2890.2) only.
  - b) All loading and unloading of vehicles shall be carried out wholly within the site. No deliveries to the premises shall be made direct from a public places, public streets or any road related areas (eg. footpath, nature strip, road shoulder, road reserve, public car park, service station etc).
119. The approved visitor spaces shall be made available to residents, staff and visitors to the site at all times and shall not be allocated to individual units, sold or leased or any other purpose.
120. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or similar vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.
121. The ongoing maintenance of the nature strip shall then be undertaken by the occupier/owner/strata body. Maintenance shall include mowing, watering and maintaining an even coverage of grass at all times. Maintenance does not include pruning, trimming, shaping, or any work to street trees located on the road verge/nature strip at any time the removal of weeds and rubbish and maintaining a good, even coverage of grass at any time.
122. The landscape contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time monthly maintenance is required.
123. No roller shutters are to be installed to any of the commercial shopfronts that front Gardeners Road.

124. The hours of operation of any future commercial use must be restricted to the hours of 7:00am to 10:00pm Monday to Saturday and 7:00am to 8:00pm Sunday and public holidays.

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.

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

126. Any air conditioning units shall comply with the following requirements:

- 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.
- 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):
  - Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
  - Before 7 am or after 10 pm on any other day.
- The transmission of vibration to any place of different occupancy above the requirements of AS2670, Australian Standard AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction. Australian Standard AS2107 2000: Recommended Design Sound levels and Reverberation levels for Building Interiors.
- Any air-conditioning unit shall comply with the City of Botany Bay’s General Noise Criteria detailed in Condition 120 above.

127.

- a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
- b) The adaptable apartments approved under this development consent are to remain unaltered at all times; and
- c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces identified by the NSW Police in Condition ~~44~~13, shall be monitored by CCTV cameras at all times. (DA13/135/03)

128. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for 12 months after planting (ie. final hold-point inspection). Maintenance includes watering twice weekly to enable good establishment and sustain adequate growth. There shall be two (2) fertilizer applications using a suitable product for natives applied at manufacturer's recommendations, ongoing weed removal, mulch replenishment (minimum of 2) maintaining a 1 metre wide mulch ring at all times and removal of grass/weeds within the mulch ring. Maintenance does not include trimming or pruning the trees under any circumstances. Formative pruning will be undertaken by Council.

129. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction at all times. The automatic drip irrigation system shall be maintained in working order at all times.

130. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 13/135 dated as 2 August 2013 *and as further amended by Section 96AA Application No. 13(135).02 and 13(135).03 dated as 9 April 2015 and 3 September 2015 and 13/135/04 dated as 22 June 2016* and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council. (DA13/135/02) (DA13/135/03 (DA13/135/04)).

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