

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

JRPP No	2016SYE082
DA Number	16/117
Local Government Area	Bayside Council
Proposed Development	Integrated Development Application for the construction of two residential flat buildings incorporating two x 4 storey podiums, 2 x 14 storey towers containing a total of 239 residential units, a retail tenancy, a childcare centre, private recreation facilities, at-grade and above ground 'sleeved' podium parking for 255 cars and 24,648sqm of gross floor area; construction of a new north-south private publically accessible open space link; associated excavation, earthworks and landscaping.
Street Address	671-683 Gardeners Road, Mascot, NSW 2020
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
No. of Submissions	Nil
Regional Development Criteria	Development with a CIV of \$70,689,331.00
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 4A – Development for which regional panels may be authorised to exercise consent authority functions of councils • Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to development applications • State Environmental Planning Policy No. 55 – Contaminated Land • State Environmental Planning Policy 2004 (BASIX); • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • Botany Bay Local Environmental Plan 2013 • Botany Development Control Plan 2013
Documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Site Survey – B & P Surveys; • Architectural Plans & Photomontage – Turner Architects; • Landscape Plans – Context Landscape Design Pty Ltd; • SEPP 65 Report and Design Verification Statement – Turner Architects; • Statement of Environmental Effects and DCP Assessment Table – Meriton; • Clause 4.6 variation (height and FSR) – Urbis; • Thermal Comfort & BASIX Assessment – Efficient Living; • Acoustic Report – Acoustic Logic; • Waste Management Plan – Elephants Foot; • Transport Impact Assessment – Arup;

	<ul style="list-style-type: none"> • Access Report – Wall to Wall Design & Consulting; • BCA Compliance Assessment Report – AED Group; • Arboricultural Assessment Report – Tree and Landscape Consultants (TALC); • Construction Management Plan – Meriton Property Services Pty Ltd; • Civil Works Drawings – at&l; • Detailed Site Assessment – Coffey; • Geotechnical Site Investigation – Coffey; • Flood Report – Calibre Consulting; • Qualitative Wind Impact Assessment – SLR; • Crime Risk and Security Report – Meriton Property Services Pty Ltd; • Plan of Management – Meriton Property Services Pty Ltd; • QS Report – Steven Wehbe.
Report by	Amy Groher – Senior Development Assessment Planner

RECOMMENDATION

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

- (a) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum building height of 51m AHD; and
- (b) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum floor space ratio (FSR) of 3.43:1 (24,648sqm);
- (c) Issue “Deferred Commencement” consent under Section 80(3) of the *Environmental Planning and Assessment Act 1979* for Development Application No. 16/117 subject to receipt of conditions from Sydney Water; and
- (d) With such consent not to operate until the following condition is satisfied:

DC1 To ensure that the site is made suitable for the proposed residential and public park use, a further detailed site investigation of soil and groundwater as required shall be completed by a suitably qualified and experienced environmental consultant. The applicant is to prepare and submit an amended Detailed Site Investigation, completed in accordance with the Contaminated Land Management Act 1997 and SEPP55 to reflect:

- a) the current NEPM guidelines (amended 2013);
- b) the proposed construction at grade, with no basement car parking;
- c) the proposed more sensitive uses proposed for this development of a child care centre (on a podium) and public park (with no basement below) that will be dedicated to council; and
- d) all instructions by the appointed Environmental Auditor accredited under the Contaminated Land Management Act.

It shall clearly state that the site can be made suitable for all proposed uses and the conditions of this suitability. If remediation is required, then the Applicant shall also prepare and submit to Council a Remedial Action Plan (RAP) and obtain any necessary consent for the remediation. Any RAP for the site shall reflect the current guidelines and any new information about soil and groundwater found in any additional sampling and analysis required by the appointed Site Auditor accredited under the Contaminated Land Management Act.

(e) The period of the “Deferred Commencement” consent be limited to 6 months.

EXECUTIVE SUMMARY

Council received Development Application No. 16/117 on the 27 July 2016 seeking consent for the construction of two residential flat buildings incorporating two x 4 storey podiums, 2 x 14 storey towers containing a total of 239 residential units, a retail tenancy, a childcare centre, private recreation facilities, at-grade and above ground 'sleeved' podium parking for 3255 cars and 24,648sqm of gross floor area; construction of a new north-south private publically accessible open space link; associated excavation, earthworks and landscaping.

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

The development application was referred to Roads and Maritime Services (RMS) for comment as an Integrated Development under Section 91 of the EP&A Act as the development proposes to connect to a classified road (Gardeners Road) as per s138(e) of the Roads Act 1993. In a letter dated 17 August 2016, RMS confirmed that the application is not an ‘integrated development’ as Council is both the Consent Authority for the development and approval authority for Gardeners Road. Notwithstanding this, RMS confirmed no objection to the proposed development and their conditions have been recommended in the draft Schedule of Consent Conditions.

On 15 September 2016, Council received a s96(2) Modification Application for the adjoining site to the south at 1-5 Kent Road, Mascot (DA-15/216/02) which seeks approval to provide an integrated car parking podium arrangement with the subject site. The s96(2) Modification Application and this application are to be assessed in conjunction as the approval of both will provide for an integrated car parking podium arrangement and facilitate vehicular access to both sites.

Prior to lodgement, on 12 May 2016, the application was reviewed by the Design Review Panel (DRP) who supported the design in principle. Their recommendations are assessed further in this report. Resubmission to the Panel was not required as most recommendations were addressed in the revised design submitted to Council.

The development application was notified for a period of thirty (30) days from 11 August 2016 to 10 September 2016. No submissions were received.

Council issued a Stop The Clock letter on 19 August 2016 which raised key issues regarding FSR, building separation and privacy, solar access, communal open space, balcony sizes, family friendly apartments, landscape and deep soil, tree retention and environmental

contamination. These issues were discussed with the applicant in a meeting with Council on 30 August 2016.

Council briefed the JRPP on 21 September 2016 and the key issues discussed included the application background, site access, building separation distances and setbacks, FSR and parking.

Following an email sent to the applicant on 30 September 2016 outlining in more detail the key issues discussed at the JRPP briefing, Council met with the applicant on 11 October 2016 to further discuss these issues as well as the outstanding issues raised in the Stop The Clock letter, namely FSR, building separation and lowering the lobby entrances to provide better streetscape integration.

On 3 November 2016, amended plans were received which addressed the issues raised across both previous meetings between Council and the applicant. These are outlined in more detail within the 'Background' section below.

There are several non-compliances with the SEPP 65 – Apartment Design Guide (ADG) provisions including building separation, balcony size, car parking, solar access and storage. These have been assessed in detail within the report and are acceptable. Additionally, the intent is for a combined podium with the site to the south at 1-5 Kent Road, and therefore any technical non-compliances also have to be assessed with this in mind. Further, Council is satisfied that the applicant has demonstrated adequate regard to meeting the remaining ADG requirements.

Council's key issue with regard to the BBLEP 2013 of height and FSR has been addressed through a Clause 4.6 variation. The height exceedance of 2.34m is attributed to plant and lift overrun, with a parapet to screen these elements. There is no residential component that breaches the height limit. The FSR exceedance is not out of character with other approvals in the Mascot Town Centre and does not result in increased bulk and scale. The proposed narrow floor plate of the development responds to the narrow east-west oriented site.

With regard to the BBDCP 2013, the key issue is non-compliance with the new Family Friendly Apartment controls. Non-compliance with the key controls have been conditioned to provide increased compliance, but not full compliance. A key change includes the extension of several balconies in order to provide compliance with the minimum ADG requirement as well as the DCP requirement for the private outdoor space to be clearly visible from the kitchen. The recommended changes, proposed through a condition, will significantly improve the amenity of the residents without compromising visual privacy and overlooking through non-compliant building separation distances.

The applicant has not provided a detailed site investigation of soil and groundwater as they will not own the site until March 2017. The applicant has provided a report from the Accredited Site Auditor whereby the findings of the report state, under the Auditor Conclusions:

"Based on the review of the Ramsay (2012) DSI and the walkover site inspection (22 November 2016), as well as involvement in numerous developments in close proximity of the current site, the Auditor considers that the site is capable of being made suitable for the proposed development..."

On this basis, Council are satisfied in recommending deferred commencement consent requiring a further detailed site investigation and RAP (if required), in order to ensure that the site can be made suitable for the proposed residential and public park use.

No response has been received from Sydney Water. As such, it is recommended that deferred commencement be issued subject to receipt of conditions from Sydney Water.

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

It is also noted that the applicant has confirmed no objection to the proposed conditions.

BACKGROUND

Council received Development Application No. 16/117 on the 27 July 2016 seeking consent for the abovementioned development.

A Stop The Clock letter was issued by Council on 19 August 2016 which raised key issues regarding FSR, building separation and privacy, solar access, communal open space, balcony sizes, family friendly apartments, landscape and deep soil, tree retention and environmental contamination.

Council briefed the JRPP on 21 September 2016 and the key issues discussed included the application background, site access, building separation distances and setbacks, FSR and parking.

Following the JRPP briefing on 21 September 2016, an email was sent to the applicant on 30 September 2016 outlining in more detail the key issues discussed at the JRPP briefing being application background, site access, building separation distances and setbacks, FSR and parking.

These issues are set out in the table below with commentary from Council in the right-hand column regarding how these issues have now been resolved through the plans (as amended) received on 3 November 2016.

Table 1: Key issues and how these have been addressed

Issue	Council comment
<p>Floor Space Ratio:</p> <p>The proposed FSR exceeds the standard. The applicant is required to include any excess car parking which is not required to meet the requirements of the consent authority.</p> <p>The JRPP did not support the 'transfer' of FSR from one site to the other unless the sites are amalgamated. The Clause 4.6 variation has to be based on the merit of that site alone.</p>	<p>The BBLEP 2013 FSR standard is 3.2:1 (22,966.4sqm)</p> <p>The development proposes 3.43:1 (24,648sqm).</p> <p>This is a variation of 1,681.6sqm (7.3%).</p> <p>There is no car parking in excess of that required by the consent authority.</p> <p>A Clause 4.6 variation justifying the FSR breach has been submitted with the application. The applicant's assessment is satisfactory and has been assessed in greater detail further in the report.</p>
<p>Building Height:</p> <p>The panel will only support a lift overrun height exceedance if it provides equitable access to a rooftop communal space or if the site is affected by flooding and is required to have a raised floor level.</p>	<p>The BBLEP 2013 height limit is 44m.</p> <p>The development proposes:</p> <ul style="list-style-type: none"> Habitable roof height: 44m (RL 48.6m); Parapet height (including lift overrun): 46.34m (RL50.94); maximum overall height of RL51 (as approved by

Issue	Council comment
	<p>CASA).</p> <p>This is a variation of 2.34m (5.3%).</p> <p>A Clause 4.6 variation justifying the height breach has been submitted with the application. The applicant's assessment is satisfactory and has been assessed in greater detail further in the report.</p> <p>The site is affected by flooding with a 1%AEP of 3.7m AHD (as confirmed by Council's Flood Engineer). Council notes that the RLs for the habitable and non-habitable areas are above the minimum required to provide for flood compliance. This is required to ensure that the integration with the southern adjoining site at 1-5 Kent Road is at the same level. The floor levels of the lobbies of the subject site have been lowered slightly so that they still comply with the flood level, but provide better streetscape activation.</p>
<p>Building Separation:</p> <p>The applicant proposes a dog-leg of apartments within Building D which have a 700mm balcony separation distance at podium level and a 4.2m balcony separation distance from Levels 5 – 13. This is not supported by Council and the JRPP suggested acoustic attenuation and screening to these corners.</p>	<p>The plans (as amended) show that the separation distance within Building D remains.</p> <p>However, instead of the separation distance being between balconies, it is now between a balcony and a non-habitable room. The balcony of the dog-leg apartments is south-facing and opens up onto the communal open space at podium level.</p>
<p>Privacy:</p> <p>How is privacy to the apartments adjoining the podium level communal open space being addressed?</p>	<p>The applicant has advised that this will be addressed through fencing and mounding to provide a sufficient landscape screen. This has formed part of the landscape conditions.</p>
<p>Solar Access:</p> <p>It is unclear from the solar access diagrams as to how much solar access the communal open space at podium level receives.</p>	<p>The plans (as amended) provide additional shadow diagrams which show that the majority of the communal open space within the subject site at podium level does not receive 2 hours of solar access. This is due to the location of the building to the north of the communal open space, thereby the south will always be overshadowed.</p> <p>Notwithstanding this, the communal open space within 1-5 Kent Road receives 2 hours of solar access to 50% of its communal open space, of which this development will be able to access.</p> <p>Further, the majority of the community park between Buildings E and F will receive solar access from 9 – 3pm during mid-winter, thereby providing adequate space which receives solar access during mid-winter.</p>
<p>Balcony sizes:</p> <p>Several balconies met the minimum ADG requirement only through the provision of multiple smaller balconies instead of a primary balcony with an ADG compliant size.</p>	<p>The apartments in question are U103, U203, U303, U507-1307, U512-1312, U515-1315, U516-1316, U523-1323, U521-1321.</p> <p>During discussions with the applicant Council confirmed that this approach is acceptable provided that one of the balconies was large enough to accommodate balcony furniture and for the furniture layout to be shown on the plans.</p> <p>This is discussed further at Note 4.</p>
<p>Child Care Centre:</p>	<p>The plans (as amended) provide additional shadow</p>

Issue	Council comment
Concern was raised over the limited provision of solar access to the outdoor area of the child care centre.	<p>diagrams which show the eastern portion of the outdoor area receiving at least 3 hours of solar access during mid-winter.</p> <p>A condition has been recommended that the use of the child care centre is subject to a separate Development Application to be lodged with Council for approval and that it should be noted that in any future application, the primary outdoor area is to be located where the majority of solar access is provided.</p>
<p>Landscaping:</p> <p>More detailed landscaping plans are required to be provided.</p>	<p>These have not been provided. However, Council's Landscape Architect has provided conditions of consent requiring detailed public and private domain landscape plans prior to the issue of any Construction Certificate.</p>
<p>Retention of trees:</p> <p>The level of tree retention proposed for this development is less than what was proposed as part of the previous approved development. Further, there are inconsistencies between the applicant's Arborist report and Council's Tree Preservation Officer's assessment.</p>	<p>This is a separate and new application. The proposed setbacks have been provided in accordance with Part 9 of the BBDCP 2013 and match the setbacks of the adjoining developments, which was not the case with the previous approved development.</p> <p>As such, a greater number of trees are proposed to be removed.</p> <p>Council's Landscape Architect and Tree Protection Officer have provided conditions of consent to ensure that those trees that can and should be retained are conditioned to do so.</p>
<p>Environmental Contamination:</p> <p>A Phase 2 Detailed Site Investigation was submitted but was also the same report used for the previous approval on the site. Since its completion in 2012, there have been updated guidelines. The applicant is required to provide an updated report which is required prior to determination.</p>	<p>The applicant has advised that as Meriton does not currently own the subject site until settlement at the end of March 2017, there is difficulty in drilling bore holes as the current owner is carrying on warehouse and food manufacturing activities on the site.</p> <p>The applicant has requested that Council impose a relevant condition on the consent to ensure that the site is suitable for the intended uses prior to the undertaking of any works on the site in accordance with the consent.</p> <p>Council confirmed that provided a letter from an Accredited Site Auditor can be obtained (which states that based on his/her review of the information available, the site can be made suitable for the proposed development and the most sensitive proposed uses), then Council can be satisfied that the requirements of SEPP 55 have been adequately addressed, and recommend Deferred Commencement approval.</p> <p>The applicant has provided report from the Accredited Site Auditor whereby the findings of the report state, under the Auditor Conclusions:</p> <p><i>"Based on the review of the Ramsay (2012) DSI and the walkover site inspection (22 November 2016), as well as involvement in numerous developments in close proximity of the current site, the Auditor considers that the site is capable of being made suitable for the proposed development..."</i></p> <p>On this basis, Council are recommending deferred commencement consent requiring a further detailed site investigation and RAP (if required), in order to ensure that the site is made suitable for the proposed residential and</p>

Issue	Council comment
	public park use.

On 15 September 2016, Council received a s96(2) Modification Application for the adjoining site to the south at 1-5 Kent Road, Mascot (DA-15/216/02) which seeks approval to provide an integrated car parking podium arrangement with the subject site. The s96(2) Modification Application and this application are to be assessed in conjunction as the approval of both will provide for an integrated car parking podium arrangement and facilitate vehicular access to both sites.

PREVIOUS APPROVED DA-13/172

Consent for Development Application DA-13/172, over the subject site, was granted by the JRPP on 14 May 2014 for a staged mixed-use development including the following works resulting in the construction of one x 13-storey mixed-use building (Building A) and two x 12-storey mixed use buildings (Building B and C) with 242 residential units, 4 commercial tenancies and 450 car parking spaces within a basement configuration over the distinct stages. The staging includes the following works:

Prior to Stage One works commencing, subdivision of the two existing lots by consolidation and re-subdivision into two new lots, based upon the staging of the mixed-use development.

Stage One Works including:

- Demolition of existing buildings within Stage One including demolition of the existing building on proposed Lot 1;
- Site works, remediation and excavation for proposed Lot 1;
- Construction of proposed driveway access;
- Erection of Building "C" being a 13-storey mixed-use building with ground floor retail, basement level car parking and associated landscaping.

Stage Two Works including:

- Demolition of existing buildings within Stage Two including demolition of the existing building on proposed Lot 2;
- Site works, remediation and excavation for proposed Lot 2;
- Construction of proposed driveway as an extension of Lot 1 driveway;
- Erection of Buildings "A" and "B" being one x 13-storey and one x 12-storey mixed-use building with ground floor retail, basement level car parking and associated landscaping.

DESCRIPTION OF SITE & SURROUNDING LOCALITY

The subject site is known as 671-683 Gardeners Road, Mascot and is formally described as Lot 1 in DP 777315 and Lot 500 in DP 1030729.

The subject site is located on the south-eastern corner of the Kent and Gardeners Road intersection with Bourke Road to the east and Church Avenue to the south. The site is approximately 300m (as the crow flies) to the north-west of the Mascot Railway Station.

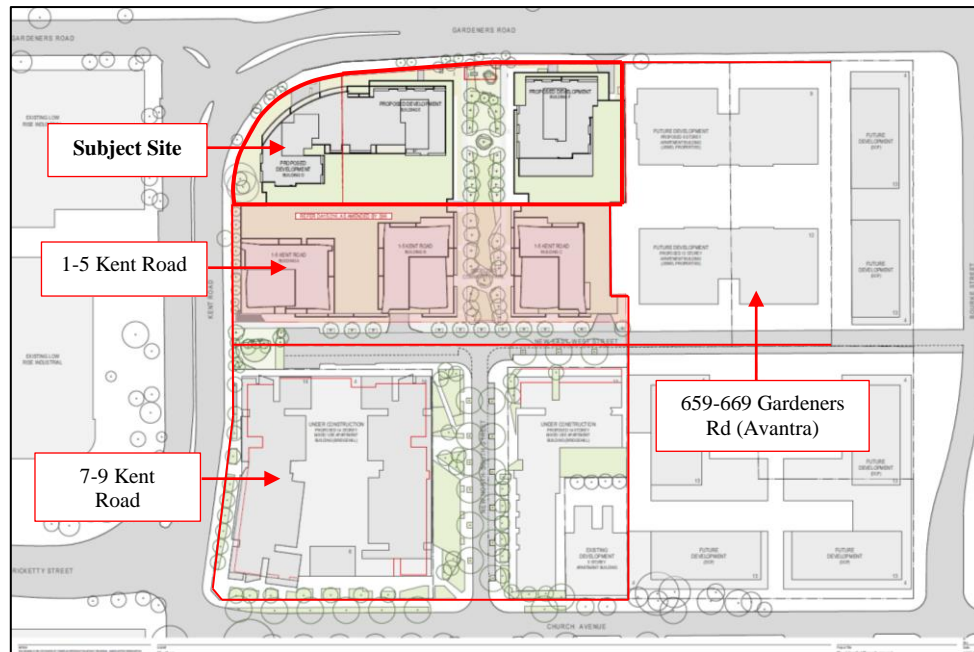


Figure 1: Locality Plan

The total site area is 7,177sqm with a 106.9m frontage to Gardeners Road, 72m arced frontage to the south-eastern corner of Kent and Gardeners Road, 53.1m eastern side boundary (shared with the development at 659-669 Gardeners Road – Avantra), and a 148.6m southern boundary (shard with the development at 1-5 Kent Road - Meriton/ Kiara).

Each site is currently occupied by a large industrial building. Lot 1 on DP 777315 (corner of Kent and Gardeners Road) is occupied by the Jewel of India, and Lot 500 on DP 1030729 (fronting Gardeners Road) is occupied by Jewel Fine Foods, both food processing warehouses. The site is currently accessed via three driveway entrances, two off Gardeners Road and one off the corner of the Kent and Gardeners Road intersection.



Figure 2: Existing buildings on the subject site.

The site is within the B4 Mixed Use zone of the BBLEP 2013 and is within Urban Block 1 of the Mascot Station Town Centre Precinct of the BBDCP 2013. The land to the north of Gardeners Road falls under the jurisdiction of Sydney City Council. The table below lists the relevant details of the surrounding mixed-use developments.

Table 2: Key details of subject site and adjoining properties

Site	Location	Approval Body	Units	FSR	Height
671-683 Gardeners Road	Subject site	JRPP	239	3.43:1	46.34m (RL 50.94)
671-683 Gardeners Road (Jewel of India)	Previous approval	JRPP	242	3.34:1	42.5m (RL 49.15)
1-5 Kent Road (Meriton – Kiara)	Adjoins southern boundary	JRPP	229	3.2:1	47.2m (RL 51)
		JRPP proposed through s962	234	3.45:1	47.2m (RL 51)
659-669 Gardeners Road (Avantra)	Adjoins eastern boundary	Court Appeal	328	3.33:1	45.5m (approx. RL 50.3)
7-9 Kent Road, Mascot (Bridgehill)	Adjoins southern boundary	Court Appeal	510	3.78:1	47.4m (RL 51)

SITE HISTORY

The Detailed Site Investigation prepared by Peter J Ramsay & Associates provides the following historical information:

The historical land title information indicates that 671-675 and 683 Gardeners Road were used for market gardening until the early 1940s and our review of aerial photos also shows that these activities had ceased by at least 1951. The site was subsequently used for commercial/industrial purposes including an engineering works and aircraft maintenance from the 1950s. The existing buildings located at 671-675 and 683 Gardeners Road are indicated to have been constructed in 1987.

The historical title information provided for 683 Gardeners Road indicates that the property was owned by the same proprietors as 671-675 Gardeners Road (Australian Imperial Forces and James Engineering Works Pty Ltd) until 1985. In 1985, the property was purchased by a private proprietor. After 1985, the property was owned by a number of commercial organisations and was sold to Jewel Properties in 2005.

DESCRIPTION OF DEVELOPMENT

The proposal is for the demolition of the existing structures on the site and the erection of a mixed use development comprising two residential flat buildings (Buildings D and E are joined and presents visually as a single building) on top of a 4 storey podium, containing a total of 239 residential units, a retail tenancy, a childcare centre, private recreation facilities, at-grade and above ground 'sleeved' podium parking for 364 cars and 24,625sqm of gross floor area; construction of a new north-south private publically accessible open space link; associated excavation, earthworks and landscaping.

The breakdown of 239 units is:

- 58 x 1 bedroom units;
- 131 x 2 bedroom units;
- 50 x 3 bedroom units.

The development is broken down as:

- Building D (fronts the corner of Kent and Gardeners Road)
 - 87 units;
 - 4 storey podium of residential & sleeved parking + 10 residential storeys above;
 - Communal pool and gymnasium on Ground Floor;
 - Lobby and lift core with 2 lifts;
 - 1,320sqm of podium level communal open space shared with Building E.
- Building E
 - 72 units;
 - 4 storey podium of residential & sleeved parking + 10 residential storeys above;
 - Building Manager's Office;
 - Lobby and lift core with 2 lifts;
 - 1,320sqm of podium level communal open space shared with Building D.
- Building F
 - 80 units;
 - 4 storey residential podium + 10 residential storeys above;
 - Child Care Centre on podium level comprising 630sqm of GFA and 795sqm of open space;
 - Lobby and lift core with 2 lifts;
 - Retail component (100sqm).

There is a private publically accessible park located between building E and F which runs north-south and links to the approved north-south park within the 1-5 Kent Road development.

Access to Building F and Building C (1-5 Kent Road) is proposed from two points, Gardeners Road and Galloway Street (approved). The modification to 1-5 Kent Road proposes to 'punch through' the basement of Building C to allow flow-through of vehicles.

Access to Building D and E is proposed through Galloway Street with the modification to 1-5 Kent Road proposing to 'punch through' the basement of Building B to provide access.

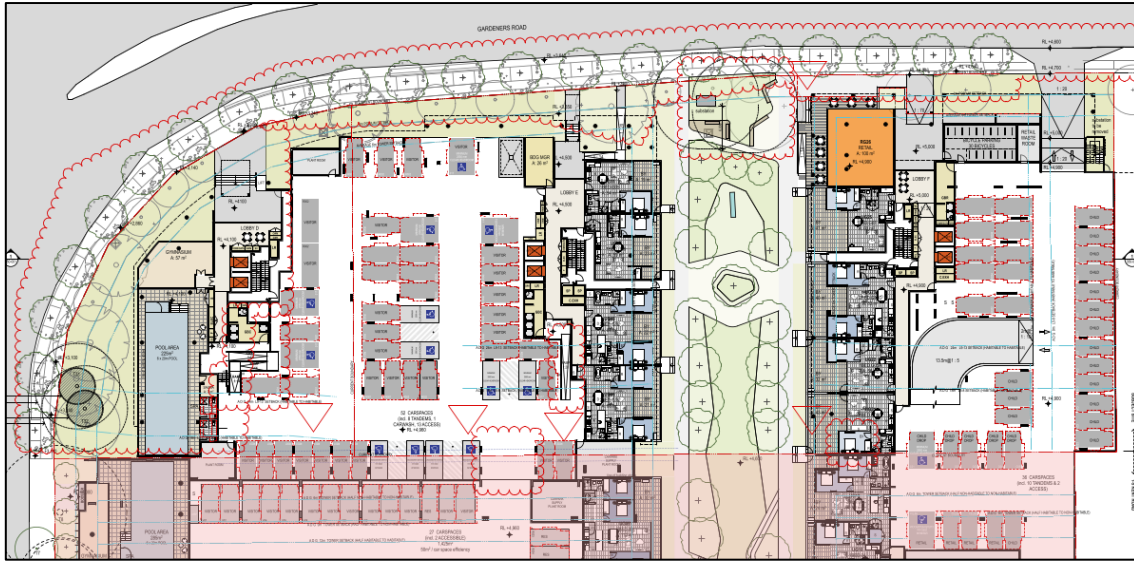


Figure 3: Proposed Ground Floor Level

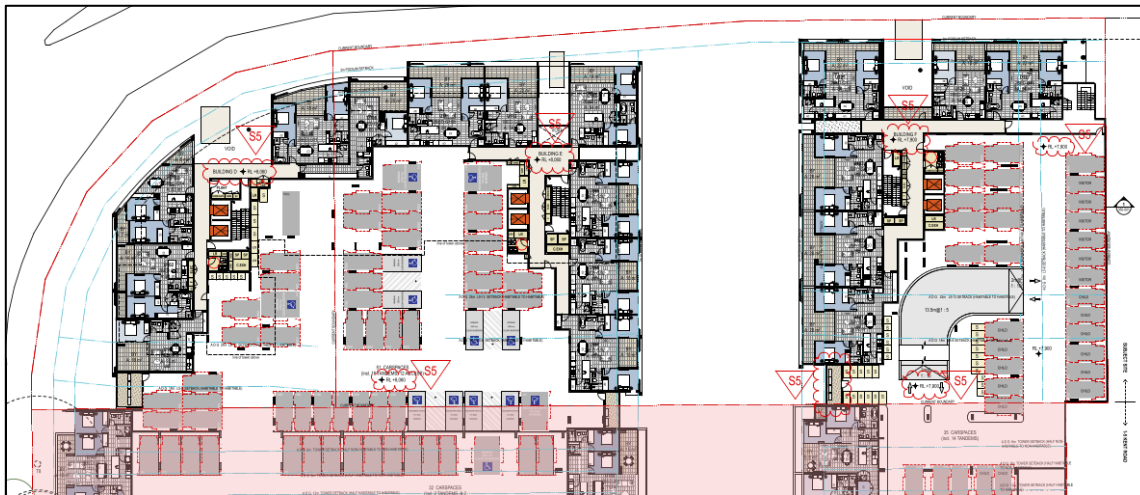


Figure 4: Proposed Level 1



Figure 5: Proposed Levels 2 & 3

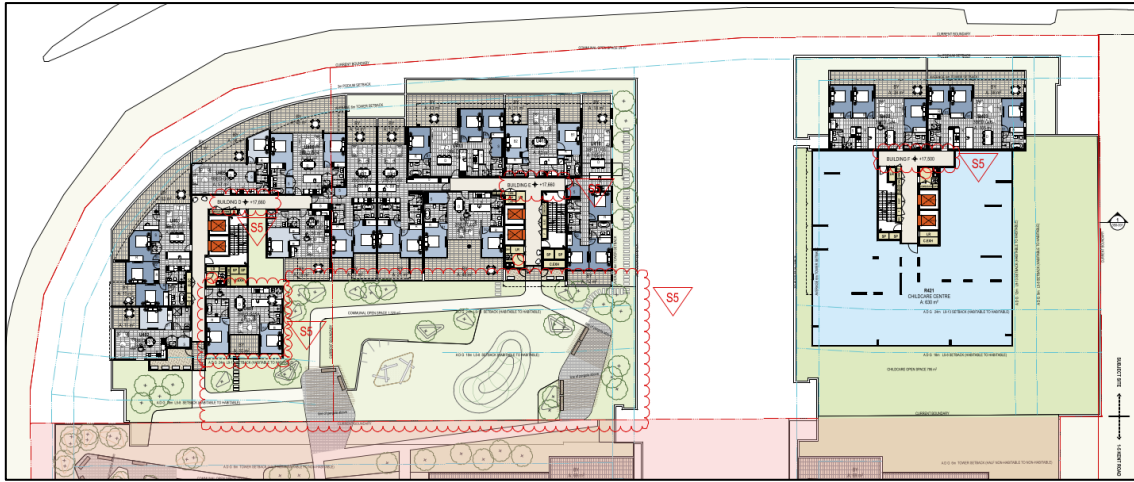


Figure 6: Proposed podium level

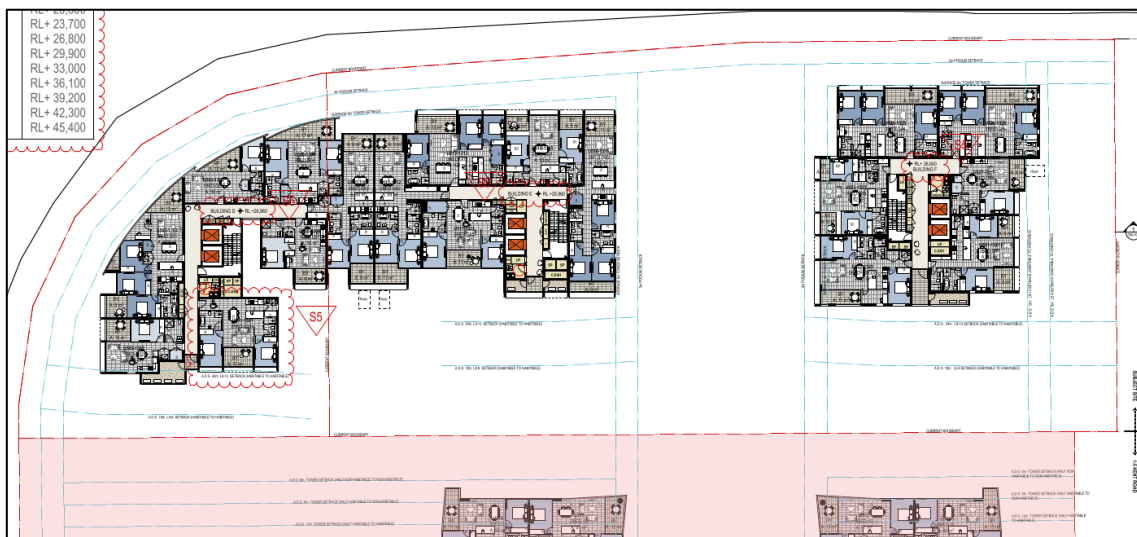


Figure 7: Proposed Levels 5 - 13



Figure 8: Montage of northern elevation (view from Gardeners Road)



Figure 9: Montage of north-western elevation (view from corner of Kent and Gardeners Road)

Key Controls

The key controls relevant to the proposal are provided below.

Table 3: Compliance with key provisions

Control	Required	Proposal	Complies
Apartment Design Guide (ADG)			
Car Parking (ADG)	<u>Residential</u>	Total provided: 255 spaces	No Refer to Note 1 105 spaces within 1-5 Kent Road to be allocated to the site
	0.6 space / 58 x 1 bed unit (34.8 req.)		
	0.9 space / 131 x 2 bed unit (117.9 req.)		
	1.4 space / 50 x 3 bed unit (70 req.)		
	1 visitor space / 7 dwellings (34.1 req.)		
	TOTAL required: 257		
	<u>Retail (based on food and drink premises)</u>		
	1 space / 2 employees (2 req.)		
	1 space / 10sqm GFA (10 req.)		
	Total required: 12		
	<u>Childcare Centre (based on DCP as no rates in RTA Guide)</u>		
	1 space / 2 employees (9 req.)		
	1 space / 5 children (19.4 req.)		
	1 pick-up set-down / 20 children (4.85 req.)		
	TOTAL required: 34		

Control	Required	Proposal	Complies
	<p>1 loading dock for residential is desirable</p> <p>Total required: 303 (excluding service vehicle requirements)</p>		
Solar Access	Living rooms and POS for at least 70% of apartments to achieve 2 hours between 9am and 3pm	70% (169 units out of 239)	Yes
	50% of principal communal open space to obtain 2 hours between 9am and 3pm.	<p>The majority of the podium communal open space does not receive solar access during mid-winter.</p> <p>The majority of the ground level park receives solar access all day during mid-winter.</p>	No Refer to Note 2
Cross Ventilation	60% required for first 9 storeys	First 9 storeys: 60% achieve	Yes
Building Separation (ADG)	<p><u>Up to 4 storeys (approx. 12m):</u> 3m from non-habitable rooms to site boundary 6m from habitable rooms/balconies to site boundary</p>	<p><u>Does not comply with 3m setback from habitable rooms/balconies to site boundary</u></p> <p>Technical non-compliance, however if viewed as a single site, it is acceptable. There are no privacy impacts.</p> <p>The dog-leg at podium level has a 7m separation distance from habitable rooms to balconies.</p>	No Refer to Note 3
	<p><u>Five to eight storeys (25m):</u> 4.5m from non-habitable rooms to site boundary 9m from habitable rooms/balconies to site boundary</p>	<p><u>Internal separation</u></p> <p>The dog-leg has a 3m separation distance from the non-habitable rooms to the adjoining balcony and an 8.3m separation distance from the habitable room to the adjoining balcony.</p>	No Acceptable Refer to Note 3
	<p><u>Nine storeys and above (over 25m):</u> 6m from non-habitable rooms to site boundary 12m from habitable rooms/balconies to site boundary</p>	<p><u>Does not comply with the 12m separation from habitable rooms/balconies to site boundary</u></p> <p>U502-1302 has a 9m setback from the site boundary but a 24m separation distance to the adjoining building to the south.</p> <p><u>Internal separation</u></p> <p>The dog-leg has a 3m separation distance from the non-habitable rooms to the adjoining balcony and an 8.3m separation distance from the</p>	No Acceptable Refer to Note 3

Control	Required	Proposal	Complies
		habitable room to the adjoining balcony.	
Deep Soil (ADG)	7% of the site with min. dimensions of 6m	12% (873sqm) – as per plans. Plans don't show the areas that have been included and whether it meets the minimum dimensions of 6m. Council has calculated deep soil areas with minimum dimensions of 6m as 14% (1,051sqm)	Yes
Communal Open Space (ADG)	25% of site (1,955sqm)	Applicant: 25% (1,832sqm) Council: 28% (2,035sqm – excludes communal balconies)	Yes
Apartment Size	1 bedroom: 50sqm 2 bedroom: 70sqm 3 bedroom: 90sqm	1 bedroom: 54-86sqm 2 bedroom: 83-106sqm 3 bedroom: 105-109sqm	Yes
Balcony Size	1 bedroom: 8sqm 2 bedroom: 10sqm 3 bedroom: 12sqm	1 bedroom: 8-56sqm 2 bedroom: 10-46sqm 3 bedroom: 13-67sqm	Generally Refer to Note 4
Storage	1 bedroom: 6sqm 2 bedroom: 8sqm 3 bedroom: 10sqm At least 50% of storage is to be located within the apartment	1 bedroom: 6-14.8sqm 2 bedroom: 8-19.6sqm 3 bedroom: 9.8-22.4sqm At least 50% of storage is located within the apartment	Generally Yes Refer to Note 5
Botany Bay Local Environmental Plan (BBLEP) 2013			
Flood Levels	1% AEP (1 in 100 year): 3.70 AHD Non-habitable: 4 AHD Habitable: 4.2 AHD	Non-habitable: RL 4.9 Habitable: RL 4.5 – 5	Yes
Height	44 metres (maximum)	Maximum height of 46.34m (RL50.94) Residential Height: 44m (RL 48.6m) Note: No residential exceedance. Exceedance is roof plant and parapets only	No Clause 4.6 submitted Refer to Note 6
FSR	V2 (3.2:1)	3.43:1	No Clause 4.6 submitted Refer to Note 7
GFA	22,966.4sqm (maximum)	24,648sqm Note: Exceeds the standard by 1,681sqm.	No Clause 4.6 submitted Refer to Note 7

Control	Required	Proposal	Complies
Botany Bay Local Development Control Plan (BBDCP) 2013			
Apartment Mix	Max. 25% of units are to be studio and 1 bedroom units	Total number of units: 239 1 bed: 58 (24.3%) 2 bed: 131 (54.8%) 3 bed: 50 (20.9%)	Yes
Setbacks (DCP Urban Block 1)	3m for Level 1 – 4 6m for Levels 5 – 13	Generally more than 3m with the exception of the ramping to Building D and a small portion of the balcony to the retail component within Building F. Consistent with sites to the east and south.	Yes
Landscape Area	35% of site 20% hard landscaped area	<u>Council calculate:</u> 36% (2,614sqm) 8.9% (639sqm)	Yes Yes
Bicycle Parking	10% of the requirement of the RTA requirement for car parking (requires 31)	30	No Acceptable

SECTION 79C CONSIDERATIONS

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

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

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

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

The development application is Integrated Development under Section 91 of the EP&A Act as the development proposes to connect to a classified road (Gardeners Road) as per s138E of the *Roads Act 1993* and was referred to Roads and Maritime Services (RMS) for comment.

In this regard, the development application was referred to RMS.

In a letter dated 12 September 2016, RMS requested further information regarding dimensions of the vehicle crossing and swept path diagrams for the vehicular access at Gardeners Road.

In a letter dated 17 August 2016, RMS confirmed that the application is not an 'integrated development' as Council is both the Consent Authority for the development and approval authority for Gardeners Road.

Notwithstanding the above, in a letter dated 18 October 2016, RMS confirmed that they raise no objection to the development application and provided conditions for Council's consideration. These have been included in the draft Schedule of Consent Conditions.

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

The provisions of SEPP No. 55 have been considered in the assessment of the development application.

The original Detailed Site Investigation report dated October 2012, originally prepared for the previous approval on the site (which included basement car parking and no park or childcare centre) was submitted in support of the proposed development.

In a Stop The Clock letter dated 19 August 2016, Council requested a Phase 2 Detailed Site Investigation Report which reflected the specific proposed uses (no basement car parking, at grade park and childcare centre) and provided an updated assessment against guidelines which had been updated since the original report was completed in 2012.

The applicant has advised that as Meriton does not currently own the subject site until settlement at the end of March 2017, there is difficulty in drilling bore holes as the current owner is carrying on warehouse activities on the site. As such, the applicant requested that Council impose a relevant condition on the consent to ensure that the site is suitable for the intended uses prior to the undertaking of any works on the site in accordance with the consent.

Council confirmed that provided a letter from an Accredited Site Auditor can be obtained (which states that based on his/her review of the information available, the site can be made suitable for the proposed development and the most sensitive proposed uses), then Council can be satisfied that the requirements of SEPP 55 have been adequately addressed, and recommend Deferred Commencement approval.

The applicant has provided report from the Accredited Site Auditor whereby the findings of the report state, under the Auditor Conclusions:

“Based on the review of the Ramsay (2012) DSI and the walkover site inspection (22 November 2016), as well as involvement in numerous developments in close proximity of the current site, the Auditor considers that the site is capable of being made suitable for the proposed development...”

On this basis, Council recommends the Panel grant deferred commencement consent, requiring a further detailed site investigation and RAP (if required), in order to ensure that the site can be made suitable for the proposed residential and public park use.

In this regard, Council can now be satisfied that the subject site is capable of being made suitable for the proposed development and will satisfy the requirements of SEPP 55.

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

The Council's Design Review Panel (DRP) considered the proposed development on 12 May 2016 and prior to the lodgement of the application. The DRP supported the design in principle. It should be noted that the initial proposal presented to the DRP was of a similar form and scale to that currently before the JRPP and that the DRP made minor recommendations. Resubmission to the Panel was not required as most recommendations were addressed in the revised design submitted to Council.

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

Table 4: Assessment of DRP recommendations

DRP Recommendation	Comment
Clearly legible common entries from the street frontages	The plans (as amended) provide separate pedestrian entries to each of the three buildings. These residential lobbies have been differentiated from the rest of the building with implementation of a cantilevered awning over the entry.
The excess FSR is not supported by the Panel	Refer to Note 7.
Retention of the existing mature trees adjacent to the Gardeners and Kent Road frontage	As such, a greater number of trees, when compared to the previous approval, are proposed to be removed due to the compliant setbacks in accordance with Part 9 of the BBDCP 2013 and the adjoining developments to the east and west. Council's Landscape Architect and Tree Protection Officer have provided conditions of consent to ensure that those trees that can and should be retained are conditioned to do so.
Provision of communal open space on the roof of each building	An accessible roof-top is not possible due to the OLS height restriction and the requirement to raise the building to comply with the flood levels on the site.
Provision of natural light and ventilation to the internal service rooms of the top level units	Has been recommended as a condition of consent.
Visual privacy across the internal corner of Building D	The plans (as amended) have revised the layout of the internal corner of Building D so that the balconies face south, thereby providing greater separation between balconies. No screening is required.
Provision of solar protection to all west facing glass	Laminated glass has been provided to the western and northern façade of Buildings D and E in accordance with the Acoustic Report.
Provision of natural light into all lift lobbies and corridors	Provided. With the exception of the lift lobby and corridor within Building F at Level 4 (podium).
Provision of common, accessible toilet accommodation	This is not possible as the new park is to be privately owned but publically accessible through the provision of easements.
Screening to the ground level car parking facing Gardeners Road	Provided. Screening consists of a perforated metal screen in a powdercoat finish in grey. A condition has been recommended for screen planting in front of this.
The entries to the buildings at street level should accommodate a small meeting place	Provided. The plans (as amended) do not show furniture layout for Lobby E however this has been recommended as a condition.

The applicant has submitted an assessment against Part 3 and 4 of the ADG and has demonstrated adequate regard has been given to the design quality principles and objectives specified in the ADG for the relevant design criteria. An assessment against the key controls with regard to any proposed non-compliance has been provided in detail below.

Note 1 – Car Parking (3J)

The Design Criteria to Objective 3J-1 states that for development sites that are within 800 metres of a railway station 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. The BBDCP 2013 adopts the ADG requirements for car parking and as such, requires the following minimum amount of car parking spaces for the proposed development.

Table 5: Car Parking requirement and provision

Proposed Use	Minimum Requirement	Car Parking Provided	Complies (y/n)
Residential	0.6 space / 58 x 1 bed unit (34.8 req.) 0.9 space / 131 x 2 bed unit (117.9 req.) 1.4 space / 50 x 3 bed unit (70 req.) 1 visitor space / 7 dwellings (34.1 req.) TOTAL required: 257	229	No
Retail Based on food and drink premises	1 space / 2 employees (2 req.) 1 space / 10sqm GFA (10 req.) Total required: 12	0	No
Childcare centre Based on DCP as no rates in RTA Guide	1 space / 2 employees (9 req.) 1 space / 5 children (19.4 req.) 1 pick-up set-down / 20 children (4.85 req.) TOTAL required: 34	26	Yes
Total Required	303	255	No

As demonstrated above, the proposed development falls short by 48 spaces.

Notwithstanding the above, the proposed s96(2) Modification Application over the adjoining site to the south at 1-5 Kent Road has 105 spaces which are to be allocated to the subject site, which would then ensure compliance with the minimum requirement.

The table below outlines the current proposed number of car parking spaces across both sites, the proposed number of spaces allocated to both sites after approval and reallocation, and the excess number of spaces allocated to each site.

Table 6: Car Parking provision and allocation

Site	Current Proposal	Car Parking after approval and reallocation	Excess after approval and reallocation
671-683 Gardeners Road	255	360	57
1-5 Kent Road	482	377	100

As per the table above, after approval and subsequently reallocation of the car parking spaces, the proposed number of car parking spaces across both sites will comply with the minimum requirement.

A standard condition has been recommended within both draft Conditions of Consent that car parking spaces be provided in accordance with the minimum car parking rates required for each proposed use.

Note 2 – Communal Open Space (3D)

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

The proposed development has 2 separate communal open space (COS) areas being that at podium level, and the publically accessible park at ground level between Buildings E and F.

The majority of the podium COS does not receive solar access during mid-winter except for the south-eastern corner (182sqm and 13%) which receives at least 2 hours of solar access.

The majority of the ground level park (approximately 1,078sqm and 86%) receives solar access all day during mid-winter.

The provision of solar access to the ground level park in excess of the minimum requirement makes up for the lack of solar access to the COS at podium level.

Further, it is inherently difficult to maintain solar access to the COS at podium level due to its location to the south of the tower. The tower placement to the north is however preferred as this minimises overshadowing to apartments at 1-5 Kent Road to the south. Shared access with the podium level COS within 1-5 Kent Road will also provide the residents with further access to areas that receive sunlight during mid-winter without having to go to the ground level park.

Note 3 – Building Separation (3F)

The Design Criteria to Objective 3F-1 is provided in the table below with an assessment of the non-compliance in the right-hand column.

Table 7: Building separation

Control	Comment
Up to 4 storeys (approx. 12m)	
3m from non-habitable rooms to site boundary	<p><u>External separation</u></p> <ul style="list-style-type: none"> • Ground Floor: UG15 (Building E) is 1.8m to the boundary and 5m to the southern building. UG21 (Building F) is built to the boundary. • First Floor: U117 (Building E) is 1.8m to the boundary and 5m to the southern building. • Second & Third Floor: U217-317 (Building E) is 1.8m to the boundary and 5m to the southern building. <p>The above are technical non-compliances when measured to the southern boundary. In all cases above, with the exception of UG21 which is built to the boundary, the units provide a compliant 5m separation distance to the habitable balcony on the adjoining site to the south. There are no privacy impacts between the two developments as the balconies do not protrude beyond the side walls.</p>

Control	Comment
	<p>Further, both sites should also be considered in the context of providing a combined podium, thereby facilitating a single development and as such, this separation distance is applicable.</p> <p><u>Internal separation</u></p> <p>The dog-leg at podium level has a 7m separation distance between the habitable room and balcony. This is acceptable as the view from the balcony to the habitable room is at an angle which is to a small window which will have internal blinds.</p>
Five to eight storeys (25m)	
9m from habitable rooms/balconies to site boundary	<p><u>Internal separation</u></p> <p>The dog-leg has a 3m separation distance between the non-habitable room to the adjoining balcony. This is acceptable as the view from the balcony to the non-habitable window is at an acute angle.</p> <p>The dog-leg has an 8.3m separation distance between the habitable room and the adjoining balcony. This is acceptable as the view from the balcony to the habitable room is at an angle which is to a small window which will have internal blinds.</p>
Nine storeys and above (over 25m)	
12m from habitable rooms/balconies to site boundary	<p><u>External separation</u></p> <p>U502-1302 has a 9m setback from the site boundary and does not comply with the 12m separation distance between habitable rooms/balconies to the site boundary. Notwithstanding this, there is a 24m separation distance to the adjoining building to the south which provides adequate separation to the adjoining development.</p> <p><u>Internal separation</u></p> <p>The dog-leg has a 3m separation distance between the non-habitable room to the adjoining balcony. This is acceptable as the view from the balcony to the non-habitable window is at an acute angle.</p> <p>The dog-leg has an 8.3m separation distance between the habitable room and the adjoining balcony. This is acceptable as the view from the balcony to the habitable room is at an angle which is to a small window which will have internal blinds.</p>

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

The Design Criteria to Objective 4E-1 requires that all apartments are required to have primary balconies as follows:

- 1 bedroom apartments provide balconies of at least 8sqm;
- 2 bedroom apartments provide balconies of at least 10sqm; and
- 3 bedroom apartments provide balconies of at least 12sqm.

The applicant originally proposed several balconies that met the minimum ADG requirement only through the provision of multiple smaller balconies instead of a primary balcony with an ADG compliant size.

During discussions with the applicant Council confirmed that this approach is acceptable provided that one of the balconies was large enough to accommodate balcony furniture and for the furniture layout to be shown on the plans.

The plans (as amended) show the layout of balcony furniture for all non-compliant balconies except two. Of the remaining non-compliant balconies, several could be corrected by extending the balcony slightly. This is set out further in the table below.

Table 8: Non-compliant balconies

Unit Number	Minimum Balcony Size Required	Balcony Size Proposed (off the living area)	Comment
U103 (2 bed unit)	10sqm	8sqm	No furniture layout shown. Potential to extend the balcony eastward and fill in the void. Potential to add an additional 9sqm of balcony. The provision of a highlight window should be made to allow natural light into the corridor. Refer to Figure 10 below.
U203 (2 bed unit)	10sqm	8sqm	No furniture layout shown. Potential to extend the balcony eastward and fill in the void. Potential to add an additional 6sqm of balcony. The provision of a highlight window should be made to allow natural light into the corridor. Refer to Figure 11 below.
U303 (2 bed unit)	10sqm	8sqm	No furniture layout shown. Potential to extend the balcony eastward and fill in the void. Potential to add an additional 6sqm of balcony. The provision of a highlight window should be made to allow natural light into the corridor. Refer to Figure 11 below.
U507-U1307 (2 bed unit)	10sqm	9sqm	Furniture layout shown. Short by 1sqm. Acceptable
U512-U1312 (2 bed unit)	10sqm	9sqm	Furniture layout shown. Short by 1sqm. Acceptable
U515-U1315 (2 bed unit)	10sqm	6sqm	Furniture layout shown. Short by 4sqm. Potential to extend the balcony northward to meet the 6m tower setback line. Potential to add an additional 20sqm of balcony. Refer to Figure 12 below.
U516-U1316 (3 bed unit)	12sqm	11sqm	Furniture layout shown. Short by 1sqm. Acceptable. However there is potential to extend the balcony northward to

Unit Number	Minimum Balcony Size Required	Balcony Size Proposed (off the living area)	Comment
			meet the 6m tower setback line. Potential to add an additional 10sqm of balcony. Refer to Figure 12 below.
U523-U1323 (2 bed unit)	10sqm	6sqm	Furniture layout shown. Short by 4sqm. Potential to extend the balcony westward to meet the 3m podium setback line. This will provide a 25.7m separation distance between Building E and F which complies. Potential to add an additional 22sqm of balcony. Refer to Figure 13 below.
U521-U1321 (2 bed unit)	10sqm	8sqm	Furniture layout shown. Short by 2sqm. Potential to extend the balcony eastward to meet the Level 9-13, 12m setback line. This will provide a 12m separation distance to the eastern boundary which complies. Potential to add an additional 19sqm of balcony. Refer to Figure 13 below.
U522-1322 (2 bed unit)	10sqm	11sqm	Balcony complies however there is potential to extend the balcony westward to meet the 3m podium setback line. This will provide a 25.7m separation distance between Building E and F which complies and will provide consistency with the proposed changes to U523-U1323 noted above. Potential to add an additional 19sqm of balcony. Refer to Figure 13 below.

The proposed changes above are demonstrated in the marked-up plans below.

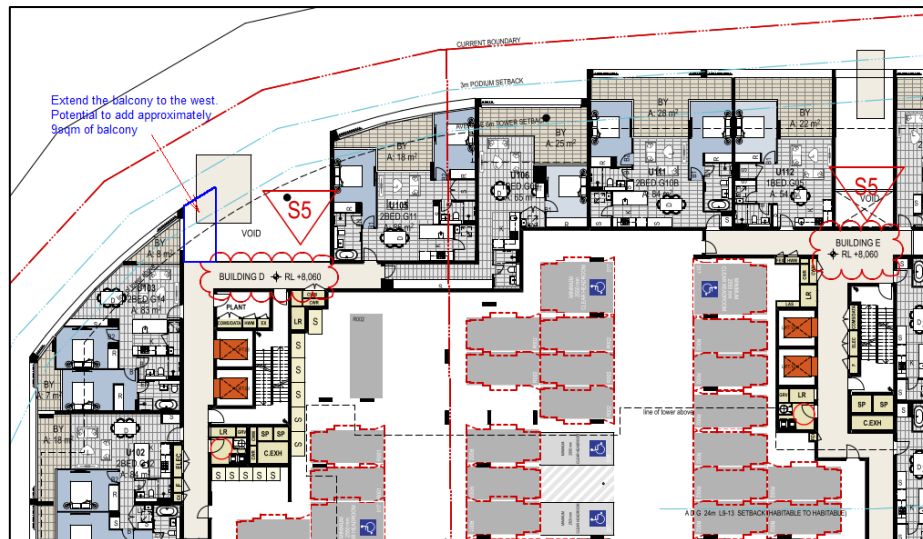


Figure 10: Council's proposed changes to the balcony of U103 (Level 1, Building D)

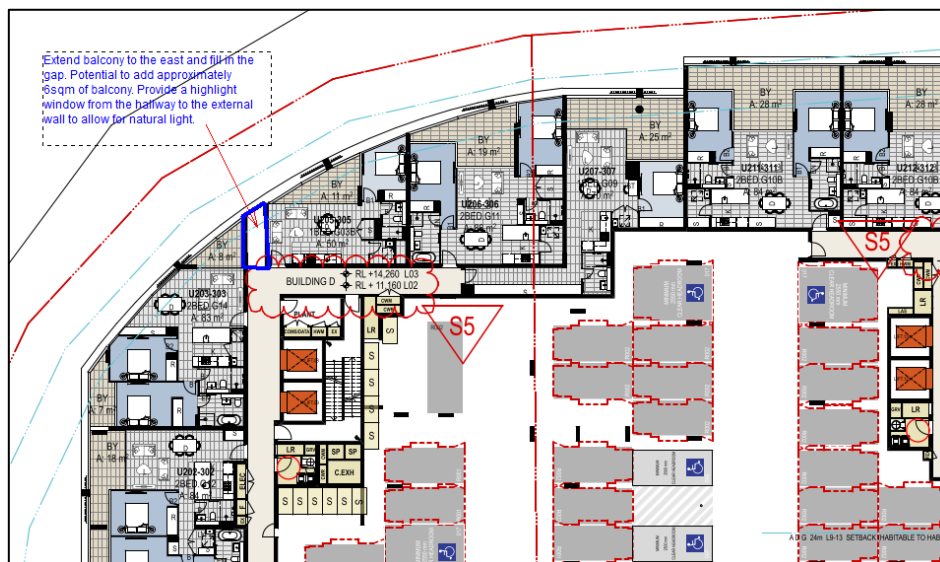


Figure 11: Council's proposed changes to the balconies of U203 & U303 (Level 2 and 3, Building D)



Figure 12: Council's proposed changes to the balconies of U513-U1313 & U516-U1316 (Level 5 – 13, Building E)

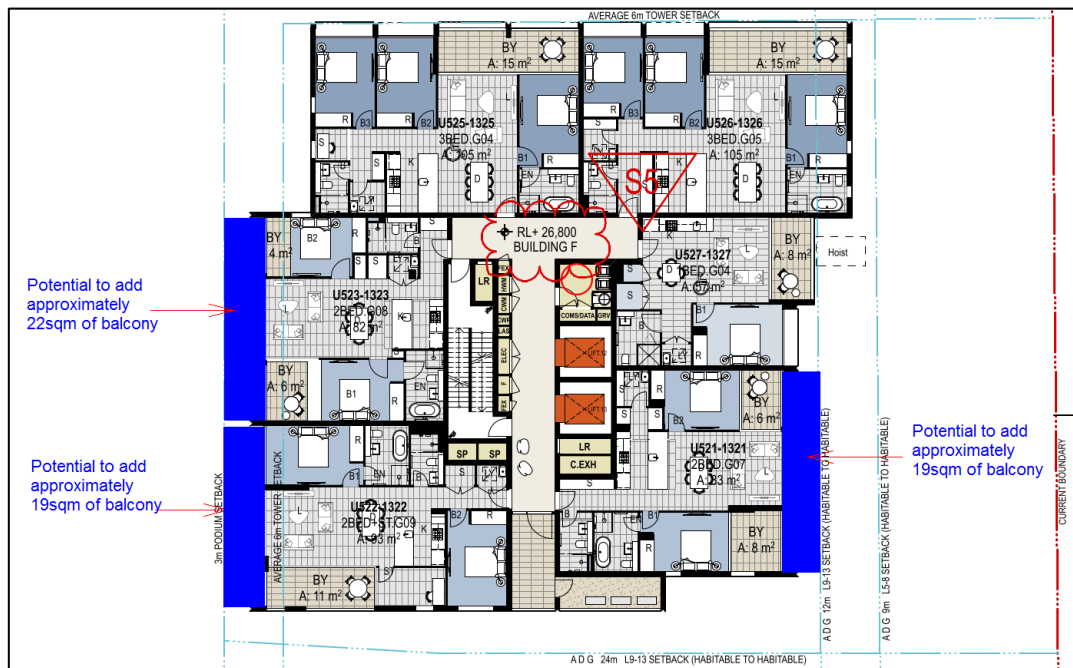


Figure 13: Council's proposed changes to the balconies of U523-1323, U522-1322 & U521-1321 (Level 5 – 13, Building F)

A condition has been recommended that the balconies above be extended to ensure compliance with the minimum balcony size requirement of the ADG but to also satisfy Part 4C.4.2 (Family Friendly Apartment Buildings), Control 6 of the BBDGP 2013 which requires that the private outdoor space is to be clearly visible from the kitchen. Additionally, the proposed changes outlined above and in the recommended condition will significantly improve the internal and external amenity of residents of these units without compromising visual privacy and overlooking through non-compliant building separation distances.

Note 5 – Storage (4G)

The ADG requires that all 3 bedroom apartments provide at least 10m³ of storage with at least 50% of that storage being located within the apartment.

All apartments comply with the exception of U423 which provides 9.8m³ of storage (7.62m³ in the apartment and 2.2m³ in the basement) which is a shortfall of 0.2m³.

This is a minor non-compliance but nevertheless has been conditioned to comply as most other 3 bedroom apartments have in excess of the 10m³ storage with some of this excess being located in the basement. As such, there is excess storage within the basement that can be reallocated to this apartment.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the proposed development. The development application was accompanied by BASIX Certificate No. 741003M_03, prepared by Efficient Living Pty Ltd committing to environmental sustainable measures.

Botany Bay Local Environmental Plan 2013

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

Table 9: BBLEP 2013 Compliance

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Land use Zone	Yes	The site is zoned B4 Mixed Use under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed residential flat building, retail component and childcare centre is permissible with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives in the BBLEP 2013: <ul style="list-style-type: none">• <i>To provide a mixture of compatible land uses.</i>• <i>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</i>
Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Clause 2.5 does not apply to the subject site.
What is the height of the building?	No Refer to Note 6	<ul style="list-style-type: none">• Top of roof/residential component: 44 (RL 50.94m AHD)• Top of building: 46.34m (RL50.94m AHD)• Note: Exceedance above height limit is 2.34mm.
What is the proposed FSR?	No Refer to	The maximum FSR allowed on the site is 3.2:1 (22,966.4sqm).

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
	Note 7	The proposed FSR is 3.43:1 (24,648sqm) which exceeds the standard by 1,681sqm.
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	The subject site is affected by RMS widening of the Gardeners and Kent Road intersection and Kent Road. This land required for widening has already been resumed and dedicated as a strip of land along the Kent Road frontage of the subject property. As such, no further land from the site is required. Road widening is not required under the BBLEP 2013.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
The following provisions in Part 6 of the LEP apply to the development: 6.1 – Acid sulfate soils (ASS)	Yes	The site is identified as being affected by Class 2 ASS. Development overlying these soils requires development consent where the works are required below the natural ground and the water table is likely to be lowered. An Acid Sulfate Soils Management Plan has not been submitted.
6.2 – Earthworks	Yes	A condition has been recommended which appoints a NSW Environment Authority (EPA) Accredited Site Auditor to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works.
6.3 – Stormwater management	Yes	The development is consistent with Clause 6.2 of BBLEP 2013. Excavation for a basement is not proposed. The application was referred to the Office of Water who, on 17 August 2016 advised that General Terms of Approval are not appropriate given the scale of disturbance as it has currently been presented. A Civil Infrastructure Development Application Report was submitted with the application and reviewed by Council's Development Engineer. Council's Development Engineer has recommended that prior to the issue of any Construction Certificate, detail design and

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
6.8 - Airspace operations	Yes	<p>construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval. The development is consistent with Clause 6.3 of BBLEP 2013.</p> <p>Clause 6.8 – Airspace Operations. The subject site lies within an area defined in the schedules of the Civil Aviation (Buildings Control) Regulations that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The application proposed buildings to this maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration. SACL raised no objections to the proposed maximum height of 51 metres AHD, subject to conditions to be imposed on any consent. The development is consistent with Clause 6.8 of BBLEP 2013.</p>
6.9 – Development in areas subject to aircraft noise	Yes	<p>Clause 6.9 – Aircraft Noise. The subject site lies within the 20-25 ANEF contour. An Acoustic Report, prepared by Acoustic Logic, has been submitted with the development application, which indicates that the acoustic treatments in principle necessary to achieve the guidelines have been set out in Section 4.4 of the report. A standard condition has been recommended for the Acoustic Report to be submitted to the certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures. Provided the above is complied with, the development is consistent with Clause 6.9 of BBLEP 2013.</p>
6.16 – Design excellence	Yes	<p>Clause 6.16 Design Excellence. The proposed design has been the subject of consideration by Council's Design Review Panel. This is discussed further in the report.</p> <p>The bulk, scale and height of the proposed development is appropriate as the development will not create any unreasonable impacts on the amenity of adjoining sites. The built form as proposed is contemporary in nature and presents an articulated façade providing enhanced interest to the streetscape and the precinct generally.</p> <p>The Applicant has adequately addressed the recommendations of the DRP and the proposed development is consistent with Clause 6.16 of BBLEP 2013.</p>

Note 6 – Clause 4.6 Variation to Maximum Height of Buildings

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

- Top of roof/residential component: 44 (RL 48.60m AHD)
- Top of building: 46.34m (RL 50.94m AHD).

The total height exceedance is 2.34m. None of this exceedance is attributed to the residential component and pertains only to the plant, lift overrun and parapet which has been proposed to screen these elements.

It is noted that the site is affected by the 1 in 100 year flood. This has resulted in the building levels being raised in order to accommodate the required flood mitigation measures. The flood planning level adopted for the site is 3.7 metres AHD, and a 500mm freeboard is required for habitable areas within the development. The site has ground RLs ranging from approximately RL4m in the west (Kent and Gardeners Road intersection) to RL 5.5m in the east. Accordingly, the proposed development is required to be raised to RL4.96m. The raising of the building above the flood level has contributed to the building exceeding the numerical control. Additionally, a continuous podium is proposed across both sites so the floor levels at ground and above are required to match.

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

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

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

In *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 & NSW LEC 90 (Four2Five)*, the Court established that the construction of Clause 4.6 is such that it is not sufficient for the

applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required by Clause 4.6(4)(a)(ii). The Court outlines, that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within Wehbe.

The requirements of 4.6(3)(a), 4.6(3)(b), and 4.6(4)(a)(ii) have been addressed by the applicant below.

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

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

In applying the test in *Wehbe v Pittwater Council*, only one of the ways of establishing the development standard is unreasonable and unnecessary needs to be demonstrated. As outlined in Section 3.3 above, the proposed development is able to achieve the objectives of the FSR development standard, even though the development results in a minor non-compliance with the numerical standard. On this basis, the development is able to demonstrate that the development is unreasonable and unnecessary in accordance with the first way Preston CJ outlines in *Wehbe v Pittwater Council*.

In the recent decision of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 Pain J upheld the decision of Pearson C which indicated that a variation must be justified on sufficient environmental planning grounds particular to the circumstances of the proposed development and development site rather than grounds that would apply to a similar development on the site or a development in the vicinity.

However, in the more recent case of *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 Preston CJ stated that the consent authority did not have to be satisfied directly that compliance with each development standard was unreasonable and unnecessary in the circumstances of the case, but only indirectly by being satisfied that the appellant's written request adequately addressed the matter in Clause 4.6(3)(a) that compliance with each development standard was unreasonable and unnecessary. This decision indicates a move away from the more prescriptive approach to consideration of Clause 4.6 variation requests taken in *Four2Five v Ashfield Council*.

Applying Preston's CJ decision in *Randwick City Council v Micaul*, the proposed development is able to demonstrate that strict compliance with the numerical Height of Building development standard is unnecessary in the particular circumstances of the proposal, specifically:

- *The development meets the objectives of the development standard;*
- *The building levels are required to be raised to AHD 3.7m plus 500mm freeboard for flood mitigation purposes;*
- *The proposal does not breach the Sydney Airport Obstacle Limitation Surfaces (OLS) applicable to the site;*
- *The elements of the development which exceed the height of building control will have limited visibility from surrounding public spaces, as are setback from the podium and tower facades;*
- *Incorporates architectural roof features around the parapet of the towers, which will minimise visibility of the elements exceeding the building height control from surrounding developments;*

- *Provide a gateway built form, which provides variation in the building height within the Kent Road Area and punctuating the Gardeners Road/ Kent Road intersection as contemplated in the Mascot Town Centre Masterplan; and*
- *Is of a scale that will not compromise the desired future character of the Mascot Town Centre or the Kent Road Area sub-precinct.*

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

The variation to the height of buildings development standard is considered well founded and reasonable for the following reasons:

- *The proposed development is consistent with the underlying objectives and purpose of the development standard;*
- *The non-compliance with the building height control is interrelated with the requirement for floor levels to be raised to accommodate flood mitigation measures;*
- *The proposed building height non-compliance will have limited visual impact on the surrounding public domain, due to the overall scale of development within the Mascot Town Centre precinct, and the use of architectural roof features around the parapet of the building to obscure view lines to elements exceeding the height control; and*
- *The building is located on a 'gateway site' within the Mascot Town Centre, and therefore additional height contributes to punctuating this key location and improving built form legibility within the precinct as envisaged by the Mascot Town Centre Masterplan.*

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

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

The objectives of the B4 zone are outlined as follows:

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

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

- *The proposal comprises childcare and residential units which are mutually compatible land uses within the mixed use zone; and*
- *The site is located within a 7 minute walk to Mascot Railway Station and is close to other transport options.*

The applicant has submitted that the proposal is consistent with the objectives of the B4 Mixed Use zone and notes that the proposal delivers a communal open space, which will be made publically accessible, positively contributing to the public domain of Mascot Town Centre and as such, is in the public interest.

The proposed development is consistent with the objectives of the B4 Mixed Use zone as it provides a mixture of compatible land uses and uses which support the local community, and integrates these suitable uses within an accessible area which is in close proximity to the Mascot Railway Station.

The provision of the public park provides a through site link from Gardeners Road to Church Avenue and further south through the Meriton development at 19-33 Kent Road to link with Mascot Central and the east-west pedestrian boardwalk which links directly to the Mascot Railway Station. This linkage encourages walking and cycling within a pedestrian friendly environment.

The applicant has addressed the relevant components of Clause 4.4 below:

- (a) *to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,*

The proposed development has been designed to interconnect with the development on the southern adjoining property, 1-5 Kent Road. The two developments have been designed with an interconnected podium structure providing a continuous streetscape presentation. The developments have both been designed with three tower elements above the podiums. The towers on the subject site will result in a minor non-compliance with the height control, which will provide visual differentiation in the skyline of the two developments. However, the extent of the additional height will have limited visibility when viewed from surrounding public spaces, including Gardeners Road and Kent Road.

The additional height at the Gardeners Road/ Kent Road intersection will deliver a strong gateway element at this key intersection within the Mascot Town Centre. This will deliver a cohesive built form, which emphasises key locations within the precinct.

- (b) *to ensure that taller buildings are appropriately located,*

The location of the building is within the 'Kent Road Area' sub-precinct of the Mascot Town Centre, which has a Height of Building control across the whole sub-precinct. The proposed development is located on the northern boundary of this sub-precinct, at the corner of two RMS State roads.

The corner location of the site provides opportunity for a slightly higher built form to punctuate the location and provide minor variation in the scale of development within an area undergoing significant urban renewal.

For these reasons, it is believed that the minor variation to the height of building control is appropriately located and will provide visual interest in the built form in the Mascot Town Centre.

- (c) *to ensure that building height is consistent with the desired future character of an area,*

The site is located within the Mascot Town Centre, in sub-precinct 7 'Kent Road Area'. The Mascot Town Centre Masterplan contains the following desired future character for the Kent Road Area:

The height, scale and siting of the built form is to be limited so as not to visually overpower the station square area of the precinct. Due the existing allotment pattern the area can readily accommodate larger scale development. The built form will be softened by appropriate setbacks and new landscaping.

Gateway elements are to be promoted at the Kent/Gardeners Road and Gardeners Road/Church Avenue intersections.

Development is to enhance/promote the human scale and pedestrian function of the MSP.

The proposed additional building height on the site is consistent with the desired future character of the 'Kent Road Area', as will provide a slight increase in the height of built form at the Kent/Gardeners Road intersection, supporting the creation of a 'gateway element' punctuating the site within the Mascot Town Centre.

- (d) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

The design of the built form incorporates a podium structure designed to interconnect with the development on 1-5 Kent Road (DA2015-216-02), providing a strong street-edge, while the three tower elements above are setback from the street frontage. The proposed built form results in the elements of the development which do not comply with the numerical building height control are setback from the street edge, and will not adversely affect the achievement of the desired future character of the 'Kent Road Area'.

The additional height may be visible from higher parts of surrounding developments. However, views of building elements exceeding the height control will be obscured by the architectural roof features which form part of the building parapet. Further, the additional height will not disrupt views from buildings immediately surrounding the site, as all surrounding properties within the Kent Road Area have a 44 metre height of building control and therefore support buildings of a similar scale. The building elements above the numerical height control are unlikely to result in any perceivable loss of solar access to existing developments due to being setback from the boundaries of the site and the tower parapets.

- (e) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,

The proposed development has an overall roofline of 44 metres, which complies with the Height of Building control. However, plant and lift overruns exceed the building height control.

These built form elements are setback from the site boundaries and therefore will be largely screened from views from the public domain immediately surrounding the site. This is due to the height and form of the building limiting views of structure 2.34 metre above the roofline. These elements will also be screened through the inclusion of architectural roof features, which are intermittently spaced around the parapet of each of the proposed towers.

The limited visual presence of the structures exceeding the height control will result in the built form presentation to the public domain immediately surrounding the development being consistent with new development surrounding the site, including the new mixed-use development directly to the south of the subject site at 1-5 Kent Road.

Public Interest and Public Benefit

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

The proposal is consistent with the objectives of the Height of Building development standard and objectives of the B4 Mixed Use zone. In addition, the proposal delivers a communal open space that will be publically accessible during the day, which will contribute to the public domain for Mascot Town Centre. As such, the proposal is considered to be in the public interest.

This Clause 4.6 variation statement has demonstrated that the proposed development is able to meet the objectives of the Height of Building development standard, even though strict compliance with the numerical Height of Building control is not achieved. Further, the development is able to deliver publically accessible community open space, providing a positive public benefit for the Mascot Town Centre.

It is noted that the scale of the proposed built form, including the height of the building is substantially the same as the approved under the previous development approval granted for the site (DA13/172).

It is also noted that Council have requested that the rooftop be utilised as open space for residents of the development, and be accessed via lifts. This cannot be achieved as would require the lift overruns to extend higher than the current proposed height, which would breach the applicable Sydney Airport OLS, and there is no scope to lower the building as the levels are set by the flood planning level.

Accordingly, no additional public benefit would be derived from maintaining strict compliance with the numerical Height of Building development standard on the site, and the particular characteristics of the site support the proposed departure from strict compliance with the control.

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

Matters of State or Regional Importance

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

Summary

The applicant's justification above is agreed with and the exceedance in the height of building development standard is acceptable because:

- The applicant's Clause 4.6 is well-founded and the departure to the height of buildings development standard is not contrary to the public interest.
- The proposal seeks a 2.34m and 5.3% variation above the 44-metre height limit which is not significant.
- The variation is not considered an attempt to affect general planning changes through the area.
- Council were supportive of increased height above that proposed by the applicant at the Kent and Gardeners Road intersection ('gateway element'), however owing to the OLS limit, and flooding on the site, this was not able to be achieved.
- The exceedance in height does not result in any adverse external impacts.
- The exceedance in height is not out of character with other approved developments in the immediate area which exceed the height standard.
- The standard has been varied within the immediate locality with the majority of buildings reaching a height of RL 51m AHD.

Note 7 –Clause 4.6 Variation to maximum Floor Space Ratio

The FSR standard is 3.2:1 (22,966.4sqm).

The development proposes a maximum FSR of 3.43:1 (24,648sqm).

This exceeds the standard by 1,681sqm (7.3%).

While integration of the podium is proposed in order to facilitate a shared car parking arrangement, both sites are separate and are to be assessed based on their technical compliance with the FSR standard (which subject to the BBLEP 2013 definition is to exclude car parking to meet any requirements of the consent authority, and thereby including excess car parking) but whilst also considering the specific merits of the proposal and intended outcome for the site/s. The design of both buildings includes interconnected podium levels for the purposes of car parking and access. The proposed development has a shortfall of 46 car parking spaces when applying the RMS parking rates, and as such, the excess FSR is attributed solely to the bulk and scale of the building.

The table below is an extract from the applicant's SEE and indicates the floor area across each of the uses on the site.

Table 10: Floor area breakdown

Development Type	Gross Floor Area (m ²)
Residential	23,918
Retail	100
Childcare	630
Total	24,648

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

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

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

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

The requirements of 4.6(3)(a), 4.6(3)(b), and 4.6(4)(a)(ii) have been addressed by the applicant below.

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

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

*In applying the test in **Wehbe v Pittwater Council**, only one of the ways of establishing the development standard is unreasonable and unnecessary needs to be demonstrated. As outlined in **Section 3.3** above, the proposed development is able to achieve the objectives of the FSR development standard, even though the development results in a minor non-compliance with the numerical standard. On this basis, the development is able to demonstrate that the development is unreasonable and unnecessary in accordance with the first way Preston CJ outlines in **Wehbe v Pittwater Council**.*

*In the recent decision of **Four2Five Pty Ltd v Ashfield Council** [2015] NSWLEC 90 Pain J upheld the decision of Pearson C which indicated that a variation must be justified on sufficient environmental planning grounds particular to the circumstances of the proposed development and development site rather than grounds that would apply to a similar development on the site or a development in the vicinity.*

*However, in the more recent case of **Randwick City Council v Micaul Holdings Pty Ltd** [2016] NSWLEC 7 Preston CJ stated that the consent authority did not have to be satisfied directly that compliance with each development standard was unreasonable and unnecessary in the circumstances of the case, but only indirectly by being satisfied that the appellant's written request adequately addressed the matter in Clause 4.6(3)(a) that compliance with each development standard was unreasonable and unnecessary. This decision indicates a move away from the more prescriptive approach to consideration of Clause 4.6 variation requests taken in **Four2Five v Ashfield Council**.*

*Applying Preston's CJ decision in **Randwick City Council v Micaul**, the proposed development demonstrates strict compliance with the numerical FSR development standard is unnecessary in the particular circumstances of the proposal, as the development is able to:*

- *Meet the objectives of the development standard;*
- *Incorporates a podium form defining the overall site which contains the proposed parking which will be sleeved with apartments and therefore not visible from the surrounding streetscape; and*
- *The non-compliance with the numerical FSR control does not cause any additional overshadowing onto adjoining properties than a compliant built form.*

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

The variation to the FSR development standard is considered well founded and reasonable for the following reasons:

- *The proposed development is consistent with the underlying objectives and purpose of the development standard;*
- *The proposed non-compliance relates to the LEP 2013 provisions for FSR will not have any adverse impact on the bulk and scale of the development when viewed from surrounding properties;*
- *Despite the non-compliance with the FSR control, the proposal is consistent with the scale of development anticipated in the locality, including the overall height of building, and the front, side and rear setbacks;*
- *The proposal will support the delivery of a communal open space with public access during the day, which will positively contribute to the establishment of the Mascot Town Centre.*

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

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

The objectives of the B4 zone are outlined as follows:

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

The applicant has submitted that the proposal is consistent with the objectives of the B4 Mixed Use zone and notes that the proposal delivers a communal open space, which will be made publically accessible, positively contributing to the public domain of Mascot Town Centre and as such, is considered to be in the public interest.

The proposed development is consistent with the objectives of the B4 Mixed Use zone as it provides a mixture of compatible land uses and uses which support the local community, and integrates these suitable uses within an accessible area which is in close proximity to the Mascot Railway Station.

The provision of the public park provides a through site link from Gardeners Road to Church Avenue and further south through the Meriton development at 19-33 Kent Road to link with Mascot Central and the east-west pedestrian boardwalk which links directly to the Mascot Railway Station. This linkage encourages walking and cycling within a pedestrian friendly environment.

The applicant has addressed the relevant components of Clause 4.4 below:

- (f) *to establish standards for the maximum development density and intensity of land use,*

The proposal results in an overall development density of 3.43:1, which is 1,682m² above the maximum GFA. A variation of this scale in the context of the site and surrounding development will be have minimal visual impact, primarily due to:

- *The development has been designed to interconnect with the proposed development on the southern adjoining property (1-5 Kent Road), incorporating a continuous podium which provides a visual connection and consistency across the two sites; and*
 - *The tower forms proposed above the podiums are setback from the site boundaries, creating space between the proposed development and development on surrounding sites.*
- (g) *to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*

The site is located within the Mascot Town Centre, in sub-precinct 7 'Kent Road Area'. The Mascot Town Centre Masterplan contains the following desired future character for the Kent Road Area:

The height, scale and siting of the built form is to be limited so as not to visually overpower the station square area of the precinct. Due the existing allotment pattern the area can readily accommodate larger scale development. The built form will be softened by appropriate setbacks and new landscaping.

Gateway elements are to be promoted at the Kent/Gardeners Road and Gardeners Road/Church Avenue intersections.

Development is to enhance/promote the human scale and pedestrian function of the MSP.

The 1,682sqm variation to the FSR control is accommodated within a podium element and three tower forms above. These built form elements are consistent with the scale and form of other developments within the Mascot Town Centre. The podium has been designed to address the street edge, while the tower forms are setback from all site boundaries to reduce visual clutter. The inclusion of the podium provides a defined street edge that continues beyond the subject site onto the southern adjoining property.

Accordingly, the proposed development will still deliver a built form that is compatible with the bulk and built form envisaged by the desired future character planned for the Kent Road Area, and the wider Mascot Town Centre.

- (h) *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*

The site is located within a precinct undergoing transition from a predominantly industrial area, to a mixed-use town centre. There are a number of developments proposed or under construction surrounding the site, most notably the proposed redevelopment of the southern adjoining property, 1-5 Kent Road, which is also being developed by Karimbla Construction Services (NSW) Pty Ltd.

The proposed development has been designed to integrate with the redevelopment of 1-5 Kent Road. The podium elements of the developments have been designed so that they interconnect. This will ensure that the scale of the podium will be consistent across both sites. Both developments then contain residential towers above of a similar scale and a design that complements one another.

This design approach demonstrates that the proposed development is consistent with this objective.

- (i) *to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,*

The proposed development will result in substantially the same built form as approved under the original development application. The departure from strict compliance with the numerical FSR control will not result in the bulk or scale of the development as the majority of the additional FSR is located within the basement and podium levels. In addition, the proposed development includes the creation of a communal open space publically accessible during the day. This park is located above the basement levels, and the podium forms have been designed to give the site and the proposed communal open space definition.

- (j) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*

As stated above, the proposed development has been designed to interconnect with the proposed development on 1-5 Kent Road (the southern adjoining property). This design will ensure that the use and enjoyment of the adjoining site will be maximised through the interconnection of certain facilities including the podium level. This integrated design has enabled a coordinated design for the communal open space to extend across both sites. Accordingly, the proposed development will positively contribute to the use and enjoyment of both adjoining properties and new public domain.

- (k) *to provide an appropriate correlation between the size of a site and the extent of any development on that site,*

The proposed development has an overall site area of 7,177m². The scale of the site has been reflected in the scale and built form proposed for the development. While the proposal seeks a variation from the numerical FSR control of approximately 7%, the development has been designed to minimise the visual prominence of the structures, while also reflecting the gateway location of the site.

The development has been designed having regard to the scale of the site, including the creation of a podium for car parking and other services, which are screened from the streetscape through sleeved apartments within the podium structure. The majority of the apartments within the development are contained within three towers located above the podium structure, and these have been designed in accordance with the Apartment Design Guide (ADG) providing appropriate tower separation and floorplate designs which reflect the scale and location of the site.

- (l) *to facilitate development that contributes to the economic growth of Botany Bay.*

The proposal will deliver a total of 239 apartments, a 630m² childcare centre and 100m² retail space. This will positively contribute to the economic development and viability of the Mascot Town Centre through:

- Redeveloping a currently under-utilise site;*
- Providing new residential housing stock within 400 metres of the Mascot train station;*
- Providing a childcare centre which will support residents within the Mascot Town Centre participating in the work force; and*
- Providing new retailing to the future residential population.*

Public Interest and Public Benefit

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

The proposal is consistent with the objectives of the FSR development standard and objectives of the B4 Mixed Use zone, even though strict compliance with the numerical FSR control is not achieved.

Further, the development delivers a publically accessible community open space, providing a positive public benefit for the Mascot Town Centre. It is also noted that the scale of the proposed built form is substantially the same as the approved under the previous development approval granted for the site (DA13/172).

Accordingly, no additional public benefit would be derived from maintaining strict compliance with the numerical FSR development standard on the site.

The applicant provides one argument for the FSR exceedance being that it is substantially the same as that approved under the previous development approval granted for the site. Whilst this may be the case, this is a new Development Application and therefore should be argued on the merits of the specific proposal in relation to the site.

It is noted that in comparison to other approvals in the area, as demonstrated in the table below, the proposed FSR exceedance is not as great. It is also noted that the floor plates of the proposed development are narrow and linear so as to complement the shape of the site and its east-west orientation, thereby aiming to maximise solar access to the south on a site in which this is inherently difficult.

Table 11: Approved FSR in the Mascot Town Centre

Site	FSR
671-683 Gardeners Road	3.43:1
7-9 Kent Road, Mascot	3.78:1
19-33 Kent Road, Mascot	3.72:1
214 Coward Street, Mascot	4.24:1
230 Coward Street, Mascot (25 John Street)	3.6:1
7 Bourke Street & 30-32 John Street, Mascot	3.75:1
8 Bourke Road & 37 church Avenue	3.82:1
208-210 Coward Street, Mascot	4:1
2-4 Haran Street, Mascot	3.79:1
246 coward Street, Mascot	3.88:1

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

Matters of State or Regional Importance

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

Summary

The applicant's justification above is agreed with and the exceedance in FSR is acceptable because:

- There building envelope does not present as bulky and over-developed.

- There is no height proposed in excess of adjoining developments, thereby there is no resulting bulk and scale on the site.
- The narrow floor plates respond to the linear shape of the site in order to minimise overshadowing to the south, which is inherently difficult on east-west facing sites.
- The exceedance in FSR does not result in any adverse external impacts.
- The exceedance in FSR is not out of character with other approved developments in the Mascot Town Centre which exceed the FSR standard.

Botany Bay Development Control Plan (BBDCP) 2013

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

Table 12: BBDCP 2013 Compliance Table – General Provisions

Control	Proposed	Complies (yes/no)
3A.3.1 Car Park Design Pedestrian entrances and exits shall be separated from vehicular access paths.	Waste collection and servicing will be within the basement of Building C within the southern adjoining site at 1-5 Kent Road. Upon approval of both applications, both sites will have an integrated podium car parking arrangement. Traffic Assessment provided; Stormwater plans provided; Pedestrian access easily identifiable. Pedestrian entrances and exits are separated from vehicular access paths.	Yes
C40 The waste collection point shall be designed to: (i) Allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles, internal roadways and ramps; and (ii) Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like.	The garbage holding room (to be serviced by the garbage truck) is located within the basement of Building C within the southern adjoining site at 1-5 Kent Road, and also contains the bulky waste storage area. The ground level of Buildings D, E and F also have garbage rooms and from here garbage will be transferred to the garbage holding room via the combined basement and service lift in Basement C.	Yes
3A.3.2 Bicycle Parking C1-C5 To comply with AS2890.3 & AUSTRROADS. (i.e. 10% of the required amount of car parking = 31)	The plans indicate that 30 bicycle spaces are provided. This does not comply with the requirement of 31 spaces. Notwithstanding this, the non-compliance is minor and is acceptable.	Yes
3A.3.4 On-site Loading & Unloading C1-C11 1 service bay/50dwgs (50% to be Medium Rigid Vehicle (MRV) or larger)	Service vehicles: 1 MRV space provided (Building C) 1 SRV space provided in Building C for visitor/post delivery	Yes

The application was accompanied by a Traffic Impact Assessment Report prepared by Arup, dated 11 July 2016.

As the proposed development is considered to generate a large volume of traffic, or development which will produce traffic impacts which are significant in the local context, the proposed development was also referred to Council's Traffic Advisory Committee (TAC) on 5 September 2016. No comment has been received from the TAC.

The plans and documentation were also referred to RMS for consideration and comment. RMS has raised no objection to the development application and has provided conditions of consent.

Table 13: BBDCP 2013 Compliance Table – General Provisions cont.

Control	Proposed	Complies (yes/no)
3G.2 Stormwater Management		
C1-C6 Comply with Stormwater Management Technical Guidelines; Part 3G.5 Stormwater Quality.	A Civil Infrastructure Development Application Report was submitted with the application and reviewed by Council's Development Engineer. Council's Development Engineer has recommended that prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval.	Yes
3H Sustainable Design		
C1-C6 BASIX; Solar hot water encouraged.	BASIX Certificate provided.	Yes
3I Crime Prevention Safety & Security		
Site layout, design & uses; Building design; Landscaping & lighting; Public domain, open space & pathways; Car parking areas; Public Facilities.	No response has been received from NSW Police, however, standard conditions have been provided in the advisory section of the draft Schedule of Consent Conditions.	Yes
3J Aircraft Noise & OLS		
ANEF; Aircraft height limits in prescribed zones.	SACL comments received – no objection.	Yes
3K Contamination		
Consider SEPP 55 & Contaminated Land Management Act 1997.	Refer to the SEPP 55 assessment.	Yes
3L Landscaping and Tree Management		
General Requirements; Planting design & species; Landscaping in car parks; Green roofs.	Council's TPO raised initial concern over the amount of tree removal proposed and that it was more than that approved under the previous application. Notwithstanding the above, this is a separate and new application. The proposed setbacks have been provided in accordance with Part 9 of the BBDCP 2013 and match the setbacks of the adjoining developments,	Yes

Control	Proposed	Complies (yes/no)
	<p>which was not the case with the previous approved development.</p> <p>As such, a greater number of trees are proposed to be removed.</p> <p>Subsequent to several reiterations of the plans and landscape plans, Council's Landscape Architect and Tree Protection Officer have provided conditions of consent to ensure that those trees that can and should be retained are conditioned to do so.</p>	
3N Waste Minimisation & Management		
General Requirements; Residential Development; Mixed Use Development.	<p>A WMP, prepared by Elephants Foot, has been submitted for ongoing management of waste generated from the site.</p> <p>Waste collection will be from the basement within Building C of 1-5 Kent Road, however there are individual garbage collection rooms within the ground floor of Buildings D, E and F. Waste will then be transferred by building maintenance/cleaners to Building C for collection.</p>	Yes

Part 4C – Residential Flat Buildings

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

Table 14: BBDCP 2013 Compliance Table – Part 4C Residential Flat Buildings

Control	Proposed	Complies (Yes/No)
4C.2.2 Streetscape Presentation		
C1 New development must be compatible in building bulk and scale with adjoining residential developments and reflect the patterns of buildings in the streetscape. It must respond to building setbacks, building height and treatment of the building facades.	As outlined in Table 2, the proposed development is consistent with other approved developments in the immediately surrounding area in terms of height and FSR. The setback to Kent Road complies with Part 9A and is consistent with the Bridgehill development to the immediate south.	Yes
C2 Development must comply with the following: (i) The maximum length of any building is 24 metres; (ii) All building facades must be articulated.	<p>(i) The length of Building D & E is 72m and the length of Building F is 42m.</p> <p>(ii) The building facades are modulated and articulated with balconies and privacy/acoustic screens.</p>	<p>No Refer to Note 8</p> <p>Yes</p>
4C.2.4 Landscaped Area and Deep Soil Planting		
C1 A residential flat development must have a minimum landscaped area of 35% and a maximum un-built upon	Based on the plans (as amended), Council has calculated the following:	Yes

Control	Proposed	Complies (Yes/No)
satisfy the amenity controls for Family Apartments.		Refer to Note 9
Apartment Layout C1 Dwellings with 3 or more bedrooms are to have two (2) separate and appropriately sized living spaces. A study alcove may be located within the second living space. Should a freestanding study alcove be provided the height of the walls enclosing the study are to be a maximum of 1500mm	The 3 bedroom apartments do not have 2 separate living spaces.	No Refer to Note 10
4C.4.2 Family Friendly Apartment Buildings		
C1 Family apartments are apartments with two or more bedrooms designed so as to accommodate the living needs of families with children.	The two and three bedroom apartments have generally been designed in accordance with the Family Friendly controls. Refer to the assessment below.	Yes
C2 Family apartments are to include a study to meet the needs of couple families with dependents households. The design of the study should allow for a parent to easily work from home whilst supervising a child	From 181 x 2 and 3 bedroom apartments, 29 (16%) have a separately indicated study.	No Refer to Note 9
C3 Other than the master bedroom, each bedroom is to be large enough to accommodate a single bed, a desk or table, and floor space for playing, to be illustrated on a standard apartment layout plan	Each bedroom is shown to be able to accommodate a double bed and desk/table.	Yes
C4 The floor surface of the entry, dining room and kitchen floor and internal storage area are to be water-resistant and easy to be cleaned and maintained, not carpet	The floor areas are shown to be tiled. Only the bedrooms are shown as carpeted.	Yes
C5 Two bathrooms are required. One bathroom is to be a shared bathroom which is accessible off a common corridor. This shared bathroom is to have a bathtub, and is to be large enough to allow for parental supervision	Two bathrooms have been provided for all of the 2 and 3 bedroom apartments, however the ensuite has been provided with a bath tub and shower and the shared bathroom provided with a shower only (no bathtub). This is considered acceptable as flexibility has been provided across both bathrooms to accommodate the needs of families with children, and the children are still able to use the toilet and shower without having to use the ensuite.	Yes
C6 The private outdoor space is to be clearly visible from the kitchen	All apartments provide direct sight lines from the kitchen to the outdoor spaces. However, approximately 27 (11%) of apartments have an acute angled view from the kitchen to the balcony.	No Refer to Note 9

Control	Proposed	Complies (Yes/No)
C7 The entry areas and main corridors within apartments are to be generous in proportion to permit room for toys and sporting equipment, and for drying of wet shoes, boots and clothing	Refer to Note 9	No Refer to Note 9
C8 The Apartment Design Guide sets out storage space requirements. The storage room is to be located near the entry, and be of adequate proportions to accommodate large household items including strollers, wheeled toys, suitcases, and sporting equipment	Refer to Note 9	No Refer to Note 9
4C.5.2 Internal Circulation		
C1 Development will provide multiple cores within the building.	One core has been provided within each building.	Yes
C2 In buildings of more than four storeys served by elevators ensure that alternative access to another elevator is available in the event that any elevator is out-of-service due to breakdown or routine servicing.	Two elevators service each building.	Yes
4C.5.1 Adaptable Housing		
Table 1 of Part 3C Access and Mobility: <u>Adaptable Housing</u> In developments containing 10 or more dwellings, a minimum of 20% (48) of the dwellings are to be adaptable dwellings designed in accordance with Adaptable Housing Australian Standard 4299 Class B.	A total of 48 (20%) apartments are adaptable, which complies with Council's requirement.	Yes
<u>Accessible Parking</u> In developments containing 10 or more dwellings, accessible resident parking is required at 10% to be allocated to adaptable dwellings.	The BBDCP 2013 requires adaptable car parking to be allocated at 10% of the development. As such, 30.3 adaptable car parking spaces (rounded up to 31) are required. The cover sheet indicates that 32 'access' parking spaces are provided.	Yes
4C.5.2 Access		
C1 All applications are to include a statement on how the development will comply with the provisions of the Disability Discrimination Act and comply with Part 3C - Access and Mobility.	An Access Report, prepared by Wall to Wall Design & Consulting, has been submitted with the application. The report concludes by stating that " <i>A detail assessment has been undertaken of the proposed design and is shown to be capable of complying with the relevant performance requirements of the BCA and AS4299.</i> "	Yes

Note 8: Streetscape Presentation

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

The length of Building D & E is 72m and the length of Building F is 42m.

This is consistent with other development in the immediate area and is consistent with the building envelopes provided with Part 9A of the BBDCP 2013 for Urban Block 1.

Note 9: Family Friendly Apartment Buildings

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

Control C2 requires a study in all family apartments.

From 181 x 2 and 3 bedroom apartments, 29 (16%) have a separately indicated study.

Notwithstanding the above, this does not imply that there is not sufficient space within the open-plan living area to provide a desk so that parents can monitor children while working from home. Of the 181 x 2 and 3 bedroom apartments, 152 do not indicate a separate study or nook, however, all of the 2 bedroom apartments are between 13sqm and 36sqm over the minimum apartment size (as required under the ADG) whilst all of the 3 bedroom apartments are between 15sqm and 19sqm over the minimum apartment size.

This indicates that there is sufficient size within the apartment to accommodate a desk within the open plan living area and that there is sufficient size to support the separation of conflicting activities within the living spaces. This satisfies Objective O2 and O3 which state:

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

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

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

Control C6 states that the private outdoor space is to be clearly visible from the kitchen.

All apartments provide direct sight lines from the kitchen to the outdoor spaces. However, approximately 27 (11%) of apartments have an acute angled view from the kitchen to the balcony. These apartments are U515-1315, U523-1323 and U521-1321.

This can be corrected by bringing the balcony out slightly so that it wraps around the open plan living area. This would not compromise building separation as internally there is a separation distance of 28m, on the eastern side there is approximately 2m leeway until the 12m boundary setback line and on the northern side there is approximately 1.5m – 2.3m leeway until the 6m boundary setback fronting Gardeners Road.

As such, a condition has been recommended that these units, along with U522-1322 provide extended balconies and that amended drawings depicting this on those units (Levels 5 – 13) are submitted to Council for approval prior to the issue of the Construction Certificate for the relevant stage.

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

The plans (as amended) indicate that some apartments don't have storage within the entry area, and some do have storage areas within the entry area.

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

Note 10: Dwelling Mix & Layout

Part 4C.6.4.1, Control C1 (Apartment Layout) states that dwellings with 3 or more bedrooms need to have two separate living areas. The development proposes 50 x 3 bedroom apartments.

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

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

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

The 3 bedroom apartments range in size from 105sqm – 109sqm, all of which are between 15sqm and 19sqm in excess of the minimum requirement of 90sqm (as per the ADG). As such, the open-plan living areas provide a high standard of internal amenity as the separate living areas are spacious and are of an adequate size to comfortably accommodate separate areas/zones. The open-plan living areas are located adjacent to the balcony, thus providing natural light and ventilation and extending the internal living space. This satisfies Objectives O1 and O5 which state:

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

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

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

Part 9A – Mascot Station Town Centre

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

Table 15: BBDCP 2013 Compliance Table – Part 9A Mascot Station Town Centre

Control	Proposed	Complies (Yes/No)
9A.3.2 Desired Future Character – Urban Block 1		
<p>Land Uses</p> <p>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.</p>	<p>Ground level activation is comprised of:</p> <ul style="list-style-type: none"> • a commercial tenancy along Gardeners Road; • residential lobbies along Gardeners Road; • Building Manger's office along Gardeners Road; • A pool and gymnasium along Kent Road. <p>The remainder of the frontage is comprised of plant, vehicular entry and a 25m stretch of car parking along Gardeners Road within Building D and E.</p> <p>In a meeting with the applicant, it was agreed that the car parking fronting Gardeners Road is to be thoughtfully treated via a screen which provides interest and landscaping. Louvres were not desirable to Council. The elevation drawings indicate this interface to be treated with a perforated metal screen in a powdercoat finish in grey. This is satisfactory.</p> <p>A condition however has been recommended that screen planting also be provided in front of this screen to further soften the appearance and provide additional green screening.</p>	Yes
<p>Street Character</p> <p>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.</p> <p>Part of the new north-south street is to be lined by ground floor retail to create activity and provide for safety and security throughout the day and evening.</p>	<p>The development proposes the construction of a publicly accessible park between Buildings E and F as identified within the figures for Urban Block 1 within Part A of the BBDCP 2013. The park will be privately owned but will have an easement to allow for public access. Council is satisfied with this approach.</p>	Yes

Control	Proposed	Complies (Yes/No)
Public Domain New local parks will provide for the recreation needs of a substantial new residential population. These parks are to have a public street along one or two sides of the park to provide them with a public character, and to allow for overlooking from the public domain for safety and security.	As mentioned above, the park will be privately owned but have an easement for public access. A condition has been recommended for public domain plans to be submitted to and approved by Council prior to the issue of a Construction Certificate.	Yes
9A.3.4 Setbacks		
C1 All development within Urban Block 1 must comply with the street setbacks identified in Figures 30 and 31 which is: <ul style="list-style-type: none"> • 3m setback from Kent and Gardeners Road at levels 1-4; and • Average of 6m setback along Kent and Gardeners Road from levels 5-13 (minimum of 5-7m). 	<u>Gardeners Road Frontage</u> <ul style="list-style-type: none"> • Ground to Level 4: Generally more than 3m with the exception of the ramping to Building D and a small portion of the balcony to the retail component within Building F. Consistent with sites to the east and south. • Levels 5 – 13: 6m <u>Kent Road Frontage</u> <ul style="list-style-type: none"> • Ground to Level 4: 4.6m – 11.6m. • Levels 5 – 13: 6m. 	Yes
9A.4.5.4 Wind Mitigation		
C1 All new buildings are to meet the following maximum wind criteria: <ul style="list-style-type: none"> (i) 10 metres/second along commercial/retail streets; (ii) 13 metres/second along main pedestrian streets, parks and public places; and (iii) 16 metres/second in all other streets 	A Qualitative Wind Impact Assessment prepared by SLR (dated 11 July 2016, Revision 0), prepared by SLR, has been submitted with the application. The Qualitative Environmental Wind Assessment provides recommendations for wind break features in areas where winds are expected to approach or exceed the relevant criteria. Within a Stop The Clock letter, Council requested amended plans to incorporate the following recommendations: <ul style="list-style-type: none"> • A 1.8m vertical shield or screen along the western perimeter of the retail outdoor dining area to help shield potential westerly winds impacting the area; • Local shade cloths to the Level 4 communal open space of Buildings D and E to further protection from adverse winds; • A 1.8m balustrade surrounding the perimeters of both proposed Level 4 communal open space and childcare open spaces for further shielding. Amended plans showing the above have not been provided. As such, a condition has been recommended that prior to the issue of a Construction Certificate for the relevant stage; amended plans are provided which	No Condition

Control	Proposed	Complies (Yes/No)
	show the recommendations of the Qualitative Wind Impact Assessment as stated above.	
9A.4.5.5 Reflectivity		
C3 Visible light reflectivity from building materials use on new building facades must not exceed 20%.	The SEE states that the proposal is able to comply with the requirement.	Yes
9A.5.1 Public Domain Works		
-	As previously discussed, the park will be privately owned but will have an easement to allow for public access. Council's Landscape Architect has reviewed the proposal and has recommended a condition for the park to be included in the required Public Domain Plans with regard to tree planting, paving, materials, edge treatments, construction details, etc. This is to ensure that there is a consistent treatment with regard to other public parks, despite this being privately owned.	Condition

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

The proposal will see the redevelopment of the site which is a gateway site to the Mascot Station Precinct and is largely consistent with the controls envisaged for the site. The proposed development will have no significant adverse environmental, social or economic impacts on the locality.

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

The site is affected by flooding and the plans (as amended) show that the basement is protected by a driveway crest that complies with the 1 in 100 year ARI plus 300mm freeboard and the residential lobbies, similarly, complies with a 500mm freeboard. As agreed with Council, the lobby entry to Building D has been lowered from RL 4.5 to RL 4.1 to provide greater streetscape activation on this prominent corner.

Adequate information has been submitted to demonstrate that the site can be remediated and made suitable for the proposed development subject to satisfaction of a deferred commencement condition.

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

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

Based on the above, the site is considered suitable for the proposed development.

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

These matters have been considered in the assessment of the development application. In accordance with Part 2 Notification & Advertising of the BBDCP 2013, the proposed development was notified to surrounding property owners and advertised in the local newspaper for a period of thirty (30) days from 11 August 2016 to 10 September 2016. No submissions were received.

(e) The public interest.

The proposed development is in the public interest as it will provide for housing stock within the Mascot Station Town Centre Precinct. It will provide services and employment opportunities through the provision of the retail tenancy, will service the local community with the provision of a childcare centre and will provide community benefits in terms of the park located between Buildings E and F.

The proposed development, in conjunction with the s96(2) Modification Application over the southern adjoining site at 1-5 Kent Road will result in a 'complete' development across both sites by way of a combined podium and park.

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

OTHER MATTERS

Internal and External Referrals

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

Table 16: Internal and external referrals

Referral Agency	Response Date	Comments
External Referrals		
DRP	12 May 2016	Comments provided to the applicant.
Sydney Airport Corporation Limited (SACL)	19 August 2016	No objection to the erection of the development to a maximum height of 51.0m AHD. This information has been included in the Schedule of Consent Conditions.
Roads and Maritime Services (RMS)	12 September 2016	Email dated 12 September 2016 requiring further information including dimensions of vehicle crossing and swept path diagrams for vehicular access at Gardeners Road. Comments provided to the applicant.
	17 August 2016	Letter dated 17 August 2016 stating that the Development Application is not an 'integrated development' as Council is both the consent Authority for the development and approval authority for Gardeners Road.
	18 October 2016	Letter advising that RMS have reviewed the submitted documentation and raise no objection to the development application and provide conditions for Council's consideration.

Referral Agency	Response Date	Comments
Water NSW	17 August 2016	Letter states that whilst parts of the proposed development are deemed to be aquifer interference activities, comprehensive general terms of approval for temporary construction dewatering are not considered appropriate for the project given the scale of the disturbance as it has currently been presented.
Ausgrid	17 August 2016	No objection. Identified 2 assets to be affected by the development works. Provided 4 conditions to be adhered to and for the developer to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application Form.
Sydney Water	Not provided.	No response received. Deferred commencement recommended subject to receipt of conditions from Sydney Water.
Railcorp (Sydney Trains) / Sydney Trains Rail Corridor Management Group (RCMG)	15 October 2016	Email confirming there is no comment regarding the proposed development due to its distance to the airport tunnel lie.
Transport for NSW	26 October 2016	Email confirming there is no comment regarding the proposed development.
NSW Police	-	Not provided. Standard conditions recommended.
NSW Fire and Rescue	-	Not provided. No conditions recommended.
City of Sydney	-	Not provided. No conditions recommended.
Internal Referrals		
Landscape Officer / Tree Preservation Officer (TPO)	24 November 2016	Conditions provided
Development Engineer	24 November 2016	Conditions provided
Flood Engineer	11 August 2016	Flood levels provided. Development complies.
Environmental Contamination Officer	24 November 2016	Conditions provided
Environmental Health Officer	-	Not provided. Standard conditions recommended.
Traffic Engineer / Traffic Advisory Committee	Not provided.	No recommendation provided.

Section 94 Contributions

Council on 14 June 2016 adopted a new contribution plan being the Section 94 Development Contributions Plan 2016.

The new Plan came into effect on Wednesday 22 June 2016 and replaces the Mascot Station Precinct Section 94 Contributions Plan and the City of Botany Bay Section 94 Contributions Plan 2005 – 2010 .

The s94 contributions have been calculated in accordance with the new s94 Development Contributions Plan 2016.

Residential

Table 17: Calculation of Residential Contribution

Unit Type	Number of Units	Contribution Rate	Total Contribution
1 bedroom unit	58	\$8,962.09	\$519,801.22
2 bedroom unit	131	\$14,745.64	\$1,931,678.84
3 bedroom unit	50	\$19,270.78	\$963,539.00
TOTAL	239	-	\$3,415,019.06

Retail/Commercial

Table 18: Calculation of Retail/Commercial Contribution

Proposed Use	Floor Area	Employee Numbers	Contribution Rate	Total Contribution
Retail/Café	100	4	\$2,512.44	\$10,049.76
Child Care Centre	630	18	\$2,512.44	\$45,223.92
TOTAL	-	-	-	\$55,273.68

With regard to the retail/café, the employee numbers are calculated based on the floor area of 100sqm and a rate of 22.3sqm per employee ('row shops with frontage to a street'). With regard to the child care centre, the number of workers has been identified within the Traffic Impact Assessment submitted with the application.

Credit

Pursuant to Part 2.16 (Credits for existing development) of the s94 Development Contributions Plan 2016, within the Mascot Station Town Centre, and where industrial or commercial development is to be replaced by new residential development, no credits will be given for existing development. This is because the demand for facilities and services created by new residents moving into this area is considered to be completely different to the demand placed on such services by existing development.

However, within the Mascot Station Precinct, where existing industrial or commercial floor space is to be replaced by new industrial or commercial floor space, a credit may be given for the current use in the calculation of contributions based on the number of workers on the site at the time the application is made. It is preferable to make use of information on past employment levels.

The site is currently being operated by Jewel Properties. A search of Council's database found the following:

- DA-11/198 approved on 20 December 2011 for Unit 2, 671-675 Gardeners Road, Mascot for a change of use and internal alterations to Unit 2 from a warehouse and distribution centre to food preparation, storage, packaging and distribution. The Development Assessment report confirms that 15 staff will be employed on the site.
- DA-08/350 approved on 6 April 2009 for 683 Gardeners Road, Mascot for a change in use of the existing premises as two separate occupancies for the existing food preparation business (Tenancy A) and proposed cooking school (Tenancy B), internal partition and associated fitout works. The school will be staffed by 2 permanent staff. The food production and packing (Tenancy A) will remain as per DA-07/126.
- DA-07/126 approved 8 May 2007 for 683 Gardeners Road, Mascot for internal alterations to the existing warehouse to be used for the purpose of production of pre-prepared foods and sauces including packaging and distribution of goods. Condition No. 6 of the consent limits staff to a maximum of 10 staff.

Based on the total existing staff numbers of 27, and a contribution rate of \$2,512.44, the total credit available is **\$105,522.48**.

Total s94 contributions payable

The total s94 contribution payable for the proposed development (residential, retail/café, childcare centre and deduction of the applicable credit) is **\$3,420,043.94**.

This is broken down into the contribution categories as follows:

- | | |
|---------------------------------------|------------------------|
| • Community Facilities: | \$ 525,810.26 |
| • Administration: | \$ 39,187.02 |
| • Open Space & Recreation (Mascot): | \$ 53,346.79 |
| • Open Space & Recreation (Citywide): | \$ 2,284,013.26 |
| • Transport (Mascot): | \$ 302,483.16 |
| • Transport (Citywide): | \$ 215,203.46 |
| • TOTAL: | \$ 3,420,043.94 |

Land Dedications/Public Benefits

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

CONCLUSION

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

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

The proposal seeks a 2.34m height variation, comprised plant, lift overrun and parapet to screen these elements. The Clause 4.6 variation demonstrates that the proposal satisfies the underlying objectives of the height control and that the proposal will result in the orderly and economic development of the site. The Clause 4.6 variation to the maximum FSR is also considered to be well founded and does not result in increased scale and bulk, given the narrow floor plates proposed which respond to the site layout. In both instances, the variations to the standard are supported by Council.

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*, the *Botany Local Environmental Plan 1995* and the *Botany Bay Local Environmental Plan 2013*. The proposal is permissible in the B4 – Mixed Use zone, and results in a development that is suitable in the context. The approval of the development in conjunction with the adjoining site to the south at 1-5 Kent Road will result in a complete development across both sites by way of a combined podium and park.

It is therefore recommended that, report from the Accredited Site Auditor, the Panel grant deferred commencement consent requiring a further detailed site investigation and RAP (if required), in order to ensure that the site is made suitable for the proposed residential and public park use.

Premises: 671-683 Gardeners Road, Mascot

DA No: 16/117

SCHEDULE OF CONSENT CONDITIONS

DEFERRED COMMENCEMENT CONDITIONS

DC1 To ensure that the site is made suitable for the proposed residential and public park use, and within 6 months of the issue of this Deferred Commencement consent, a further detailed site investigation of soil and groundwater as required shall be completed by a suitably qualified and experienced environmental consultant. The applicant is to prepare and submit an amended Detailed Site Investigation, completed in accordance with the Contaminated Land Management Act 1997 and SEPP55 to reflect:

- a) the current NEPM guidelines (amended 2013);
- b) the proposed construction at grade, with no basement car parking;
- c) the proposed more sensitive uses proposed for this development of a child care centre (on a podium) and open space; and
- d) all instructions by the appointed Environmental Auditor accredited under the Contaminated Land Management Act.

It shall clearly state that the site is suitable for all proposed uses and the conditions of this suitability. If remediation is required, then the Applicant shall also prepare and submit to Council a Remedial Action Plan (RAP) and obtain any necessary consent for the remediation. Any RAP for the site shall reflect the current guidelines and any new information about soil and groundwater found in any additional sampling and analysis required by the appointed Site Auditor accredited under the Contaminated Land Management Act.

GENERAL CONDITIONS

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

Drawing No.	Author	Dated Received
Ground Plan (Drawing No. DA-110-001, Revision S5)	Turner Architects	Dated 03/11/2016 Received 22/11/2016
Level 1 (Drawing No. DA-110-002, Revision S5)	Turner Architects	Dated 26/10/2016 Received 22/11/2016
Level 2 to 3 Plan (Drawing No. DA-110-003, Revision S5)	Turner Architects	Dated 26/10/2016 Received 22/11/2016
Level 4 Podium Plan (Drawing No. 110-004, Revision S5)	Turner Architects	Dated 03/11/2016 Received 22/11/2016
Level 5 to 13 Tower Plan (Drawing No. DA-110-005, Revision S6)	Turner Architects	Dated 03/11/2016 Received 22/11/2016
Plant Rooms (Drawing No. DA-110-006, Revision S3)	Turner Architects	Dated 03/11/2016 Received 22/11/2016
Roof Plan (Drawing No. DA-110-007, Revision S3)	Turner Architects	Dated 03/11/2016 Received 22/11/2016
North Elevation (Drawing No. DA-250-001, Revision S4)	Turner Architects	Dated 01/11/2016 Received 22/11/2016
East Elevation (Drawing No. DA-250-002, Revision S3)	Turner Architects	Dated 01/11/2016 Received 22/11/2016
South Elevation (Drawing No. DA-250-003, Revision S3)	Turner Architects	Dated 01/11/2016 Received

Drawing No.	Author	Dated Received
		22/11/2016
West Elevation (Drawing No. DA-250-004, Revision S3)	Turner Architects	Dated 01/11/2016 Received 22/11/2016
East Elevation – North South Street (Drawing No. DA-250-005, Revision S3)	Turner Architects	Dated 01/11/2016 Received 22/11/2016
West Elevation – Street (Drawing No. DA-250-006, Revision S3)	Turner Architects	Dated 01/11/2016 Received 22/11/2016
Cross Section (Drawing No. DA-350-001, Revision S2)	Turner Architects	Dated 01/11/2016 Received 22/11/2016

Referenced documents

Drawing No.	Author	Dated Received
Cover Sheet	Turner Architects	Dated 09/11/2016 Received 22/11/2016
Site Plan (Drawing No. DA-100-001, Revision S3)	Turner Architects	Dated 03/11/2016 Received 22/11/2016
Site Analysis (Drawing No. DA-100-002, Revision S2)	Turner Architects	Dated 12/09/2016 Received 22/11/2016
GFA Diagrams (Drawing No. DA-710-001, Revision S6)	Turner Architects	Dated 09/11/2016 Received 22/11/2016
Shadow Diagrams (Drawing No. DA-720-001, Revision S3)	Turner Architects	Dated 02/11/2016 Received 22/11/2016
View from Sun Analysis Sheet 1 (Drawing No. DA-720-002, Revision S2)	Turner Architects	Dated 12/09/2016 Received 22/11/2016
View from Sun Analysis Sheet 2 (Drawing No. DA-720-003, Revision S2)	Turner Architects	Dated 12/09/2016 Received 22/11/2016
View from Sun Analysis Sheet 3 (Drawing No. DA-720-004, Revision S1)	Turner Architects	Dated 12/09/2016 Received 22/11/2016

Drawing No.	Author	Dated Received
View from Sun Analysis Sheet 4 (Drawing No. DA-720-005, Revision S1)	Turner Architects	Dated 12/09/2016 Received 22/11/2016
Podium Shadow Diagrams (Drawing No. 720-006, Revision S1)	Turner Architects	Dated 03/09/2016 Received 22/11/2016
ADG Diagrams (Drawing No. DA-721-001, Revision S2)	Turner Architects	Dated 31/10/2016 Received 22/11/2016
Site Survey (Drawing No. 21386, Sheet 1 – 3)	B & P Surveys	Dated 24/05/2016 Received by Council 27/07/2016
Adaptable Apartments (Drawing No. DA-810-001, Revision S1)	Turner Architects	Dated 08/07/2016 Received 27/07/2016
Materials and Finishes (Drawing No. DA-910-001, Revision S2)	Turner Architects	Dated 22/07/2016 Received 27/07/2016
CGI View from north west Gardeners Road (Drawing No. DA-920-001, Revision S2)	Turner Architects	Dated 26/07/2016 Received 27/07/2016
CGI View from north east Gardeners Road (Drawing No. DA-920-002, Revision S2)	Turner Architects	Dated 26/07/2016 Received 27/07/2016
Perspective 1 (Drawing No. DA-920-003, Revision S2)	Turner Architects	Dated 22/07/2016 Received 27/07/2016
Perspective 2 (Drawing No. DA-920-004, Revision S2)	Turner Architects	Dated 22/07/2016 Received 27/07/2016
Perspective 3 (Drawing No. DA-920-005, Revision S2)	Turner Architects	Dated 22/07/2016 Received 27/07/2016
Perspective 4 (Drawing No. DA-920-006, Revision S2)	Turner Architects	Dated 22/07/2016 Received 27/07/2016
Perspective 5 (Drawing No. DA-920-007, Revision S1)	Turner Architects	Dated 08/07/2016 Received 27/07/2016
SEPP 65 Report (Revision A)	Turner	Dated 08/07/2016 Received by Council 27/07/2016

Drawing No.	Author	Dated Received
Design Verification Statement (Revision A)	Turner	Dated 08/07/2016 Received by Council 27/07/2016
Statement of Environmental Effects and DCP Assessment Table	Meriton Property Services Pty Ltd	Dated 25/07/2016 Received by Council 27/07/2015
Clause 4.6 Variation	Urbis	Received by Council 01/12/2016
Thermal Comfort & BASIX Assessment (Issue B)	Efficient Living	Dated 03/11/2016 Received by Council 03/11/2015
Acoustic Report (Revision 1)	Acoustic Logic	Dated 17/06/2016 Received by Council 27/07/2016
Waste Management Plan (Revision C)	Elephants Foot	Dated 11/07/2016 Received by Council 27/07/2016
Transport Impact Assessment	Arup	Dated 11/07/2016 Received by Council 27/07/2016
Access Report (Revision 2)	Wall to Wall Design & Consulting	Dated 04/07/2016 Received by Council 27/07/2016
BCA Compliance Assessment Report (1423-96, Rev 00)	AED Group	Dated 27/06/2016 Received by Council 27/07/2016
Arboricultural Assessment Report	Tree and Landscape Consultants (TALC)	Dated 20/06/2016 Received by Council 27/07/2016
Amended Arborist Report	TALC	Dated 06/09/2016 Received by Council 21/09/2016
Amended Arborist Report	TALC	Dated 28/10/2016 Received by Council 28/10/2016
Landscape Cover (Revision C)	Context	Dated October 2016 Received by Council 28/10/2016
Landscape Masterplan (Page 1, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received by Council 28/10/2016

Drawing No.	Author	Dated Received
Streetscape / Public Domain Plan (Page 2, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received by Council 28/10/2016
Landscape Masterplan (Page 3, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received by Council 28/10/2016
Landscape Masterplan Podium Level (Page 4, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received by Council 28/10/2016
Landscape Section Ground Level (Page 5, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received by Council 28/10/2016
Landscape Section Ground Level (Page 6, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received by Council 28/10/2016
Landscape Section Podium Level (Page 7, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received by Council 28/10/2016
Planting / Indicative Palette & Schedule (Page 8, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received by Council 28/10/2016
Plan of Management	Meriton Property Services Pty Ltd	Dated 11/07/2016 Received by Council 27/07/2016
Construction Management Plan	Meriton Property Services Pty Ltd	Dated June 2016 Received by Council 27/07/2016
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 31/05/2016 Received by Council 27/07/2016
Civil Infrastructure Development Application Report (Revision 1)	at&l	Dated 11/07/2016 Received by Council 27/07/2016
Detailed Site Assessment	Coffey	Dated 31/10/2012 Received by Council 27/07/2016

Drawing No.	Author	Dated Received
Site Auditor Interim Advice (Ref: 16112_IA1)	Zoic Environmental Pty Ltd	Dated 23/11/2016 Received by Council 23/11/2016
Geotechnical Site Investigation	Coffey	Dated 18/05/2016 Received by Council 27/07/2016
Flood Report (Ref: X14220.0)	Calibre Consulting	Dated 12/10/2015 Received by Council 27/07/2016
Qualitative Wind Impact Assessment (Revision 0)	SLR	Dated 11/07/2016 Received by Council 27/07/2016
QS Report	Steven Wehbe	Dated 11/07/2016 Received by Council 27/07/2016
8.00 Apartment Schedule (Revision S2)	Turner	Dated 29/11/2016 Received by Council 29/11/2016

- 2 No construction works (including excavation) shall be undertaken prior to the issue of a Construction Certificate.
- 3 This Consent relates to land in Lot 1 in DP 777315 Lot 500 in DP 1030729 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 4 The consent given does not imply that works can commence until such time that:
 - (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) The consent authority; or,
 - (ii) An accredited certifier; and,
 - (b) The person having the benefit of the development consent:
 - (i) Has appointed a principal certifying authority; and
 - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

- 5 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 6 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the each building in the development are fulfilled.

(a) Note:

Relevant BASIX Certificate means:

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

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

- 7 The following condition is imposed by Ausgrid and is to be complied with.
 - (a) Ausgrid has identified the following assets to be affected by the development works:
 - (i) Existing substation(/s) within site boundary and associated underground cables. Including the easement, lease or right of ways over these electrical assets.
 - (ii) Close proximity of overhead and/or underground cable/s on public land

Ausgrid require that due consideration be given to the compatibility of proposed development with existing Ausgrid infrastructure, particularly in relation to risks of electrocution, fire risks, electric and magnetic fields (EMF), noise, visual amenity and other matters that may impact on Ausgrid or the development. In general, conditions to be adhered to by the developer include, but are not limited to, the following:

- (b) Ausgrid requires kiosk substation housings to be separated from building ventilation system air intake and exhaust duct openings, by not less than 6 metres. This applies irrespective of whether the building ducted ventilation system is mechanical or natural and irrespective of whether or not fire dampers are installed in the ducts.
- (c) Any portion of a building other than a BCA class 10a structure constructed from non-combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glass blockwork or

similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a non-ignitable blast resisting barrier. For further details on fire segregation requirements refer to Ausgrid's Network Standard 141.

- (d) Any work undertaken near Overhead Power lines needs to be done in accordance with:
 - (i) WorkCover Document ISSC 23 "Working Near Overhead Power Lines"
 - (ii) Ausgrid Network Standards
 - (iii) Ausgrid Electrical Safety Rules
- (e) The location of underground cables by using Dial Before You Dig and comply with the requirements of Ausgrid's Network Standard 156: Working Near or Around Underground Cables before any excavation works are undertaken.
- (f) Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143.
- (g) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (e.g. whether a substation is required on site).
- (h) The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrid's network.

Conditions have not yet been received. Upon receipt, the conditions outlined in the response from Sydney Water will apply to the Development DA-16(117) and the applicant is to comply with the conditions of **Sydney Water** as relevant.

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

- (a) All redundant driveways are to be removed and replaced with Gardeners Road with kerb and gutter to Roads and Maritime requirements. The design and construction of the kerb and gutter crossing on Gardeners Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 88492138).

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

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

- (b) 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 a Construction Certificate.
- (c) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.
- (d) A construction zone will not be permitted on Gardeners Road.
- (e) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Gardeners Road during construction activities.
- (f) The swept path of the longest vehicle (to service the site) entering and existing the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- (g) Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any charges are to be submitted to Roads and Maritime for approval, prior to the commencement of works on site. Details should be forwarded to:

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

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2124.

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

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

The report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.
Telephone 8849 2114
Fax 8849 2766

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

- (i) All vehicles are to enter and leave the site in a forward direction.
- (j) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2002 for heavy vehicle usage.
- (k) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclist travelling along the footpath.

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

- (a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
- (b) The application sought approval for the property development to a height of 51.0 metres Australian Height Datum (AHD).
- (c) In the capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, the Airfield Design Manager has no objection to the erection of this development to a maximum height of 51.0 metres AHD. Should you wish to exceed this height a new application must be submitted.
- (d) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- (e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- (f) Information required by Sydney Airport prior to any approval is set out below:
 - (i) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)). The height of the prescribed airspace at this location is 51 metres above AHD.
 - (ii) Planning for Aircraft Noise and Public Safety Zones: Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and

Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF). Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

(g) Application for Approval of Crane Operation

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

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

10 The applicant must, prior to the commencement of any works, pay the following fees:

- (a) Development Control \$12,900.00
- (b) Builders Damage Deposit & Performance Bond \$531,300.00 (# No. 11)

11 Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit and Performance Bond of **\$531,300.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

- 12 To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- (a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
 - (b) Negotiate with the utility authorities (e.g. AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - (i) The additional load on the system, and
 - (ii) The relocation and/or adjustment of the services affected by the construction.
 - (c) As part of this development, the Ausgrid lighting poles along Kent and Gardeners Roads fronting the site, will need to be decommissioned and new lighting poles shall be constructed satisfying V3 lighting requirements for Kent and Gardeners Roads and any other requirements as specified by Council, RMS and any other service provider,
 - (d) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider (where required), and
 - (e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the relevant staged Construction Certificate.
 - (f) 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.
- 13 Prior to commencement of any works, the Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.
- 14 Prior to the commencement of excavation or any building works, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
- 15 Prior to the commencement of excavation or any building works, at the proposed point of construction site entry, photographic survey showing the existing conditions

of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

16 A Construction Management Program shall be submitted to, and approved in writing by the PCA prior to the commencement of excavation or any building works. The program shall detail:

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

- (k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- 17 Prior to the commencement of excavation or any building works, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) and approved by the relevant road authority. The plan shall:
- (a) be prepared by a RMS accredited consultant,
 - (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police,
 - (c) during construction, if access from Kent Road is required, the applicant is to submit documentary evidence to the Principal Certifying Authority that the required Section 138 Consent under the Roads Act, 1993 has been issued by the New South Wales Roads and Maritime Services, and
 - (d) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.
- Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.*
- 18 Prior to the commencement of any excavation or building work, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.
- Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
- 19 To ensure the necessary assessment and remediation is completed, a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works.
- 20 In accordance with the Contaminated Land Management Act 1997, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.
- 21 Prior to the demolition of any building or structure, a Hazardous Building Material Assessment (HBMA) shall be carried out and a report provided to council to ensure that any hazardous materials that may have been used within the structural components of buildings and infrastructure are adequately addressed to protect site

personnel and the public from the risk of exposure. This shall be undertaken by an appropriately qualified consultant and shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the demolition of any building or structure.

Should any hazardous materials be identified a Work Management Plan completed in accordance with AS2601 – Demolition of Buildings shall be submitted to the Principal Certifying Authority prior to the demolition of any building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.

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

- 23 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 including the Protection of the Environment Operations Act 1997.

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.

- 24 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.
- 25 Shaker pads and a wheel washer are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.

- 26 The proposed development shall comply with the following:

- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (i) Stating that unauthorised entry to the work site is prohibited;
 - (ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - (iii) The Development Approval number; and

- (iv) The name of the Principal Certifying Authority including an afterhours contact telephone number.
 - (b) Any such sign is to be removed when the work has been completed.
- 27 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- (a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - (b) Each toilet provided:
 - (i) must be standard flushing toilet; and,
 - (ii) must be connected:
 - (iii) to a public sewer; or
 - (iv) if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - (v) if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - (c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 28 If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
- 29 Prior to the commencement of any demolition, excavation or remediation works, the applicant must inform Council, in writing, of:
- (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - (b) The name and permit number of the owner-builder who intends to do the work;
 - (c) The Council also must be informed if: -
 - (i) A contract is entered into for the work to be done by a different licensee; or
 - (ii) Arrangements for the doing of the work are otherwise changed.
- 30 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: -

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

- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - (b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - (c) Permit to install temporary ground anchors in public land,
 - (d) Permit to discharge ground water to Council's stormwater drainage system,
 - (e) Permit for roads and footways occupancy (long term/ short term),
 - (f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - (g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - (h) Permit to place skip/waste bin on footpath and/or nature strip, and
 - (i) Permit to use any part of Council's road reserve or other Council lands.
- 31 Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
- 32 In order to ensure that a total of nine (9) trees including: three (3) London Plane trees (Tree #32, Tree #31 and Tree #30) to the west of the site along Kent Road, together with two (2) Paperbark trees (Tree #24 and Tree #25) and four (4) Tallwood (Trees #20, Tree #20a, Tree #20b and Tree #20c), within the setback to Gardeners Road are retained and protected during construction, and their health and structural stability ensured, the following is required:
- (a) A revised storm water/drainage layout is required to be submitted to Council for review and approval prior to the issue of construction certificate. The storm water/drainage layout is required to be revised – with consultation with the Consultant Arborist - to ensure that the trees identified for retention will not be adversely impacted, in accordance with AS4970-2009 Protection of Trees on Development Sites.
 - (b) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.

- (c) All tree works and tree management shall be undertaken in accordance with the Arborist report by Tree and Landscape Consultants (TALC) (dated 20th June 2016 and Statement of Arboricultural Issues dated 28 October 2016). For all tree root and canopy work to trees, comply with the recommendations and requirements and management plan contained within this report.
- (d) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.
- (e) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.
- (f) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
- (g) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
- (h) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- (i) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
- (j) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- (k) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
- (l) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
- (m) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under

application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.

- (n) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
 - (o) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.
 - (p) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.
 - (q) If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.
- 33 Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
- 34 Prior to the commencement of any works, the applicant must inform Council, in writing, of:
- (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - (b) The name and permit number of the owner-builder who intends to do the work;
 - (c) The Council also must be informed if: -
 - (i) A contract is entered into for the work to be done by a different licensee; or
 - (ii) Arrangements for the doing of the work are otherwise changed.

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

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

- 35 The applicant must prior to the issue of any Construction Certificate, pay the following fees:
- (a) Waste Levy \$7,408.60;

(b) Street Tree Maintenance Bond \$10,000.00 (# No. 36)

36 Prior to the issue of any Construction Certificate, the applicant is to submit payment of a Street Tree Maintenance Bond of \$10,000.00. The duration of the Bond shall be limited to a period of 24 months after final inspection of new street trees by Council. At the completion of the 24 month period the Bond shall be refunded pending a satisfactory inspection of the trees by Council. If any tree is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work

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

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

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

- (a) Provisions made in the Civil Infrastructure Development Application Report, project no. 16-381-01 by AT&L, dated July 2016 and but not limited to Part 6 of the SMTG,
- (b) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
- (c) Stormwater discharge to Council/RMS Kerb & Gutter shall be limited to a single outlet with maximum capacity of 10L/s. If greater discharge rate is proposed (upto the maximum discharge rate stated in the point above), the a direct connection to Council/RMS pit and pipe system isrequired,
- (d) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
- (e) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- (f) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
- (g) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
- (h) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.

- (i) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
 - (j) The submission of detailed calculations including computer modelling where required to support the proposal.
- 38 Evidence that a NSW Environment Authority (EPA) Accredited Site Auditor appointment has been appointed to the site is required to be provided to Council prior to the issue of any Construction Certificate.
- 39 The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans, a contribution of **\$3,420,043.94** is payable as calculated below:

City of Botany Bay Section 94 Contributions Plan 2016

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

a) Community Facilities:	\$ 525,810.26
b) Administration:	\$ 39,187.02
c) Open Space & Recreation (Mascot):	\$ 53,346.79
d) Open Space & Recreation (Citywide):	\$ 2,284,013.26
e) Transport (Mascot):	\$ 302,483.16
f) Transport (Citywide):	\$ 215,203.46
TOTAL:	\$ 3,420,043.94

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

- 40 Prior to the issue of the Construction Certificate for the relevant stage, the applicant shall submit amended plans to Council for approval, showing the following:
- (a) Units U515-1315, U523-1323, U521-1321 and U522-1322 with the balcony extended and provided across the open plan living area in order to ensure that direct views can be obtained between this area and the kitchen as well as ensuring compliance with the minimum balcony size as specified in the ADG.
 - (b) As per the Qualitative Wind Impact Assessment prepared by SLR, the following recommendations are to be shown on a set of amended plans:

- (i) A 1.8m vertical shield or screen along the western perimeter of the retail outdoor dining area to help shield potential westerly winds impacting the area;
 - (ii) Local shade cloths to the Level 4 communal open space of Buildings D and E to further protection from adverse winds;
 - (iii) A 1.8m balustrade surrounding the perimeters of both proposed Level 4 communal open space and childcare open spaces for further shielding.
 - (iv) Scattered landscaping within the proposed level 4 childcare open space is recommended to help break up adverse winds.
- 41 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the above ground Construction Certificate. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
- 42 Prior to the issue of a Construction Certificate, the construction certificate drawings are to show the sub-surface OSD tanks and infiltration trenches are to be located at least 3 metres away from the canopy dripline of any existing tree to be retained and not located where it will limit the planting of trees on the site. Excavation proximate to trees shall be carried out manually using hand tools, or with small machinery to minimise tree root damage, disturbance or soil compaction. If tree roots are encountered Council's Tree Officer must be called for a site inspection. If tree roots cannot be cut without compromising the tree then the OSD will be required to be re-configured or relocated.
- 43 The Applicant has permission to remove trees Tree #1, Tree #2, Tree #3, Tree #4, Tree #5, Tree #6, Tree #7, Tree #8, Tree #9, Tree #10, Tree #11, Tree #12, Tree #13, Tree #14, Tree #15, Tree #16, Tree #17, Tree #18, Tree #19, Tree #21, Tree #22, Tree #23, Tree #26, Tree #27, Tree #28, Tree #29, Tree #33, as identified by the Consultant Arborist in the report by Tree and Landscape Consultants (TALC) (dated 20th June 2016). Note: Trees are not permitted to be removed until the Construction Certificate has been issued.
- 44 Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:
- (a) A qualified Arborist with their own public liability insurance must be engaged.
 - (b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access otherwise road and footpath closures require a Council Road Occupancy Permit.
 - (c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.

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

- 45 The private domain landscape areas shown on the plan by Context, Plans 01 to 08 (Issue C, dated October 2016) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by Council's Landscape Architect prior to the issue of any Construction Certificate. The landscape documentation is to be prepared by Context Landscape Architects and shall include, but not be limited to:
- (a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
 - (b) Canopy trees are required to be incorporated within the landscape setback along Kent Road frontage and Gardeners Road frontage.
 - (c) Canopy trees are to be used extensively within the ground level community park. Planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with DCP Part 10 Part 4.6.
 - (d) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees.
 - (e) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the development that is appropriate to the scale of the building heights.
 - (f) Indicate the location of all basement structures relative to the landscape areas.
 - (g) The nine (9) existing trees identified for retention shall be shown on all plans.
 - (h) Barbeque facilities to be incorporated within the Level 4 Podium Courtyard.
 - (i) Within the new ground level community park (between Buildings E and F), areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/ specification. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials is required to be indicated.
 - (j) Privacy to the balconies facing the communal open space at podium level are to be adequately treated through fencing and mounding to provide a sufficient landscape screen.
 - (k) Adequate screen planting is to be provided in front of the perforated metal screen to the car park along Gardeners Road.
 - (l) Full details including plans, sections and material palettes indicating the proposed treatments of the interface between the privately owned through site link (between buildings E and F) and the public domain (along the northern boundary) are to be submitted to Council's Landscape Architect for review and approval prior to issue of the Construction Certificate for above ground works. The proposed treatments (including, but not limited to fencing, landscaping and paving) shall not impede public access and is not to be

inconsistent with Condition 88 of the Development Consent. The proposed treatment should take the following into consideration:

- (i) Landscaping based solutions are encouraged over any type of fencing;
- (ii) The treatment will need to read as being publically accessible;
- (iii) It should be fully permeable, with large-scale, wide gates that will allow full access to the space during the day for the public;
- (iv) Materiality will need to be in keeping with the Public Domain Manual for Mascot Station Precinct and the opportunity exists to be innovative and creative with use of such materials such as corten steel blades or similar treatments (for fencing).

46 The public domain landscape areas shown on the plan by Context, Plans 01 to 08 (Issue C, dated October 2016) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by Council's Landscape Architect prior to the issue of any Construction Certificate. The landscape documentation is to be prepared by Context Landscape Architects and shall include, but not be limited to:

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

- (i) Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- (j) Details of all fencing, privacy screening, arbors and the like – elevations and materials, impacting or visible to public domain areas.
- (k) Full details including plans, sections and material palettes indicating the proposed treatments of the interface between the privately owned through site link (between buildings E and F) and the public domain are to be submitted to Council's Landscape Architect for review and approval prior to issue of the Construction Certificate for above ground works. The proposed treatments (including, but not limited to fencing, landscaping and paving) should take the following into consideration:
 - (i) Landscaping based solutions are encouraged over any type of fencing;
 - (ii) The treatment will need to read as being publically accessible;
 - (iii) It should be fully permeable, with large-scale, wide gates that will allow full access to the space during the day for the public;
 - (iv) Materiality will need to be in keeping with the Public Domain Manual for Mascot Station Precinct and the opportunity exists to be innovative and creative with use of such materials such as corten steel blades or similar treatments (for fencing).
- (l) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, playground and recreational equipment, water features and water stations, bins, bollards, public toilets, signage suite. Locations to be clearly identified on plan. Provide sectional construction details and elevations.
- (m) Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
- (n) A detailed public art proposal.
- (o) A way finding signage proposal.
- (p) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP (Part 10 Part 4.6) and capable of supporting medium and large canopy trees.
- (q) Trees are to be used extensively throughout the site and shall be of an appropriate scale to complement and ameliorate buildings and for appropriate scaling within pedestrian areas – footpaths and open spaces. Deep soil zones must include larger trees. Trees are to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration.
- (r) Indicate the location of all basement structures relative to the landscape areas.

- (s) The nine (9) existing retained trees shall be shown on all plans.
- 47 Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
 - (b) For residential flat developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 48 Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
 - (b) All service vehicles shall enter the property front in front out,
 - (c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
 - (d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - (e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 49 Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- (a) Disabled car parking spaces shall be provided and clearly marked as per the Transport Impact Assessment, by ARUP, dated 11 July 2016, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - (b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
- 50 Prior to the release of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Engineering and Regulatory Services Department, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.
- 51 The drawings for the construction certificate for the car park shall show the following parking requirements:

Car Parking Rates	Required
0.6 space / 1 bed unit	35 spaces
0.9 space / bed unit	118 spaces
1.4 space / bed unit	70
1 visitor space / 7 dwellings	34 spaces
Retail Spaces	12
Child Care Centre	34
TOTAL REQUIRED	303
TOTAL PROVIDED	255

Excess car parking spaces within the development at 1-5 Kent Road are to be reallocated to 671-683 Gardeners Road so as to make up the shortfall identified in the table above.

Any parking in excess of 303 car parking spaces is to be allocated to a residential apartment or the retail tenancy.

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

The measures required in the acoustical assessment report prepared by **Acoustic Logic, dated 17 June 2016, Report reference number 20160869.1/1706A/R1/TA** shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.

The work detailed in the report includes:

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

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

- 53 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Certifying Authority prior to the issue of the Construction Certificate and its location and specifications endorsed on the construction drawings.
- 54 In order to maximise visibility in the basement car parks, the ceilings shall be painted white. This requirement shall be reflected on the Construction Certificate plans.

DURING WORKS

- 55 An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 56 New street trees at the pot size specified shall be installed in the accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.
- 57 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- (a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - (b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - (c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - (d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - (e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

- 58 During demolition, excavation 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 demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 59
- (a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
 - (b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
 - (c) 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. 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 Council's land. Fines and cleaning costs will apply to any breach of this condition.
 - (d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - (e) During construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas.
- 60 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
- 61 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 62 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) Any Remedial Action Plan (RAP) required to be submitted as part of the Deferred Commencement Condition 1).
- 63 To ensure that the risk to the environment, workers and occupants of the residential premises is acceptable, any remediation or management measures for excavation and construction outlined in the contaminated land report provided as part of Deferred Commencement condition DC1 shall be complied with during excavation and construction.
- 64 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- (a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m2 of bonded asbestos and/or any friable asbestos.
 - (b) Protection of the Environment Operations Act 1997.
 - (c) Protection of the Environment Operations (Waste) Regulation 2014.
 - (d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 65 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 66 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill (should this be required) shall be appropriately certified material and shall be validated in accordance with the:
- (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 2014.
 - (d) 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.
- 67 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- (a) The Erosion and Sediment Control Plan;
 - (b) “Managing Urban Stormwater - Soils and Construction” (2004) Landcom (‘The Blue Book’); and

- (c) Protection of the Environment Operations Act 1997.
- 68 During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. 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 Council's lands.
- 69 Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the construction works.
- 70 If required pursuant to deferred commencement condition DC1, 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.
- 71 The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any Occupation Certificate.
- 72 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.
- 73 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.
- 74 Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
- 75 The following shall be complied with during construction and demolition:
- (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 20dB(A).
 - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - (c) Time Restrictions
 - (i) Monday to Friday 07:00am to 06:00pm
 - (ii) Saturday 08:00am to 03:00pm
 - (iii) No demolition or construction to take place on Sundays or Public Holidays.
 - (d) Silencing
 - (i) All possible steps should be taken to silence construction site equipment.
- 76 During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
- 77 During excavation and construction works, the applicant / builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.

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

- 78 Prior to the issue of any Occupation Certificate, the applicant is to provide the following:
- (a) Certification is to be provided to the Certifying Authority that all apartments, including U423 (which provides 9.8m³ of storage and should provide at least 10m³) comply with the minimum requirements for storage under the ADG with at least 50% of this storage requirement contained within the apartment.
 - (b) The service rooms on the top level are to be provided with natural light and ventilation.
 - (c) The entry to the lobby of Building E is to provide a small meeting place facilitated by the provision of seating.

- 79 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 for clearly demonstrating that the site is suitable for the proposed development. A separate SAS shall be provided for any land dedication to council, such as parks or roadways and the site audit statement shall not be subject to any ongoing management measures.
- 80 Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy any Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the release of any applicable 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.
- 81 Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
- 82 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Kent Road, and all the new stormwater drainage lines associated with the development.
- The camera and its operation shall comply with the following:
- (a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
 - (b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
 - (c) Distance from the manholes shall be accurately measured, and
 - (d) The inspection survey shall be conducted from manhole to manhole.
 - (e) The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council for review. Any damage to the culvert/pipeline since the commencement of construction on the site shall be repaired in full to the satisfaction of Council. A written acknowledgement shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.
- 83 Prior to the issue of any Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 84 Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:

- (a) On Kent Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council and RMS Infrastructure Specifications. Location of kerb & gutter to be confirmed with RMS and Council prior to construction,
 - (b) On Gardeners Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council and RMS Infrastructure Specifications. Location of kerb & gutter to be confirmed with RMS and Council prior to construction,
 - (c) On Kent Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications,
 - (d) On Gardeners Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications.
- 85 Prior to the issue of any Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
- 86 Prior to the issue of any Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- (a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
 - (b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.
- The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.*
- 87 Prior to the issue of any Occupation Certificate, Lot 1 in DP 777315 and Lot 500 in DP 1030729 are to be consolidated.
- 88 Prior to the issue of any Occupation Certificate, a new 16.6 wide "Easement for Public Access" shall be created over the proposed North-South Link. The draft plan of easement shall be lodged with Council for approval. The proposed new easement shall be unlimited in stratum. Once approval from Council is granted, the plan shall be registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes.
- 89 Any Stratum subdivision of the development shall be the subject of a further Development Application to Council.
- 90 That before entering a lease/occupancy agreement, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.

Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building

- 91 The public domain landscaping shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of any Occupation Certificate. This amended plan supersedes the original landscape plan. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction all times.
- 92 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
- 93 Landscaping on the property and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of any Occupation Certificate. This amended plan supersedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent all times.
- 94 Prior to the issue of any Occupation Certificate, the public footpaths in Kent Road, Gardeners Road and in the new ground level community park shall be constructed in accordance with the approved Public and Private Domain Plans and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and prior to 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).
- 95 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the Issue of an Occupation Certificate.
- 96 Prior to release of the Occupation Certificate the developer must submit to the Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 97 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.

- 98 Prior to the issue of the Occupation Certificate, street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
- 99 Prior to the issue of any Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
- (a) All reduced levels shown upon the approved plans, with relation to the required solar panels, drainage, boundary and road reserve levels, have been strictly adhered to; and
 - (b) A Floor Space Ratio (FSR) of 3.43:1 and a maximum height of 46.34m and up to a maximum of RL 51m AHD, as approved under this Development Consent No. 16/117, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
 - (c) The development as built, stands within a consolidated lot otherwise described as Lot 1 in DP 777315 and Lot 500 in DP 1030729.
- 100 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.
- 101 Any air conditioning units are to be located so that they are not visible from the street or public place and are not obscure windows/window frames or architectural features of the development and installed in a manner not be inconsistent with the relevant provisions of the Building Code of Australia (BCA).
- 102
- (a) Prior to the issue of any Occupation Certificate, the retail spaces are to be allocated to the closest spaces to the retail tenancy.
 - (b) Prior to the issue of any Occupation Certificate, entry/egress doors to the development should have an electronically operated lock which require security swipe pass for entry. The lifts operating in the building should have the same security swipe pass technology. When an occupant buzzes in a visitor the lift should recognise the floor the occupant resides and only allow the visitor access to that floor in the lift.
 - (c) Prior to the issue of any Occupation Certificate, customers and staff of the childcare centre are to be provided with swipe cards that access Level 4 only so as to protect the privacy of the two residences on Level 4, and also to restrict non-customers from accessing Level 4.
- 103 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.

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

- 104 The use of the retail tenancy is subject to a separate approval (DA or complying development certificate).
- 105 The use of the child care centre is subject to a separate Development Application to be lodged with Council for approval. It should be noted in any future application that the primary outdoor area is to be located where the majority of solar access is provided.
- 106 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.
- 107 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 12 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
- 108 Ongoing maintenance of the road verges and footpaths and nature strips in Kent Road Gardeners Road shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
- 109 The use of the premises shall not give rise to any of the following when measured or assessed at “sensitive” positions within any other property. These “sensitive” positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 110 Any air conditioning units shall comply with the following requirements:

- (a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
 - (b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - (i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - (ii) Before 7 am or after 10 pm on any other day.
- 111 Visible light reflectivity from building materials use on new building facades must not exceed 20%.
- 112 The following shall be complied with at all times:
- (a) All loading and unloading associated with the retail tenancy is to be undertaken within the loading dock (basement) of Building C (1-5 Kent Road, Mascot).
 - (b) No garbage collection associated with the retail premises is permitted between 10pm and 6am.
 - (c) The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.
- 113 The following shall be complied with at all times:
- (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, other than permitted by Exempt and Complying provisions;
 - (b) The adaptable apartments approved under this development consent are to remain unaltered at all times; and
 - (c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces as identified by the NSW Police, shall be monitored by CCTV cameras at all times.
- 114 All parking bays shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas. This is to be complied with at all times.
- 115 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. 16/117 dated as 27 July 2016 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

ADVISORY CONDITIONS

- 1 No response was received from the **NSW Police Service**. Standard conditions have been included below:

Surveillance

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

Lighting

- (a) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.
- (b) Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens).
- (c) The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis.

- (d) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.
- (e) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.

Territorial Reinforcement

- (a) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (currently \$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.
- (b) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
 - (i) Warning, trespassers will be prosecuted
 - (ii) Warning, these premises are under electronic surveillance
- (c) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
- (d) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.
- (e) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
- (f) Signage needs to be provided to assist occupants to identify fire suppression equipment, e.g. extinguishers, fire hoses etc.
- (g) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development or at least ground levels situated on the outsides of the buildings.

Space/Activity Management

- (a) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the

event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.

- (b) It is NOT advised to install storage cages or similar for the residents in the underground car park. If it is required, consider that they should NOT be constructed in an isolated area. The cages are easy targets when they have little supervision. CCTV cameras must cover this area if they are constructed. Solid steel housing and quality key locks should be used to prevent access.

Access Control

- (a) The door and door frames to these premises should be of solid construction.
- (b) Doors should be fitted with locks that comply with the Australian Standard – Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are required for residential units.
- (c) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space.
- (d) The doors in the required exits must be readily open-able without a key from the side that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor.
- (e) Any sliding doors MUST be fitted with lockable bolts in the bottom and top of the door frame.
- (f) The windows and window-frames to these premises should be of solid construction. These windows should be fitted with locks with comply with the Australian Standard – Mechanical Locksets for windows in buildings, AS:4145 <http://www.standards.org.au> to restrict unauthorised access. This standard specifies the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical windows, such a wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses and factories.

Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms).

- (g) The main access to the underground car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering.