

COUNCIL ASSESSMENT REPORT

Panel Reference	2016SYE095
DA Number	16/150
LGA	Bayside Council
Proposed Development	Integrated Development Application for the construction of a mixed use development incorporating a 4 storey podium with four x 14-storey towers containing residential units, retail space, childcare centre, private recreation facilities, basement and above ground 'sleeved' car parking and 35,532sqm of gross floor area; landscaping and dedication of land along the Church Avenue frontage; construction of southern half of a new east-west street along the northern alignment of the site; landscaping and dedication of a new public park; associated excavation, earthworks and landscaping; and land subdivision.
Street Address	42 Church Avenue, Mascot NSW 2020
Applicant/Owner	Karimbla Constructions Services (NSW) Pty Ltd
Date of DA lodgement	29 August 2016
Number of Submissions	12 objections (Round 1 of notification) 30 (Round 2 of notification) 9 (Round 3 of notification)
Recommendation	Deferred Commencement
Regional Development Criteria (Schedule 4A of the EP&A Act)	Development with a CIV of \$93,295,939.00
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 (Infrastructure) 2007 • State Environmental Planning Policy No. 55 – Contaminated Land • State Environmental Planning Policy 2004 (BASIX); • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide • Botany Bay Local Environmental Plan 2013 • Botany Development Control Plan 2013
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Annexure A- SEPP 65 and ADG compliance table
Report prepared by	Angela Lazaridis – Senior Development Assessment Officer
Report date	18 May 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?	No
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Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?	Yes
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Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

SYDNEY CENTRAL PLANNING PANEL

SCPP No	2016SYE095
DA Number	16/150
Local Government Area	Bayside Council
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List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 4A – Development for which regional panels may be authorised to exercise consent authority functions of councils • Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 – Contaminated Land • State Environmental Planning Policy 2004 (BASIX); • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide • 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"> • Annexure A- SEPP 65 and ADG compliance table
Recommendation	The Sydney Central Planning Panel, as the Determining Authority

	<p>resolve to:</p> <ul style="list-style-type: none"> a) <i>Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum height of 46.3m (RL 51.0 m) for the height of building;</i> b) <i>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 3.32:1; and</i> c) <i>Issue “Deferred Commencement” consent under Section 80(3) of the Environmental Planning and Assessment Act 1979 for Development Application No. 16/150 with such consent not to operate until the following conditions are satisfied:</i> <ul style="list-style-type: none"> DC1 <i>The applicant shall prepare and provide to Sydney Trains for approval/certification the following final versions of the items listed below (but not limited):</i> <ul style="list-style-type: none"> 1. <i>Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.</i> 2. <i>Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.</i> 3. <i>Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.</i> 4. <i>Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and rail corridor land.</i> 5. <i>If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.</i> DC2 <i>The period of the “Deferred Commencement” consent is to be limited to 6 months and if the information required by DC1 is not provided within this period, the consent will lapse.</i>
Report by	Angela Lazaridis – Senior Development Assessment Officer
Annexure A:	SEPP 65 Assessment: Apartment Design Guide

RECOMMENDATION

In view of the below comments, it is RECOMMENDED that the Sydney Central Planning Panel (SCPP), 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 46.3 metres (51m AHD);*
- (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 3.32:1; and*
- (c) *Issue “Deferred Commencement” consent under Section 80(3) of the Environmental Planning and Assessment Act 1979 for Development Application No. 16/150 with such consent not to operate until the following conditions are satisfied:*

DC1 *The applicant shall prepare and provide to Sydney Trains for approval/certification the following final versions of the items listed below (but not limited):*

- 1. *Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.*
- 2. *Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.*
- 3. *Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.*
- 4. *Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and rail corridor land.*
- 5. *If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.*

DC2 *The period of the “Deferred Commencement” consent is to be limited to 6 months and if the information required by DC1 is not provided within this period, the consent will lapse.*

EXECUTIVE SUMMARY

Council received Development Application No. 16/150 on 29 August 2016 for the construction of a mixed use development incorporating a 4 storey podium with four x 14-storey towers containing residential units, retail space, childcare centre, private recreation facilities, basement and above ground 'sleeved' car parking and 35,532sqm of gross floor

area; landscaping and dedication of land along the Church Avenue frontage; construction of southern half of a new east-west street along the northern alignment of the site; landscaping and dedication of a new public park; associated excavation, earthworks and landscaping; and land subdivision.

The Development Application is required to be referred to the Sydney Central Planning Panel (SCPP) pursuant to Clause 3 of Schedule 4A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as the Capital Investment Value of the proposal is greater than \$20,000,000.

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

The Development Application was advertised from 14 September to 14 October 2016. Twelve (12) submissions were received which generally related to overshadowing and traffic generation. The amended plans were re-notified for a period of fourteen days from 30 March to 13 April 2017. Thirty (30) submissions were submitted during the second notification period raising issues relating to overshadowing and construction management concerns. These issues have been discussed in detail throughout the report. A further 7 days were provided to the objectors to comment on the additional shadow diagrams between 10 May and 17 May 2017.

Key issues that were raised in the assessment of the proposal include non-compliance with the height and FSR of the development. The proposal seeks to construct the development to a maximum height of 46.3 metres to the top of the plant room of Building C. This is a variance of 5.2%. Additionally, the applicant has provided an additional 94 car spaces over the minimum requirement for car parking under the RMS Traffic Guidelines. Council position is that any additional car spaces over the minimum requirement stated and located and above ground should be included within the GFA calculations. The Applicant does not follow this opinion, however have provided Council a Clause 4.6 variation to the development standard which is 3.2:1. The development proposes a FSR of 3.32:1 (36, 819sqm). Both Clause 4.6 variations have been assessed and are supported by Council.

In regards to compliance with the ADG, the development falls short on a number of controls including ceiling heights for the first floor level, deep soil calculations, communal open space calculations, building depth, building separation and storage area. The development provides a floor to ceiling height of 2.7 metres for the first floor. The first floor has been proposed for residential and not for commercial uses. Considering the site is flood affected and the use is for residential, the min. 2.7 metre dimension is acceptable. With regards to deep soil and communal open space, the applicant has included the public park to be dedicated to Council within their calculations. This is acknowledged by Council throughout the assessment of the proposal and in the report. The report has broken down the deep soil and communal open space area including and excluding the park. In regards to deep soil, by including the park within the site, there is a total of 2,124sqm (19.1%). Exclusion of the park would result in 475sqm (4.3%). With regards to communal open space, inclusion of the park would result in 2,836sqm (25.5%) however excluding the park will result in 1,473.5sqm (13.3%).

The proposed building depth is greater than the 12m to 18m guide provided by the ADG with the proposal having a depth of between 21m to 23m. The plans demonstrate that the orientation and location of the buildings will continue to receive the minimum requirement for cross ventilation and solar amenity to the development. With regards to building separation, the development is generally inconsistent with the control however as the proposal fronts three streets, the non-compliances to the northern, southern and eastern elevations are

acceptable. The western side of Building C has a building separation of 6 metres from the podium level to Level 13. The property to the immediate west is built in close proximity to the boundary and is a commercial building. The proposal has provided highlight windows along this elevation to prevent overlooking. Finally, with regards to the storage area proposed, relevant conditions have been recommended in the consent so that the apartments comply with the minimum storage requirements for the development.

With regard to non-compliances with the Council's DCP controls, the proposal departs from the minimum service vehicle requirement, building length, landscaped area, through site link, unit mix, family friendly apartments and setbacks. While the development is not compliant with the minimum service bays for the development, it does comply with the minimum requirement under the RMS Guidelines thereby having a one service bay to cater for the residential and commercial areas. The building length of each tower is greater than 24 metres however the building envelopes proposed are consistent with the surrounding development. Similar to deep soil and communal open space as discussed above, the applicant has included the park within their calculations. With the inclusion of the park and the setbacks within the road widening areas, the total landscaped area is 3,052.6sqm (27%), with the exclusion of the park the area is 1,687.6sqm (15%). Council is satisfied with this calculation.

The through site link has not been incorporated on the plans which was to run through the centre of the site and connect to the public park. This is acceptable as the site is bound by three streets and access to the park is achieved. With regards to unit mix, the development proposes a total of 27% 1 bedroom apartments which is a non-compliance from the maximum 25% control. As this is a minor non-compliance and there is a good mix of two and three bedroom apartments, the departure is supported. The proposal generally complies with the family friendly controls however relevant conditions have been recommended in the consent to comply, in particular relating to the study nooks/areas. Finally, the setbacks proposed for each tower are generally consistent however there are non-compliances to the setback zone due to balcony protrusions by 1 metre. The protrusions provide for articulation of the building and are satisfactory.

While the solar amenity of the development is compliant, an assessment of the solar amenity of the southern neighbouring property was assessed and is discussed in detail within Note 4 below. Council is generally satisfied that the development receives the minimum solar amenity to its communal open space.

In summary, the proposed DA has been assessed against the relevant controls and on balance, Council is generally supportive of the proposal.

Concurrence has been provided by all relevant authorities with the exception of Sydney Trains. Sydney Trains have provided Council with deferred commencement conditions which have been recommended within the Schedule of Consent Conditions. The deferred commencement conditions are to be satisfied within 6 months of the date of determination.

It is recommended that the application be issued with a deferred commencement, subject to the conditions of consent in the attached Schedule.

BACKGROUND

Council received Development Application No. 16/150 on the 29 August 2016 seeking consent for the abovementioned development.

Prior to lodgement, on 16 June 2016, the application was reviewed by the Design Review Panel (DRP) who supported the design in principle. Re-submission to the DRP was not required.

The development application was notified for a period of thirty (30) days from 14 September to 14 October 2016. Twelve (12) submissions were received.

On 7 December 2016, the application was presented to the Traffic Advisory Committee Meeting where recommendations were provided by the committee and were forwarded onto the Applicant to address.

On 4 January 2017, an additional information letter was sent to the applicant requesting additional information. Council's key concerns are outlined in the left-hand column of the table below and commentary on the plans (as amended), submitted on 24 February 2017, in the right-hand column.

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

Council's Key Issues		Comment
Floor Space Ratio		
The development has not considered the additional car parking spaces within the FSR of the proposed development. Additional residential spaces are proposed. Applicant is to recalculate and either reduce the GFA to comply or provide a Clause 4.6 variation.		An amended Clause 4.6 variation was provided to Council for assessment to include the additional car parking spaces contributing to a GFA of 36,819sqm (3.32:1).
Height Variation within the SEE and Clause 4.6		
Inconsistencies are proposed with the height proposed across the site on the plans and the SEE. An amended Clause 4.6 variation is to be provided stipulating the correct variance across the site.		An amended Clause 4.6 variation was provided to Council demonstrating the correct variance proposed for both the building component and the plant room component. The development proposes a maximum of RL 51 metres. The Clause 4.6 variation has been considered in the report below.
Car and Bicycle Parking		
Podium levels include sleeved car parking along Church Avenue which is not in accordance with Part 9A of the BBDCP 2013; Allocation of car parking is non-compliant for visitor spaces, retail and child care centre; Inconsistencies with the number of car parking spaces within the development; The applicant has not demonstrated the minimum number of bicycle parking within the car parking levels.		The applicant has provided the following commentary relating to Councils RFI: <ul style="list-style-type: none"> • Apartments located in the podium along the Church Ave frontage would not achieve levels of suitable amenity. They would be south facing and would fail ADG solar access requirements and natural cross ventilation would be difficult to achieve. The proposal has been designed with activation by the presence of residential building entries along this frontage of the site. A high level of attention has been placed on ensuring that the remainder of the Church Street podium elevation is treated architecturally. Above the podium, the south facing elevations of the towers are occupied by residential apartments. • Car parking has been amended to comply for visitors and retail – refer to amended traffic report.

Council's Key Issues	Comment
	<ul style="list-style-type: none"> The number of car parking spaces is shown on the cover of the amended architectural drawing set and in the amended traffic report. The required 68 bicycle parking spaces are to be accommodated within allocated resident storage spaces located in the parking areas of the proposed development. A bicycle parking area for the retail and childcare has been situated and will accommodate 4 racks. An updated traffic report accompanies this amended submission and provides an assessment of this updated bicycle provision. There does not appear to be a requirement in Council's DCP for end of trip bicycle facilities for a development of this type. The internal fitout of the childcare centre will provide for staff amenities – subject to separate future internal fitout DA to Council.
Solar Access	
No shadow diagrams have been provided for March/September, no shadow analysis and diagrams have been provided showing the impact onto the southern neighbouring property and solar protection for the western facing glass of the development has not been considered.	Amended shadow diagrams have been provided demonstrating the impact of the development onto the neighbouring sites and the degree of overshadowing at March/September. A solar reflectivity assessment has been prepared by SLR and accompanies the application demonstrating façade materials and façade design as well as shielding from the surrounding buildings in regards to glare.
Land Acquisition	
Proposed road widening as marked under the LEP 2013 has not been demonstrated on the splay along the south western corner of the site.	Amended plans (civil, architectural and landscape) have been provided showing the road widening.
Building Setbacks	
Balcony encroachments are proposed within the setback zones. Justification or compliance with the setback requirements is needed.	The applicant has provided a justification to the encroachment into the setback zone. The balconies provide articulation to the facades of the building and are only limited to a small portion of the balconies. This non-compliance is assessed in detail below.
Active Street Frontage along Bourke Street	
The ground floor of Building A contains ground floor apartments which is not consistent with Clause 6.15 of the BBLEP 2013- Street Activation.	Amended plans have been provided replacing the ground floor units with retail tenancies to address this issue.
Communal Open Space, deep soil and the public domain	
Non-compliance in the calculation of communal open space, deep soil and landscaping.	The applicant maintains that the public park is to be included within the site area when calculating deep soil, landscaping and communal open space. Council's opinion is that this should be excluded from the calculation as the park will be public and dedicated to Council once completed. The non-compliances in landscaped area, deep soil and communal open area have been assessed in the report below.

Council's Key Issues		Comment
Balcony sizes		
A number of the balcony sizes are undersized and do not comply with the minimum POS requirement within the ADG.		Amended plans demonstrate that the balconies are now compliant with the minimum requirements under the ADG.
Minor details to be addressed		
Minor changes to the plans are required to contain storage within all apartments, plan identifying landscaped area and deep soil, cross ventilation and solar plans did not have internal layouts, no windows were provided within Unit 228		Amended plans were provided demonstrating compliance with Council's RFI.
Traffic Advisory Committee		
A number of issues were raised by the Traffic Advisory Committee which include child care drop off and pick up zones, consideration of future works along Church Avenue, swept path analysis and driveway design.		Amended plans and an amended Traffic Impact Statement have been provided addressing the issues raised by the Committee.
Additional Landscape Information		
A number of landscaping and tree issues were raised by Council's Landscape Architect. Some of the issues relate to deep soil, landscaped area, communal open space, setback zones, and treatment of the public domain.		Amended landscape plans and architectural plans have been provided and have been assessed by Council's Landscape Architect. Appropriate conditions have been recommended in the Schedule of Consent Conditions.

Further to the information provided above, the application was further re-notified for a period of fourteen (14) days from 30 March to 13 April 2017. A further thirty (30) objections were received from the second round of notification. Due to the large number of objections, Council requested that the applicant address the overshadowing issue onto the communal open area of the southern neighbouring properties. In addition to the overshadowing issue, Council's Landscape Architect had provided preliminary comments relating to the landscaped area on the site and the non-compliances to the deep soil area, communal open space area and landscaped area. The applicant has included the public park which will be dedicated to Council within their calculations. Council does not support the inclusion of the land to be dedicated to Council within the landscaping/open space calculations.

On 4 May 2017, the Applicant provided further solar analysis plans and shadow diagrams demonstrating the degree of overshadowing specifically to the communal open space area at 8 Bourke Street as well as a response matrix to address the landscaping non-compliances. Once in receipt of the amended plans, Council sent these plans to the objectors to provide comment for a period of seven (7) days between 10 May to 17 May 2017. Nine (9) objections were sent which maintained the objections to the proposal on overshadowing and height grounds.

Throughout the assessment of the development application, as the site is within 25 metres of the rail corridor, correspondence between the Applicant, Sydney Trains and Council were carried out relating to Sydney Trains concurrence. On 30 November 2016, 31 January 2017 and 20 March 2017, Sydney Trains made direct requests to the applicant for additional information to satisfy Sydney Trains conditions. To this date, inadequate information has been provided by the Applicant to Sydney Trains therefore Sydney Trains has issued deferred commencement conditions to be recommended in the Schedule of Consent Conditions prior to issuing concurrence on the development. The deferred commencement conditions were provided on 9 May 2017.

DESCRIPTION OF SITE AND SURROUNDING LOCALITY

The subject site is legally known as 42 Church Avenue, Mascot and forms three parcels of land described as Lot 1 in DP 376752, Lot 3 in DP 376752 and Lot 21 in DP1014063.

The subject site is located on the western side of Bourke Street between Gardeners Road to the north, Kent Road to the west and Church Avenue to the south. Galloway Street is a new street currently under construction and runs along the northern boundary of the site. The site is approximately 120 metres to the north-west of Mascot Train Station.

The site has a total area of 11,104sqm with a 108.5 metres street frontage to Church Avenue, a 101.5 metre street frontage to Bourke Street, a 101.9 metres western boundary length and a 109.1 metre northern boundary length. The site is generally flat.

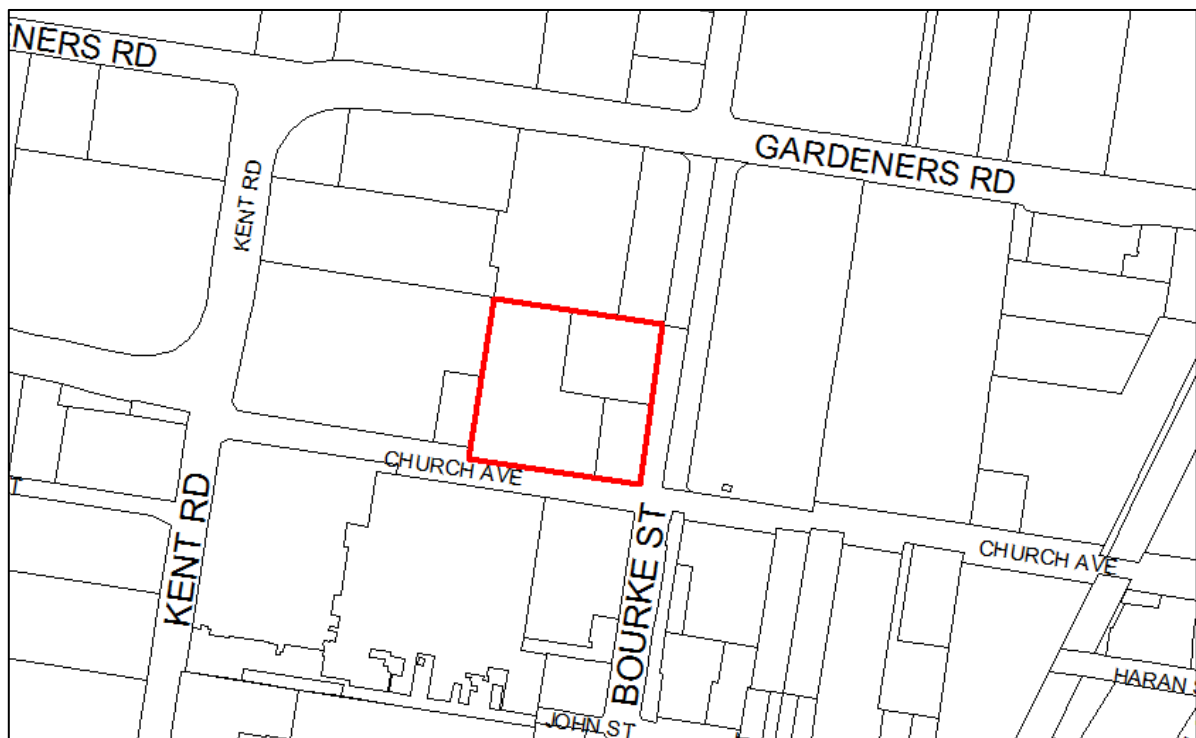


Figure 1. Locality Plan



Figure 2. Aerial Map of the subject site and surrounding development

The site is currently occupied by two commercial/industrial buildings constructed out of brick and metal roofing. There are a total of 4 units with one of the units further divided into 4. The eastern building currently comprises a warehouse for furniture home wares (Coco Republic), offices for a not-for-profit organisation (Disability Services Australia) and a company specialising in auto-bag drops and baggage handling (ICM Airport Technics). The second building along the western side of the site is currently used by an engineering and construction company (Geovert). The site is accessed off one driveway off Church Avenue and one driveway off Bourke Street. The Church Avenue driveway is burdened by a right-of-way, providing access to the site. The corner of the south-western side of the development is impacted by road widening. The site is located within the 20-25 ANEF zone and is within 25 metres of the Sydney Trains easement for underground rail (Airport Tunnel).



Figure 3. Subject site viewed from the south eastern corner



Figure 4. Subject site viewed from the southern side



Figure 5. Church Avenue with 19-33 Kent Road and 8 Bourke Street facing easterly



Figure 6. Neighbouring site at 8 Bourke Street viewed from north-eastern side



Figure 7. 8 Bourke Street north-eastern tower viewed from north-eastern side

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 within Part 9A of the BBDCP 2013. The table below lists the relevant details of the surrounding mixed-use developments.

Table 2: Approved GFA, FSR and heights of surrounding development

Site	Location	Approval Body	Units	FSR	Height
1-5 Kent Road (Meriton)	North-east of the site	Former JRPP	235	3.27:1	47.2m (RL 51)
671-683 Gardeners Road (Jewel of India)	North-east of the site	Former JRPP	242	3.34:1	42.5m (RL 49.15)*
659-669 Gardeners Road (Avantra)	Adjoins northern boundary	Court Appeal	328	3.33:1**	45.5m (approx. RL 50.3)
7-9 Kent Road, Mascot (Bridgehill)	Adjoins western boundary	Court Appeal	510	3.78:1	47.4m (RL 51)

SITE HISTORY

DA-09/330- was approved on 28 May 2009 with 10 employees- approved for the use of the existing premises as office and warehouse for drill bits, compressors and safety equipment

DA-07/296- was approved on 9 July 2007 with 81 employees (based on the proposed floor area) - approved for the change of use for predominantly internal and minor external alterations to two of the existing warehouses (units 3 and 4) and for the purpose of using unit 4 for office purposes only, and to amend the parking layout on the site and to construct a new roof over the warehouse of unit 4.

DESCRIPTION OF DEVELOPMENT

The proposed development (as amended) seeks consent for the construction of a mixed use development incorporating a 4 storey podium with four x 14-storey towers containing 340 residential units, 512sqm of retail space, childcare centre, private recreation facilities, basement and above ground 'sleeved' car parking for 510 car spaces and 35,532sqm of gross floor area and landscaping.

Built Form

The building is arranged into four cores servicing the four towers and the podium:

Tower A (north-east)

- 81 units;
- 4 storey podium of residential and sleeved parking plus ten residential storeys above;
- Communal pool and gymnasium on Ground Floor (between Building A and B);
- Commercial/retail space on the ground floor measuring 150sqm;
- Lobby and lift core with 2 lifts;
- Building Manager Room.

Tower B (south-east)

- 94 units;

- 4 storey podium of residential and sleeved parking plus ten residential storeys above;
- Commercial/retail space on the ground floor measuring 362sqm;
- Lobby and lift core with 2 lifts;
- Loading dock area and waste holding rooms for the residential and retail components located within the ground floor car park level.

Tower C (south-west)

- 77 units;
- 4 storey podium of residential and sleeved parking plus ten residential storeys above;
- Lobby and lift core with 2 lifts.

Tower D (north-west)

- 88 units;
- 4 storey podium of residential and sleeved parking plus ten residential storeys above;
- Child care centre measuring 558sqm indoor area and 686sqm outdoor area;
- Child care lobby on the ground floor with lift access to child care centre;
- Lobby and lift core with 2 lifts.

Apartment Mix

A breakdown of the apartment mix is as follows:

91 x 1+ bed units = 27%

174 x 2 bed units = 51%

75 x 3 bed units = 22%

Car Parking and Servicing

The development includes 4 levels of above ground car parking located within the podium of the building and one level of basement car parking. The above ground car park is sleeved behind apartments on the northern, eastern and western sides and behind retail on the ground floor of the eastern side. The car park is accessed via an entry/exit located on the southern frontage under Tower B off Church Avenue. Details of the car park are as follows:

Total amount of car spaces: 510 car spaces

Residential: 412 spaces (incl. 34 disabled spaces)

Visitor (residential): 49 spaces (incl. 1 disabled space)

Retail: 20 spaces

Childcare centre: 29 spaces (incl. 1 disabled space)

Bicycle parking: 72 spaces

Communal area (internal and external)

The development includes the following areas of communal open space:

- Podium- This is the primary area of COS to be used by the residents. The space includes lawn area, bench and seating, children's play equipment- 1,320.5sqm.

- Swimming pool and gym- indoor swimming pool and gym facilities are located on the ground floor underneath Tower A- 398.19sqm. There is an outdoor fitness station adjoining the swimming pool/gym facilities- 153sqm

Public/Land Dedication works

The proposal also involves the dedication to Council of land along the Church Avenue frontage for road widening, construction of the southern half of Galloway Street along the northern alignment of the site which is also to be dedicated to Council, landscaping and dedication of a new public park, associated excavation, earthworks and landscaping;

Subdivision

It is proposed to subdivide the site into three new lots, as follows:

- Pt Lot 100: Development site for all buildings- 8,159sqm
- Pt Lot 101: Church Avenue Street widening- to be dedicated to Council- 756.8sqm
- Pt Lot 102: Galloway Street to the north and public park- to be dedicated to Council- 2,188sqm

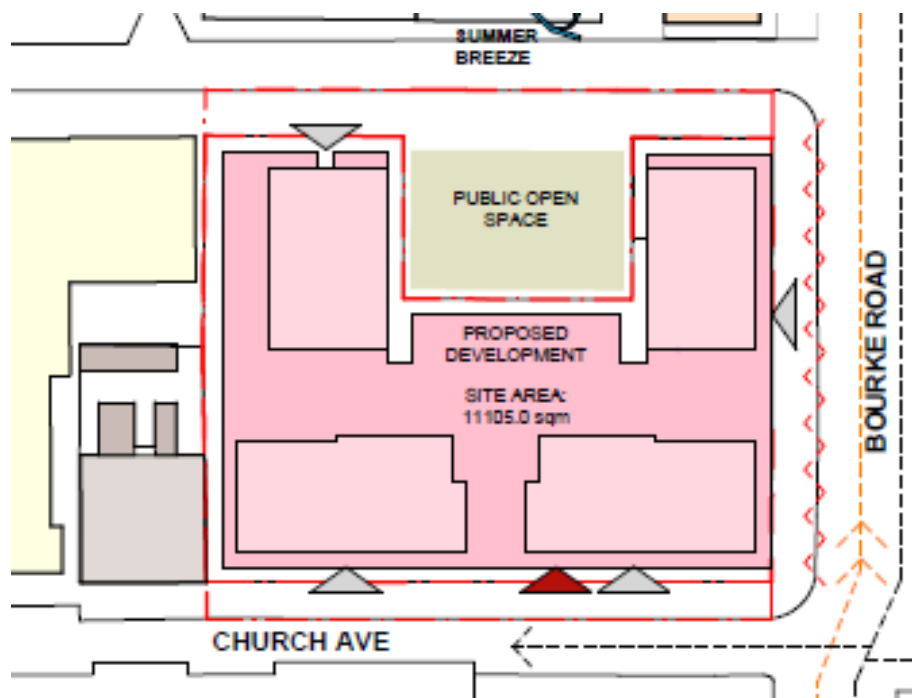


Figure 8. Proposed Site Analysis Plan



Figure 9. Proposed Northern Elevation



Figure 10. Proposed Eastern Elevation

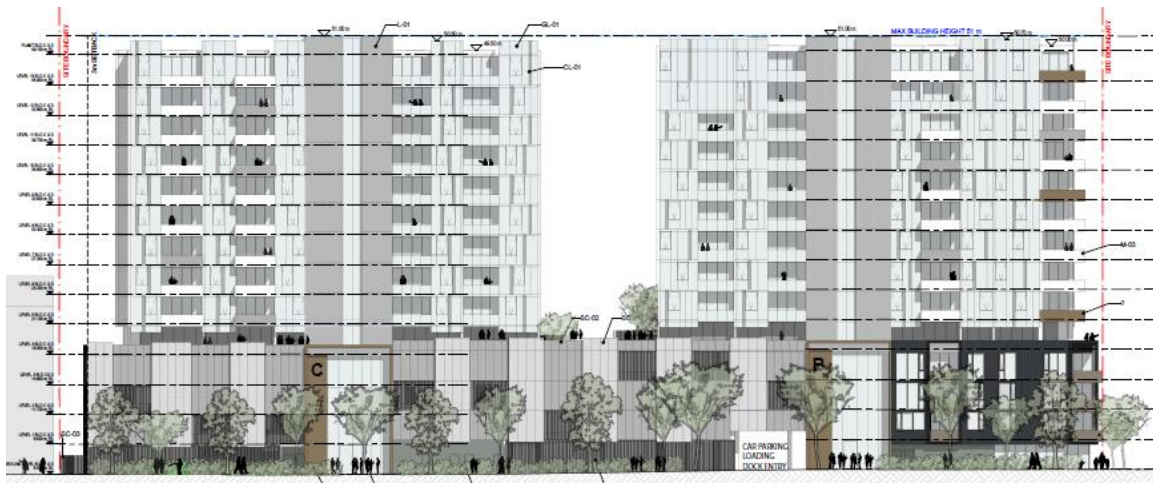


Figure 11. Proposed Southern Elevation

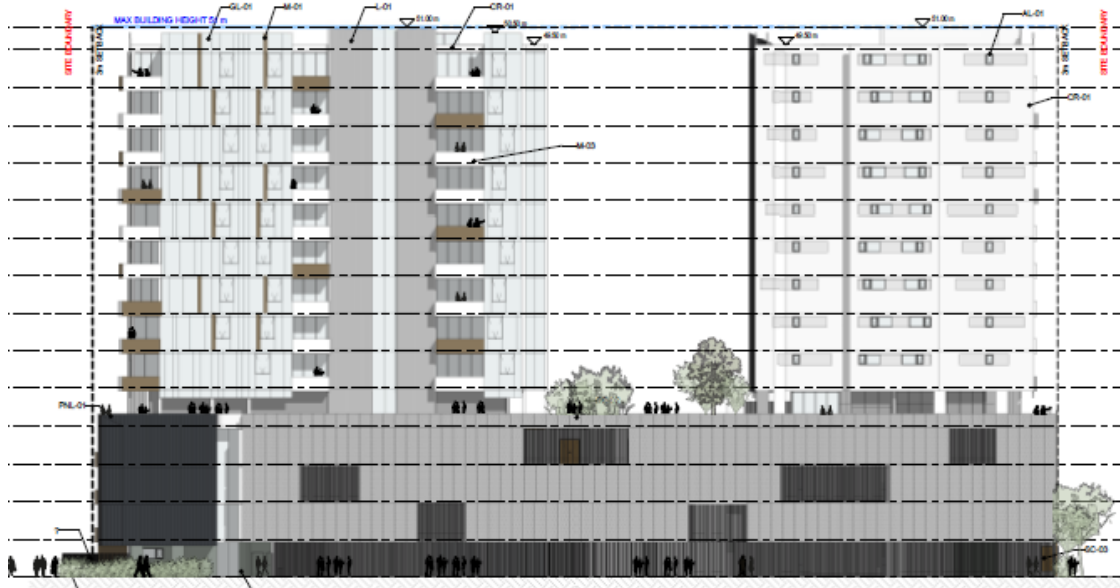


Figure 12. Proposed Western Elevation

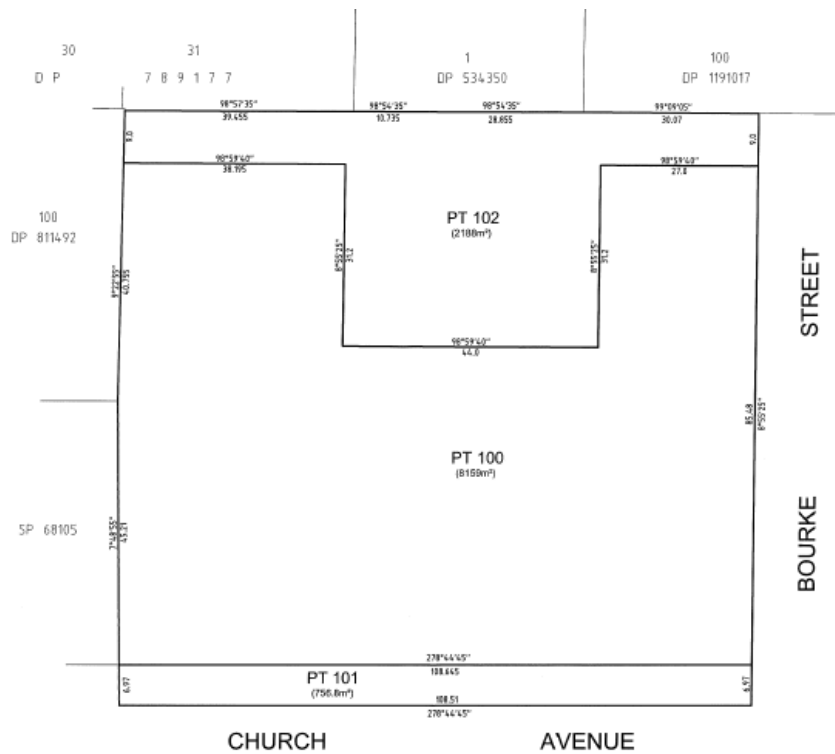


Figure 13. Proposed Subdivision of the site separating roads and park to be dedicated to Council



Figure 14. Perspective from the south-eastern corner of the site

Key Controls

The key controls relevant to the proposal are provided below:

Table 3: Compliance with key provisions

Control	Required	Proposal	Complies (yes/no)
Site Area	-	Site Area: 11,104sqm Land dedication: 2,945sqm (roads and park) Site Area (minus land dedication): 8,159sqm	N/A
SEPP 65 - ADG			
Car Parking (ADG / RTA Guide to Traffic Generating Dev.)	<u>Residential</u> 0.6 space x 91 1 bed unit = 54.6 0.9 space x 174 2 bed unit = 156.6 1.4 space x 75 3 bed unit = 105 Sub-total: 316.2 1 visitor space / 7 dwellings = 48.6 Total Residential: 364.8 <u>Retail</u> 1/25sqm (20 req.)	<u>Residential</u> 1 bed units: 90 spaces 2 bed units: 173 spaces 3 bed units: 149 spaces Sub-total: 412 Visitor spaces: 49 Total Residential: 461 <u>Retail</u> 20 spaces <u>Child Care Centre</u>	Yes

Control	Required	Proposal	Complies (yes/no)
	<p><u>Child care centre</u> 1/2 employees (8 req.) 1/5 children (17.2 req.) 1/20 children drop off/pick up (4.3 req.) Sub-total: 29.5</p> <p><u>Service Bays</u> 1 loading dock for residential is desirable</p> <p>Total required: 414.3 (excluding service vehicle requirements)</p>	<p>29 spaces</p> <p><u>Service Bays</u> Service Bay: 1</p> <p>Total provided: 510 spaces (not including service vehicles)</p>	
Dwelling Size	<p>Minimum internal areas as follows: 1 bed unit: 50sqm 2 bed unit: 70sqm 3 bed unit: 90sqm</p>	<p>1 bed units: 53 – 68sqm 2 bed units: 81 – 91sqm 3 bed units: 101 – 120sqm</p>	<p>Yes Yes Yes</p>
Ceiling Height	<p>Habitable Rooms: 2.7m Non-habitable: 2.4m Mixed Use: 3.3m for ground and first floor</p>	<p>Habitable rooms: 2.7m Non-habitable rooms: 2.4m Mixed Use (GF): 3.3m (min.) Mixed Use (FF): 2.7m</p>	<p>Yes Yes Yes No Refer to Note 1</p>
Deep Soil	<p>Objective 3E-1 requires 7% of the site (for sites over 1,500sqm) as deep soil area with min. dimensions of 6m</p>	<p>2,124sqm (19%) (park incl. within calculation) 475sqm (4.3%) (park excl. from calculation)</p>	<p>Yes No Refer to Note 2</p>
Communal Open Space	<p>25% of site (2,039.75sqm)</p>	<p>2,836sqm (25.5%) (park incl. within calculation) 1,473.5sqm (13.3%) (park excl. from calculation)</p>	<p>Yes No Refer to Note 3</p>
Solar Access	<p>50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours during mid-winter Note: Part 4C requires that COS receives 3 hours in winter.</p>	<p>More than 50% of COS receives greater than 2 hours of sun. Podium level: 3 hours min.</p>	<p>Yes Generally Refer to Note 4</p>
	<p>Living rooms and POS for at</p>	<p>71% of apartments receive sunlight</p>	<p>Yes</p>

Control	Required	Proposal	Complies (yes/no)
	least 70% of apartments (and in neighbouring development) to achieve 2 hours between 9am and 3pm	13% of apartments don't receive sunlight Neighbouring property- communal open space receives 2 hours	Yes Refer to Note 4
Building Depth	Use a range of appropriate maximum apartment depths of 12-18 metres	Variety of depths ranging from 21-23 metres	No Refer to Note 5
Building Separation	<u>Up to 4 storeys (approx. 12m):</u> 3m from non-habitable rooms to site boundary 6m from habitable rooms/balconies to site boundary	<u>Podium levels (setbacks to boundaries)</u> Building A: Eastern boundary: Nil Western boundary: 3m Northern boundary: 3m Southern boundary: - Building B: Eastern boundary: Nil Western boundary: - Northern boundary: - Southern boundary: 3m Building C: Eastern boundary: - Western boundary: 3m Northern boundary: - Southern boundary: 3m Building D: Eastern boundary: 3m Western boundary: 3m Northern boundary: 3m Southern boundary: -	No Yes Yes N/A No N/A N/A Yes N/A Yes N/A Yes Yes Yes Yes N/A
	<u>Five to eight storeys (25m):</u> 4.5m from non-habitable rooms to site boundary 9m from habitable rooms/balconies to site boundary	<u>Levels 5-8 (setbacks to boundaries)</u> Building A: Eastern boundary: 2-3m Western boundary: 2-3m Northern boundary: 5-6m Southern boundary: 18m Building B: Eastern boundary: 2-3m Western boundary: 12m Northern boundary: 18m Southern boundary: 5-6m Building C:	No No No Yes No No Yes No

Control	Required	Proposal	Complies (yes/no)
		Eastern boundary: 12m Western boundary: 6m Northern boundary: 18m Southern boundary: 5-6m Building D: Eastern boundary: 3m Western boundary: 12m Northern boundary: 5-6m Southern boundary: 18m	No No Yes No No Yes No Yes
	<u>Nine storeys and above (over 25m):</u> 6m from non-habitable rooms to site boundary 12m from habitable rooms/balconies to site boundary	<u>Levels 9 and above (setbacks to boundaries)</u> Building A: Eastern boundary: 2-3m Western boundary: 2-3m Northern boundary: 5-6m Southern boundary: 18m Building B: Eastern boundary: 2-3m Western boundary: 12m Northern boundary: 18m Southern boundary: 5-6m Building C: Eastern boundary: 12m Western boundary: 6m Northern boundary: 18m Southern boundary: 5-6m Building D: Eastern boundary: 3m Western boundary: 12m Northern boundary: 5-6m Southern boundary: 18m	No No No Yes No No Yes No No No Yes No No Yes No Yes Refer to Note 6
Balcony Sizes	1 bed: 8sqm 2 bed: 10sqm 3+ bed: 12sqm Ground Floor: 15sqm	1 bed: 8-52sqm 2 bed: 10-50sqm 3 bed: 12-153sqm Ground Floor: 24-100sqm	Yes Yes Yes
Storage	1 bed: 6m ³	1 bed: 6sqm min.	Yes

Control	Required	Proposal	Complies (yes/no)
	2 bed: 8m ³ 3+ bed: 10m ³ 50% of the storage area is to be contained in the unit	2 bed: 8sqm min. 3+ bed: 10sqm min. 50% of the storage area is contained in unit	Yes Condition Refer to Note 7
BBLEP 2013			
Zone	B4	Mixed Use (Residential Flat Building, Commercial tenancies and Child Care Centre)	Yes
FSR	3.2:1 under BBLEP 2013	3.2:1	Yes
GFA	35,532sqm (maximum) calculated based on permissible FSR under BBLEP 2013	36,819sqm (including excess car parking space)	No Refer to Note 9
Height	44 metres (maximum)	<p>Building A: Building Height: 45.1m (RL 51) – 2.5% variance Plant Room Height: 45.1m (RL 51) - 2.5% variance</p> <p>Building B: Building Height: 44.8m (RL 50.7)- 1.8% variance Plant Room Height: 45.1m (RL 51) - 2.5% variance</p> <p>Building C: Building Height: 45.8m (RL 50.5) - variance of 4% Plant Room Height: 46.3m (RL 51) - 5.2% variance</p> <p>Building D: Building Height: 45.2m (RL 50.5)- 2.7% variance Plant Room Height: 45.8m (RL 51)- 4% variance</p>	No- Refer to Note 8
BBDGP 2013			
Car Parking	<u>Commercial (shop)</u> 1 space / 25sqm (20 req.) <u>Child Care Centre</u>	<u>Commercial</u> 20 spaces <u>Child Care Centre</u>	Acceptable Refer to Note 11

Control	Required	Proposal	Complies (yes/no)
	1/2 employees (8 req.) 1/5 children (17.2 req.) 1/20 children drop off/pick up (4.3 req.) Sub-total: 29.5 <u>Service Bays</u> 1/100 units (4 req.) Note: 50% of service bays to be designed for MRV or larger) Note: No requirement for car wash bays	29 spaces <u>Service Bays</u> Service vehicle: 1 provided 1 car wash bay provided Service vehicles: 1 MRV space provided (Building B)	
Bicycle Parking	In every new building, where the floor space exceeds 600m ² GFA, bicycle parking equivalent to 10% of the required car spaces or part therefore as required in Table 1 shall be provided. Total required: 41.43 (414.3 car spaces based on RTA Guide for Traffic Generating Development x 10%)	Residential: 68 bicycle spaces within the basement/ground level car park Retail: 4 bicycle racks Total provided: 72 spaces	Yes
Basement Access	Minimum clearance height of 4.5m for MRV	Building B (car park and loading dock entry): min. 4.5m (MRV access)	Yes
Streetscape Presentation	The maximum length of a building is 24m	The length of Tower A, B and C exceeds 24m.	No Refer to Note 11
Landscaped Area	Minimum of 35% (2,855.65sqm) based on site after road and park dedication	3,052.6sqm (27%) (park incl. in calculation) 1,687.6sqm (15%) (park excl. from calculation)	No No Refer to Note 12
Unit Mix	No greater than 25% 1 bedroom units	27% proposed	No Refer to Note 14
Dwelling Layout and Family Friendly Apartment Buildings	Satisfy the Family Friendly controls	Refer to Note 15	No Refer to Note 15
Setbacks	<u>Level 1-4</u> Bourke Street: 0m Church Avenue and Galloway Street: 3m <u>Levels 5-13</u> Bourke Street: 3m Church Avenue and Galloway	<u>Level 1-4</u> Bourke Street: 0m Church Avenue: 3 metres Galloway Street: 2m <u>Levels 5-13</u> Bourke Street: 2m – 3m	Yes Yes No No No

Control	Required	Proposal	Complies (yes/no)
	Street: 6m	Internal roads: 5m – 6m	Refer to Note 16

SECTION 79C CONSIDERATIONS

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

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

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

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

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

In this regard, the development application was referred to Water NSW. In a letter dated 16 December 2016, Water NSW provided its General Terms of Approval (GTA) for the proposed development. This development application has been recommended for approval subject to amended GTAs from the Water NSW.

State Environmental Planning Policy (Infrastructure) 2007

The development proposes excavation in, above or adjacent to a rail corridor, with Mascot Train Station located within close proximity of the site. In accordance with Clause 86 of the State Environmental Planning Policy (Infrastructure) 2007, the development application was referred to Sydney Trains for concurrence.

On 8 May 2017, a letter from Sydney Trains was provided to Council requesting that a deferred commencement condition be imposed in the consent as the applicant has not been able to provide all the relevant information necessary for Sydney Trains to carry out their full assessment. The deferred commencement condition is worded as follows:

DC1 *The applicant shall prepare and provide to Sydney Trains for approval/certification the following final versions of the items listed below (but not limited):*

1. *Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.*

2. *Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.*
3. *Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.*
4. *Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and rail corridor land.*
5. *If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.*

In addition to the deferred commencement condition, the letter included operational conditions for the development which have been included in the 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, as the proposed development involves excavation between 2.3m to 3.5m below ground level to accommodate one level of basement car park.

A detailed Site Investigation Report on Contamination and a Remedial Action Plan, both prepared by Douglas Partners in July 2014, as well as a Geotechnical Investigation prepared by Coffey in November 2014, has been submitted in support of the development application.

The Site Investigation Report notes the following recommendations to be carried out on the site:

- *“The identified asbestos contamination will be removed as part of the basement excavation. The significance of asbestos will be determined through ex situ waste classification prior to off-site disposal. There is a potential for asbestos to be present in filling between sampled locations. If any areas of asbestos contamination are identified these can be managed through a process that can be outlined in a remediation action plan (RAP).*
- *The potential impact of EIL/ESL exceedances can be managed through removing the upper fill layers, designing an appropriate landscaping scheme or conducting further investigations in areas proposed for lawns and garden beds.*
- *The general filling on the site has been provisionally classified on the in situ data as General Solid Waste (non-putrescible) for the purpose of off-site disposal. In view of the asbestos detected at sampling locations: 107, 215, 219 and 223 and the large volume of fill required for disposal, an ex situ waste classification is necessary during basement excavation to confirm the final classification of material prior to off-site disposal.*
- *The natural material below the groundwater table on site cannot be classified as VENM due to the presence of Potential Acid Sulphate Soil (reflected in the*

SPOCAS results) and should therefore be treated in accordance with the an Acid Sulphate Soil management plan (ASSMP) prior to disposal. Excavated natural soils above the groundwater table may potentially classify as VENM, provided there are no ASS indicators and an assessment is conducted following removal of the filling overburden.

- If dewatering is required at the site for the proposed basement excavation, supplementary groundwater testing, in particular analysis of heavy metals and TRH/BTEX, will be required to determine the suitability of groundwater for stormwater discharge.

Based on the results of this and previous contamination assessments it is considered that the site can be made suitable for the proposed development subject to additional investigation within the footprint of the existing buildings and implementation of a RAP incorporating the components outlined in s. 10.”

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

The matter of contamination has been considered within this application. Council's Environmental Scientist has reviewed the development proposal and has provided the following comments:

“The site can be made suitable for a proposed commercial/residential use with a public park dedication to council subject to the implementation of the RAP noted above. This is based, however, on plans dated 2014 and does not reflect the current configuration of the park to be dedicated to council. The RAP needs to be updated to reflect this current design. There is Potential Acid Sulfate Soil located within at the site and an Acid Sulfate Soil Management Plan is required. The development will extend into groundwater and dewatering during construction of the basement will be required. This water will require treatment prior to discharge to Councils stormwater system.”

Based on comments in both the reports and by Council's Environmental Scientist, the site can be made suitable for residential use and no objections are raised subject to conditions of consent recommended in the attached Schedule, including the requirement to update the RAP.

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

State Environmental Planning Policy (SEPP) No. 65 was amended on 19 June 2015.

The Council's Design Review Panel (DRP) considered the proposed development on 16 June 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 SCPP and that the DRP only made minor recommendations. Resubmission to the Panel was not required as most recommendations were addressed in the revised design submitted to Council.

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

Table 4: Assessment of DRP Recommendations

DRP Recommendation	Comment
Clearly legible common entries from the street frontages.	<p>The plans provide separate pedestrian entries to each of the four buildings. These residential lobbies have been differentiated from the rest of the building with the following design elements and are clearly legible:</p> <ul style="list-style-type: none"> • Metal cladding system. Colour to match 'black' or 'gold' or similar.
Communal open space include a small enclosed area with basic kitchenette facilities on the roof or top level of each building	<p>The plans have not incorporated a rooftop communal area, rather having it positioned on the podium and ground level. The podium contains BBQ facilities and seating.</p>
Provision for natural light and ventilation to level 3 car park, lift lobbies and corridors	<p>The plans have provided windows to the corridors within the podium level in addition to the lobby areas of each floor outside the lift cores.</p>
Provision of direct access and entry courtyards to all ground floor residential units	<p>All ground level apartments contain external access into and out of the site as demonstrated in the plans.</p>
Provision of a separate access and lift service and lobby for the child care centre for pick up and drop off.	<p>The child care centre has a separate lobby and drop off/pick up area within the ground floor of the development under Building D. There are two lifts with one of the lifts associated with the child care centre.</p>
Further design development and detailing is required of the façade treatment of the carpark storeys to ensure a high quality appearance.	<p>The plans demonstrate a variety of materials and facades treatments proposed along Church Avenue to screen the above ground car parking from the street. The proposed façade treatments include:</p> <ul style="list-style-type: none"> • Perforated metal screens in silver colour • Privacy metal fins in charcoal colour • Metal cladding system in gold colour.

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 a condensed version of Part 3 and 4 of the ADG has been provided in **Annexure A**. An assessment against the significant non-compliances is provided in detail below.

Clause 30(1) of SEPP 65 states that if a development application satisfies the following design criteria, the consent authority cannot refuse an application because

of those matters. These are car parking, internal area of each apartment and ceiling heights.

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

Note 1- First floor ceiling heights

Objective 4C-1 of the ADG relates to the design criteria for ceiling heights. The proposal provides a 3.3m ceiling height to the ground floor commercial unit and a 2.7m ceiling height for the first floor units. Given that compliance with the minimum ceiling height control would increase the overall height limit of the proposal, it is not possible to provide increased ceiling heights to the first floor.

As the site is constrained by flooding, the floor level of the ground floor residential units cannot be lowered to match the commercial units. This means that increased ceiling heights could only be accommodated by an increase in the overall height of the building, or a reduction in the overall height of the development.

The proposal responds to the site constraints by providing appropriate ceiling heights to the ground floor commercial tenancies and residential units along Galloway Street. This is considered to be appropriate, and the non-compliance is supported.

Note 2- Deep Soil

Objective 3E-1 of the ADG requires sites greater than 1,500sqm to have a minimum deep soil zone of 7% with a minimum dimension of 6 metres.

The development has been assessed on two rationales- including the areas to be dedicated back to Council within the calculation of deep soil (i.e. public park) and excluding these areas from the calculation. The applicant's calculation is based on the public park being included in the site area. Therefore, should the public park be included within the calculation, the total area of deep soil is 2,124sqm (19.1%). This is compliant. Should the park be excluded from the calculation, the total deep soil area will be 475sqm (4.3%). Even though the park will form a public recreation space, it is considered that the residents of the development will utilise it more than the surrounding developments. This is because of its location between Building A and D. The park and the podium allow for large trees to be planted to provide shading and a buffer between the built form. The public park could be considered an extension of the development and therefore Council is in support of including the park within the calculation.

Note 3- Communal Open Space

Objective 3D-1 of the ADG requires that sites have a minimum area equal to 25% of the site for communal area and that 50% of the principal usable area of the communal open space receives direct sunlight during 9am to 3pm mid-winter.

Similar to the discussion above, the applicant has included the public park within the calculation of the communal open space. As demonstrated in the figures below, the total amount of communal open space (including the park) is 2,836sqm (25.5%). Exclusion of the park results in a communal open space area of 1,473sqm (13.3%). The communal open space does not include the gymnasium and the swimming pool.

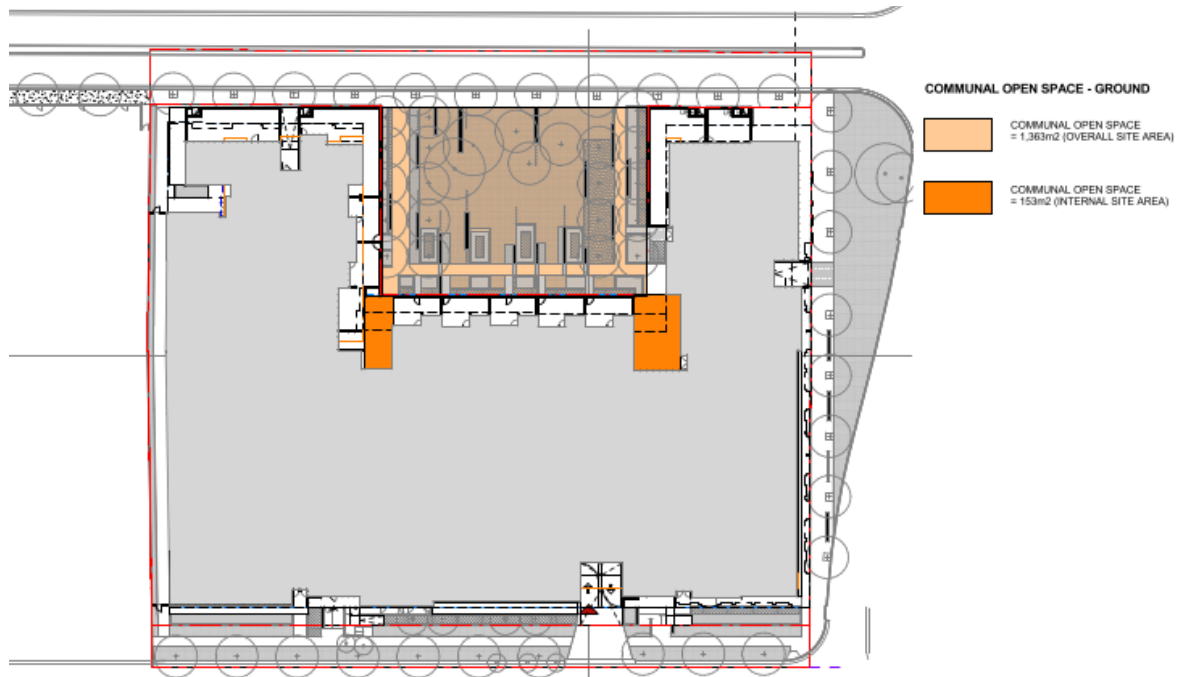


Figure 15. Proposed ground floor communal open space

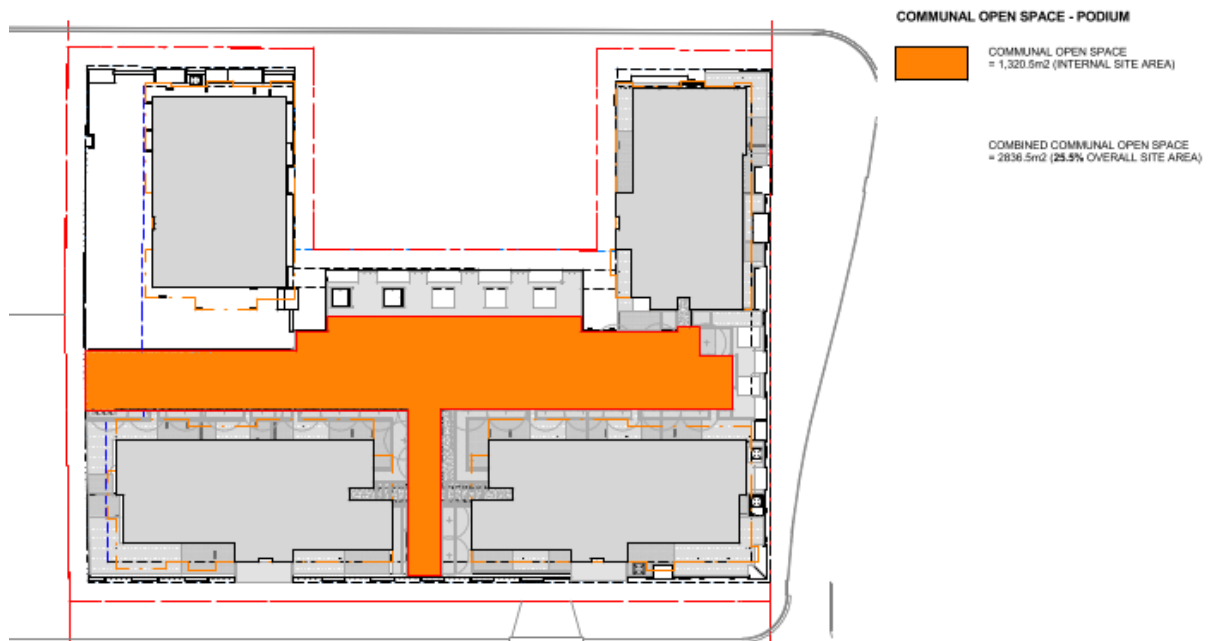


Figure 16. Proposed Communal area on the podium

The communal open spaces proposed on the podium and ground floor contain a variety of uses such as BBQ area, children's play equipment, outdoor fitness gym

station and seating/courtyards. The primary communal open space is centralised on top of the podium and receives the minimum 50% solar amenity to its principal area for a minimum of 2 hours during mid-winter. The public park will also receive the minimum amount of sunlight in mid-winter. Considering the usability of the proposed space and proximity to public parks and open space, the calculation is acceptable in this instance.

Note 4- Solar Amenity

Objective 4A-1 of the ADG requires living rooms and private open space areas of at least 70% of apartments in a building to receive a minimum of 2 hours of direct sunlight between 9am to 3pm mid-winter.

The solar access plans and the perspective shadow diagrams demonstrate that the proposed development will receive sunlight to 242 of the apartments for a minimum of 2 hours in June. This equates to 71% of the proposed apartments and complies with the ADG requirement. Additionally, only 43 of the 340 apartments have no direct sunlight which results in a total of 13% thereby complying with the maximum number of apartments with no direct sunlight of 15%. The communal open space on the podium receives the minimum solar requirement between 10am to 1pm in mid-winter to 50% of the principal communal area.

Throughout the assessment of the development proposal, a number of concerns were raised by objectors relating to overshadowing onto the neighbouring property to the south at 8 Bourke Street. The concerns focused on overshadowing to the communal open space area on the podium which contains an outdoor swimming pool, internal gymnasium and communal open space/courtyard. Additionally, there were concerns that a number of the apartments would be overshadowed by the development. The below figures show the communal open area on the podium of 8 Bourke Street and a close up plan of the swimming pool and gymnasium.

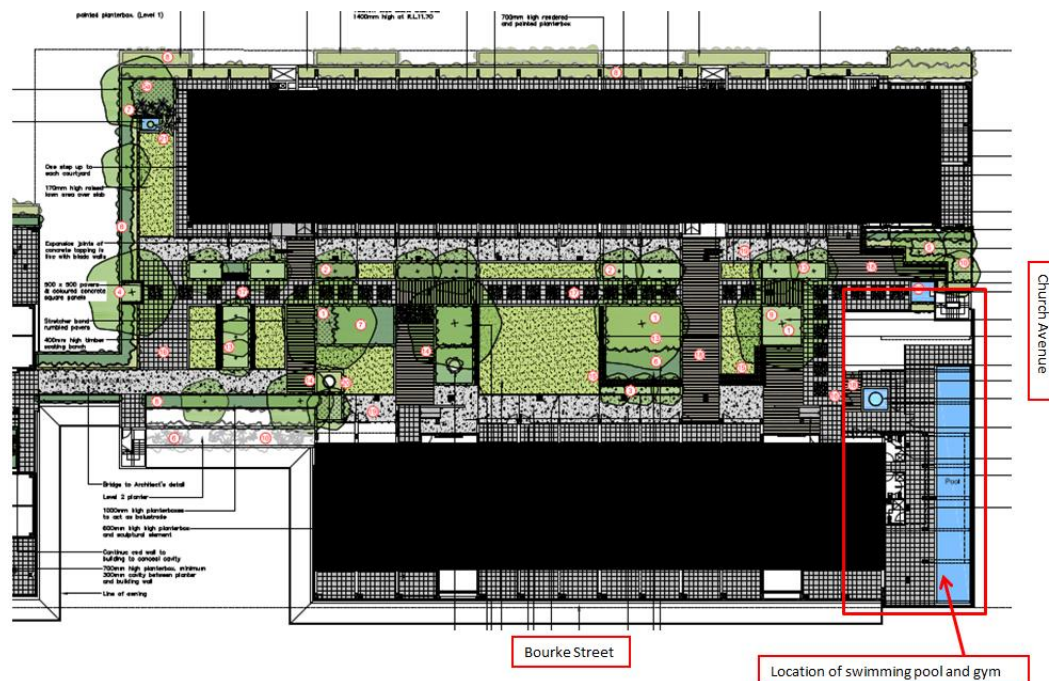


Figure 18. Communal area on the podium of neighbouring property at 8 Bourke Street

demonstrates that the proposal ensures compliance with Part 3B-2 of the ADG (the proposal does not increase overshadowing of the principle usable part of the communal open space at No.8 Bourke Street by more than 20% at mid-winter). Importantly, the table also shows that the proposal does not have any additional shadow impact at September and March (Equinox)."

	MID WINTER (% additional shadow cast over principal usable part of the communal open space)	EQUINOX (% additional shadow cast over principal usable part of the communal open space)
9am	0%	0%
10am	13.3%	0%
11am	17.7%	0%
Midday	11.9%	0%
1pm	0.3%	0%
2pm	0.8%	0%
3pm	0%	0%

Figure 17. Table demonstrating the percentage of overshadowing to the principal communal area of 8 Bourke Street

Further to the table above, the below shadow diagrams demonstrate the degree of overshadowing to the principal communal area at 8 Bourke, both existing and proposed for mid-winter.

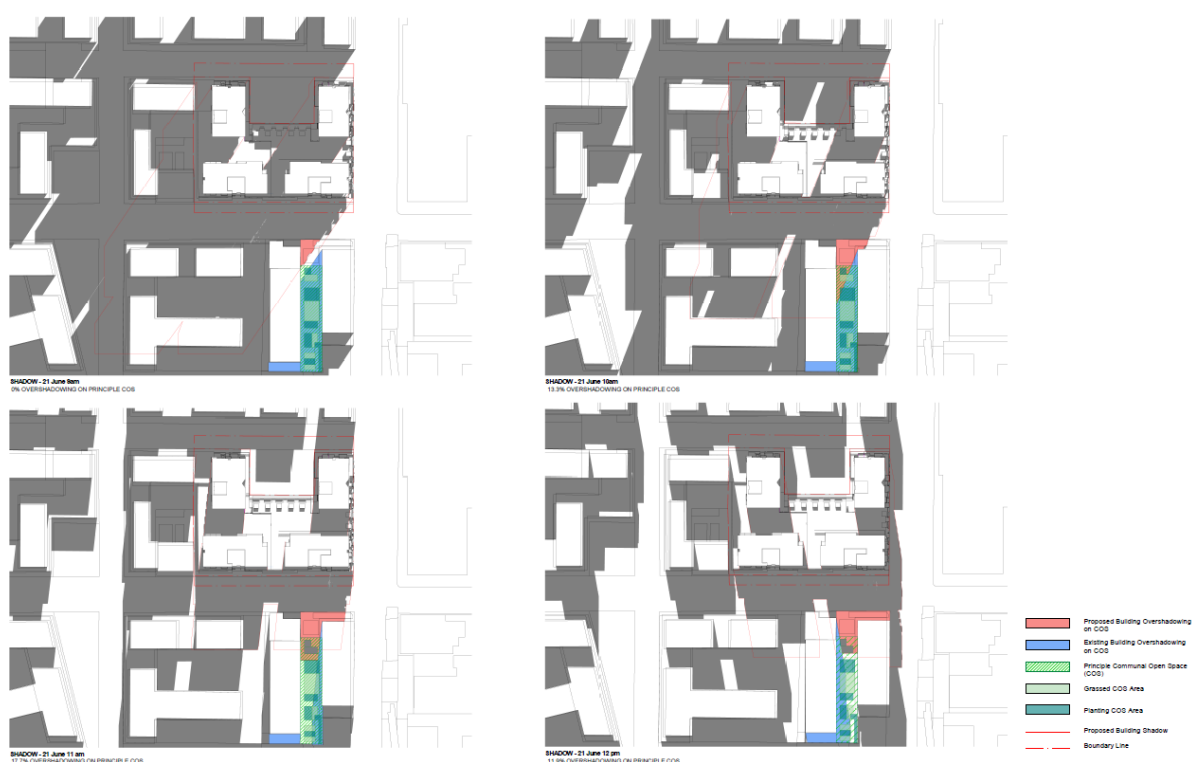


Figure 20. Proposed and existing overshadowing onto 8 Bourke Street mid-winter between 9am to 12pm

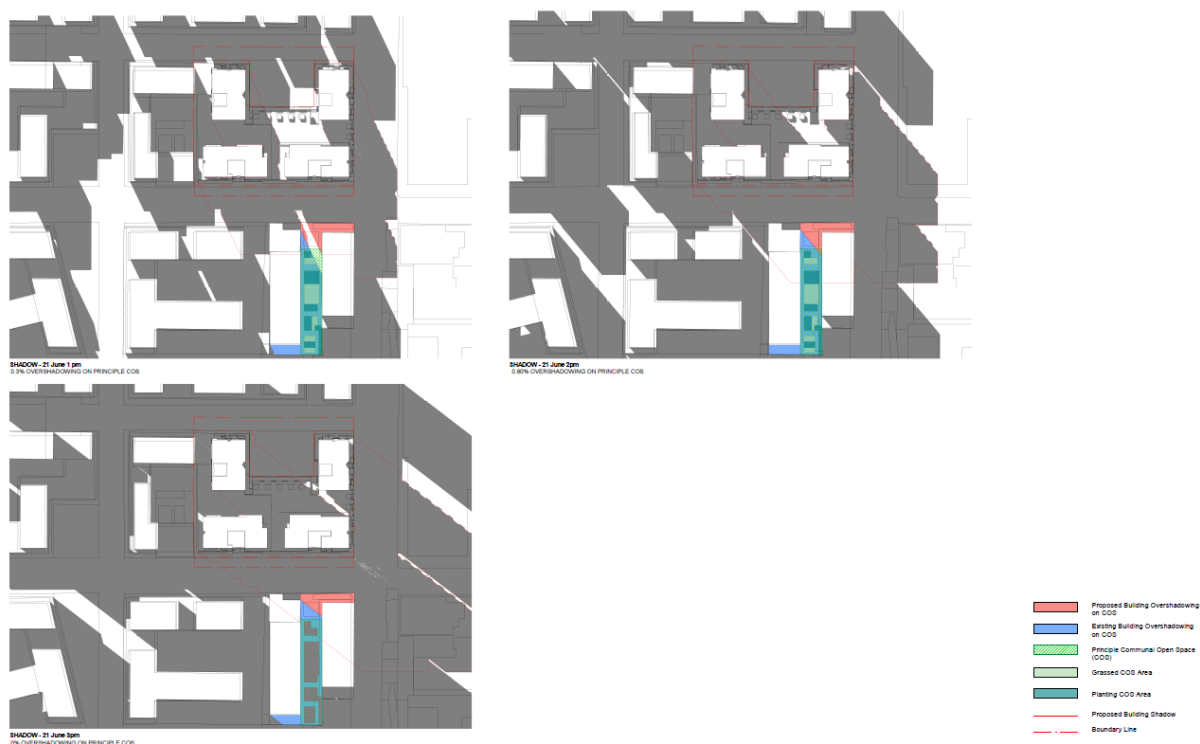


Figure 21. Proposed and existing overshadowing onto 8 Bourke Street mid-winter between 1pm to 3pm

It is argued that the principal communal area would not include the outdoor swimming pool located on the podium to the north of the north-eastern building at 8 Bourke Street as it is anticipated that the swimming pool will not be used frequently in the middle of winter. Therefore, the principal space that is assessed would be the gym area and courtyard/open space on the podium behind.

During mid-winter (June), the shadow diagrams demonstrate that 50% of the communal open space will receive sunlight between 10.30am to 12.30pm. During March/September, the neighbouring development will receive the minimum 2 hour solar requirement therefore there are no issues during this time period.

In regards to the number of apartments that are overshadowed by the development during mid-winter, the northern elevation at 8 Bourke Street will be overshadowed to approximately 9 storeys to the north-western building and is the building most impacted by the development. 8 Bourke Street is a large development that also contains frontages along Bourke Street and Church Avenue in addition to Etherden Walk which is located on the southern side of the site. The podium level consists of above ground car parking therefore any overshadowing is not considered significant. The apartments above the podium on the north-eastern building have dual aspects to Church Avenue and Bourke Street and it is anticipated that these apartments will receive the minimum 2 hours of sunlight in mid-winter. The proposal is likely to impact at most thirty units. A comparison of the shadow diagrams between mid-winter and the equinox show that the southern development will not be impacted by the proposed development.

The building separation for the proposed development and the southern property is compliant with Church Avenue separating to the two developments. By providing a greater building separation, it is not considered that the degree of overshadowing will significantly improve.

Consideration has been given to the Land & Environment Court planning principle on the impact on solar access of neighbours (Parsonage vs Ku-ring-gai (2004) NSWLEC 347) and as amended by (The Benevolent Society vs Waverley Council (2010) NSWLEC 1082) is addressed as follows:

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

Comment: The site is located in a high density residential and mixed use area which is currently undergoing redevelopment. The proposal involves construction of four towers with a height of 14 storeys. The proposal is consistent with the height of surrounding developments in the area which is discussed in the report above under the height. The site currently contains two storeys built form which is lower than the proposed 14 storeys. Due to the location of the site and the building envelopes approved within the Mascot Station Town Centre Masterplan, it is expected that a high density built form will replace the existing industrial stock.

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

Comment: As discussed earlier in the note, the proposed development will overshadow the northern side of the communal podium area of 8 Bourke Street between 9am to 3pm in mid-winter. The shadow diagrams that accompanied the development application demonstrated that the neighbouring communal open space will receive the minimum 2 hours of sunlight to the principle usable area of the space at 10.30am to 12.30pm. The remaining open space will be overshadowed by the existing buildings at 8 Bourke Street. There was no existing overshadowing onto the neighbouring property due to 42 Church Avenue having a two storey built form and its location on the corner of Bourke Street which is the main thoroughfare within Mascot Station. Council is satisfied that the additional overshadowing cast by the subject site would not remove the significant amount of sunlight to the property to the south. Additionally, the applicant has provided shadow diagrams for March/September (equinox) which demonstrates that the proposed development will not impact the southern site.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

Comment: It is acknowledged that the proposed development does exceed the maximum height and FSR control under the BBLEP 2013. However as it is considered that the communal open space of the neighbouring properties complies with the minimum 2 hours in mid-winter, the plans do not require amendment to reduce the FSR and height. The subject site allows adequate building separation between the buildings on the site and the surrounding buildings. The building envelopes in terms of their location and orientation were set within Part 9A of the BBDCP 2013, and the applicant generally complies with

the footprint. As discussed above, the subject development proposal complies with the minimum solar requirement in mid-winter to the apartments and communal open space therefore the overall design of the buildings does not contribute unreasonable overshadowing and is supported by Council.

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

Comment: The private open space areas for the subject site are defined as balcony spaces. Similar to the 72% of units that receive the minimum 2 hours of sunlight, the balconies have been orientated to gain the most exposure of sunlight. Therefore the amount of achievable sunlight to the private areas is acceptable.

The communal open area of the neighbouring property at 8 Bourke Street is located on the podium and is four storeys in height. The proposed development will be overshadowed in mid-winter along the northern side of the podium where the swimming pool is located and the gymnasium. The gymnasium is located indoors while the swimming pool is outdoors. As demonstrated in the plans above, during 9am, a small portion of the northern side of the neighbouring podium will be overshadowed by the development. The majority of the overshadowing will occur from the existing building at 8 Bourke Street. At 10am, a greater portion of the podium will be overshadowed by the proposed development and it appears that the swimming pool and gym are overshadowed at this time. The remaining communal area on the podium is overshadowed by the north-eastern building at 8 Bourke Street.

At 11am, the proposed development will cast the greatest shadow onto the communal open space of 8 Bourke Street with one third of the podium overshadowed. However, the remaining two thirds of the podium will receive sunlight. This is similar at 12pm. From 1pm onwards, whereby the proposed development will overshadow the swimming pool and gym while the north-western building at 8 Bourke Street currently overshadows the majority of the communal open space. From the diagrams provided, 50% of the communal open space will receive sunlight between 10.30am to 12.30pm. The private open space of the northern apartments up to four or five stories above the podium may be impacted by the proposal in mid-winter however will be compliant in the Equinox. The majority of these apartments have dual aspects i.e. north-eastern and north-western.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comment: Overshadowing is not proposed by fences, roof overhangs or by vegetation. The overshadowing is caused by the built form. The increase in floor

levels to comply with the minimum flood level has resulted in the building to be raised.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as existing development.*

Comment: The area is undergoing redevelopment from industrial/commercial warehouses to mixed use and residential development. The subject site is one of the last sites within Mascot Station that is undeveloped. It is expected that the site would be developed for the purposes of a mixed use development with a height of approximately 13 storeys. The proposed height of 14 storeys is similar to approved and constructed mixed use developments along Bourke Street, Kent Road and Church Avenue. It is anticipated that any development on the site will overshadow the southern neighbouring properties and the overshadowing cast by the proposal is discussed above.

Considering the above discussion, the solar amenity of the neighbouring property as well as the subject site is acceptable.

Note 5- Building Depth

Objective 2E of the ADG relates to building depths. The general provisions limit the building depth to between 12-18 metres. The proposed building depths of each tower above the podium are as follows:

Building A: 21 metres
Building B: 22 metres
Building C: 22 metres
Building D: 23 metres

The building depth in each tower above the podium does not comply with the 12-18 metre depth provision however the depth of the buildings continue to allow sufficient cross ventilation and solar amenity to the apartments, due to their orientation with the buildings. Below is a typical floor layout in Building D which demonstrates that the apartments receive adequate amenity. The facades are articulated with protruding balconies which contribute to the building depths. The non-compliances are supported.

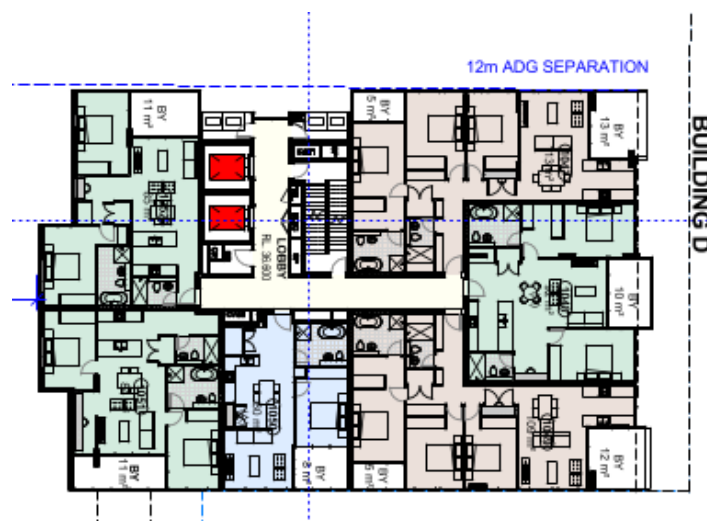


Figure 22. Example of a typical floor demonstrating building depth and amenity

Note 6- Building Separation

Objective 3F-1 of the ADG requires separation between windows and balconies to ensure that visual privacy is achieved.

The table below shows the comparison between the required building separation and the proposed building separation:

Table 5: Building Separation Compliance Table

<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>Podium levels (setbacks to boundaries)</u></p> <p>Building A: Eastern boundary: Nil Western boundary: 3m Northern boundary: 3m Southern boundary: -</p> <p>Building B: Eastern boundary: Nil Western boundary: - Northern boundary: - Southern boundary: 3m</p> <p>Building C: Eastern boundary: - Western boundary: 3m Northern boundary: - Southern boundary: 3m</p> <p>Building D: Eastern boundary: 3m Western boundary: 3m Northern boundary: 3m Southern boundary: -</p>	<p>No Yes Yes N/A</p> <p>No N/A N/A Yes</p> <p>N/A Yes N/A Yes</p> <p>Yes Yes Yes N/A</p>
<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>Levels 5-8 (setbacks to boundaries)</u></p> <p>Building A: Eastern boundary: 2-3m Western boundary: 2-3m Northern boundary: 5-6m Southern boundary: 18m</p> <p>Building B: Eastern boundary: 2-3m Western boundary: 12m Northern boundary: 18m Southern boundary: 5-6m</p> <p>Building C:</p>	<p>No No No Yes</p> <p>No No Yes No</p>

	<p>Eastern boundary: 12m Western boundary: 6m Northern boundary: 18m Southern boundary: 5-6m</p> <p>Building D: Eastern boundary: 3m Western boundary: 12m Northern boundary: 5-6m Southern boundary: 18m</p>	<p>No No Yes No</p> <p>No Yes No Yes</p>
<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>Levels 9 and above (setbacks to boundaries)</u></p> <p>Building A: Eastern boundary: 2-3m Western boundary: 2-3m Northern boundary: 5-6m Southern boundary: 18m</p> <p>Building B: Eastern boundary: 2-3m Western boundary: 12m Northern boundary: 18m Southern boundary: 5-6m</p> <p>Building C: Eastern boundary: 12m Western boundary: 6m Northern boundary: 18m Southern boundary: 5-6m</p> <p>Building D: Eastern boundary: 3m Western boundary: 12m Northern boundary: 5-6m Southern boundary: 18m</p>	<p>No No No Yes</p> <p>No No Yes No</p> <p>No No Yes No</p> <p>No Yes No Yes</p>

While the building separation proposed is not consistent with the ADG control, the site fronts onto three streets (Bourke Street, Church Avenue and Galloway Street). The separation between the site boundary and the surrounding sites to the north, south and the east is approximately 25-30 metres (width of the street) and greater. Considering that there is no development proposed directly adjacent to the north, south and east of the site, the non-compliance to these elevations is acceptable.

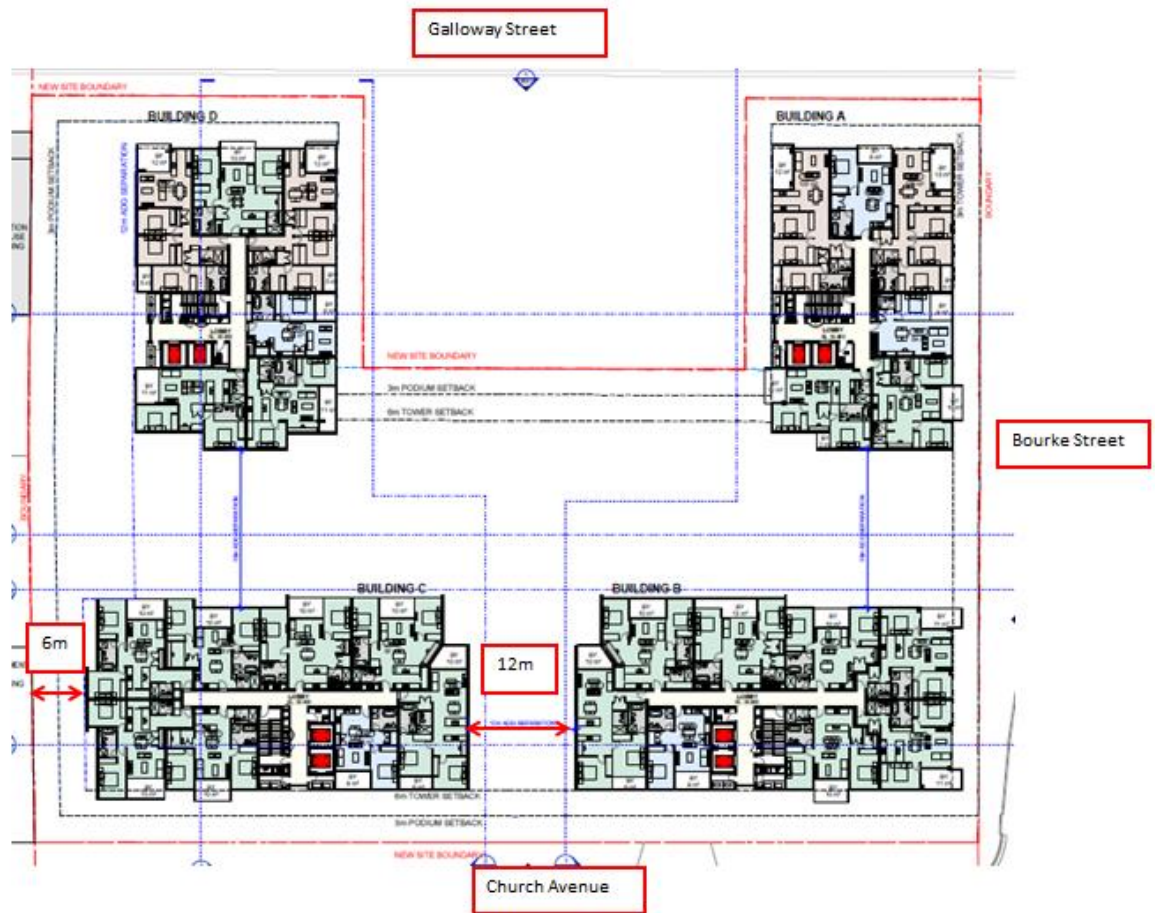


Figure 23. Typical floor layout showing the building separation non-compliance and location of surrounding streets

The figure above demonstrates a typical floor plan for the development. The figure is of Level 8 and demonstrates the location of the site centred between three streets. However, the plan demonstrates that the western side of Building C proposes a 6 metre setback from the western boundary line. This setback extends from the podium level to Level 13. Therefore, this elevation does not comply with the 9 metre and 12 metre building separation from the site boundary as required in the ADG. The development immediately to the west of the site contains a five storey commercial building. There are a number of windows on each level of its eastern elevation. As there is a non-compliance in the separation, the applicant has proposed highlight windows within the proposed bedrooms in the development to prevent any overlooking into the commercial building. While the building separation is not ideal, the commercial building is located within 1 metre of the boundary between the two sites. It is considered that the neighbouring development will continue to receive solar amenity to the building.

Similar to the building separation non-compliance between the proposed development and the surrounding development, the building separation between Buildings B and C is 12 metres from the podium level to Level 13. The proposed building separation of 18 metres cannot be achieved without departing from the building envelope set out in Part 9A of the BBDCP 2013. The Applicant has provided highlight windows to the eastern elevation of Building C and western elevation of Building B.

Note 7- Storage area

Part 4G-1 of the ADG requires each apartment to contain storage with the minimum requirement for a 1 bedroom- 6m³, a 2 bedroom- 8m³ and a three + bedroom- 10m³. The applicant has not provided a breakdown of the area of storage allocated within the apartment and within the basement level. The total amount of storage within the basement car park level is 594m³. The amended plans provided demonstrate that all apartments contain a separate storage area located either near the front entrance or a little further away from the entrance. Council is satisfied that the applicant has provided the required storage area within the apartments.

A condition has been recommended in the consent that all apartments comply with the minimum storage size requirement under the ADG and that 50% of the storage areas are to be encompassed within the apartments and not within the basement and car parking levels. The conditions require that prior to the issue of the Construction Certificate, the storage areas are to be clearly marked out to each individual apartment within the basement level and to comply with the minimum size for each unit.

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. 741493M dated 3 August 2016 committing to environmental sustainable measures.

Botany Bay Local Environmental Plan 2013 (BBLEP)

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

Table 6: BBLEP 2013 Compliance Table

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Land use Zone	-	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 premises and child care centre are permissible with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives of the B4 zone: <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>

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Clause 2.5 does not apply to the subject site.
What is the height of the building?	No Refer to Note 8	<p>Building A: Building Height: 45.1m (RL 51) – 2.5% variance Plant Room Height: 45.1m (RL 51) - 2.5% variance</p> <p>Building B: Building Height: 44.8m (RL 50.7)- 1.8% variance Plant Room Height: 45.1m (RL 51) - 2.5% variance</p> <p>Building C: Building Height: 45.8m (RL 50.5) - variance of 4% Plant Room Height: 46.3m (RL 51) - 5.2% variance</p> <p>Building D: Building Height: 45.2m (RL 50.5)- 2.7% variance Plant Room Height: 45.8m (RL 51)- 4% variance</p>
What is the proposed FSR?	No Refer to Note 9	<p>The maximum FSR allowed on the site is 3.2:1 (35,532sqm).</p> <p>The proposed FSR is 3.32:1 (36,819sqm) which does not comply. The excess GFA is contributed to excess car parking spaces on the site.</p>
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000sqm min and maximum height of 22 metres and maximum FSR of 1.5:1?	N/A	The subject site is not located within an R3 or R4 zone.
Is the site within land marked “Area 3” on the FSR Map	N/A	The subject site is not identified as being within “Area 3” on the FSR map.
Is the land affected by road widening?	Yes	The subject site is affected by RMS widening of the splay on the corner of Church Avenue and Bourke Street. However, this is not required under the BBLEP 2013.

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <p>6.1 – Acid sulfate soils (ASS)</p> <p>6.2 – Earthworks</p> <p>6.3 – Stormwater management</p> <p>6.8 - Airspace operations</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>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.</p> <p>No Preliminary Acid Sulfate Soils Management Plan has been submitted with the application. A condition of consent has been recommended that an Acid Sulfate Soils Management Plan is to be submitted prior to the issue of the Construction Certificate.</p> <p>The development is considered to be consistent with Clause 6.2 of BBLEP 2013.</p> <p>The proposed excavation has been assessed within this application. The application has been referred to Water NSW who, on 16 December 2016 provided their GTA.</p> <p>The development application involves an underground On Site Detention system/rainwater tank for collection and reuse of rainwater for landscaping on site. The development is considered to be consistent with Clause 6.3 of BBLEP 2013.</p> <p>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 proposes buildings to this maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration. SACL raised no objections to the proposed maximum height of 51 metres AHD, subject to conditions to be imposed on any consent. The development is considered to be consistent with Clause 6.8 of BBLEP 2013.</p>

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
6.9 – Development in areas subject to aircraft noise	Yes	The subject site lies within the 20-25 ANEF contour. An Acoustic Report, prepared by Acoustic Logic on 28 July 2016, has been submitted with the development application, which indicates that the development has been designed to comply with the requirements of AS2021-2000. The development is considered to be consistent with Clause 6.9 of BBLEP 2013.
6.15 – Active Street Frontages	Yes	The development proposes 512sqm of retail space along Bourke Street for the entire length of the frontage which complies with Clause 6.15 of the BBLEP 2013.
6.16 – Design excellence	Yes	<p>The proposed design has been the subject of consideration by Council's Design Review Panel. This is discussed further in the report above.</p> <p>The bulk, scale and height of the proposed development is appropriate as the development will not create any unreasonable impacts on the amenity of adjoining sites. The built form as proposed is contemporary in nature and presents an articulated façade providing enhanced interest to the streetscape and the precinct generally.</p> <p>The Applicant has adequately addressed the recommendations of the DRP and the proposed development is considered to be consistent with Clause 6.16 of BBLEP 2013.</p>

Note 8 – Clause 4.6 variation to the height development standard

The BBLEP 2013 requires a maximum height of 44 metres for the site. The development proposes four towers, with all towers exceeding the maximum LEP height. A breakdown of the heights of the towers is as follows:

Building A:

Building Height: 45.1m (RL 51) – 2.5% variance
Plant Room Height: 45.1m (RL 51) - 2.5% variance

Building B:

Building Height: 44.8m (RL 50.7)- 1.8% variance
Plant Room Height: 45.1m (RL 51) - 2.5% variance

Building C:

Building Height: 45.8m (RL 50.5) - 4% variance

Plant Room Height: 46.3m (RL 51) - 5.2% variance

Building D:

Building Height: 45.2m (RL 50.5)- 2.7% variance

Plant Room Height: 45.8m (RL 51)- 4% variance

Clause 4.3 of BBLEP 2013 specifies that the height of a building may not exceed the maximum height specified on the relevant Height of Buildings Map. The site is subject to a height limit of 44 metres. The proposed development exceeds the maximum height allowance when measured in accordance with the BBLEP definition of building height.

Clause 4.6 provides flexibility to vary the development standards specified within the LEP where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental grounds to justify the departure. Clause 4.6 states the following:

(2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument...

(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) That there are sufficient environmental planning grounds to justify contravening the development standard.

The Applicant has provided a Clause 4.6 variation to justify contravening the height standard. Their justification is provided below:

“The table below provides an overview of the proposal and its comparison with the height development standard. The variations are shown bold and underlined in red- the extent of variation in percentage is also shown.

	TOP OF BUILDING	HEIGHT METRES	TOP OF PLANT	HEIGHT METRES
BUILDING A	RL 51.0	<u>45.1</u> <i>2.5% variation</i>	RL 51.0	<u>45.1</u> <i>2.5% variation</i>
BUILDING B	RL 50.7	<u>44.8</u> <i>1.8% variation</i>	RL 51.0	<u>45.1</u> <i>2.5% variation</i>
BUILDING C	RL 50.5	<u>45.8</u> <i>4.1% variation</i>	RL 51.0	<u>46.3</u> <i>5.2% variation</i>
BUILDING D	RL 50.5	<u>45.2</u> <i>2.7% variation</i>	RL 51.0	<u>45.8</u> <i>4.1% variation</i>

Section 3: Matters for Consideration

- a) ***Is the requirement a development standard?***
- b) ***Is the development standard excluded from the operation of this clause?***

...

- c) ***What is the underlying objective or purpose of the standard?***

The objectives of the height control in Clause 4.3 are as follows:

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

The proposal is consistent with the objectives in that:

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

- d) ***Is compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?***

....

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 (c) above, the proposed development is able to achieve the objectives of the height development standard, even though the development results in a 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 or 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 Council v Micaul*, the proposed development is able to demonstrate that strict compliance with the numerical Building Height development standard is unnecessary in the particular circumstances of the proposal, as the development is able to:

- Meet the objectives of the development standard as outlined in Section 3(c);
- Meet other built form development standards;
- Satisfactorily address all relevant planning considerations as detailed in Section 3(e).

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

There are sufficient planning grounds to justify the proposed variation. These reasons are set out below:

- The proposed buildings have been designed to match the heights of the approved developments on the surrounding sites (14 storeys and maximum RL 51);
- The proposed height seeks no more than a 5.2% variation above the maximum 44 metre height. This is negligible and is within the generally recognised 10% rule for variations;
- The height is consistent with the height of other buildings approved by CASA in the locality;
- The site is affected by flooding. The flooding planning levels necessitate the ground level being set slightly above the existing ground level;
- The development displays minimal bulk and scale characteristics. The visual bulk is greatly reduced by the fine grain character of the buildings and the well-designed roof profile that encloses the rooftop plant;
- The proposal will result in no adverse impacts such as unreasonable overlooking and overshadowing;
- The proposal is entirely consistent with the objectives of the land use zone and the height development standard, which is addressed below.

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

As outlined throughout the SEE and in this Clause 4.6 variation statement, the proposal is consistent with the objectives of the Building Height development

standard and objectives of the B4 zone. The principle aim of the proposal is to provide new residential apartments complemented by a new child care centre and retail space. The provision of a new public park is also proposed.

The proposed variation to the height control does not result in the unacceptable loss of amenity to the neighbouring properties as a result of overshadowing or loss of privacy and the proposed height is therefore considered to be acceptable particularly when balanced against the benefits of the project which are:

- *Provision of new housing and employment opportunities on land zoned for this purpose within the short term;*
- *Development of an under-utilised site (being currently occupied by industrial warehouses) identified for future mixed use development (being zoned B4 Mixed Uses);*
- *Contribution to the delivery of key infrastructure through the payment of the relevant Section 94 Contributions;*
- *The proposal will provide positive social outcomes through the provision of on-site housing, child care facilities and a new public park.*

g) Whether contravention of the development standard raises any matter of significance for State or regional environmental planning

The proposed variation to the Building Height development standard does not conflict with any matters of State or regional environmental planning significance, nor does it conflict with any State Planning Policies or Ministerial directives. The significance of the no-compliance is acceptable in the context of the overall development of the Mascot area and the broader Bayside Council area.

h) The public benefit of maintaining the development standard

It is considered that due to the absence of any demonstrable adverse impacts arising from the proposed development, adherence to the subject development standards would hinder the attainments of the objectives of the Act. Further, the proposed development is consistent with the objectives of the development standard. Therefore, such adherence would not be in the public interest in this instance.

Council Officer's Comment:

Council acknowledges that the proposed development exceeds the development standard by 2.3 metres to the top of the plant room on Building C, 1.8 metres to the top of the plant room on Building D, 1.1 metres to the top of the plant rooms in Buildings A and B, 0.7 metres to the top of the building on Building A and 0.4 metres to the top of the building in Building D.

The surrounding developments have been approved with a greater height to the 44 metre LEP requirement. The below table demonstrates a breakdown of the heights approved in the surrounding sites in recent years.

Site	Location	Approval Body	Units	FSR	Height
1-5 Kent Road (Meriton)	North-east of the site	Former JRPP	235	3.27:1	47.2m (RL 51)
671-683	North-east of the	Former JRPP	242	3.34:1	42.5m

Gardeners Road (Jewel of India)	site				(RL 49.15)*
659-669 Gardeners Road (Avantra)	Adjoins northern boundary	Court Appeal	328	3.33:1**	45.5m (approx. RL 50.3)
7-9 Kent Road, Mascot (Bridgehill)	Adjoins western boundary	Court Appeal	510	3.78:1	47.4m (RL 51)

As the table above shows, the subject proposal is consistent with the existing building stock in the area.

The applicant has demonstrated that the site is impacted by flooding therefore requiring the entire building to be raised to meet Council's minimum floor levels achievable for the site. As the higher floor level will only slightly push the building height over the 44 metre LEP requirement and the majority of the non-compliance is limited to the plant rooms and glass balustrading along limited portions of each elevation, the additional height would not result in a substantial change in the impact on the neighbouring properties as the balustrading is not solid and will allow for sunlight to pass through. Additionally, as demonstrated in the flood maps provided in the flooding report, the key area of flooding is located around Buildings B, C and D therefore justification for the greater height is provided.

Summary

The Clause 4.6 variation to the building height development standard has been assessed in accordance with the BBLEP 2013 and the relevant case law. It is considered that the proposal is consistent with the underlying objectives of the standard identified.

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

The proposal seeks a max 5.2% variation above the 44-metre height limit and a 1.6% variation when excluding the plant rooms.

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

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

Note 9 – Clause 4.6 variation to the FSR development standard

The maximum FSR for the site is 3.2:1 under the BBLEP 2013. The applicant had originally indicated that the development was compliant with a GFA of 35,532sqm which is the maximum GFA permissible on the site. However the applicant did not factor in the additional GFA contributed to the excess car parking spaces located in the above ground car parking levels of the development. Based on Council's calculations, there are a total of 510 car spaces proposed on the site, with a car parking requirement of 415 car spaces for residential, visitor, retail and for the child care centre. The number of spaces allocated to the child care centre and retail component complies. Therefore there is an excess of 94 spaces residential spaces.

The Applicant has provided a Clause 4.6 variation to justify contravening the FSR standard. Their justification is provided below:

“...

The following paragraphs provide clarity on interpretation of part (g) of the Gross Floor Area (GFA) definition, which states 'car parking to meet any requirements of the consent authority.'

Pursuant to section 4.9 (Car and Bicycle Parking and Vehicle Access) of the Botany Bay DCP, development that is located within 800 metres of Mascot Station must comply with the car parking requirements of the ADG (the site is located approximately 100 metres from the Mascot Station). Part 3J-1 of the ADG states that the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments (RMS rates). Table 1 below shows the minimum RMS car parking requirements for residents and visitors, for the proposed development.

Table 1: Proposed Apartment Mix and Parking Requirement

Unit Type	Proposed Mix	RMS Parking Rate	Minimum Required
1 Bedroom	91	0.6/unit	54.6
2 Bedroom	174	0.9/unit	156.6
3 Bedroom	75	1.4/unit	105.0
Visitors	340 units	1 per 7 units	48.6
Total			365

In order to provide car parking to 'meet any requirements of the consent authority', it is proposed to satisfy the above minimum car parking requirements by providing a total of 464 car parking spaces. Although this is 99 more spaces than the minimum 365 required, it is still 'car parking to meet any requirements of the consent authority' and therefore is excluded from the calculation of GFA. It is reiterated that this is because the RMS car parking rates are a minimum requirement- so parking must be provided to at least satisfy those rates.

However, Council and the Joint Regional Planning Panel have indicated the RMS rates are to be applied to the development statically. In other words, any parking provision below the RMS rates does not comply, and anything above the rates is

allocated as GFA. Applying this position of Council and the JRPP, the proposal would have a GFA of 36,819sqm and a resulting FSR of 3.32:1. This amounts to 1,287sqm above the maximum and is based on the calculations in Table 2 below.

Table 2: Total Gross Floor Area of Proposed Development

Unit Type	Proposed Mix
Residential, Retail and Childcare	35,532sqm
Car parking*	1,287sqm
Total	36,19sqm

* Based on each parking space exceeding the minimum requirement being 13sqm

On the basis of the above, it is submitted that there is no 'technical' non-compliance with the FSR, but there is some disagreement on the interpretation of the definition of the GFA. Notwithstanding, Council has instructed that it requires consideration of the proposal with the 3.32:1 FSR outlined above. To support this variation to the FSR control, this Clause 4.6 written statement has been prepared.

....

What is the underlying objectives or purpose of the standard?

....

The proposal is consistent with the objectives of clause 4.4, in that:

- a) The proposal results in an overall development density of 3.32:1. This is 1,287sqm above the maximum GFA, being 3.6% over the permissible density control. A variation of this scale in the context of the site and surrounding development will be unperceivable in the overall scale and built form of the development. All GFA exceeding the FSR control relates to parking provided above the RMS minimum parking rates. The parking spaces are located within the basement and podium levels of the building, which have been designed to support the proposed tower forms above. Therefore the utilisation of these building elements to accommodate parking does not contribute to an increase in bulk and scale of the building.
- b) The site is located within the Mascot Town Centre. The 1,287sqm variation to the FSR control will not alter the built form from what can be supported in a compliant development. The building has been designed to address the street edges-particulatly Bourke Street, with a single podium form with four apartment towers above. The inclusion of the additional car parking spaces above the RMS minimum requirement are located wholly within the podium and basement form, and exclusion of these parking spaces would not alter the overall scale and design of the podium structure.

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 Mascot Town Centre.

- c) 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.

- d) *The departure from strict compliance with the numerical FSR control will not result in bulk or scale that is unacceptable. The proposed development includes the creation of a public park. This park will not be adversely affected by the proposed FSR of the development.*
- e) *The proposal will have a positive relationship with the new public park and will not have any adverse impacts on its amenity.*
- f) *The proposed development has an overall site area of 11,104sqm. The scale of the site has been reflected in the scale and built form proposed for the development. The scale of the non-compliance with the FSR control in the context of the overall development is reflected in the variation being approximately 3.6% above the permissible density control.*

The development has been designed having regard to the scale of the site, including the creation of a basement and 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 four 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.

- g) *The proposal will deliver a total of 340 apartments, and retail and childcare. This will positively contribute to the economic development and viability of the Mascot Town Centre through:*
 - a. *Redeveloping a currently under-utilise site;*
 - b. *Providing new residential housing stock within 100 metres of the Mascot train station; and*
 - c. *Providing new retailing to the future residential population.*

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

...

Applying Preston's CJ decision in Randwick City Council v Micaul, the proposed development is able to demonstrate that 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 as outlined above;*
- *Meet other built form development standards;*
- *Satisfactorily address all relevant planning considerations as detailed above;*
- *There are various other examples of previously approved developments in the Mascot Station area that exceed (significantly in some instances) the 3.2:1 FSR control. These are shown in the table below.*

Site	FSR
671-683 Gardeners Road, Mascot	3.43:1

Site	FSR
1-5 Kent Road, Mascot	3.45:1
7-9 Kent Road, Mascot	3.78:1
19-33 Kent Road, Mascot	3.72:1
659-669 Gardeners Road, Mascot	3.36:1
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, Mascot	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
39 Kent road, Mascot	4.26:1

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 as demonstrated above;*
- 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. It is noted that the site has the ability to support basement levels, which enable additional FSR to be accompanied on the site without resulting in an increased built form than contemplated by the planning controls;*
- 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; and*
- The provision of the additional car parking beyond the minimum required can be supported on traffic planning grounds, as evident in the Traffic Report prepared by ARUP.*

....”

Council Officer's comments:

As stated above by the applicant, Council and the applicant disagreed on whether car parking that exceeds the minimum car parking RMS requirement would contribute to additional GFA for the development. Council's position on the matter is that any additional car parking on the site would add to the overall GFA. The plans have made it clear that the additional car spaces would be allocated to the residential component of the development, as the retail and child care centre components are compliant.

The assessment of the additional car parking on the site contributing to additional GFA/FSR is similar to the development application at 1-5 Kent Road and 671-683 Gardeners Road Mascot which was presented before the SCPP for assessment. Both Council and the SCPP were inclined to include the spaces within the calculation, particularly as the extra spaces would be located above ground sleeved behind the residential apartments.

Council is in agreeance with the applicant's justification above in regards to the departure in the GFA calculation. The table above clearly demonstrates that the development standard has been virtually abandoned or destroyed in this instance. It also demonstrates that the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary, and that the underlying object of purpose would be defeated or thwarted if compliance was required, and therefore compliance is unreasonable.

Based on the above, the variation is not contrary to the public interest and is able to be supported.

Botany Bay Development Control Plan (BBDCP) 2013

The most relevant and applicable clauses of the BBDCP 2013 are considered in the assessment of this development proposal and are provided below.

Table 7: BBDCP 2013 Compliance Table – Part 3A

Control	Proposed	Complies (yes/no)
3A Parking and Access		
3A.2. Parking Provisions of Specific Uses		
<u>Commercial (retail)</u> 1 space / 25sqm (20 req.)	<u>Commercial</u> 20 spaces	Yes
<u>Child Care Centre</u> 1/2 employees (8 req.) 1/5 children (17.2 req.) 1/20 children drop off/pick up (4.3 req.) Sub-total: 29.5	<u>Child Care Centre</u> 29 spaces	Yes
<u>Service Bays</u> 1/100 units (4 req.) Note: 50% of service bays to be designed for MRV or larger) Note: No requirement for car wash bays	<u>Service Bays</u> Service vehicle: 1 provided 1 car wash bay provided Service vehicles: 1 MRV space provided (Building B)	No However ADG provisions apply and complies with RMS guidelines
3A.3.1 Car Park Design	Waste collection and servicing within	Yes

Control	Proposed	Complies (yes/no)
Pedestrian entrances and exits shall be separated from vehicular access paths.	ground floor parking level under Building B. Traffic Assessment provided; Stormwater plans provided; Pedestrian access easily identifiable. Pedestrian entrances and exits are separated from vehicular access paths.	
C40 The waste collection point shall be designed to: (i) Allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles, internal roadways and ramps; and (ii) Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like.	The garbage holding room (to be serviced by the garbage truck) is located within the ground floor parking level under Building B and also contains the bulky waste storage area and separate retail/commercial waste room. The loading dock area has sufficient head clearance to allow the lifting arc with a void area above.	Yes
3A.3.2 Bicycle Parking C1-C5 To comply with AS2890.3 & AUSTROADS. (i.e. 10% of the required amount of car parking = 46)	The plans indicate that 68 bicycle spaces are provided in ground level car park for residents and four racks for employees of the retail. This complies with the requirement of 41.43 bicycle spaces.	Yes
3A.3.4 On-site Loading & Unloading C1-C11 1 service bay/50dwgs (50% to be Medium Rigid Vehicle (MRV) or larger) (4 req.)	Service vehicles: 1 MRV space provided (Building B)	No- Refer to Note 10

Note 10 – Number of loading bays for service vehicles

Part 3A.3.4-*On-site loading and unloading facilities* of the BBDCP 2013 states that the minimum rates for service bays are:

- 4 service bays for the development that has greater than 200 units plus 1 service bay (for MRV or larger) per 100 units

The proposal provides 1 service bay for a MRV vehicle. This is a shortfall of 5 service bays. The applicant's traffic report provides the following justification for the non-compliance:

"For loading facilities, the Part 3A: Car parking DCP states the rates for loading as:

- 1 courier van and 1 MRV space for retail premises (0-599m² GFA)

- 4 service bays; plus 1 service bay (for MRV or larger) per 100 dwellings/units above 200 dwellings (note that 50% of total number of service bays shall be designed for MRV or larger)

Given these rates, it is interpreted that a total of four (4) MRV spaces and three (3) courier spaces should be provided for the development. However, the RTA Guide to Traffic Generating Development (Section 5.4.3) for high density housing states that:

The provision of at least one loading dock for residential use is desirable, although a dock intended for commercial uses may be sufficient.

Therefore, the provision of one (1) MRV space and shared courier/service vehicle spaces with visitor car parking on ground level is recommended for the development. The main loading area has been nominated for residential waste collection and is designed to accommodate the City of Botany Bay Council's waste vehicle. A minimum height clearance of 4.5m is required for the MRV loading area and approach to allow for Council's garbage vehicle."

The RTA Guidelines for Traffic Generating Development requires one loading dock for residential use. The shortfall in service bays to cater for MRVs is accepted in this case. In regards to courier vehicles, the applicant has not demonstrated shared visitor/service areas within their plans. On the plans, there is an excess of car spaces for the residential component which can be utilised for loading spaces for courier/SRVs. Additionally, the loading dock area is large enough to comfortably accommodate a second MRV space adjacent to the proposed space. A second space is to be demonstrated on the plans and this has been conditioned in the consent.

Table 8. BBDCP 2013- Compliance Table- General Provisions

Control	Proposed	Complies (yes/no)
3E Subdivision and Amalgamation		
Development Applications shall demonstrate that the proposed subdivision or amalgamation is consistent with the Desired Future Character of the area.	<p>The proposal involves the consolidation of the existing two lots and creation of 3 new stratum lots. These are</p> <ul style="list-style-type: none"> • Pt Lot 100: Development site for all buildings- 8,159sqm • Pt Lot 101: Church Avenue Street widening- to be dedicated to Council- 756.8sqm • Pt Lot 102: New Street to the north and public park- to be dedicated to Council- 2,188sqm <p>The alignment of Galloway Street (new east-west road) has not been finalised by Council who are currently finalising a coordinated design for the new internal east-west road which services several of the mixed-use</p>	Conditioned

Control	Proposed	Complies (yes/no)
	development in the immediate area. As such, a condition has been recommended that a separate application for stratum and strata subdivision be submitted to Council.	
3G.2 Stormwater Management		
C1-C6 Comply with Stormwater Management Technical Guidelines; Part 3G.5 Stormwater Quality.	Stormwater plans submitted and reviewed by Council's Development Engineer. Conditions of consent have been recommended.	Yes
3H Sustainable Design		
C1-C6 BASIX; Solar hot water encouraged.	BASIX Certificate provided.	Yes
3I Crime Prevention Safety & Security		
Site layout, design & uses; Building design; Landscaping & lighting; Public domain, open space & pathways; Car parking areas; Public Facilities.	Appropriate conditions have been recommended in the consent.	Yes
3J Aircraft Noise & OLS		
ANEF; Aircraft height limits in prescribed zones.	SACL comments received – no objection.	Yes
3K Contamination		
Consider SEPP 55 & Contaminated Land Management Act 1997.	A detailed Site Investigation Report on Contamination and a Remedial Action Plan, both prepared by Douglas Partners in July 2014, and a Geotechnical Investigation prepared by Coffey in November 2014, are submitted in support of the application. The reports conclude that the site can be made suitable for the proposed high density redevelopment. The site must be remediated in accordance with the requirements of the amended RAP (to be conditioned) and the conditions imposed under the SAS.	Yes Refer to SEPP55 discussion
3L Landscaping and Tree Management		
General Requirements; Planting design & species; Landscaping in car parks; Green roofs.	Appropriate conditions have been recommended in the consent. Landscape Plans and Arborist reports have been provided.	Yes

Control	Proposed	Complies (yes/no)
3N Waste Minimisation & Management		
General Requirements; Residential Development; Mixed Use Development.	A WMP, prepared by Elephants Foot, has been submitted for ongoing management of waste generated from the site.	Yes

Part 4C – Residential Flat Buildings

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

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

Control	Proposed	Complies (Yes/No)
4C.2.2 Streetscape Presentation		
C1 New development must be compatible in building bulk and scale with adjoining residential developments and reflect the patterns of buildings in the streetscape. It must respond to building setbacks, building height and treatment of the building facades.	As outlined in Table 2, the proposed development is consistent with other approved developments in the immediately surrounding area in terms of height and FSR. The setback to Bourke Street, Galloway Street and Church Avenue complies with Part 9A (with the exception of the protrusion of some balconies) and is consistent with the development approved at 7-9 Kent Road (to the west) and 1-5 Kent Road (to the north-west).	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.	(i) The length of all three of the four buildings exceeds 24m. (ii) The building facades are modulated and articulated with balconies and privacy/acoustic screens.	No Refer to Note 11 Yes
4C.2.4 Landscaped Area and Deep Soil Planting		
C1 A residential flat development must have a minimum landscaped area of 35% and a maximum un-built upon area of 20%.	The plans (as amended) indicate that the proposed development provides 3,052.6sqm (27%) (incl. the park) or 1,687.6sqm (15%) (excl. the park). Both these figures do not comply.	No Refer to Note 12
4C.2.5 Open Space		
C3 Open space will be designed to: (i) Encourage positive outlook, respite and attractive internal views; (ii) Provide building separation and achieve a balance between open	The proposed development provides for a public park and two separate communal open space (COS) areas. These are listed below including the amount of solar access between 9am and 3pm in mid-winter: 1. Public Park between Building A	Yes

Control	Proposed	Complies (Yes/No)
<p>space and built form;</p> <p>(iii) Provide visual and acoustic privacy and an area of good solar access for recreational purposes; and</p> <p>(iv) Through location, arrangement and design provide functional, usable and liveable spaces for a mix of recreational pursuits</p>	<p>and D and south of proposed Galloway Street: 2 hours from 11am to 1pm to 50% of the park;</p> <p>2. Podium level COS: 3 hours from 10am – 1pm to at least 50% of the area;</p> <p>3. Ground level COS attached to the western façade of Building A: 2 hours between 11am and 1pm to 100% of the area.</p> <p>On balance, enough of the communal open space areas receive the minimum required amount of solar access during mid-winter. The range of COS areas allow for the use for different activities and user groups within the development.</p>	
4C.2.6 Setbacks		
C2 All front, side and rear setbacks are to provide deep soil zones to allow unencumbered planting areas.	Deep soil zones are located along the Church Avenue and western setback, which complies with the 3m setback required in Part 9A. The Galloway Street setback contains 2 metres of deep soil which is not compliant however this can be conditioned by setting back the ground floor patios by 1 metre, while retaining the minimum private open space for these units. The eastern setback along Bourke Street has a nil setback which is consistent with Part 9A of the BBDCP 2013. This is reflected in the basement layout as well.	Yes, subject to condition
<p>Front Setbacks</p> <p>C1 Building setbacks from the existing front boundary must match the setback of adjoining properties, but must be a minimum of 3 metres or 4 metres if fronting a classified road.</p>	The nil setback to Bourke Street complies with the nil setback required in Part 9A and is also consistent with approved developments along the street (i.e. 8 Bourke Street).	Yes
C2 Where land dedications are required resulting in a new boundary line all setbacks must be provided from this new boundary line, including basement car parking setbacks.	The proposed setbacks have been measured to the new boundary alignment.	Yes
4C.2.7 Through Site Links & View Corridors		
C1 Building footprints are to take into account the requirement for consolidated open space as well as for view corridors.	The proposal is consistent with surrounding development and the building envelope set out in Part 9A other than the height.	Yes
C2 If a site has a frontage to two (2) or more streets with a boundary length	The site has two street frontages with a third frontage created along	No Refer to Note

Control	Proposed	Complies (Yes/No)
greater than 25 metres, then one through site link to the other street/s must be provided.	Galloway Street (new east-west street) in accordance with the Urban Block 1 figures within Part 9A of the BBDCP 2013. This requires the construction and dedication of the southern part of Galloway Street which will provide vehicle and pedestrian access to the public park. All vehicle access to the site is off Church Avenue. There is no through site link proposed as part of this development due to the car parking levels and podium.	13
4C.4.1 Dwelling Mix and Layout		
Apartment Size and Mix C1 Developments of ten or more apartments are to provide a range of apartment sizes, including studio, 1, 2, and 3+ apartments so as to meet the needs of residents and accommodate a range of household types.	The proposed development provides a range of apartment sizes and types.	Yes
C2 For development with ten or more apartments, the following unit mix control will apply: (i) A maximum of 25% of apartments are to be Studio and 1 Bedroom; (ii) All 2 Bedroom apartments are to satisfy the amenity controls for Family Apartments; and (iii) All 3+ Bedroom apartments are to satisfy the amenity controls for Family Apartments.	The proposal provides the following: <ul style="list-style-type: none"> • 1 bed apartments (27%) • 2 bedroom apartments (51%) • 3 bedroom apartments (22%) The number of 1 bedroom apartments exceeds 25%. For a response to the family friendly controls, please refer to Note 15.	No Refer to Note 14 Refer to Note 15
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. Please refer to Note 15.	No Refer to Note 15
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 majority of apartments do not have separately indicated studies, however the plans have indicated	No Refer to Note 15

Control	Proposed	Complies (Yes/No)
The design of the study should allow for a parent to easily work from home whilst supervising a child	that most apartments have study nooks within the open plan layout or within a cupboard enclosure.	
C3 Other than the master bedroom, each bedroom is to be large enough to accommodate a single bed, a desk or table, and floor space for playing, to be illustrated on a standard apartment layout plan	Each bedroom is shown to be able to accommodate a double bed and desk.	Yes
C4 The floor surface of the entry, dining room and kitchen floor and internal storage area are to be water-resistant and easy to be cleaned and maintained, not carpet	This has not been demonstrated on the plans. A recommended condition will require water resistant floors to these areas.	Condition
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 private open space areas can be viewed from the kitchen.	Yes
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 15.	No Refer to Note 15
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	The majority of storage areas are located adjacent to the entry or in close proximity to it.	Yes
4C.5.2 Internal Circulation		
C1 Development will provide multiple cores within the building.	Two cores have 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		

Control	Proposed	Complies (Yes/No)
Table 1 of Part 3C Access and Mobility: <u>Adaptable Housing</u> In developments containing 10 or more dwellings, a minimum of 20% of the dwellings are to be adaptable dwellings designed in accordance with Adaptable Housing Australian Standard 4299 Class B.	A total of 68 (20%) apartments are adaptable, which complies with Council's requirement for 20% (minimum requirement of 68 apartments).	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, 34 adaptable car parking spaces are required. The plans indicate a total of 34 adaptable residential car parking spaces have been provided.	Yes
4C.5.2 Access		
C1 All applications are to include a statement on how the development will comply with the provisions of the Disability Discrimination Act and comply with Part 3C - Access and Mobility.	An Access Report, prepared by Wall to Wall Design & Consulting, has been submitted with the application. The architectural design in terms of the prescriptive provisions of each 'Essential feature' and 'Desirable feature' within AS4299 – 1995 (Adaptable Housing) have been complied with.	Yes

Note 11- Building Length

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

The length of three out of the four buildings exceeds 24m. This is consistent with other development in the immediate area (i.e. 1-5 Kent Road, 7-9 Kent Road and 659-669 Gardeners Road) and is consistent with the building envelopes provided with Part 9A of the BBDCP 2013 for Urban Block 1.

Note 12- Landscaped Area

Control C1 of Part 4C.2.4 of the BBDCP 2013 requires a residential flat development to have a minimum landscaped area of 35%. Similar to the deep soil and communal open space discussion above, the applicant has included public park within the calculation of the landscaped area. Council has acknowledged this in the calculation. The proposal provides a total of 3,052.6sqm (27%) which includes the public park within the calculation. Without the public park, the development proposes a total of 1,687.6sqm of landscaped. Regardless if the park was included or excluded from the calculation, the development does not comply with the minimum 35% landscaped area.

The site contains 1,135sqm of landscaping within its podium, 1,365sqm in the park and surrounding areas and 552.6sqm of landscaped area on the ground floor within the building site. The podium provides a variety of planter beds and turf areas and has made provision for a number of trees and the public park provides ample recreation space for residents and the public. The amount of landscaping provided is similar to the landscaped area approved in surrounding sites. Therefore based on the above, the non-compliance is supported.

Note 13- Through Site Link

Control C2 of Part 4C.2.7 of BBDCP 2013, states that if a site has a frontage of two or more streets with a boundary length greater than 25 metres, then one through site link to the other street must be provided.

The site has three street frontages with Bourke Street and Church Avenue existing and Galloway Street along the northern boundary to be constructed. As the site affords three frontages and is in close proximity to Mascot Station and the main thoroughfare of Bourke Street, it is not considered that the loss of a through site link would reduce the flow of pedestrian access to the public park to the north of the site. Additionally, Muller Lane which is a new street constructed to the west of the site is located approximately 50 metres away. Therefore, no through site link is accepted.

Note 14- Unit Mix

In accordance with Part 4C.5.1 of the BBDCP 2013, the total number of studio and one bedroom apartments must not exceed 25% of the total apartments within the development. The development proposes 27% 1 bedroom apartments, 51% 2 bedroom apartments and 22% 3 bedroom apartments. The departure equates to an additional 6 x 1 bedroom apartments.

The ADG recommends that an appropriate unit mix should take into consideration the distance to public transport, employment, and education centres, the current market demands and projected future demographic trends and the demand for social and affordable housing.

The subject site is located within the Mascot Station Precinct, in close proximity to services, employment opportunities and public transport. The control is there to allow for dwelling choice where it would not ordinarily be provided by the market. The non-compliance is supported as the 1 bedroom unit mix is minor and the development provides a large proportion of 3 bedroom apartments to reflect market demand.

It should be further noted that unit sizes comply with the Council's minimum unit sizes in the ADG and are expected to provide a good level of internal amenity to future occupants.

Note 15- Family Friendly Apartments and Apartment Layout

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 – majority of all two and three bedroom apartments contain a study nook enclosed in a cupboard area or incorporated within the open plan area.

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. There are a number of study nooks that are located within an enclosed cupboard space. This is not supported by Council as it does not meet the requirement to have a window to a study. While it is acknowledged that the study nooks have been included within the apartments, more appropriate locations are required. The size of the two and three bedroom apartments are in excess of the minimum ADG requirement of 70sqm and 90sqm with minimum areas of 81sqm and 101sqm respectively. 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.

The applicant has provided amended plans showing a majority of the apartments containing study enclosures within a cupboard compartment. Council is not satisfied with this arrangement as these areas do not contain a window and natural ventilation. While it is considered that there is sufficient size for the location of a nook or desk within the open-plan living area, a condition has been recommended that amended plans be submitted showing compliance with this requirement by indicating that within each 2 and 3 bedroom apartment, there is either a study nook/space or indicate that a desk can adequately be accommodated within the open-plan living area and not in a room/cupboard with no window.

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

Control C6 states that the private outdoor space is to be clearly visible from the kitchen. All kitchens are in close proximity to the primary balconies which are the principal open space for the apartments. The private outdoor areas (balconies) are generally designed to be an extension to internal living area.

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

The plans (as amended) indicate that the majority of apartments contain 50% of their storage areas within the apartment. 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 are 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.

Part 7C – Child Care Centres

An assessment against Part 7C relating to Child Care Centres has been provided below insofar as they relate to the proposed development. A separate DA will be submitted for the fit out of the child care centre.

Table 10: BBDCP 2013 Compliance Table – Part 7C Child Care Centres

Control	Proposed	Complies (Yes/No)
C1 The design and siting of a Early Childhood Education and Care Service shall consider: (i) Existing vegetation; (ii) Site orientation and solar access; (iii) Natural drainage; (iv) Significant noise sources; (v) Views to and from the site; (vi) Pedestrian and vehicle access; (vii) Existing buildings on site; (viii) Location of surrounding buildings, uses, open spaces adjoining or adjacent to the site; and (ix) The predominant built form and character.	The proposed location of the child care centre - in the north-western corner of the development on the podium level of Building D is considered to be the most appropriate. The child care centre receives the minimum solar requirement, does not obstruct views to and from the site and does not have any existing significant vegetation.	Yes
C2 Early Childhood Education and Care Service should be single storey in height.	Single storey proposed.	Yes
<i>Part 4.3 Physical Environment - in the National Regulation 2011 prescribes information for Early Childhood Education and Care Services to adhere to as follows:</i>		
104 Fencing – any outdoor space used by children at the education and care service premises is enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	The proposed outdoor area is to be separated from the private communal open space on the top of the podium. Appropriate fencing is to be considered within a subsequent development application for the fit out.	N/A
105 Furniture, materials and equipment - approved provider of an education and care service must ensure that each child being educated and cared for by the education and care service has access to sufficient furniture, materials and developmentally appropriate equipment suitable for the education and care of that child.	The proposed child care centre will be subject to a separate DA for the fit out. No fit out works under this DA.	N/A
106 Laundry and hygiene facilities	This has not been indicated on the subject plans. This is to be included with the development application for the fit out of the child care centre.	N/A

Control	Proposed	Complies (Yes/No)
107 Space requirements—indoor space – for each child being educated and cared for by the service, the education and care service premises has at least 3.25 square metres of unencumbered indoor space	Approximately 86 children proposed, 279.5sqm indoor space required. 558sqm provided, which provides sufficient space to provide 3.25sqm of unencumbered areas, as well as hygiene facilities, administrative space and nappy change facilities.	Yes
108 Space requirements—outdoor space - for each child being educated and cared for by the service, the education and care service premises has at least 7 square metres of unencumbered outdoor space.	Approximately 86 children proposed, 602sqm outdoor space required. 686sqm provided.	Yes
109 Toilet and hygiene facilities	This has not been indicated on the subject plans. This is to be included with the development application for the fit out of the child care centre.	N/A
110 Ventilation and natural light	The child care centre is located on the podium level of Building D and has a northern, eastern and western aspect with openings across the full length of each frontage providing cross ventilation across the indoor space. Full height glass windows and doors are provided across the full length of the frontages providing natural light.	Yes
111 Administrative space	This has not been indicated on the subject plans. This is to be included with the development application for the fit out of the child care centre.	N/A
112 Nappy change facilities	This has not been indicated on the subject plans. This is to be included with the development application for the fit out of the child care centre.	N/A
113 Outdoor space—natural environment - allow children to explore and experience the natural environment.	This has not been indicated on the subject plans. This is to be included with the development application for the fit out of the child care centre.	N/A
114 Outdoor space—shade	Shade will be required to be provided in the future fit out DA, and shade structures can be accommodated within the play area with minimal impact on nearby dwellings.	N/A
115 Premises designed to facilitate supervision	Open plan internal space, and clear view lines across the outdoor space provided which facilitates supervision.	Yes
C5 Early Childhood Education and Care Service shall be designed and sited to maintain solar access for a minimum period of three hours between 9am and 3pm on 22 June to key areas of the centre including indoor and outdoor play	Solar access perspectives indicate that at least 50% of the outdoor play area will receive direct sunlight between 10am to 1pm for 3 hours on June 22. Indoor play areas will receive direct	Yes

Control	Proposed	Complies (Yes/No)
areas.	sunlight between 9am to 12pm on June 22 due to its northern and eastern aspect.	
C6 Where various uses or activities are proposed to be undertaken, a Site Plan is required and must specify the location of where uses or activities are proposed to be undertaken.	A floor plan of the child care centre has not been provided however the podium plan demonstrates the location of the indoor and outdoor areas. A separate development application will be submitted for the fitout of the child care centre.	Yes
C7 Early Childhood Education and Care Service shall be designed in a manner that utilises cross ventilation as the primary ventilation control system.	The child care centre is located on the whole floor of the podium of Building D with openings across the full length of each frontage providing cross ventilation across the indoor space.	Yes
C4 All pick-up / drop-off spaces shall be located close to a lift, ramp or building entrance and clearly sign posted and line marked. Signage and line marking shall comply with AS2890.1.	The pick-up and drop off spaces are located within the building car park ground floor immediately adjacent to the entrance to the childcare centre lobby. A Traffic and Parking Report has been submitted indicating that signage and line marking will comply with AS2890.1.	Yes
C5 The number of carparking spaces required shall be in accordance with Part 3A - Car Parking.	As discussed elsewhere in this report, car parking for the child care centre complies with the BBDCP 2013.	Yes

Part 9A – Mascot Station Town Centre

An assessment against Part 9A relating to development within the Mascot Station Precinct has been provided below insofar as they relate to the proposed development.

Table 11: BBDCP 2013 Compliance Table – Part 9A Mascot Station Town Centre

Control	Proposed	Complies (Yes/No)
9A.3.2 Desired Future Character – Urban Block 1		
Land Uses A mixed use area with retail ground floor uses on Bourke Street and predominantly residential and commercial uses elsewhere within the urban block.	The eastern elevation of the development along the ground floor of Bourke Street contains active street frontage with a total of 512sqm of retail proposed.	Yes
Street Character New local streets within the Urban Block are to provide vehicular, pedestrian and cycle access to high rise residential and mixed use buildings. These streets are to be	The development proposes the construction of the southern portion of the new east-west road(Galloway Street) and a new community park between Buildings A and D as identified within the figures for	Yes

Control	Proposed	Complies (Yes/No)
<p>addressed by major building facades, with predominantly continuous low level street frontages and set back tower buildings.</p> <p>Bourke Street is to be the major, thriving main street in the Mascot Station Town Centre Precinct. Ground level retail, generous footpaths for pedestrians, a bike lane and bike facilities for cyclists, bus services, street trees and street furniture and paving are to denote Bourke Street as the active spine of the Town Centre.</p>	<p>Urban Block 1 within Part A of the BBDCP 2013. The new community park will be dedicated to Council.</p> <p>The ground level of the development along Bourke Street will consist of retail uses and will be easily accessible to pedestrians.</p>	
<p>Public Domain</p> <p>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.</p>	<p>As mentioned above, a new community/public park will be constructed between Buildings A and D as per Part 9A of the BBDCP 2013 and will be dedicated to Council. Additionally, road widening is proposed along the southern side of the site at Church Avenue and this will also be dedicated to Council. 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.</p>	Yes
9A.3.4 Setbacks		
<p>C1 All development within Urban Block 1 must comply with the street setbacks identified in Figures 30 and 31 which is:</p> <p><u>Level 1-4</u></p> <ul style="list-style-type: none"> Bourke Street: 0m Church Avenue and Galloway Street: 3m <p><u>Levels 5-13</u></p> <ul style="list-style-type: none"> Bourke Street: 3m Church Avenue and Galloway Street: 6m 	<p><u>Level 1-4</u></p> <p>Bourke Street: 0m Church Avenue: 3 metres Galloway Street: 2m</p> <p><u>Levels 5-13</u></p> <p>Bourke Street: 2m – 3m Internal roads: 5m – 6m</p>	No Refer to Note 16
9A.4.4.4 Active Street Frontages and Awnings		
<p>C1 and C2 – must provide an awning along the Kent Road frontage.</p>	<p>An awning has been indicated in the plans along Bourke Street.</p>	Yes
9A.4.5.4 Wind Mitigation		
<p>C1 All new buildings are to meet the following maximum wind criteria:</p> <p>(i) 10 metres/second along commercial/retail streets;</p> <p>(ii) 13 metres/second along main pedestrian streets, parks and</p>	<p>A Qualitative Environmental Wind Impact Assessment, prepared by SLR, has been submitted with the application.</p> <p>The Qualitative Wind Impact Assessment has not considered the maximum wind criteria as identified</p>	Able to comply subject to Condition

Control	Proposed	Complies (Yes/No)
(iii) public places; and 16 metres/second in all other streets	<p>at Part 9A.4.5.4 of the BBDCP 2013. The maximum criteria within the Qualitative Wind Impact Assessment for street have been identified as 16m/s which is above the 10m/s in the BBDCP 2013 particularly along Bourke Street. However in the report, the existing wind conditions to Bourke Street and surrounding streets are close to the 16m/s range.</p> <p>A condition has been recommended that the development comply with the recommendations raised in the Qualitative Wind Impact Assessment and that these recommendations be incorporated into the design of the building.</p>	
9A.4.5.5 Reflectivity		
C3 Visible light reflectivity from building materials use on new building facades must not exceed 20%.	A reflectivity report has been submitted with the development application. Recommendations raised in the report are to be conditioned within the consent.	Condition
9A.5.1 Public Domain Works		
-	<p>As previously discussed, a new community/public park will be constructed between Buildings A and D as well as construction of the southern side of Galloway Street and road widening along Church Avenue.</p> <p>Council's Landscape Architect has reviewed the proposal and has recommended a condition for the new community park to be included in the required Public Domain Plans with regard to tree planting, paving, materials, edge treatments, construction details, etc. This is to ensure that there is a consistent treatment with regard to other public parks.</p>	Condition

Note 16- Setbacks

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

- Nil setback from Bourke Street and 3m from Church Avenue and Galloway Street from levels 1-4; and
- 3m setback along Bourke Street and 6m from Church Avenue and Galloway Street from levels 5-14

The proposal provides the following:

Bourke Street Frontage:

The first floor levels comply with the nil setback requirements, however from Levels 5 and above, a number of the balconies protrude over the 3 metre setback requirement.

Church Avenue and Galloway Street Frontages:

The ground floor of the Galloway Street frontage provides a 2 metre setback zone from the boundary. This setback is to the private patios of the ground floor apartments. Considering the size of the private open space to these units is in excess of the minimum requirement under the ADG, a condition setting the patios back 3 metres from the boundary has been recommended in the consent.

The setbacks from Level 5 and above on the Galloway Street and Church Avenue frontages is predominantly compliant with the exception of balconies protruding within the 6 metre setback zone by 1 metre. The applicant has provided the following justification to this non-compliance on the Bourke Street, Church Avenue and Galloway Street frontages:

‘The diagram below shows (clouded) the extent of balcony encroachments into the 3-metre setback zones along the north, east and south of the site. The diagram shows that only a very minor proportion of the frontage of each building is occupied by balcony encroachments. The projections for the north facing balconies are subtle; and the projections along the east and south sides of the development are slightly more generous but only occupy a very small proportion of the elevations. The photomontages that are submitted with the application show that the articulation created by these minor projections into the setback zones will have a very positive contribution to the architecture of the buildings. Without these minor projections, the buildings will appear flat and uninteresting. The minor projections do not give the impression that the buildings are eroding the overall setbacks of the buildings, as the vast majority of the elevations are set back in compliance with the required setbacks. For these reasons, it is considered beneficial to allow the minor encroachments and the minimal variation sought from full DCP compliance.’

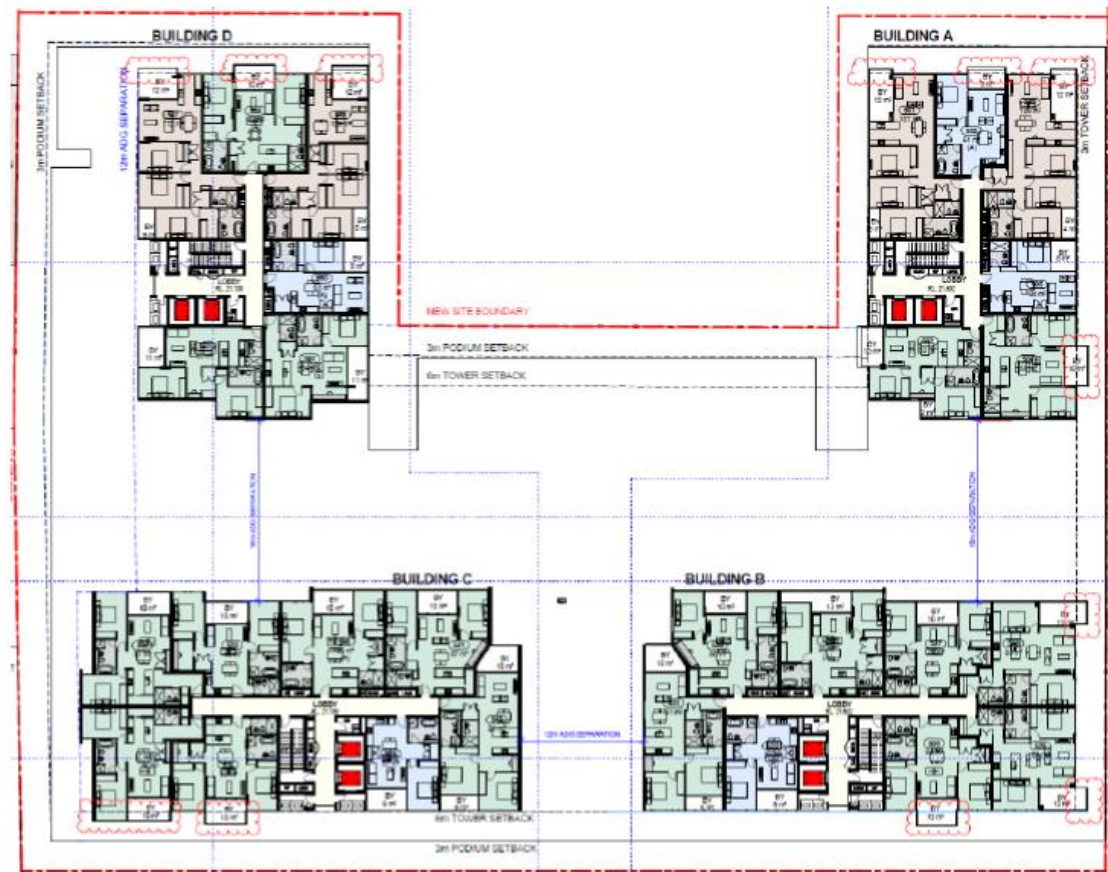


Figure 24. Plan highlighting the balconies protruding over the setback zone

Considering the applicant's justification and the degree of articulation that is provided by the protruding balconies and the apartment on the south western corner of Building C, the non-compliance is acceptable.

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

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

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

The site is affected by flooding and the plans 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. A flood study prepared by Calibre Consulting was submitted with the development application and provides the flood levels for the development. Appropriate conditions have been recommended.

Adequate information has been submitted to demonstrate that the site can be remediated and made suitable for the proposed development. Appropriate conditions have been recommended in the attached Schedule.

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 do not surpass the overall height to comply with the OLS limit of 51m AHD. SACL have raised no objection to the height of the proposed development.

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

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 14 September to 14 October 2016. Twelve (12) submissions were received which generally raised issue with overshadowing and traffic generation. The amended plans were re-notified for a period of fourteen days from 30 March to 13 April 2017. Thirty (30) submissions were submitted raising issues relating to overshadowing and construction management and damage as a result of construction, costs and loss of income of surrounding development and disruption to surrounding business. The applicant provided a further version of the amended plans which were re-notified to the objectors for a period of 7 days from 10 May to 17 May 2017. Nine (9) objections were made relating to further clarification on the overshadowing. These issues have been discussed in detail throughout the report.

The key issues from the submission, received during the first round of notification, are provided below:

- *Overshadowing to apartments and communal open space to surrounding development as a result of excess building height*

Comment: An assessment on the solar amenity to the site and surrounding sites has been considered in Note 4. It is found that the development allows adequate solar amenity to the surrounding developments to the south, in particular during March/September. The shadow diagrams demonstrate that 50% of the communal open space on the neighbouring property will receive the minimum amount of sunlight required as part of the ADG. As stated above, the southern property at 8 Bourke Street comprises of an outdoor swimming pool and indoor gym to the northern side of their podium. It is not expected that the outdoor swimming pool would be a usable communal area during June. As the shadow diagrams show that the swimming pool and gym will receive the required sunlight in March/September and a separate usable section of the communal open space on the podium will receive sunlight in June, the solar amenity is acceptable.

In regards to the development at 56 Church Avenue, the development is an existing commercial building that is on an isolated site. However due to the existing density on that site, it is not considered that the site will be redeveloped. It is acknowledged that the western side of 56 Church Avenue contains a Building built to the boundary and to the north, which is another residential building built in close proximity. The subject development has a 6m to 9m setback from the western side of the site in addition to an 18 metre building separation between Building C and D which allows for some sunlight to reach 56 Church Avenue. It is considered that the degree of overshadowing on this site is acceptable as the proposal will only overshadow the neighbouring site between 9am to 10am during June. Additionally, the site was not earmarked to be consolidated with the subject site in Part 9A of the BBDCP 2013 therefore it was envisaged that the site would have been a stand-alone site.

- *Grime, dirt and rubble from construction*

Comment: Any damage that occurs to the surrounding developments is to be reinstated by the developer. Additionally, a Work Method Statement has been conditioned to be provided demonstrating dust control, waste emissions and disruptions from construction.

- *Disruption to the ingress and egress of surrounding developments*

Comment: Concerns were raised in regards to construction vehicles blocking the entry and exit to the car parking levels of surrounding developments. As provided above, a construction and traffic management plan and a Work Method Statement is to be provided prior to the commencement of works on the site and is to detail the truck movements to and from the site. This is to be submitted to Council.

- *Costs and Loss or income and disruption of surrounding businesses*

Comment: Concerns were raised about the difficulty in leasing the commercial suites in the neighbouring property due to surrounding construction and vibration to the building. It appears that this concern is raised due to issues in other developments having had an impact on that site. To prevent excessive vibration levels, appropriate vibration conditions are to be imposed in the Schedule of Consent Conditions for approval.

In regards to damage onto the surrounding buildings from construction of the subject site, a condition requiring a dilapidation report is to be provided in the Schedule of Consent Conditions. Any damage caused onto surrounding developments and Council infrastructure during the construction of the development is to be covered by the developer.

- *Presentation of the surrounding buildings*

Comment: Concern is raised with the presentation of the surrounding buildings, particularly with the surrounding development, according to the objections, the buildings are constantly covered in dirt and grime and windows and glass need to be cleaned fortnightly. As stated above, the Work Method Statement seeks to reduce the impact of construction on the surrounding development however Council cannot guarantee that there will not be any residue from construction impacting onto surrounding development.

- *Traffic generation and movement*

Comment: Concern is raised regarding to the traffic generated from the proposal on the already congested streets. The development does achieve the car parking requirement under the RMS Guidelines as required in the ADG plus extra. The application was submitted to the Traffic Advisory Committee who provided recommendations. Council has included in their Works Schedule of the Section 94 Contributions Plan, plans to upgrade Church Avenue from a one way to a two way access and road widening. This is one mechanism that will hopefully alleviate the traffic flow within the area in the future. Future mechanisms to ease congestion will be negotiated with Council and RMS outside the scope of the development application. Concerns relating to service vehicles coming and going from Church Avenue is acknowledged and while the option of utilising Bourke

Street for vehicle access to service vehicles, this would not be in accordance with the requirements from RMS and Part 3A of the BBDCP 2013.

- *Design of the building and other use*

Comment: Concerns were raised relating to the lifestyle of surrounding developments and possibly retaining the building and have it utilised for another purpose. The lifestyle of the residents of the surrounding properties should not be significantly lowered by the proposal as it was anticipated that the site was to be redeveloped as a mixed use development. Overshadowing and traffic has been discussed in detail above. In regards to having the existing buildings utilised for a different purpose, the existing buildings are not heritage items or have any significant value therefore the buildings could be demolished and replaced.

(e) The public interest.

It is considered that the proposed development is in the public interest as it will provide for housing stock within the Mascot Station Town Centre Precinct. It will provide services and employment opportunities through the provision of the retail tenancies, and will provide community benefits in terms of the new community park on the northern side of the site located between Buildings A and D and the child care centre.

The proposed development will result in the completion of Galloway Street (east-west) road and the proposed integration with the site to the immediate north. This will be dedicated to Council as a public road. Additionally, the land to the south along Church Avenue which is earmarked for road widening by Council will be dedicated to Council.

OTHER MATTERS

Internal and External Referrals

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

Table 12: Internal and external referrals

Referral Agency	Response Date	Comments
External Referrals		
Sydney Airport Corporation Limited (SACL)	22 September 2016	No objection to the erection of this development to a maximum height of 51m AHD. This information has been included in the Schedule of Consent Conditions.
Sydney Water	14 October 2016	No objection to the proposed development subject to conditions. These comments have been included in the Schedule of Consent Conditions.
Water NSW	16 December 2016	General Terms of Approval have been received and

Referral Agency	Response Date	Comments
		have been included in the Schedule of Consent Conditions.
NSW Police	-	No comments have been received.
RMS	7 October 2016	No objections to the proposal subject to conditions. The conditions have been included in the Schedule of Consent Conditions.
Ausgrid	15 September 2016	No objections to the proposed development subject to conditions included within the Schedule of Consent Conditions.
Sydney Trains/ Sydney Trains RCMG	8 May 2017	Letter provided to Council providing deferred commencement conditions prior to concurrence being signed off by Sydney Trains. These deferred commencement conditions have been included within the Schedule of Consent Conditions.
DRP	-	Held 16 June 2016
Internal Referrals		
Landscape Architect	15 May 2017	Conditions have been incorporated into the Schedule of Consent Conditions.
Development Engineer	6 January 2017	Plans (as amended) have incorporated the initial comments provided by the Development Engineer. Conditions have been incorporated into the Schedule of Consent Conditions.
Strategic Planning/ Urban Design Officer	13 September 2016	Generally in agreeance with proposal.
Environmental Scientist	8 November 2016	Conditions have been incorporated into the Schedule of Consent Conditions.
Traffic Engineer / Traffic Advisory Committee	7 December 2016	Recommendations made at the Traffic Advisory Committee have been taken on board and demonstrated within the amended plans.

Section 94 Contributions

The Section 94 Contributions pursuant to Council's Section 94 Contributions Plan 2016 are outlined below.

Residential:

There are a total of 340 apartments proposed. The breakdown includes:

1 bed= 91 x \$8,962.09 = \$815,550.19
2 bed= 174 x \$14,745.64 = \$2,565,741.36
3 bed = 75 x \$19,270.78 = \$1,445,308.50

Total: \$4,826,600.05

The figure has been indexed to the April Quarter of 2017 and comes to a total of **\$5,194,622.36.**

The breakdown of the contribution is as follows:

Community Facilities- Citywide	\$798,693.83
Recreation Facilities- Mascot Precinct	\$81,027.65
Recreation Facilities- Citywide	\$3,469,129.18
Transport Management- Citywide	\$326,870.05
Transport Management- Mascot	\$459,437.20
Administration	\$59,518.46

Commercial:

The number of workers that are required for 512sqm of retail spaces is 23 workers. The site currently consists of four commercial/industrial units. These units were approved with a total of 91 workers on the site. Based on the Section 94 Contributions Plan, a credit can only be given when a commercial/industrial use is being replaced with a commercial/industrial use. As the number of workers generated by the retail tenancies is less than the existing number of workers on the site, a Section 94 Contribution will not be charged for the commercial component.

Land Dedications/Public Benefits

- Church Ave - The widening and two-way road works of Church Ave is proposed along the southern boundary of the site;
- Additional Street- The application involves the creation of the southern portion of the new east-west street (Galloway Street); and
- Park- The application involves a new community park located between Buildings A and D. This park will be constructed and dedicated to Council

CONCLUSION

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

The proposed development underwent a review with the design review panel and the majority of the Panels' comments have been appropriately addressed in the proposal.

The proposal seeks a maximum 2.3m height variation which results in a 5.2% variance to the 44 metre height control and includes breaches to a small portion of the building and the plant rooms. A Clause 4.6 Variation Request was submitted which demonstrates that the proposal satisfies the underlying objectives of the height control and that the proposal will result in the orderly and economic development of the site. The Variation to the maximum height is considered to be well founded and the variation to the height control is supported by Council in this case.

Non-compliances with the ADG and DCP controls have been considered and are generally supported by Council, in particular to building separation, ceiling heights, landscaped area, and service vehicle arrangements, building length and depth and setbacks. Appropriate

conditions have been recommended to maintain visual privacy, achieve compliance with family friendly apartment controls and achieve compliance with the required storage areas.

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

The application was the subject of twelve (12) submissions in the first round of notification and a total of thirty (30) submissions in the second round of notification which generally raised concerns relating to overshadowing and traffic generation, construction management and damage as a result of construction, costs and loss of income of surrounding development and disruption to surrounding business. These submissions have been addressed above in the report. Further to the amended plans submitted to Council to address landscaping issues and overshadowing, nine (9) objections were received.

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*. The proposal is permissible within the B4 – Mixed Use zone and is considered to result in a development which is suitable in the context. However, issues relating to concurrence with Sydney Trains had not been resolved at the time of compiling the report. It is recommended that the application be recommended for deferred commencement, in order to enable the applicant to satisfy the remaining outstanding issues.

SCHEDULE OF CONSENT CONDITIONS

DEFERRED COMMENCEMENT CONDITIONS

The Consent given does not operate until the following conditions are satisfied:

DC1 *The applicant shall prepare and provide to Sydney Trains for approval/certification the following final versions of the items listed below (but not limited):*

- 1. Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.*
- 2. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.*
- 3. Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.*
- 4. Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and rail corridor land.*
- 5. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.*

DC2 The period of the “Deferred Commencement” consent is to be limited to 6 months and if the information required by DC1 is not provided within this period, the consent will lapse.

Note: that once the “deferred commencement” conditions are satisfied, that certain draft conditions may need to change when the amended drawings required by the “deferred commencement” conditions are submitted.

GENERAL CONDITIONS

- 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.

Plans	Author	Dated / Received by Council
DWG No. 0001 Rev B- Cover Sheet		Dated 13 February 2017; Received 24 February 2017
DWG No. 0002 Rev A- Site		Dated 28 July 2016;

Analysis	Crone Architects	Received 24 February 2017
DWG No. 0003 Rev A- Setback and Storey Height Analysis		Dated 28 July 2016; Received 24 February 2017
DWG No. 0004 Rev A- Existing Plan		Dated 28 July 2016; Received 24 February 2017
DWG No. 0005 Rev B- GA Parking Level 01- (Basement L01)		Dated 13 February 2017; Received 24 February 2017
DWG No. 0006 Rev C- GA Ground Level		Dated 3 May 2017; Received 11 May 2017
DWG No. 0007 Rev B- GA Level 01		Dated 13 February 2017; Received 24 February 2017
DWG No. 0008 Rev B- GA Level 02		Dated 13 February 2017; Received 24 February 2017
DWG No. 0009 Rev B- GA Level 03		Dated 13 February 2017; Received 24 February 2017
DWG No. 0010 Rev B- GA Level 04		Dated 13 February 2017; Received 24 February 2017
DWG No. 0011 Rev B- GA Level 05		Dated 13 February 2017; Received 24 February 2017
DWG No. 0012 Rev B- GA Level 06		Dated 13 February 2017; Received 24 February 2017
DWG No. 0013 Rev B- GA Level 07		Dated 13 February 2017; Received 24 February 2017
DWG No. 0014 Rev B- GA Level 08		Dated 13 February 2017; Received 24 February 2017
DWG No. 0015 Rev B- GA Level 09		Dated 13 February 2017; Received 24 February 2017
DWG No. 0016 Rev B- GA Level 10		Dated 13 February 2017; Received 24 February 2017
DWG No. 0017 Rev B- GA Level 11		Dated 13 February 2017; Received 24 February 2017
DWG No. 0018 Rev B- GA Level 12		Dated 13 February 2017; Received 24 February 2017
DWG No. 0019 Rev B- GA Level 13		Dated 13 February 2017; Received 24 February 2017
DWG No. 0020 Rev A- GA Level 14 (Plant)		Dated 28 July 2016; Received 24 February 2017
DWG No. 0021 Rev A- GA Roof Level		Dated 28 July 2016; Received 24 February 2017
DWG No. 0022 Rev B- North Elevation (A+D)		Dated 13 February 2017; Received 24 February 2017
DWG No. 0023 Rev B- East Elevation (A+B)		Dated 13 February 2017; Received 24 February 2017
DWG No. 0024 Rev A- South Elevation (B+C)		Dated 28 July 2016; Received 24 February 2017
DWG No. 0025 Rev A- West Elevation (C+D)		Dated 28 July 2016; Received 24 February 2017
DWG No. 0026 Rev B- North Section/Elevation (B+C)		Dated 28 July 2016; Received 15 May 2017
DWG No. 0027 Rev B- South Section/Elevation		Dated 28 July 2016; Received 15 May 2017

(A+D)		
DWG No. 0028 Rev A- East Section/Elevation (C+D)		Dated 28 July 2016; Received 24 February 2017
DWG No. 0029 Rev A- West Section/Elevation (A+B)		Dated 28 July 2016; Received 24 February 2017
DWG No. 0030 Rev A- Section 01 (B+C)		Dated 28 July 2016; Received 24 February 2017
DWG No. 0031 Rev B- Section 02 (A+D)		Dated 13 February 2017; Received 24 February 2017
DWG No. 0032 Rev A- Section 03 (C+D)		Dated 13 February 2017; Received 24 February 2017
DWG No. 0033 Rev B- GFA Plans		Dated 13 February 2017; Received 24 February 2017
DWG No. 0034 Rev A- GFA Plans		Dated 28 July 2016; Received 24 February 2017
DWG No. 0035 Rev A- GFA Plans		Dated 28 July 2016; Received 24 February 2017
DWG No. 0036 Rev D- Shadow Analysis- Winter Solstice		Dated 3 May 2017; Received 11 May 2017
DWG No. 0037 Rev D- Shadow Analysis- Winter Solstice		Dated 3 May 2017; Received 11 May 2017
DWG No. 0043 Rev B- ADG Cross Ventilation		Dated 13 February 2017; Received 24 February 2017
DWG No. 0044 Rev B- ADG Solar Access		Dated 13 February 2017; Received 24 February 2017
DWG No. 0045 Rev B- ADG Solar Access		Dated 13 February 2017; Received 24 February 2017
DWG No. 0046 Rev B- ADG Apartments Direct Sunlight Analysis		Dated 13 February 2017; Received 24 February 2017
DWG No. 0047 Rev B- ADG Apartments Direct Sunlight Analysis		Dated 13 February 2017; Received 24 February 2017
DWG No. 0048 Rev A- Materials Board		Dated 28 July 2016; Received 24 February 2017
DWG No. 0049 Rev A- BASIX Specification		Dated 28 July 2016; Received 24 February 2017
DWG No. 0051 Rev A- Perspective View 02		Dated 28 July 2016; Received 24 February 2017
DWG No. 0052 Rev A- Landscape Diagrams		Dated 13 February 2017; Received 24 February 2017
DWG No. 0053 Rev C- Shadow Analysis- Equinox		Dated 3 May 2017; Received 11 May 2017
DWG No. 0054 Rev C- Shadow Analysis- Equinox		Dated 3 May 2017; Received 11 May 2017
DWG No. 0055 Rev A- NE Winter Solstice		Dated 13 February 2017; Received 24 February 2017
DWG No. 0056 Rev A- NW Winter Solstice		Dated 13 February 2017; Received 24 February 2017
DWG No. 0057 Rev A- NE Equinox		Dated 13 February 2017; Received 24 February 2017

DWG No. 0058 Rev A- NW Equinox		Dated 13 February 2017; Received 24 February 2017
DWG No. 0059 Rev A- Basement Storage/Bicycle Parking/Media Cupboard		Dated 13 February 2017; Received 24 February 2017
DWG No. CS-000 Rev C- Cover Sheet, Drawing Register and Legend		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-200 Rev E- Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-201 Rev E- Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-202 Rev E- Planting Plan- Ground Level	Urbis Pty Ltd	Dated 11 May 2017; Received 11 May 2017
DWG No. FI-203 Rev E- Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-204 Rev E- Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-210 Rev A- Planting Plan- Level 4		Dated 15 July 2016; Received 11 May 2017
DWG No. FI-211 Rev A- Planting Plan- Level 4		Dated 15 July 2016; Received 11 May 2017
DWG No. FI-212 Rev A- Planting Plan- Level 4		Dated 15 July 2016; Received 11 May 2017
Survey Plan- Sheets 1+2	LTS Lockley Registered Surveyors	Dated 12 September 2014; Received 29 August 2016
Civil Works Package- Rev B	At&I	Dated 2 May 2016; Received 24 February 2017
41176DP- Plan of Subdivision	Matthew Graham Smith	Dated 2014; Received 29 August 2016

Reference Document(s)	Author	Dated / Received by Council
ND 1502- Landscape Design Development Application Report	Urbis	Dated 2 May 2017; Received 11 May 2017
Letter to Council responding to additional information	Meriton Property Services Pty Ltd	Dated 4 May 2017; Received 11 May 2017
Response Matrix outlining Landscaping issues	Meriton Property Services Pty Ltd	Received 11 May 2017
Addendum Report – Arboricultural- Ref: 3504	TALC	Dated 6 February 2017; Received 24 February 2017
Traffic Impact Assessment Rev B- Ref: 248258	ARUP	Dated 17 February 2017; Received 24 February 2017
Clause 4.6 variation to the FSR development standard	Meriton Property Services Pty Ltd	Received 24 February 2017
Clause 4.6 variation to the height development standard	Meriton Property Services Pty Ltd	Received 18 May 2017
Reflectivity and Glare Assessment- Ref: 610.14464-R011-v1.0	SLR	Dated 23 January 2017; Received 24 February 2017
Response Matrix to	Meriton Property	Received 24 February 2017

additional information request by Council	Services Pty Ltd	
Response to Council DA Traffic Issues	ARUP	Dated 17 February 2017; Received 24 February 2017
Design Statement for DA submission- Ref: CA3392	Crone Architects	Dated 7 July 2016; Received 29 August 2016
DCP Compliance Table	Meriton Property Services Pty Ltd	Received 29 August 2016
BASIX Certificate No. 741493M	Prepared by Efficient Living Pty Ltd	Dated 3 August 2016; Received 29 August 2016
Acoustic Report- Ref: 2016.1100.1/2807A/R0/TA	Acoustic Logic	Dated 28 July 2016; Received 29 August 2016
Waste Management Plan Rev C	Elephants Foot	Dated 26 August 2016; Received 29 August 2016
Access Report- Rev 2- MTN-017	Wall to Wall Design + Consulting	Dated 28 August 2016; Received 29 August 2016
Building Code of Australia Compliance Assessment Report- 1423-80-Rev 00	AE&D Group	Dated 13 July 2016; Received 29 August 2016
Qualitative Environmental Wind Assessment Report- Ref: 610.14464	SLR	Dated 28 July 2016; Received 29 August 2016
Arboricultural Assessment Report	TALC	Dated 25 July 2016; Received 29 August 2016
Construction Management Plan	Meriton Property Services Pty Ltd	Dated July 2016; Received 29 August 2016
Civil Infrastructure Development Application Report- Rev 01- Ref: 16-363-01	At&I	Dated August 2016; Received 29 August 2016
Remediation Action Plan- Ref: 73894.01	Douglas Partners	Dated July 2014; Received 29 August 2016
Detailed Site Investigation for Contamination- Ref: 73894.00	Douglas Partners	Dated July 2014; Received 29 August 2016
Geotechnical Investigation- Ref: GEOTLCOV25225AA-AC	Coffey	Dated 25 November 2014; Received 29 August 2016
Flood Report Rev 1	Calibre Consulting	Dated 27 July 2016; Received 29 August 2016
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 20 July 2016; Received 29 August 2016
Statement of Environmental Effects	Meriton Property Services Pty Ltd	Dated 29 August 2016; Received 29 August 2016

- 2 No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.
- 3 This Consent relates to land in Lot 1 in DP 376752, Lot 3 in DP 376752 and Lot 21 in DP1014063 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 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

Where relevant, the following external authority conditions apply:

The following conditions are imposed by **Ausgrid**:

- 7 Ausgrid has identified the following assets to be affected by the development works:
 - a) Close Proximity of overhead and/or underground cable/s on public land
 - (i) Ausgrid require that due consideration be given to the compatibility of proposed development 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.

- b) In general, conditions to be adhered to by the developer include, but are not limited to, the following:
- (i) Any work undertaken near Overhead Power lines needs to be done in accordance with:
 - WorkCover Document ISSC 23 “Working Near Overhead Power Lines”
 - Ausgrid Network Standards
 - Ausgrid Electrical Safety Rules
 - (ii) 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
 - (iii) 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.
- c) 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).
- d) 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.

The following conditions are imposed by **Sydney Airport Corporation Limited (SACL)**:

8

- a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
- b) The application sought approval for the property development to a height of 51.0 metres Australian Height Datum (AHD).
- c) In the capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, the Airfield Design Manager has no objection to the

erection of this development to a maximum height of 51.0 metres AHD. Should you wish to exceed this height a new application must be submitted.

- d) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
 - e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
 - f) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)). The height of the prescribed airspace at this location is 51 metres above AHD.
 - g) Planning for Aircraft Noise and Public Safety Zones: Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF). Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.
- (a) Application for Approval of Crane Operation
- (i) Pursuant to s. 183 of the Airports Act 1996 and Reg 7 of the Airports (Protection of Airspace) Regulations 1996, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("controlled activity") set out in the Schedule.
 - (ii) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
 - (iii) The operation must not commence without approval, and must only proceed in compliance with any conditions imposed on such approval.
 - (iv) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
 - (v) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
 - (vi) The Secretary and the Airport, as applicable, may request further information before determining an application.

- (vii) The "Important Notes" must be read and accepted.
- (viii) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

The following conditions are imposed by the **NSW Roads and Maritime Services (RMS)**:

- 9 A strip of land has been dedicated as Public Road by private subdivision (DP1014063) along the Bourke Street frontage of the subject property, as shown by yellow colour on the attached aerial – "X". The subject property is further affected by a road proposal at the corner of Bourke Street and Church Avenue, as shown by pink colour on the attached aerial – "Y".

Roads and Maritime raises no objection to the development proposal provided all buildings and structures, together with any improvements integral to the future use of the site are clear of the land required for road.

- 10 The proponent is to be advised that the subject property is within a broad area under investigation for:
 - a) The proposed F6 Project. In this regard, further information can be obtained at www.rms.ndw.gov.au/projects/motorwaydevelopment or by contacting F6 Corridor Study Team via – Email: motorwaydevelopment@rms.nsw.gov.au or by calling 1800789297.
 - b) The contractor for the Westconnex new M5 Project has now been announced and the contractors current design requirements for this project do not require this property. Please note however the detailed design for the project has not been finalised and accordingly land requirements may be subject to change.
 - c) The proposed Westconnex M4-M5 Link Project.

For more information on the Westconnex project, please call 1300660248, email info@westconnex.com.au or visit the project website www.westconnex.com.au

In addition to the above, Roads and Maritime has reviewed the development application and provides the following comments for Council's consideration in the determination of the application:

- 11 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.
- 12 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 AS289.20- 2002 for heavy vehicle usage.

The following conditions are imposed by **Sydney Water**:

- 13 Water

- a) The trunk water system has adequate capacity to service this development area. The existing 200mm water main in Church Avenue can service the proposed development.

14 Wastewater

- a) The trunk wastewater system has adequate capacity to service this development area. The existing 300mm wastewater main in Church Avenue can service the proposed development.

15 Sydney Water E-Planning

Sydney Water has an email address for planning authorities to submit statutory or strategic planning documents for review. This email address is surbangrowth@sydneywater.com.au. Further advice and requirements for this proposal are at attachments 1 and 2 (overleaf). If you require any further information, please contact Beau Reid of Urban Growth Strategy on 02 8849 5241 or e-mail david.demer@sydneywater.com.au

16 Sydney Water Servicing

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

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

17 Building Plan Approval

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

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

The following conditions are imposed by **Sydney Trains**:

- 18 If required by Sydney Trains, prior to the commencement of works, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.
- 19 An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply

with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".

- 20 Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
- 21 If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- 22 If required by Sydney Trains, a tunnel monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate. The Principal Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains advising of the need to undertake the tunnel monitoring plan, and if required, that it has been endorsed.
- 23 Unless advised by Sydney Trains in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
- 24 No rock anchors/bolts are to be installed into Sydney Trains property or easements.
- 25 Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains property or easements, unless agreed to be these authorities. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied
- 26 If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for public liability insurance cover. If insurance cover is deemed necessary this insurance be for sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.
- 27 If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness

written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

- 28 Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, are entitled to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and these conditions of consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.
- 29 Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations including loading details for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- 30 Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains must be submitted to Council for its records prior to the issuing of a Construction Certificate.
- 31 Any conditions issued as part of Sydney Trains approval/certification of any documentation for compliance with the Sydney Trains conditions of consent, those approval/certification conditions will also form part of the consent conditions that the Applicant is required to comply with.

The following conditions are imposed by **Water NSW**:

- 32 The following General Terms of Approval apply:

General

- a) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
- b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
- c) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:

- (i) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
 - (ii) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - (iii) where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- d) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- e) Documentation (referred to as a 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process must be provided. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

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

- g) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
- h) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
- i) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
- j) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability determined by slug-testing, pump-testing or other means).
- k) A copy of a valid consent for the development shall be provided in the initial report.
- l) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
- m) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

- n) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- o) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- p) Measurement and monitoring arrangements to the satisfaction of the approval body are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
- q) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- r) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- s) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
- t) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the approval body under appropriate safety procedures.

Following excavation

- u) Following cessation of the dewatering operations, the applicant shall submit the completion report which shall include:
 - (i) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
 - (ii) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - (iii) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

- v) The completion report is to be assessed by the approval body prior to any certifying agency's approval for occupation or use of the completed construction.

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

- 33 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.
- 34 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.
- 35 A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, must be prepared on surrounding properties. A copy of the dilapidation report together with the accompanying photographs shall be given to the above property owner/s, and a copy lodged with Principal Certifying Authority prior demolition. The extent of the Dilapidation Survey is to be prepared by a practising Geotechnical Engineer having regard to foundations/structures of the locality
- 36 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.
- 37 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.

38 Erosion and sediment control devices shall be installed and in function 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, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

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

The statement must be in compliance with AS2601:1991 – 'Demolition of Structures', the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);

- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
 - e) Disconnection of Gas and Electrical Supply;
 - f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
 - g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
 - h) Waterproofing of any exposed surfaces of adjoining buildings;
 - i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
 - j) Working hours, in accordance with this Development Consent;
 - k) Confinement of demolished materials in transit;
 - l) Proposed truck routes, in accordance with this Development Consent;
 - m) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
 - n) Sewer – common sewerage system ad08.
- 40 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 41 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:
 - to a public sewer; or
 - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - 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.
- 42 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 43 Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 44 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.
- 45 The Remedial Action Plan (RAP) shall be updated by a suitably qualified and experienced contaminated land consultant to reflect the current proposed development layout and to incorporate any new information of soil and groundwater found in any additional sampling and analysis.
- The RAP shall be submitted to Council prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP.
- 46 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.
- 47 A separate site audit statement for the park that is to be dedicated to council is required and Council will require that there is no ongoing management of any land that is to be dedicated to Council.
- 48 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.
- 49 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.
- 50 For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater

shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

- 51 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 52 The applicant shall provide Council with a 24 hour contact number for the manager of the remediation works prior to the commencement of any works at the site.
- 53 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.
- 54 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.
- 55 In order to ensure that a total of four (4) trees as identified in the Arborist Report including- Tree 35 (*Casuarina cunninghamiana*) Tree 36 (*Eucalyptus saligna*), Tree 58 (*Eucalyptus saligna*) and Tree 59 (*Casuarina cunninghamiana*) are retained and protected during construction, and their health and structural stability ensured, the following is required:
- a) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
 - b) All tree works and tree management shall be undertaken in accordance with the Arborist report by Tree and Landscape Consultants (TALC) (*dated 25th July 2016*). For all tree root and canopy work to trees, comply with the recommendations and requirements and management plan contained within this report.
 - c) Trees to be retained 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.
 - d) 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.

- e) 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).
- f) 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.
- g) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- h) 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.
- i) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- j) 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.
- k) 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.
- l) 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.
- m) 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.
- n) 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.

- o) 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.

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.

- 56 Prior to the Commencement of Demolition/Issue of Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of \$8000 to ensure protection of the Tree 35 (*Casuarina cunninghamiana*, and Tree 36 (*Eucalyptus saligna*) from damage during construction. The duration of the Bond shall be limited to a period of 24 months after issue (or cease upon issue of) of the Occupation Certificate. At the completion of the 24 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then all or part thereof of the bond shall be forfeited. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.
- 57 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.
- 58 The Applicant has permission to remove the following 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 #20, Tree #21, Tree #22, Tree #23, Tree #24, Tree #25, Tree #26, Tree #27, Tree #28, Tree #29, Tree #30, Tree #31, Tree #32, Tree #33, Tree #34, Tree #37, Tree #38, Tree #39, Tree #40, Tree #41, Tree #42, Tree #43, Tree #44, Tree #45, Tree #46, Tree #47, Tree #48, Tree #49, Tree #50, Tree #51, Tree #52, Tree #53, Tree #54, Tree #55, Tree #56, Tree #57, Tree #60, Tree #61, Tree #62, Tree #63, Tree #64, Tree #65, Tree #66, Tree #67, Tree #68, Tree #69, Tree #70, Tree #71, Tree #72, Tree #73 as identified by the Consultant Arborist in the report by Tree and Landscape Consultants (TALC) (*dated 25th July 2016*). **Note: Trees are not permitted to be removed until the Construction Certificate has been issued.**

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.

- 59 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 Church Street and Bourke Road, road reserve. 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.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council prior to the commencement of any works. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

Note: If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the applicants expense.

- 60 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 (eg 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 Bourke Road and Church St, will need to be decommissioned and new lighting poles shall be constructed satisfying P2 lighting requirements 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, 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 Construction Certificate.

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.

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

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

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

(a)	Development Control	\$2,940.00
(b)	Waste Levy	\$12,391.20;
(c)	Builders Security Deposit	\$629,880.00 (Condition No. 63)
(d)	Section 94 Contributions	\$5,194,622.36 (Condition No. 64)

- 63 Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$629,880.00** (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.

- 64 Bayside Council 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 **\$5,194,622.36** is payable as calculated below:

City of Botany Bay Section 94 Contributions Plan 2016

The s94 contributions (as indexed to April quarter 2017) for residential are as follows:

a)	Community Facilities- Citywide	\$798,693.83
b)	Recreation Facilities- Mascot Precinct	\$81,027.65
c)	Recreation Facilities- Citywide	\$3,469,129.18
d)	Transport Management- Citywide	\$326,870.05

e) Transport Management- Mascot	\$459,437.20
f) Administration	\$59,518.46
TOTAL:	\$5,194,622.36

The total Section 94 Contribution of **\$5,194,622.36** is to be paid to Council prior to the issue of any Construction Certificate.

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.

65 Prior to the issue of the relevant Construction Certificate, the applicant shall submit amended plans to Council's Manager of Development Services for approval, showing the following:

- a) Storage areas are to comply with the minimum ADG requirement of 6sqm for 1 bedroom apartments, 8sqm for 2 bedroom apartments and 10sqm for 3 bedroom apartments. 50% of the storage area is to be included within the apartments. A breakdown of the storage area is to be provided within a Schedule;
- b) The northern patios/courtyards of the ground floor apartments of Building A and D along Galloway Street (northern setback) are to be setback 3 metres from the site boundary to comply with the 3 metre setback requirement under Part 9A of the BBDCP 2013;
- c) Internal reconfiguration of the 2 and 3 bedroom apartments to provide an open storage area within/close to, the entry way of the apartment and be in addition to storage in the kitchen, bathrooms and bedrooms;
- d) Study nooks are to be provided to two and three bedroom units and are not to be enclosed in cupboard areas that do not have access to ventilation and sunlight. It is recommended that study nooks are located within the open planned area of the apartments;
- e) A second vehicle service bay for MRV is to be provided within the ground floor car park level adjacent to the bin holding rooms. Swept path diagrams are to be provided demonstrating that the vehicle can access and manoeuvre within the site;
- f) Front entries of the apartments, dining rooms, kitchen floors and internal storage areas are to be finished with materials that are water resistant and easy to clean; and
- g) The location of mailboxes within the lobby of each building is to be identified on the amended plans.

66 Storage cages located in car parking areas are to be provided with a perforated roof/ceiling that is located a minimum of 500mm away from any sprinkler heads. This will ensure compliance with Part E1.5 of the BCA & Australian Standard 2118 is maintained. Details are to be submitted to the certifying authority for approval prior to the issue of the relevant Construction Certificate.

- 67 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the relevant 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.
- 68 The drawings for the construction certificate for the basement and above ground car park shall show the following parking requirements:

Car Parking Rates	Required
0.6 space / 1 bed unit	54.6 spaces
0.9 space / bed unit	156.6 spaces
1.4 space / bed unit	105 spaces
1 visitor space / 7 dwellings	48.6 spaces
Retail Spaces	20 spaces
Child Care Centre	29.5 spaces
TOTAL REQUIRED	415 spaces (rounded up)
TOTAL PROVIDED	510 spaces

Any excess parking is to be allocated to residential apartments. This information is to be provided prior to the issue of the relevant Construction Certificate.

- 69 Prior to the issue of the relevant Construction Certificate, any recommendations from the amended Qualitative Wind Assessment Report are to be incorporated into the design in order to ensure compliance with Council's maximum wind criteria (as set out at Part 9A.4.5.4 Wind Mitigation, Control C1): as follows:
- (a) 10 metres/second along commercial/retail streets;
 - (b) 13 metres/second along main pedestrian streets, parks and public places; and
 - (c) 16 metres/second in all other streets.
- 70 The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the certifying authority prior to the issue of the relevant 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 28/07/2016, Report reference number 20161100.1/2807A/R0/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.

- 71 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Certifying Authority prior to the issue of the relevant Construction Certificate and its location and specifications endorsed on the construction drawings.
- 72 Prior to the issue of the relevant construction certificate, 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.
- 73 Prior to the issue of any Construction Certificate, 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.

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

- b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police,
- c) during construction, if access from **Bourke 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.

76 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- 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 commercial 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.

77 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- 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 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.

78 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- a) Disabled car parking spaces shall be provided and clearly marked as per the Stage 2 Traffic and Transport Report by ARUP Group, dated 10 August 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.

79 Prior to the issue of any Construction Certificate, 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.

80 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 and Council for approval.

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

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

- a) An 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,**
- b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay’s SMTG,
- c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- d) 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
- e) The submission of detailed calculations including computer modelling where required supporting the proposal.

- 81 A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. 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. Evidence of this appointment shall be provided to council prior to the issue of any Construction Certificate.
- 82 An Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.
- This report shall be provided prior to the issue of any construction certificate and all recommendations of the report shall be implemented during works on site.
- 83 The **private domain landscape** areas shown on the plan by Urbis, Plans CS-000, FI-200 to FI-204, FI-210 to FI-212 (Issue C, dated May 2017) 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 the Construction Certificate for above ground works. The landscape documentation is to be prepared by Urbis Landscape Architects and shall include, but not be limited to:
- a) Along Galloway Street deep soil landscaping setback shall be increased to three (3) metres forward of patios. Landscaping shall include a mix of medium and large canopy trees.
 - 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) Canopy trees are required to be incorporated within the landscape setback along Galloway Street frontage and Church Avenue frontage.
 - d) A mix of medium sized, deciduous and evergreen trees are to be used extensively within the level 4 communal park. Any 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.

- e) 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.
 - f) 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.
 - g) Indicate the location of all basement structures relative to the landscape areas.
 - h) The four (4) existing trees identified for retention shall be shown on all plans.
 - i) A tree removal and tree retention plan is required to be submitted that clearly shows trees numbered to correspond with the Arborist report.
 - j) Areas of paving, schedule of materials, edge treatments, tactiles, playground and fitness equipment details, and sectional construction details. Use of WSUD initiatives or materials is required to be indicated.
- 84 The **public domain landscape** areas shown on the plan by Urbis, Plans CS-000, FI-200 to FI-204, FI-210 to FI-212 (Issue C, dated May 2017) 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 the Construction Certificate for above ground works. The landscape documentation is to be prepared by Urbis Landscape Architects and shall include, but not be limited to:
- a) The clear delineation of all public domain areas as follows:
 - (i) Galloway Street and Church Avenue footpath areas –
 - (ii) The ground level Public park located between Building D and Building A
 - 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 Church Avenue, Galloway Street and within the new community park south of Galloway Street.
 - 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. Deciduous trees are to be incorporated in strategic locations to allow solar access and improve amenity. Any 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) The public park shall include a combination of seating in addition to blade seating walls. Incorporate picnic settings to improve amenity.
- j) Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. This includes areas within the new ground level community park. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- k) Details of all fencing, privacy screening, arbors and the like – elevations and materials, impacting or visible to public domain areas.
- l) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, playground and recreational equipment, water features and water stations, bins, bollards, public toilets, signage suite. Locations to be clearly identified on plan. Provide sectional construction details and elevations.
- m) Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
- n) A detailed public art proposal.
- o) 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.
- p) 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.
- q) Indicate the location of all basement structures relative to the landscape areas.
- r) The four (4) existing retained trees shall be shown on all plans.
- s) A tree removal and tree retention plan is required to be submitted that clearly shows trees numbered to correspond with the Arborist report.

DURING WORKS

- 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. 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.
- 86 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 and surrounding development (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.
- 87 During Demolition, Excavation, 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. 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.
- 88 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.
- 89 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.
- 90 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.

- 91 All remediation work must be carried out in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
 - d) The updated Remedial Action Plan (RAP).
- 92 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.
- 93 For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 94 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 95 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.
- 96 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
 - b) Protection of the Environment Operations Act 1997; and

- c) Protection of the Environment Operations (Waste) Regulation 2014.

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.

- 97 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Soil and Water Management Plan;
 - b) “Managing Urban Stormwater - Soils and Construction” (2004) Landcom (‘The Blue Book’); and
 - c) Protection of the Environment Operations Act 1997.
- 98 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.
- 99 Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
- 100 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.
- 101 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.
- 102 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 05:00pm
- (ii) Saturday 08:00am to 01:00pm
- (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.

- 103 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.
- 104 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.
- 105 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.
- 106 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.
- 107 The public footpaths in Church Avenue, Galloway Street and Bourke Road shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).

- 108 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.
- 109 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.
- 110 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.

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

- 111 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two and three bedroom apartments.
- 112 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
- a) 317 residential spaces
 - b) 49 visitors spaces

- c) 20 retail spaces
- d) 29 child care centre spaces
- e) 1 carwash bay located on the ground floor car park level

Any excess parking is to be allocated to an apartment.

113 Prior to the issue of the relevant Occupation Certificate, at least 72 bicycle spaces are to be provided in the car park.

114 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.

115 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 and new stormwater drainage infrastructure on **Church Street, Bourke Road, and Galloway St.**

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.

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.

116 Prior to the issue of the relevant 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.

117 Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:

- a) On Church St, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction,

- b) On Church St, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications,
 - c) On Church St, adjacent to development, construct new stormwater pipe underneath the new kerb & gutter location and repair (where required), at the applicants expense, the existing 750 diameter pipe, as per Council's Infrastructure specifications,
 - d) On Bourke Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction,
 - e) On Bourke Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications, and
 - f) Construct the relevant portion of the new Galloway Street as per civil engineering design and in accordance with Council Infrastructure specifications and with the written approval by Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer.
- 118 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.
- 119 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.*
- 120 Prior to the issue of any Occupation Certificate, the following is to be complied with:
- a) Dedicate to Council and at no expense to the Council and generally in accordance with the Architectural Plans by Crone Architects, dated 28 July 2016, Part 22 of the Statement of Environmental Effects, by Meriton, dated 29 August 2016 and the following:
 - i. Dedicate the portion of land to Council for the purpose of widening Church Avenue. The areas of the land to be dedicated shall be the full length of Church Avenue frontage of the development site and as detailed in the Botany Bay Development Control Plan 2013. The Plan of

Dedication shall be lodged with Council and 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,

- ii. Dedicate the portion of land to Council for the purpose of constructing new park off Galloway Street. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes, and
- iii. Dedicate the portion of land to Council for the purpose of constructing a portion of Galloway Street. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and 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.

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

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

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the 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.

122 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. This shall be provided to issue of any applicable Occupation Certificate.

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 or applicable dedication of land to Council. 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.

123 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to any use or occupation of the premises. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.

124

- a) The Stratum subdivision of the development shall be the subject of a further Development Application to Council; and
- b) The subdivision application must be accompanied by a formal copy of the by-laws which shall be in accordance with the plans and documentation approved under this Consent and must also include the following:
 - (i) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 16/150.
 - (ii) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 16/150.
 - (iii) Responsibilities regarding the maintenance of the car wash bay the Owners Corporation / building owner.
 - (iv) Responsibilities for ensuring owners and/or tenants have adequate and hygienic disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times in accordance with a Plan of Management.
 - (v) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997.
 - (vi) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.
 - (vii) The linen plan must include details of any easements, encroachments, rights of way, including right of footway restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
 - (viii) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface reinstatement;

- (ix) The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines;
 - (x) Maintenance of required acoustic measures of Development Consent No. 16/150; and
 - (xi) CCTV surveillance of all public areas within the development site.
- 125 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.
- 126 Prior to the issue of the relevant 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.
- 127 Prior to the issue of the relevant Occupation Certificate, where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
- 128 Prior to release of the any Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 129 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.
- 130 Prior to the issue of any 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.
- 131 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 3.2:1 and height of 51m AHD as approved under this Development Consent No. 16/150, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.

- (c) The development as built, stands within Lot 1 in DP 376752, Lot 3 in DP 376752 and Lot 21 in DP1014063.
- 132 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.
- 133 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).
- 134 Landscaping on the property and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. This amended plan supercedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
- 135 The Applicant is to submit payment for a Public Works Defects Liability Bond of \$250,000.00 for all hard structures, paving, drainage and so on within the public domain. The duration of the Bond shall be limited to a period of 12 months after Council approval of all public domain works. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the public domain work by Council. If rectification or maintenance work is required within this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.
- 136 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.
- 137 The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgment of a bond in the sum of \$100,000.00 after practical completion of landscape works within all public domain areas, to ensure establishment and maintenance of the landscaping in accordance with the approved plans until handover to Council. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years. The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan. The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

- 138 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 Bayside Council prior to the Issue of an Occupation Certificate.
- 139 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 supercedes 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.
- 140 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

- 141 The commercial tenancy on ground floor is approved for the use as commercial premises and/or food and drink premises in accordance with the definition in the Standard Instrument.
- 142 The use of the retail tenancies is subject to a separate approval (DA or complying development certificate).
- 143 The use of the child care centre is subject to a separate development application for its fitout.
- 144 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.
- 145 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.
- 146 Ongoing maintenance of the road verges and footpaths and nature strips in Church Avenue and Galloway Street shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
- 147 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 L_{Aeq} sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

148 Any air conditioning units (where possible) 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.

149 All loading and unloading associated with the retail tenancy is to be undertaken within the ground floor of Building B.

150 No garbage collection associated with the retail premises is permitted between 10pm and 6am.

151 The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.

152

- (a) The adaptable apartments approved under this development consent are to remain as adaptable units at all times; and
- (b) 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.

- 153 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.
- 154 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. 16/150 dated as 29 August 2016 and that any alteration, variation, or extension to the use, would require further Approval.

ANNEXURE A: SEPP 65 ASSESSMENT – APARTMENT DESIGN GUIDE

Objective / Control	Proposal	Complies
3B Orientation		
<i>Objective 3B-1 Building types and layouts respond to the streetscape and site while optimising solar access within the development</i>		
Buildings along the street frontage define the street, by facing it and incorporating direct access from the street (see figure 3B.1)	The building is oriented to the streets with the main entrances to each tower clearly visible from the street and all ground level apartments including direct street entrances.	Yes
Where the street frontage is to the east or west, rear buildings should be orientated to the north	NA - no rear buildings	N/A
Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west (see figure 3B.2)	To the south of the development is Church Avenue. Shadows will impact on the northern elevation of the property at 8 Bourke Street.	Yes
<i>Objective 3B-2 Overshadowing of neighbouring properties is minimised during mid winter</i>		Yes
Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access	Refer to Sections 3D and 4A of the ADG table.	Yes
Solar access to living rooms, balconies and private open spaces of neighbours should be considered	Refer to Section 4A of the ADG table.	Yes
Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%	N/A	N/A
If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy	Proposal will not significantly reduce solar access to neighbours. The proposal will impact a small portion of the communal open area on the podium of 8 Bourke Street and a number of apartments on the northern elevation of the north-eastern and north-western	Acceptable

Objective / Control	Proposal	Complies
	towers. Building separation is acceptable.	
Overshadowing should be minimised to the south or down hill by increased upper level setbacks	The development does not increase the setbacks on the upper levels however the majority of the overshadowing will fall onto the street.	Yes
A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings	There are no adjoining solar collectors.	N/A
3C Public Domain Interface		
<i>Objective 3C-1 Transition between private and public domain is achieved without compromising safety and security</i>		Yes
Terraces, balconies and courtyard apartments should have direct street entry, where appropriate	All ground floor apartments have direct street entrances from along the new street at Galloway Street. The remaining elevations have access to retail or car parking.	Yes
Length of solid walls should be limited along street frontages	Frontage is well articulated with minimal solid walls and broken up with balconies and mix of materials.	Yes
Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets	Private courtyard and balconies are adjacent to street and the communal area. Attention has been given to lobby spaces and building entrances to make them grand inviting spaces, with ample room and amenity to encourage social interaction.	Yes
In developments with multiple buildings and/or entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents, using a number of the following design solutions: • architectural detailing • changes in materials • plant species • colours	Pedestrian entries are clearly defined.	Yes
Opportunities for people to be concealed should be Minimised	Concealment opportunities minimised.	Yes
<i>Objective 3C-2 Amenity of the public domain is retained and enhanced</i>		
Substations, pump rooms, garbage storage areas and other service requirements should be located in	Service areas particularly the garbage holding rooms and plant areas located within the	Yes

Objective / Control	Proposal	Complies
basement car parks or out of view	carpark and plant/equipment rooms are also located on rooftop out of view of public domain.	
Durable, graffiti resistant and easily cleanable materials should be used	Materials and finishes are appropriate and consistent with the winning design competition.	Yes
Where development adjoins public parks, open space or bushland, the design positively addresses this interface and uses a number of the following design solutions: <ul style="list-style-type: none"> • street access, pedestrian paths and building entries which are clearly defined • paths, low fences and planting that clearly delineate between communal/private open space and the adjoining public open space • minimal use of blank walls, fences and ground level parking 	The site will create a public park in between Buildings A and D to the north of the site. The site allows for easy access and exposure to the park. The materials used are appropriate for the site.	Yes
On sloping sites protrusion of car parking above ground level should be minimised by using split levels to step underground car parking	N/A – Site is not sloping	N/A
3D Communal and public open space		
<i>Objective 3D-1 An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping</i>		Yes
Design criteria		
Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)	2,836sqm (25.5%) (park incl. within calculation) 1,473.5sqm (13.3%) (park excl. from calculation)	Yes No – Refer to Note 3
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)	Podium – direct sunlight to at least 50% of the space between 9.00am – 3.00pm- Greater than 2 hours Ground level communal open space receives 2 hours.	Yes
Design guidance		
Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions	COS areas exceed 3m minimum dimension	Yes
Communal open space should be	Ground level COS includes	Yes

Objective / Control	Proposal	Complies
co-located with deep soil areas	deep soil particularly at the western, northern and southern side of the site.	
Where communal open space cannot be provided at ground level, it should be provided on a podium or roof	Provided at both ground level and podium.	Yes
Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should: <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space 	N/A - design criteria achieved	N/A
<i>Objective 3D-2</i> <i>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</i>		
Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following elements: <ul style="list-style-type: none"> • seating for individuals or groups • barbecue areas • play equipment or play areas • swimming pools, gyms, tennis courts or common rooms 	COS areas include a range of facilities including open lawn areas, seating, children's play area, and outdoor gym. The internal pool and gym is located on the ground level.	Yes
The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts	The podium will comply with the minimum requirements under the ADG.	Yes
Visual impacts of services should be minimised, including location of ventilation duct outlets from	Visual impacts are minimised	Yes

Objective / Control	Proposal	Complies												
basement car parks, electrical substations and detention tanks														
<i>Objective 3D-3 Communal open space is designed to maximise safety</i>														
Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include: <ul style="list-style-type: none"> • bay windows • corner windows • balconies 	COS areas are visible from units, and privacy to the units is maintained	Yes												
Communal open space should be well lit	Lighting is proposed for the external COS areas.	Yes												
Where communal open space/facilities are provided for children and young people they are safe and contained	COS areas are safe and contained within the podium.	Yes												
<i>Objective 3D-4 Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood</i>	Public park will be located within the site between Buildings A and D. And responds to the apartments in Buildings A and D and within the north-facing podium level.	Yes												
3E Deep soil zones														
<i>Objective 3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality</i>														
Design criteria														
Deep soil zones are to meet the following minimum requirements:	Site area = 11,104sqm													
<table border="1"> <thead> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m² - 1,500m²</td><td>3m</td></tr> <tr> <td>greater than 1,500m²</td><td>6m</td></tr> <tr> <td>greater than</td><td>6m</td></tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	less than 650m ²	-	7%	650m ² - 1,500m ²	3m	greater than 1,500m ²	6m	greater than	6m	2,124sqm (19%) (park incl. within calculation) 475sqm (4.3%) (park excl. from calculation)	Yes No – Refer to Note 2
Site area	Minimum dimensions	Deep soil zone (% of site area)												
less than 650m ²	-	7%												
650m ² - 1,500m ²	3m													
greater than 1,500m ²	6m													
greater than	6m													

Objective / Control			Proposal	Complies
1,500m2 with significant existing tree cover				
Design guidance				
<p>On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:</p> <ul style="list-style-type: none"> • 10% of the site as deep soil on sites with an area of 650m2 - 1,500m2 • 15% of the site as deep soil on sites greater than 1,500m2 			Larger deep soil areas have been provided if you were to include the public park.	Yes
<p>Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and stability for mature trees. Design solutions may include:</p> <ul style="list-style-type: none"> • basement and sub basement car park design that is consolidated beneath building footprints • use of increased front and side setbacks • adequate clearance around trees to ensure long term health • co-location with other deep soil areas on adjacent sites to create larger contiguous areas of deep soil 			There are a number of trees within the site that are to be removed as they are not considered significant. This is discussed in greater detail within the DCP section of the report.	Discussed within DCP section of report
<p>Achieving the design criteria may not be possible on some sites including where:</p> <ul style="list-style-type: none"> • the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres) • there is 100% site coverage or non-residential uses at ground floor level <p>Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure</p>			N/A - design criteria achieved	N/A
3F Visual privacy				
Objective 3F-1 Adequate building separation				Yes

Objective / Control	Proposal	Complies												
<i>distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy</i>														
Design criteria														
<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<p><u>Up to 4 storeys: 6m required (podium)</u></p> <p><u>Podium levels (setbacks to boundaries)</u></p> <p>Building A: Eastern boundary: Nil Western boundary: 3m Northern boundary: 3m Southern boundary: -</p> <p>Building B: Eastern boundary: Nil Western boundary: - Northern boundary: - Southern boundary: 3m</p> <p>Building C: Eastern boundary: - Western boundary: 3m Northern boundary: - Southern boundary: 3m</p> <p>Building D: Eastern boundary: 3m Western boundary: 3m Northern boundary: 3m Southern boundary: -</p> <p><u>5-8 Storeys: 9m required Levels 5-8 (setbacks to boundaries)</u></p> <p>Building A: Eastern boundary: 2-3m Western boundary: 2-3m Northern boundary: 5-6m Southern boundary: 18m</p> <p>Building B: Eastern boundary: 2-3m Western boundary: 12m Northern boundary: 18m Southern boundary: 5-6m</p> <p>Building C: Eastern boundary: 12m</p>	No – Refer to Note 6
Building height	Habitable rooms and balconies	Non-habitable rooms												
up to 12m (4 storeys)	6m	3m												
up to 25m (5-8 storeys)	9m	4.5m												
over 25m (9+ storeys)	12m	6m												

Objective / Control	Proposal	Complies
	<p>Western boundary: 6m Northern boundary: 18m Southern boundary: 5-6m</p> <p>Building D: Eastern boundary: 3m Western boundary: 12m Northern boundary: 5-6m Southern boundary: 18m</p> <p><u>9+ Storeys: 12m required Levels 9 and above (setbacks to boundaries)</u></p> <p>Building A: Eastern boundary: 2-3m Western boundary: 2-3m Northern boundary: 5-6m Southern boundary: 18m</p> <p>Building B: Eastern boundary: 2-3m Western boundary: 12m Northern boundary: 18m Southern boundary: 5-6m</p> <p>Building C: Eastern boundary: 12m Western boundary: 6m Northern boundary: 18m Southern boundary: 5-6m</p> <p>Building D: Eastern boundary: 3m Western boundary: 12m Northern boundary: 5-6m Southern boundary: 18m</p> <p>Corners of rear towers – privacy maintained through positioning of balconies, recessed, blade walls, and orientation.</p>	
Design guidance		
Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance	N/A – sections do not demonstrate any steps within the building. Two storey apartments are proposed within the podium level.	N/A
For residential buildings next to commercial buildings, separation distances should be measured as	N/A – not next to commercial buildings	N/A

Objective / Control	Proposal	Complies
<p>follows:</p> <ul style="list-style-type: none"> ▪ for retail, office spaces and commercial balconies use the habitable room distances ▪ for service and plant areas use the non-habitable room distances 		
<p>Direct lines of sight should be avoided for windows and balconies across corners</p>	<p>Design has considered this and no direct sightlines are proposed.</p>	<p>Yes</p>
<p><i>Objective 3F-2 Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space</i></p>		<p>Yes</p>
<p>Design guidance</p>		
<p>Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows. Design solutions may include:</p> <ul style="list-style-type: none"> ▪ setbacks ▪ solid or partially solid balustrades to balconies at lower levels ▪ fencing and/or trees and vegetation to separate spaces ▪ screening devices ▪ bay windows or pop out windows to provide privacy in one direction and outlook in another ▪ raising apartments/private open space above the public domain or communal open space ▪ planter boxes incorporated into walls and balustrades to increase visual separation ▪ pergolas or shading devices to limit overlooking of lower apartments or private open space ▪ on constrained sites where it can be demonstrated that building layout opportunities are limited, fixed louvres or screen panels to windows and/or balconies 	<p>COS and access paths are placed appropriately so that they will not impact privacy of the units. Units on the podium are separated by solid fences, planter beds and highlight windows.</p>	<p>Yes</p>

Objective / Control	Proposal	Complies
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas	Separation has been provided between access paths, circulation spaces and the habitable rooms of the apartments	Yes
Balconies and private terraces should be located in front of living rooms to increase internal privacy	Balconies and terraces are all located adjacent and in front of living areas	Yes
Recessed balconies and/or vertical fins should be used between adjacent balconies	Balcones are offset from adjacent balconies.	Yes
3G Pedestrian access and entries		
<i>Objective 3G-1 Building entries and pedestrian access connects to and addresses the public domain</i>		Yes
Design guidance		
Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge	Multiple entries provided at ground level off Church Avenue, Bourke Street and Galloway Street.	Yes
Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries	The entry is clearly identifiable and is appropriately separated from vehicular driveway access	Yes
Where street frontage is limited and multiple buildings are located on the site, a primary street address should be provided with clear sight lines and pathways to secondary building entries	N/A - street frontage is not limited	N/A
<i>Objective 3G-2 Access, entries and pathways are accessible and easy to identify</i>		Yes
3H Vehicle access		
<i>Objective 3H-1 Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</i>		
Design guidance		
Car park entries should be located behind the building line	Car park entry is located behind the building line.	Yes
Vehicle entries should be located at the lowest point of the site	Site is generally flat. Vehicle entry is located appropriately.	Yes

Objective / Control	Proposal	Complies
minimising ramp lengths, excavation and impacts on the building form and layout		
Access point locations should avoid headlight glare to habitable rooms	Vehicle headlights entering the car park will not glare into any habitable rooms. Exiting the car park will also not impact the neighbouring properties as the neighbouring property's vehicle access is directly adjacent to the site and the podium contains their car parking.	Yes
Adequate separation distances should be provided between vehicle entries and street intersections	The driveway and crossover is not located near to an intersection	Yes
Garbage collection, loading and servicing areas are screened	Service areas are located within the ground level car park and screened by the built form.	Yes
Clear sight lines should be provided at pedestrian and vehicle crossings	Clear sight lines at the pedestrian and vehicle crossing	Yes
Traffic calming devices such as changes in paving material or textures should be used where appropriate	N/A – no need for traffic calming devices.	N/A
Pedestrian and vehicle access should be separated and distinguishable. Design solutions may include: <ul style="list-style-type: none"> ▪ changes in surface materials ▪ level changes ▪ the use of landscaping for separation 	The pedestrian and vehicle access are clearly distinguishable as different surface materials are used and the levels are different.	Yes
3J Bicycle and car parking		
<i>Objective 3J-1</i> <i>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas</i>	N/A - DCP car parking requirements apply.	N/A
Design criteria		
For development in the following locations: <ul style="list-style-type: none"> ▪ on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or ▪ on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use 	The site is located in close proximity to Mascot Station. The proposed development complies and provides more than the required car parking spaces within the RMS Guide to Traffic Generating Developments.	Yes

Objective / Control	Proposal	Complies
<p>or equivalent in a nominated regional centre</p> <p>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</p> <p>The car parking needs for a development must be provided off street</p>		
4A Solar and daylight access		
<p><i>Objective 4A-1</i> <i>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space</i></p>		Yes
Design criteria		
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter	340 apartments x 70% = 238 apartments require 2hrs solar access. 242 apartments receive at least 2hrs to living and POS – 71%	Yes
In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter	N/A – Sydney Metropolitan controls apply. See above.	N/A
Design guidance		
The design Maximises north aspect and the number of single aspect south facing apartments is minimised	Almost all of the apartments have either a northern aspect or a dual north-east, north-west, east and west aspects. Only 13% of the apartments do not receive sunlight as they are south facing.	Yes
4B Natural ventilation		
<p><i>Objective 4B-1</i> <i>All habitable rooms are naturally ventilated</i></p>		Yes
Design guidance		
The building's orientation maximises apartment and use of prevailing breezes for natural ventilation in habitable rooms	Majority of apartments 5 storeys and higher are dual aspect with good cross ventilation. Apartments within the podium are predominantly single aspect.	Yes
Depths of habitable rooms support	Majority of apartments are dual	Yes

Objective / Control	Proposal	Complies
natural ventilation	Depths of the apartments allow for natural ventilation.	
The area of unobstructed window openings should be equal to at least 5% of the floor area served	Majority of living areas and some rooms have large floor to ceiling sliding doors	Yes
Light wells are not the primary air source for habitable rooms	No light wells are proposed.	Yes
Doors and openable windows maximise natural ventilation opportunities by using the following design solutions: <ul style="list-style-type: none"> ▪ adjustable windows with large effective openable areas ▪ a variety of window types that provide safety and flexibility such as awnings and louvres ▪ windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvres, casement windows and externally opening doors 	Large openable windows and sliding doors to all habitable rooms are proposed.	Yes
<i>Objective 4B-3</i> <i>The number of apartments with natural cross ventilation is Maximised to create a comfortable indoor environment for residents</i>		
Design criteria		
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	206 apartments in the first 9 storeys x 60% = 123 apartments required to cross ventilate. 123 out of 206 apartments or 60% cross ventilate in first 9 storeys. In total 212 out of 340 apartments or 62% cross ventilate.	Yes
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	Maximum apartment depth is 12m	Yes
4C Ceiling heights		
<i>Objective 4C-1</i> <i>Ceiling height achieves sufficient natural ventilation and daylight access</i>		Yes
Design criteria		
Measured from finished floor level to	2.7m ceiling heights to first	No – Refer

Objective / Control		Proposal	Complies to Note 1
finished ceiling level, minimum ceiling heights are:		floor level as the site is located within a Mixed Use area.	
Minimum ceiling height for apartment and mixed use buildings			
Habitable rooms	2.7m		
Non-habitable	2.4m		
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area		
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope		
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use		
These minimums do not preclude higher ceilings if desired			
4D Apartment size and layout			
Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity			
Design criteria			
Apartments are required to have the following minimum internal areas		1 bed units: 53 – 68sqm 2 bed units: 81 – 91sqm 3 bed units: 101 – 120sqm	Yes
Apartment type	Minimum internal area	All apartments comply with minimum internal areas.	
Studio	35m2		
1 bedroom	50m2		
2 bedroom	70m2		
3 bedroom	90m2		
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m2 each			
A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m2 each			

Objective / Control	Proposal	Complies
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	All habitable rooms have a window to an external wall.	Yes
Design criteria		
Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Habitable rooms depths are limited to a maximum of 2.5 x the ceiling height	Yes
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Open plan living areas are generally a maximum of 5-8m from window	Yes
Design guidance		
Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths	Increased ceiling heights not required as depths are limited	Yes
All living areas and bedrooms should be located on the external face of the building	All living areas and bedrooms are located on the external face of the buildings	Yes
<i>Objective 4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs</i>		
Design criteria		
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	Master bedrooms have a minimum area of 10sqm and other bedrooms have minimum are of 9sqm	Yes
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	All bedrooms have a minimum dimension of 3m.	Yes
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> ▪ 3.6m for studio and 1 bedroom apartments ▪ 4m for 2 and 3 bedroom apartments 	All living rooms have minimum width of 1 bedroom apartments and 4m for 2 and 3 bedroom apartments.	Yes
4E Private open space and balconies		
<i>Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity</i>		
Design criteria		
All apartments are required to have	All bedrooms meet the	Yes

Objective / Control			Proposal	Complies
primary balconies as follows			minimum criteria for balcony sizes and depths. The plans demonstrate that tables can fit within the space.	
Dwelling type	Minimum area	Minimum depth		
Studio apartments	4m2	-		
1 bedroom apartments	8m2	2m		
2 bedroom apartments	10m2	2m		
3+ bedroom apartments	12m2	2.4m		
The minimum balcony depth to be counted as contributing to the balcony area is 1m				
4G Storage				
Objective 4G-1 Adequate, well designed storage is provided in each apartment				
Design criteria				
Dwelling type	Storage size volume	Complies, however 50% is not located within the apartment.		No- Refer to Note 7
Studio	4m²			
1 bed	6m²			
2 bed	8m²			
3 bed	10m²			
This is in addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:				
At least 50% of the required storage is located within apartment				
Design guidance				
Storage is accessible from either circulation or living areas		Storage areas are accessible from either circulation or living areas	Yes	
4H Acoustic privacy				
Objective 4H-1 Noise transfer is minimised through the siting of buildings and building layout				
Design guidance				
Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy)		Building separation between Buildings B and C and between Building C and the western boundary does not comply.	No – Refer to Note 6	
Window and door openings are generally orientated away from noise sources		Windows and door openings are oriented away from noise sources which are minimal on	Yes	

Objective / Control	Proposal	Complies
	this site.	
4J Noise and pollution		
<p><i>Objective 4J-1</i> <i>In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings</i></p>	N/A - site is not in a noisy or hostile environment.	N/A
4K Apartment mix		
<p><i>Objective 4K-1</i> <i>A range of apartment types and sizes is provided to cater for different household types now and into the future</i></p>		
Design guidance		
A variety of apartment types is provided	A variety of apartment layouts is provided and studio, 1, 2, and 3 bedroom apartments are provided.	Yes
<p>The apartment mix is appropriate, taking into consideration:</p> <ul style="list-style-type: none"> the distance to public transport, employment and education centres the current market demands and projected future demographic trends the demand for social and affordable housing different cultural and socioeconomic groups 	<p>1 bed – 27% 2 bed – 51% 3 bed – 22%</p> <p>The number of one bedroom units exceeds the 25% requirement.</p>	No- Refer to Note 14
Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households	A range of apartment layouts are provided.	Yes
4L Ground floor apartments		
<p><i>Objective 4L-1</i> <i>Street frontage activity is maximised where ground floor apartments are located</i></p>		
Design guidance		
Direct street access should be provided to ground floor apartments	All ground floor apartments have been provided with direct street access.	Yes
4M Facades		
<p><i>Objective 4M-1</i> <i>Building facades provide visual interest along the street while respecting the character of the local</i></p>		

Objective / Control	Proposal	Complies
<i>area</i>		
Design guidance		
<p>Design solutions for front building facades may include:</p> <ul style="list-style-type: none"> ▪ a composition of varied building elements ▪ a defined base, middle and top of buildings ▪ revealing and concealing certain elements ▪ changes in texture, material, detail and colour to modify the prominence of elements 	<p>The front façade includes a variety of materials and differing finishes and textures. The materials and facades proposed are consistent with the surrounding development.</p>	Yes
<p>Shadow is created on the facade throughout the day with building articulation, balconies and deeper window reveals</p>	<p>The front and side façades are highly articulated with protruding balconies, and differing materials.</p>	Yes