

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

JRPP No	2016SYE107
DA Number	DA-15/216/02
Local Government Area	Bayside Council
Proposed Development	<p>Section 96(2) Modification Application to modify Development Consent No. DA-15(216) as follows:</p> <ul style="list-style-type: none"> • conversion of the plant rooms to car parking spaces within the podium levels of Buildings A, B and C to facilitate a shared car parking arrangement with the adjoining site to the north; • extend buildings Building B and C northwards to align with the setback levels below, resulting in the addition of 2 units on each level (total of 10), • construction of a fence along the southern boundary of the north-south park, and • addition of a vertical car park mechanical ventilation exhaust at the podium level of Building B.
Street Address	1-5 Kent Road, Mascot NSW 2020
Applicant/Owner	Karimbla Constructions Services (NSW) Pty Ltd
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	Section 96(2) Application to modify a consent determined by the JRPP
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • 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 2004 (BASIX); • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; • Botany Bay Local Environmental Plan 2013; • Botany Development Control Plan 2013.
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • This Development Assessment Report (2016SYE107); • Modification Plans for this Development Application; • Development Assessment Report (2016SYE082).
Recommendation	Approval
Report by	Amy Groher – Senior Development Assessment Officer

ASSESSMENT REPORT

RECOMMENDATION

It is RECOMMENDED that the Panel resolve pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*, in respect of Development Consent No. DA-15/216 for the construction of a mixed development at 1-5 Kent Road, Mascot to:

1. Amend Condition No. 1 to reflect the plans as amended;
2. Amend Condition No. 40 to reflect the increase in s94 contributions payable;
3. Addition of Condition No. 42(g) to reduce the southern portion of the car park mechanical ventilation intake be reduced slightly to align with the balustrade of the balcony of Unit U410 so that its height can be integrated into and hide behind the balustrading of the balcony;
4. Amend Condition No. 48 to reflect the increase in minimum car parking spaces required;
5. Add Condition No. 53(n) to require detailed plans of the treatment of the southern boundary fence to the community park to be provided as part of the private domain landscape plans that are required to be submitted to Council for approval prior to the issue of the Construction Certificate for above ground works;
6. Add Condition No. 53(o) to require detailed plans of the treatment of the car park mechanical ventilation intake to be provided as part of the private domain landscape plans that are required to be submitted to Council for approval prior to the issue of the Construction Certificate for above ground works; and
7. Amend Condition No. 113 to reflect the consent as amended.

EXECUTIVE SUMMARY

This modification application relates to a site in the Mascot Station Precinct that was approved by the JRPP on 18 July 2016 for a mixed use development incorporating 229 units across a 4 storey residential podium (comprised of sleeved parking) and 3 x 10 storey residential towers above, 2 levels of basement and at grade parking for a total of 391 cars, a 58sqm retail tenancy; strata subdivision; the construction of the northern half of a new east-west street (Galloway Street) and dedication to Council; a north-south oriented park and stratum subdivision; and excavation, earthworks and landscaping.

Demolition, excavation, and shoring (including anchors) has already been completed. Construction relating to above ground works has not yet commenced however the applicant is progressing with fulfilling their obligations for the Construction Certificate for above ground works.

This Section 96(2) Modification Application, in conjunction with DA-16/117 over the site to the north at 671-683 Gardeners Road, Mascot will provide an integrated podium car parking arrangement. This modification is intended to be determined in conjunction with DA-16/117 for a mixed use development at the Jewel of India site.

This application is required to be reported to the JRPP for determination pursuant to Clause 3 of Schedule 4A of the *Environmental Planning and Assessment Act 1979* as the original capital investment value exceeds \$20 million.

This s96(2) Modification Application was placed on public exhibition from 5 October 2016 to 4 November 2016. No submissions were received.

The proposed changes do not exhibit any significant additional non-compliances with the Apartment Design Guide (ADG), Botany Bay Local Environmental Plan (BBLEP) 2013 or Botany Bay Development Control Plan (BBDGP) 2013 as assessed further in this report.

The only non-compliance with the ADG to note is with respect to building separation from Level 9 – Level 13. Despite exhibiting a technical non-compliance with regard to the separation distance to the northern boundary, the proposed building on the site to the north exceeds the ADG minimum requirement, thereby resulting in a minimum total separation distance between the two buildings of 26.2m. This is more than sufficient for the purposes of maintaining privacy and mitigating/ limiting overlooking.

The only non-compliance with the BBLEP 2013 to note is with respect to a technical increase in FSR due to excess car parking spaces. This is acceptable as the excess FSR associated with the additional car parking is contained within the building envelope, does not result in any adverse amenity impacts and is not over and above what is exhibited and approved in the immediate area.

The Section 96(2) Modification Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, subject to the conditions (as amended) in the attached Schedule of Consent.

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

SITE DESCRIPTION

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

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

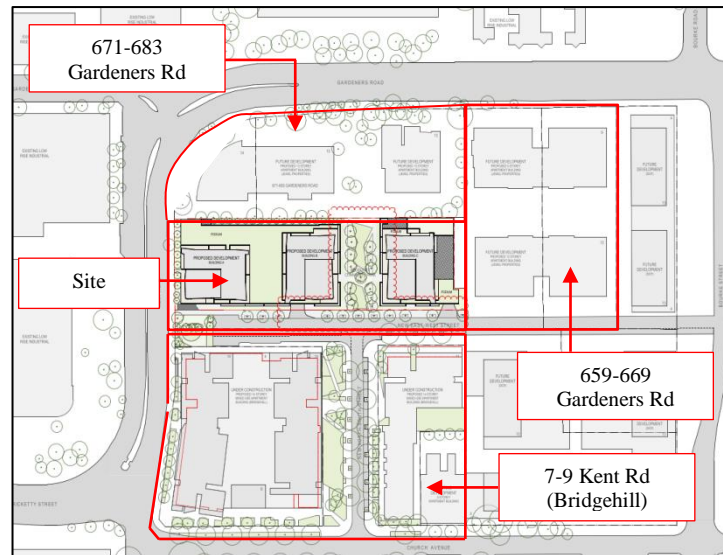


Figure 1: Locality Plan



Figure 2: Aerial map

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

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



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



Figure 4: Subject site undergoing demolition

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

Table 2: Key details of subject proposal and adjoining properties

Site	Location	Approval Body	Units	FSR	Height
1-5 Kent Road (Meriton)	Subject site	JRPP	234	3.12:1/ 3.27:1	47.2m (RL 51)
671-683 Gardeners Road (Jewel of India)*	Adjoins northern boundary	JRPP	242	3.34:1	42.5m (RL 49.15)
659-669 Gardeners Road (Avantra)	Adjoins eastern boundary	Court Appeal Refused by JRPP	328	3.33:1	45.5m (approx. RL 50.3)
7-9 Kent Road, Mascot (Bridgehill)	Adjoins southern boundary	Court Appeal Deemed refusal	510	3.78:1	47.4m (RL 51)

* New application (DA-16/177 – 2016SYE082) received by Council on 27 July 2016 has been proposed over this site

APPROVED DEVELOPMENT

Development Consent No.15/216 was approved by the Sydney East Joint Regional Planning Panel (JRPP) via electronic determination made on 18 July 2016 for an integrated development application for the construction of a mixed use development incorporating 229 units across a 4 storey residential podium (including 3 levels of sleeved parking) and 3 x 10 storey residential towers above, 2 levels of basement and at grade parking for a total of 391 cars, a 58sqm retail tenancy; strata subdivision; the construction of the northern half of a new east-west street and dedication to Council; a north-south oriented park and stratum subdivision; and excavation, earthworks and landscaping.

APPROVED MODIFICATION DA-15/216/03 (s961A)

Section 96(1A) Modification Application (DA-15/216/03) was approved by Council under delegation on 10 November 2016 for the extension of the northern wall of the podium (ground to Level 4) within Buildings A and B and the northern and eastern walls within Building C to align with the site boundaries to facilitate a future integrated car parking podium with the proposed development to the north at 671-683 Gardeners Road, which is being assessed under a separate application to be determined by the JRPP (DA-16/117).

Other approved modifications include:

- Additional unit on Level 1 by converting the approved 1 x 2 bedroom unit into 2 x 1 bedroom units;
- Deletion of 6 units (3 x 3 bed, 2 x 2 and 1 x 1 bed on Levels 1 – 3);
- Conversion of three x 2 bedroom units into three x 1 bedroom units;
- Deletion of 7 car parking spaces; and
- Other minor external and internal alterations.

PROPOSED MODIFICATION DA-15/216/02 (s962)

This Section 96(2) Modification Application was received by Council on 15 September 2016 and seeks to modify Development Consent No. 15/216 to convert the existing approved plant into car parking spaces, and integrating the two podiums, and reinstate 10 units within Building B and C that were requested to be removed by the JRPP as part of the original DA. In detail, the modifications include:

Ground Floor

- Integration of the car park with the site to the north by converting existing approved plant into car parking spaces and showing the two podiums as combined;
- Additional 21 car parking spaces (12 spaces within Buildings A and B, and 9 spaces in Building C);
- Installation of a fence to the ground level communal open space between Buildings B and C; and
- Removal of plant in Building C and enlargement of the residential waste room to provide adequate space and facilities for the site to the north.

Level One

- Integration of the car park with the site to the north including 'punching through' the northern boundary to allow vehicular movement between the two sites;
- Additional 19 car parking spaces (11 spaces within Buildings A and B, and 8 spaces within Building C);
- Removal of plant in Building C to provide for the increased waste room facilities.

Level Two

- Integration of the car park with the site to the north including 'punching through' the northern boundary to allow vehicular movement between the two sites;
- Additional 27 car parking spaces (12 spaces within Buildings A and B, and 15 spaces within Building C);
- Removal of plant in Building C to provide for the increased waste room facilities.

Level Three

- Integration of the car park with the site to the north including 'punching through' the northern boundary to allow vehicular movement between the two sites;
- Additional 30 car parking spaces (15 spaces within Buildings A and B, and 15 spaces within Building C);
- Removal of plant in Building C to provide for the increased waste room facilities.

Level Four

- Addition of a vertical car park mechanical ventilation intake (not exhaust).

Level Nine – Thirteen

- Extend Buildings B and C northwards to align with the setback of the levels below, resulting in the modification of and addition of one unit within each building on each level. A total of 10 additional 3 bedroom units are proposed and a total of 10 units will be modified to accommodate the additional units on each level.

There are no changes proposed to the two basement levels, Level 5 or the roof level.

Now that a DA has been lodged over the site to the north at 671-683 Gardeners Road (2016SYE082), the JRPP can be satisfied that the proposed envelope for this site is set back further than the current approval, thereby ensuring compliance with the ADG separation distances between the site to the north and the subject site.

ASSESSMENT OF MODIFICATION

The following table identifies the key controls, what has been approved and what is proposed with respect to the ADG, BBLEP 2013 and BBDCP 2013.

Table 3: Assessment against key controls

Control	Requirement based on units proposed under this DA-15/216/02 (234 units)	Approved DA-15/216 Based on 229 units	Modified Approval DA-15/216/03 Based on 224 units	Proposed DA-15/216/02 Based on 234 units	
				Proposed	Complies
Apartment Design Guide					
Car Parking	<p><u>Residential</u></p> <p>0.6 space x 55 1-bed unit = 33 req.</p> <p>0.9 space x 85 2-bed unit = 77 req.</p> <p>1.4 space x 94 3-bed unit = 132 req.</p> <p>Sub-total: 242 req.</p> <p>1 visitor space / 7 dwellings = 34 req.</p> <p>Total Residential: 275 req.</p> <p><u>Retail</u></p> <p>1/25sqm (2 req.)</p> <p><u>Service Bays</u></p> <p>1 loading dock for residential is desirable</p> <p>Total required: 277 req. (excluding service vehicle requirements)</p>	<p><u>Residential</u></p> <p>Total Residential: 357</p> <p>Visitor: 34</p> <p><u>Retail</u></p> <p>Nil*</p> <p><u>Service Bays</u></p> <p>Service Bay: 1</p> <p>Total provided: 391 spaces</p>	<p><u>Residential</u></p> <p>1 bed units: 51 spaces</p> <p>2 bed units: 117 spaces</p> <p>3 bed units: 182 spaces</p> <p>Sub-total: 350</p> <p>Visitor spaces: 34</p> <p>Total Residential: 384</p> <p><u>Retail</u></p> <p>Nil*</p> <p><u>Service Bays</u></p> <p>Service Bay: 1</p> <p>Total provided: 384 spaces (excluding service vehicle requirements)</p>	<p><u>Residential</u></p> <p>1 bed units: 47 spaces</p> <p>2 bed units: 108 spaces</p> <p>3 bed units: 187 spaces</p> <p>Sub-total: 343</p> <p>Visitor spaces: 34</p> <p>Total Residential: 376</p> <p>Plus 105 for 671-683 Gardeners Road</p> <p>Total Residential: 481</p> <p><u>Retail</u></p> <p>Nil*</p> <p><u>Service Bays</u></p> <p>Service Bay: 1</p> <p>Total provided: 481 spaces (excluding service vehicle requirements)</p> <p>* Condition to provide at least 2 spaces for the retail.</p>	Yes

Control	Requirement based on units proposed under this DA-15/216/02 (234 units)	Approved DA-15/216 Based on 229 units	Modified Approval DA-15/216/03 Based on 224 units	Proposed DA-15/216/02 Based on 234 units	
				Proposed	Complies
Building Separation	<u>Up to 4 storeys (approx. 12m):</u> 3m from non-habitable rooms to site boundary 6m from habitable rooms/balconies to site boundary	<u>Does not comply with 3m setback to non-habitable rooms:</u> Northern Boundary: Built to boundary pool (Bldg A) & basement (Bldg A, B & C). Eastern Boundary: Built to boundary basement & ground (Bldg C). <u>Does not comply with 6m setback to habitable rooms/balconies</u> Northern Boundary: U103, U203 & U303 (Bldg A) and UG18, U119, U219 & U319 (Bldg C) Eastern Boundary: U222, U322 (Bldg C)	<u>Does not comply with 3m setback to non-habitable rooms:</u> Northern Boundary: Bldg A, B & C built to boundary basement to podium. Eastern Boundary: Built to boundary basement to podium (Bldg C). <u>Does not comply with 6m setback to habitable rooms/balconies</u> Northern Boundary: U103, U203 & U303 (Bldg A) and UG19, U119, U219 & U319 (Bldg C) Eastern Boundary: U222, U322 (Bldg C)	No change	No Approved under DA-15/216/03.
	<u>Five to eight storeys (25m):</u> 4.5m from non-habitable rooms to site boundary 9m from habitable rooms/balconies to site boundary	<u>Does not comply with 9m setback to habitable rooms/balconies</u> Northern boundary: U510, U511, U610, U611, U710, U711, U810, U811 (Bldg B), and U517, U518, U617, U618, U717, U718, U817 & U818 (Bldg C) Southern boundary: U505, U506, U605, U606, U705,	No change	No change	No Approved under DA-15/216

Control	Requirement based on units proposed under this DA-15/216/02 (234 units)	Approved DA-15/216 Based on 229 units	Modified Approval DA-15/216/03 Based on 224 units	Proposed DA-15/216/02 Based on 234 units	
				Proposed	Complies
		U706, U805 & U806 (Bldg A), U508, U608, U708 & U808 (Bldg B) & U520, U620, U720 & U820 (Bldg C).			
	<u>Nine storeys and above (over 25m):</u> 6m from non-habitable rooms to site boundary 12m from habitable rooms/balconies to site boundary	<u>Does not comply with 12m setback to habitable rooms/balconies:</u> Eastern boundary: 3 eastern units on Bldg C. Southern Boundary: 2 southern units on each building. <u>Does not comply with 24m internal separation between habitable rooms:</u> Buildings A and B (privacy measures added)	No change	<u>Buildings A, B & C complies with 6m from non-habitable rooms to site boundary</u> <u>Buildings B & C do not comply with 12m from habitable rooms/balconies to site boundary</u> The additional units do not comply with the 12m setback to the boundary, providing a separation between 7.3m – 8.9m (non-compliance of 3m). However, the site to the north provides a minimum boundary separation of 17.6m, which makes up for the non-compliance on the site and provides a total minimum separation distance of 26.2m, which is sufficient.	No Acceptable

Control	Requirement based on units proposed under this DA-15/216/02 (234 units)	Approved DA-15/216 Based on 229 units	Modified Approval DA-15/216/03 Based on 224 units	Proposed DA-15/216/02 Based on 234 units	
				Proposed	Complies
Solar Access	70%	61.5%	70%	70%	Yes
Ventilation	60%	60%	60%	60%	Yes
Private Open Space and Balcony Size	1 bed: 8sqm 2 bed: 10sqm 3+ bed: 12sqm Ground Floor: 15sqm	1 bed: 8-37sqm 2 bed: 8-40sqm 3 bed: 12-93sqm Ground Floor: 17-40sqm	No change	No change Additional and modified units remain within 12-93sqm in balcony size	Yes
Unit size	1 bed: 50sqm 2 bed: 70sqm 3 bed: 90sqm	1 bed: 50 – 70sqm 2 bed: 70 – 98sqm 3 bed: 103 – 116sqm	No change	No change Additional and modified units remain within 103-116sqm in size	Yes
Storage	1 bed: 6m ³ 2 bed: 8m ³ 3+ bed: 10m ³	1 bed: 8-28.4m ³ 2 bed: 9-26.9m ³ 3+ bed: 9-16.7m ³	No change	No change	Yes
BBLEP 2013					
FSR	3.2:1 (25,024sqm)	3.08:1 (24,066sqm)	2.99:1 (23,419sqm)	3.45:1 (27,044sqm)	No Refer to detailed assessment further in this report
Height	44 metres (maximum)	Top of building: 47.2m (RL51m AHD)	No change	No change	No Approved under DA- 15/216

Control	Requirement based on units proposed under this DA-15/216/02 (234 units)	Approved DA-15/216 Based on 229 units	Modified Approval DA-15/216/03 Based on 224 units	Proposed DA-15/216/02 Based on 234 units	
				Proposed	Complies
BBDP 2013					
Unit Mix	Max. 25% 1 bedroom units	50 x 1 bed units (21.8%) 92 x 2 bed units (40.2%) 87 x 3 bed units (38%) TOTAL: 229	55 x 1 bed units (25%) 85 x 2 bed units (38%) 84 x 3 bed units (37%) TOTAL: 224	55 x 1 bed units (23.5%) 85 x 2 bed units (36.3%) 94 x 3 bed units (40.2%) TOTAL: 234	Yes
Communal Open Space	25% (1,620sqm) of site	34% (2,205sqm) of the site	40% (2,601sqm) of the site	No change	Yes

The following figures indicate the changes proposed to Level Ground – Level 4 (podium) and Levels 9-13.

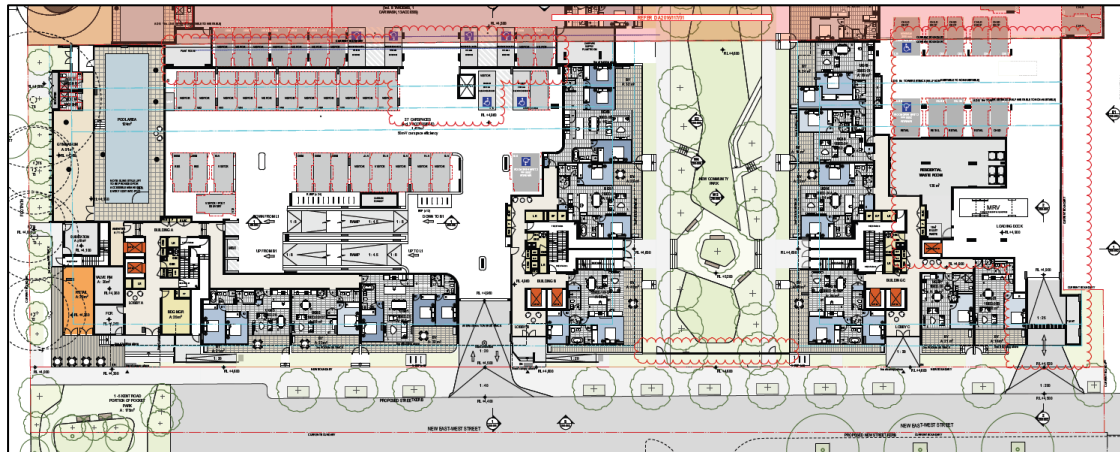


Figure 5: Proposed modifications – Ground Floor

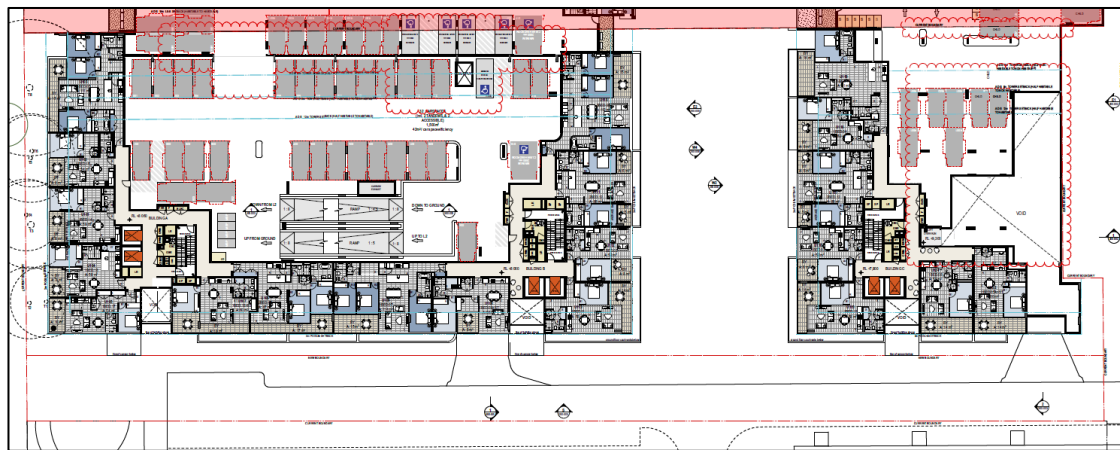


Figure 6: Proposed modifications – First Floor

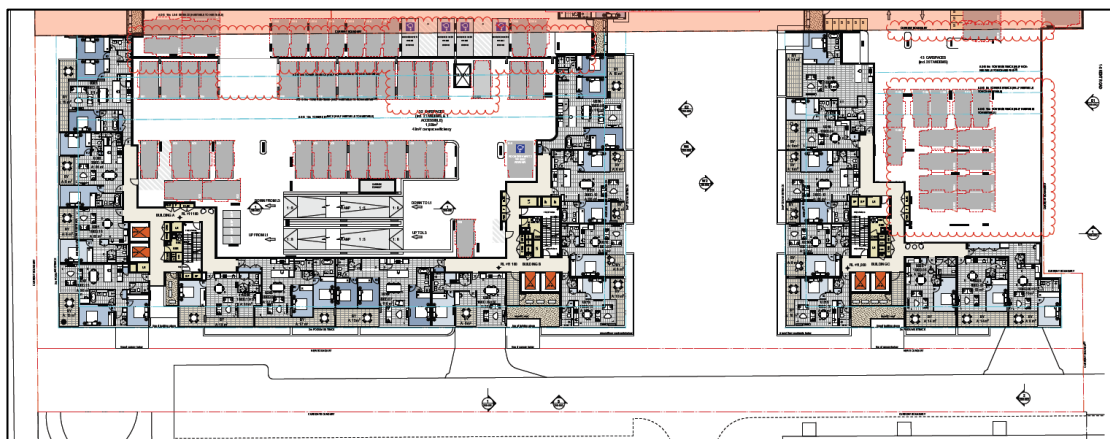


Figure 7: Proposed modifications – Second Floor

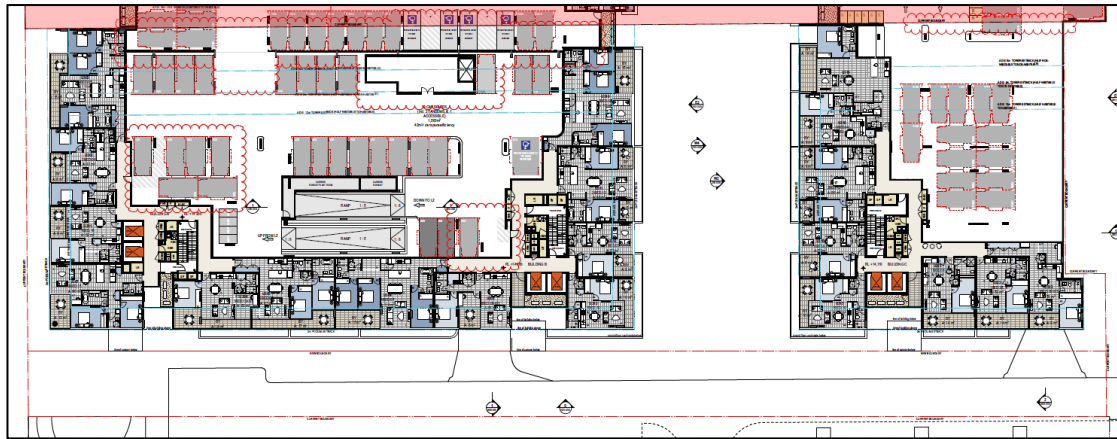


Figure 8: Proposed modifications – Third Floor



Figure 9: Proposed modifications – Fourth Floor (Podium Level)

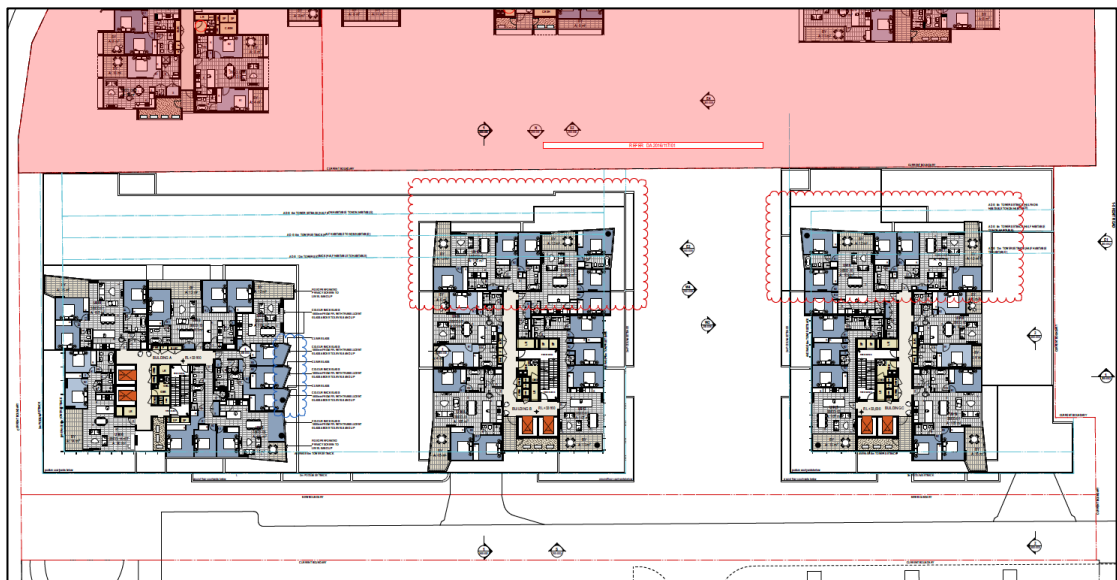


Figure 10: Proposed modifications – Level 9 - 13 (Podium Level)

SECTION 96(2) CONSIDERATIONS

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

(a) Substantially the same development

This Section 96(2) Modification Application relates to the provision of an integrated podium parking arrangement with the site to the north (671-683 Gardeners Road, Mascot) and reinstatement of 10 residential units which were previously requested by the JRPP to be removed to satisfy the separation distance to the approved design on the site to the north. There are other minor changes proposed to facilitate this change. The proposed modifications will result in substantially the same development as approved under DA-15/216 (and as modified by DA-15/216/03), being a mixed use development comprised of three buildings and 14 storeys, northern portion of a new east-west street (Galloway Street), northern portion of Reverend Soo Park and new privately owned publically accessible north-south park. It is considered that the proposed amendments are suitable in the context of the site and the locality.

(b) Consultation with the Minister, public authority or approval body

There is no requirement to consult with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval.

(c) Notification

In accordance with Part 2 - Notification & Advertising of the BBDCP 2013, this s96(2) Modification Application was notified to surrounding property owners from 5 October 2016 to 4 November 2016.

(d) Submissions

No submissions were received.

The proposed modifications are therefore considered to address the relevant provisions of Section 96(2).

SECTION 79C CONSIDERATIONS

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

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

State Environmental Planning Policy (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 an amended BASIX Certificate No. 671549M_08, dated 2 November 2016, received by Council 2 November 2016, prepared by Efficient Living Pty Ltd committing to environmental sustainable measures.

State Environmental Planning Policy (SEPP) 65 – Design Quality of Residential Apartment Development

The original development application was lodged after the 2015 amendment to SEPP 65 and was assessed under the ADG. As such, this s96(2) Modification Application is also to be assessed under the ADG.

The applicant has submitted a SEPP 65 assessment of the proposed development along with a Design Verification Statement prepared by Kevin Driver of Turner Architects, to verify that the design was overseen by a Registered Architect and achieves the design quality principles set out in Part 2 of SEPP 65.

An assessment of those parts of the modification that do not comply with the applicable controls contained within the ADG relate to building separation. This is discussed below.

Building Separation

There is no change to the building separation distances at Ground Level – Level 5.

The key changes to building separation occurs from Level 9 – Level 13 whereby Buildings B and C have been extended northwards to align with the setback of the levels below, resulting in the modification of and addition of one unit within each building on each level. A total of 10 additional 3 bedroom units are proposed and a total of 10 units will be modified to accommodate the additional units on each level.

The additional units do not comply with the 12m setback to the northern boundary and provide a separation distance of between 7.3m – 8.9m (i.e. non-compliance of 3m).

However, the proposed development on the site to the north at 671-683 Gardeners Road provides a minimum boundary separation of 17.6m, which makes up for the 3m non-compliance on the subject site and provides a total minimum separation distance between the two buildings of 26.2m. This is sufficient for the purposes of addressing privacy impacts and overlooking.

Botany Bay Local Environmental Plan (BBLEP) 2013

The proposed Modification Application results in a change in FSR. This is set out below.

Floor Space Ratio

The table below outlines the FSR standard, approved FSR and proposed FSR.

Table 5: FSR comparison

Control	Approved DA-15/216	Approved DA-15/216/03	Proposed
3.2:1 (25,024sqm)	3.08:1 (24,066sqm)	2.99:1 (23,419sqm)	3.45:1 (27,044sqm)

As is demonstrated in the table above, the proposed FSR exceeds the standard of 3.2:1 by 8% (2,020sqm).

The proposed development has been designed to interconnect with the proposed development adjoining the site to the north at 671-683 Gardeners Road, Mascot. The design of both buildings includes interconnected podium levels for the purposes of car parking and access. The proposed development at 671-683 Gardeners Road has a shortfall of 46 car parking spaces when applying the RMS parking rates. 105 car parking spaces proposed within the subject modification at 1-5 Kent Road are to be allocated to the 671-683 Gardeners Road development. These parking spaces make up 1,365sqm of the proposed 2,020sqm variation to the FSR control.

As such, if 105 spaces are allocated to the proposed development at 671-683 Gardeners Road, then the total FSR proposed on the subject site at 1-5 Kent Road is 3.28:1 (25,679sqm) which is an exceedance of 655sqm.

Notwithstanding the above, while integration of the podium is proposed in order to facilitate a shared car parking arrangement, both sites are separate and are to be assessed based on their technical compliance with the FSR standard (which subject to the BBLEP 2013 definition is to exclude car parking to meet any requirements of the consent authority, and thereby including excess car parking) but whilst also considering the specific merits of the proposal and intended outcome for the site/s.

The applicant has submitted a Clause 4.6 variation to the FSR standard. It is noted that clause 4.6 applies to the granting of development consent, and a section 96 modification does not grant development consent, but modifies an existing consent. However, as part of the justification for the increase in floor space, the 4.6 type issues are outlined below:

The applicant claims that the proposal is consistent with the objectives of the development standard as follows:

- *The proposed development meets the objectives of the development standard.*
- *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.*
- *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.*

- *The proposed development will result in substantially the same built form as approved under the original development application. The departure from strict compliance with the numerical FSR control will not result in the bulk or scale of the development changing from originally approved.*
- *The non-compliance with the numerical FSR control does not cause any additional overshadowing onto adjoining properties than a compliant built form.*
- *The proposed development includes the creation of a communal open space with public access through the site. This park is located above the basement levels, and will not be adversely affected by the proposed FSR of the development.*
- *The proposed development will still deliver a built form that is compatible with the bulk and built form envisaged by the desired future character planned for the Kent Road Area, and the wider Mascot Town Centre.*

The applicant's justification is generally agreed with. The proposed modification to increase the FSR is considered acceptable as it will not increase the visual bulk or scale of the approved development and will not result in any adverse impacts on the locality. The proposal therefore satisfies the objectives for the FSR control.

The applicant has provided the following justification to demonstrate that the underlying objectives of the FSR control of BBLEP 2013 would be thwarted or defeated if compliance were required:

The proposed development is able to achieve the objectives of the FSR development standard, even though the development results in a minor non-compliance with the numerical standard.

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 accommodated on the site without resulting in an increased built form than contemplated by the planning controls.

The applicant's justification is generally agreed with. The application has undergone assessment and strict compliance with the 3.2:1 FSR would tender to hinder attainment of the underlying objectives of the FSR control.

The applicant also states that no additional public benefit would be derived from maintaining strict compliance with the numerical FSR development standard on the site.

The rationale and argument presented in the clause 4.6 variation is agreed with and acknowledged. The development standard relating to the maximum FSR for the site as contained within Clause 4.4 of the BBLEP 2013 should be varied in the circumstances to allow the development to attain a floor space ratio of 3.45:1 (27,044sqm).

It is noted that the development standard in the Mascot Town Centre has been virtually abandoned or destroyed. Other sites within the precinct have benefitted from additional FSR by way of a site by site assessment and SEPP / Clause 4.6 objection based on individual consideration.

Further, the FSR exceedance is confined to excess car parking, whereby accommodating this will result in no change to the building envelope as approved under the original development application.

The exceedance in FSR is not out of character with other approved developments in the immediate area which exceed the FSR standard and the exceedance in FSR does not result in any adverse external impacts.

Botany Bay Development Control Plan (BBDCP) 2013

As identified within Table 3, the proposed changes do not alter compliance with the BBDCP 2013 controls. However there are two proposed changes to the plans that warrant further discussion. This is provided below.

Access to the community park between Buildings B and C

The applicant has proposed a fence to the southern boundary of the community park between Buildings B and C. The intention of this is to better manage and mitigate safety issues to the ground floor apartments which has arisen from other similar developments managed by Meriton.

Council is supportive of facilitating this from a safety perspective but is conscious of how this interface will work without discouraging or preventing the public from accessing and utilizing this area, which is to be publically accessible.

This matter has been referred to Council's Landscape Architect for comment. It was recommended that the proposed fence be approved in principle; however a condition has been recommended for details and sections of the interface treatment of the southern boundary of the community park to be submitted to Council's Landscape Architect for approval as part of the private domain landscape plans that are required to be submitted to Council for approval prior to the issue of the Construction Certificate for above ground works.

This condition has been included as Condition No. 53(n).

Car Park Mechanical Ventilation Intake

The applicant proposes the relocation of the car park mechanical ventilation intake from within the landscaped area between Buildings A and B, to the northern side of the balcony of Unit U410 on podium level.

The car park mechanical ventilation intake is shown on the plans as indenting the balcony of U410 slightly but not enough to restrict pedestrian flow along the balcony.

Additional detailed elevations were requested by Council to determine the height and potential impact this may have on the private open space of the occupants of U410 and its visibility from within the communal open space at podium level.

The applicant has not provided detailed elevations and instead has provided written advice that the height of the car park mechanical ventilation intake is 1m (in order to comply with the BCA) and is located amongst planting.

Detailed planting has not been provided on the architectural drawings so it is difficult to determine whether the car park mechanical ventilation intake will be readily visible from the remainder of the communal open space. Further, in the absence of detailed elevations, it is difficult to determine the visual impacts to Unit U410.

A condition has been recommended for details regarding the landscaping treatment around the car park mechanical ventilation intake to be submitted to Council's

Landscape Architect for approval as part of the private domain landscape plans that are required to be submitted to Council for approval prior to the issue of the Construction Certificate for above ground works. This condition has been included as Condition No. 53(o).

Further, a separate condition has been recommended that the southern portion of the car park mechanical ventilation intake be reduced slightly to align with the balustrade of the balcony of Unit U410 so that its height can be integrated into and hide behind the balustrading of the balcony. This condition has been included as Condition No. 42(g).

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

There will be no impacts to surrounding neighbours as a result of the modification.

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

The suitability of the site for the development was assessed as part of the original consent DA-15/216 and was assessed a suitable.

(c) Any submissions made in accordance with the Act, or the regulations.

No submissions were received during the notification period.

(d) The public interest

This Section 96(2) Modification Application relates to the extension of Buildings B and C northwards to accommodate 10 additional 3 bedroom units and conversion of plant room within the podium levels to provide an integrated car parking arrangement with the proposed development on the adjoining site to the north. Other changes include minor modifications to facilitate this change. The proposed modifications will result in substantially the same development as approved under DA-15/216. It is considered that the proposed amendment is suitable in the context of the site and the locality and will have no significant adverse impact upon the public interest.

OTHER MATTERS

Section 94 Contributions

Council on 14 June 2016 approved a new contribution plan being the City of Botany Bay Section 94 Development Contributions Plan 2016.

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

The approved and amended consent have been calculated in accordance with the new s94 Development Contributions Plan 2016.

The amended s94 contribution calculations are outlined below.

Section 94 Contributions

Residential

This s96(2) Modification Application proposes a total of 10 additional units. These changes will change the amount of s94 contributions to be paid. This is set out below.

Table 6: s94 contribution calculation comparison

Approved unit mix & contribution rate DA-15/216	Approved unit mix & contribution rate DA-15/216/03 (s961A)	Proposed unit mix & contribution rate DA-15/216/02 (s962)
50 x 1 bed units @ \$8,962.09 = \$448,104.50	55 x 1 bed units @ \$8,962.09 = \$492,914.95	55 x 1 bed units @ \$8,962.09 = \$492,914.95
92 x 2 bed units @ \$14,745.64 = \$1,356,598.88	85 x 2 bed units @ \$14,745.64 = \$1,253,379.40	85 x 2 bed units @ \$14,745.64 = \$1,253,379.40
87 x 3 bed units @ \$19,270.78 = \$1,676,557.86	84 x 3 bed units @ \$19,270.78 = \$1,618,745.52	94 x 3 bed units @ \$19,270.78 = \$1,811,453.32
TOTAL: \$3,481,261.24	TOTAL: \$3,365,039.87	TOTAL: \$3,557,747.67

The difference between the approved s94 contribution for residential (under the original DA) and the proposed s94 contribution for residential under this modification is an additional \$76,486.43.

Commercial

The previous approved s94 contribution calculation of \$4,086.00 under DA-15/216/03 has not changed as part of this s96(2) Modification Application.

In addition to the existing s94 contribution payable for the commercial component, being \$4,086.00, the **total s94 contribution for residential and commercial is \$3,565,284.99 (as indexed).**

This is a nett increase of total s94 contributions payable for the development. It is noted that construction of the development may commence prior to the approval of this Development Application, thereby the s94 contributions under the original DA of **\$3,488,798.56** are required to be paid prior to the issue of the first construction certificate for above ground works (as per the original consent). With regard to the increased amount, the applicant will be required to pay the difference between the original s94 contribution and the amended s94 contribution within 14 days of approval of this s96(2) Modification Application.

Condition No. 40 has been amended to reflect the increased s94 contribution rate, including a clause that any difference between the original s94 contribution and the amended s94 contribution be paid within 14 days of approval of this s96(2) Modification Application.

CONCLUSION

The Section 96(2) Modification Application seeking to modify Development Consent No. 15/216 by providing an integrated car parking podium arrangement with the new proposed development adjoining the site to the north at 671-683 Gardeners Road, and reinstating 10 apartments from Levels 9 – 13 which were previously requested by the JRPP to be removed due to the non-compliant separation distance with the current approved development to the north, at 1-5 Kent Road, Mascot has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

An assessment against the ADG, BBLEP 2013 and BBDCP 2013 identified no additional significant non-compliances. The ADG non-compliance to note is with respect to building separation from Level 9 – Level 13. Despite exhibiting a non-compliance with regard to separation distance to the northern boundary, the proposed building on the site to the north exceeds the ADG minimum requirement, thereby resulting in a minimum total separation distance between the two buildings of 26.2m. This is sufficient for the purposes of addressing privacy impacts and overlooking.

The proposed amendments do not result in an increase in height but result in a technical increase in FSR due to excess parking. This is acceptable as the majority of this excess parking is to be allocated to the northern adjoining site at 671-683 Gardeners Road, the excess FSR associated with the additional car parking is contained within the building envelope, does not result in any adverse amenity impacts and is not over and above what is exhibited and approved in the immediate area. The applicant has provided sufficient justification for the FSR variation.

The s96(2) Modification Application is recommended for approval with additional information regarding the car park mechanical ventilation intake and the fence to the community park required to be submitted to Council for approval prior to the issue of the Construction Certificate for above ground works.

With the exception of the above, the s96(2) Modification Application is recommended for approval subject to the conditions (as amended) in the attached draft Schedule of Consent Conditions.

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

Drawing No.	Author	Dated Received
Ground Level (Drawing No. DA-110-000, Revision S4 S3B S4C) (DA-15/216/03) (DA-15/216/02)	Turner	Dated 06/05/2016 13/10/2016 09/11/2016 Received by Council 26/05/2016 26/10/2016 22/11/2016
Level 1 (Drawing No. DA-110-001, Revision S2 S3B S4B) (DA-15/216/03) (DA-15/216/02)	Turner	Dated 19/02/2016 13/10/2016 17/10/2016 Received by Council 26/05/2016 26/10/2016 22/11/2016
Level 2 (Drawing No. DA-110-002, Revision S2 S3B S4B) (DA-15/216/03) (DA-15/216/02)	Turner	Dated 19/02/2016 13/10/2016 17/10/2016 Received by Council 26/05/2016 26/10/2016 22/11/2016
Level 3 (Drawing No. DA-110-003, Revision S2 S3B S4B) (DA-15/216/03) (DA-15/216/02)	Turner	Dated 19/02/2016 13/10/2016 17/10/2016 Received by Council 26/05/2016 26/10/2016 22/11/2016
Level 4 Podium (Drawing No. DA-110-004, Revision S3B S4B) (DA-15/216/03) (DA-15/216/02)	Turner	Dated 06/05/2016 13/10/2016 17/10/2016 Received by Council 26/05/2016 13/10/2016 22/11/2016

Drawing No.	Author	Dated Received
Level 5-8 Lower Tower (Drawing No. DA-110-005, Revision S3)	Turner	Dated 06/05/2016 Received by Council 26/05/2016
Level 9-13 Tower (Drawing No. DA-110-006, Revision S4)	Turner	Dated 25/05/2016 30/08/2016 Received by Council 26/05/2016 22/11/2016
Plant Rooms (Drawing No. DA-110-007, Revision S3)	Turner	Dated 06/05/2016 Received by Council 26/05/2016
Roof Plan (Drawing No. DA-110-008, Revision S3)	Turner	Dated 06/05/2016 Received by Council 26/05/2016
Basement 1 (Drawing No. DA-110-B01, Revision S3)	Turner	Dated 30/03/2016 Received by Council 26/05/2016
Basement 2 (Drawing No. DA-110-B02, Revision S3)	Turner	Dated 30/03/2016 Received by Council 26/05/2016
North Elevation (Drawing No. DA-250-001, Revision S4 S6) (DA-15/216/02)	Turner	Dated 06/05/2016 30/08/2016 Received by Council 26/05/2016 22/11/2016
East Elevation – Adjoining Boundary (Drawing DA-250-002, Revision S3 S4) (DA-15/216/02)	Turner	Dated 06/05/2016 30/08/2016 Received by Council 26/05/2016 22/11/2016
South Elevation – East West Street (Drawing No. DA-250-003, Revision S5 S6) <i>and as amended in red text</i> (DA-15/216/02)	Turner	Dated 06/05/2016 24/11/2016 Received by Council 26/05/2016 24/11/2016
West Elevation – Kent Road (Drawing No. DA-250-004, Revision S3 S5) (DA-15/216/02)	Turner	Dated 06/05/2016 30/08/2016 Received by Council 26/05/2016 22/11/2016
East Elevation – North-South Street (Drawing No. DA-250-005,	Turner	Dated 06/05/2016 30/08/2016

Drawing No.	Author	Dated Received
Revision S3 S4 (DA-15/216/02)		Received by Council 26/05/2016 22/11/2016
West Elevation – North-South Street (Drawing No. DA-250-006, Revision S3 S4) (DA-15/216/02)	Turner	Dated 06/05/2016 30/08/2016 Received by Council 26/05/2016 22/11/2016
West Elevation – Building B (Drawing No. DA-250-007, Revision S4 S2) (DA-15/216/02)	Turner	Dated 06/05/2016 30/08/2016 Received by Council 26/05/2016 22/11/2016
East Elevation – Building A (Drawing No. DA-250-008, Revision S2)	Turner	Dated 25/06/2016 Received by Council 26/05/2016
Cross Section looking East (Drawing No. 350-001, Revision S3)	Turner	Dated 06/05/2016 Received by Council 25/05/2016
Longitudinal Section looking North (Drawing DA-350-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 26/05/2016
Ramp Sections (Drawing DA-350-003, Revision S1)	Turner	Dated 19/02/2016 Received by Council 04/07/2016
Stratum Subdivision Plans (Sheets 1-7, Revision A)	Meriton Property Services Pty Ltd	Dated 11/11/2015 Received by Council 13/11/2015

Referenced documents

Drawing No.	Author	Dated Received
Bulk Excavation & Sections and Sediment Control (Drawing No. E-1000-EX, Revision B)	Karimbla Construction Services (NSW) Pty Ltd	Dated 05/04/2016 Received by Council 05/04/2016
Cover Page (Revision S6 S3 S4E) (DA-15/216/03) (DA-15/216/02)	Turner	Dated 09/11/2016 Received by Council 26/05/2016 27/10/2016 05/12/2016
Site Plan – Proposed (Drawing No. DA-100-001, Revision S2)	Turner	Dated 19/02/2016 Received by Council

Drawing No.	Author	Dated Received
		31/03/2016
Level & Feature Survey (Drawing No. 20308 B, Sheet 1 of 3, Revision A)	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
Level & Feature Survey (Drawing No. 20308 B, Sheet 2 of 3, Revision A)	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
Level & Feature Survey (Drawing No. 20308 B, Sheet 3 of 3, Revision A)	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
Site Survey	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
SEPP 65 Report	Turner	Dated November 2015 Received by Council 13/11/2015
Design Verification Statement As amended for DA-15/216/02	Turner	Dated 13/11/2015 06/09/2016 Received by Council 13/11/2015 31/10/2016
Apartment Design Guide Workbook for Applicants	Turner	Received by Council 13/11/2015
Statement of Environmental Effects and DCP Assessment Table	Meriton Property Services Pty Ltd	Dated 11/11/2015 Received by Council 13/11/2015
Amended Statement of Environmental Effects (DA-15/216/02)	Meriton Services Pty Ltd	Dated 27/10/2016 Received by Council 31/10/2016
Letter regarding post JRPP meeting documentation	Karimbla Construction Services (NSW) Pty Ltd	Dated 11/05/2016 Received by Council 11/05/2016
Amended Clause 4.6 Variation	Meriton Property Services Pty Ltd	Dated 10/05/2016 Received by Council 11/05/2016
Retail and Commercial Needs Analysis	Urbis	Dated February 2016 Received by Council 22/02/2016
Thermal Comfort & BASIX Assessment (Issue AF) (DA-15/216/02)	Efficient Living Pty Ltd	Dated 06/11/2015 02/11/2016 Received by Council 13/11/2015

Drawing No.	Author	Dated Received
		02/11/2016
Acoustic Report (Revision 1)	Acoustic Logic	Dated 12/10/2015 Received by Council 13/11/2015
Waste Management Plan	Elephants Foot	Dated 09/11/2015 Received by Council 13/11/2015
Transport Impact Assessment	Arup	Dated 11/11/2015 Received by Council 13/11/2015
Transport Impact Assessment Letter (237457)	Arup	Dated 29/01/2016 Received by Council 22/02/2016
Transport Impact Assessment Addendum (Revision A)	Arup	Dated 19/02/2016 Received by Council 22/02/2016
Access Report	Wall to Wall Design & Consulting	Dated 07/11/2015 Received by Council 13/11/2015
BCA Compliance Assessment Report (1423-91, Rev 1)	AED Group	Dated 10/11/2015 Received by Council 13/11/2015
Aeronautical Impact Assessment (J0422)	The Ambidji Group Pty Ltd	Dated 16/10/2015 Received by Council 13/11/2015
Arboricultural Assessment Report	Tree and Landscape Consultants (TALC)	Dated 10/11/2015 Received by Council 13/11/2015
Construction Management Plan	Meriton Property Services Pty Ltd	Dated October 2015 Received by Council 13/11/2015
Construction Traffic Management Plan (Ref: SBMG1151-11)	SBMG	Dated 15/10/2015 Received by Council 13/11/2015
Civil Works Drawings (Drawing No. DAC01, 02, 05, 10, 15, 20, 30, 35, 40, 41, 60, 61, Issue A)	at&l	Dated 11/11/2015 Received by Council 22/02/2016
Sediment and Erosion Control Details (Drawing No. DAC41, Issue A)	At&l	Dated 11/11/2015 Received by Council 13/11/2015
Environmental Site Assessment	Coffey	Dated 23/09/2014 Received by Council

Drawing No.	Author	Dated Received
		13/11/2015
Geotechnical Site Investigation	Coffey	Dated 19/09/2014 Received by Council 13/11/2015
Groundwater Management Plan	Coffey	Dated 25/02/2016 Received by Council 22/02/2016
Flood Report	Calibre Consulting	Dated 12/10/2015 Received by Council 13/11/2015
Qualitative Wind Impact Assessment (Revision 0)	SLR	Dated 04/11/2015 Received by Council 13/11/2015
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 12/10/2015 Received by Council 13/11/2015
QS Report	Steven Wehbe	Dated 15/10/2015 Received by Council 13/11/2015
Landscape Plan – Cover Sheet (Drawing No. L-001, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Ground Level Streetscape (Drawing No. L-101, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Ground Level Courtyard (Drawing No. L-102, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Level 4 Podium (Drawing No. L104, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Level 1 Courtyard (Drawing No. L103, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Level 4 Podium Courtyard 2 (Drawing No. L105, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Site Plan – Existing (Drawing No. DA-100-000, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Site Analysis Plan (Drawing No. DA-100-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council

Drawing No.	Author	Dated Received
		31/03/2016
Demolition Plan (Drawing No. DA-101-001, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
GFA Diagrams – Ground Level – L13 (Drawing No. DA-710-000, Revision S4 S3 S4C) (DA-15/216/03) (DA-15/216/02)	Turner	Dated 09/05/2016 13/10/2016 09/11/2016 Received by Council 26/05/2016 26/10/2016 22/11/2016
Shadow Diagrams, Winter Solstice 9am (Drawing No. DA-720-001, Revision S3)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Winter Solstice 12pm (Drawing No. DA-720-002, Revision S3)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Winter Solstice 3pm (Drawing No. DA-720-003, Revision S3)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Site Plans Winter Solstice (Drawing No. DA-720-004, Revision S2)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Site Plans Spring Equinox (Drawing No. DA-720-005, Revision S2)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Winter Solstice 10am (Drawing No. DA-720-006, Revision S2)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Winter Solstice 11am (Drawing No. DA-720-007, Revision S2)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Winter Solstice 1pm (Drawing No. DA-720-008, Revision S2)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Winter Solstice 2pm (Drawing No. DA-720-009, Revision S2)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams Gardeners Road Winter Solstice 9am & 10am (Drawing No. DA-720-010, Revision S2)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Shadow Diagrams Gardeners	Turner	Dated 09/05/2016

Drawing No.	Author	Dated Received
Road Winter Solstice 11am & 12pm (Drawing No. DA-720-011, Revision S2)		Received by Council 26/05/2016
Shadow Diagrams Gardeners Road Winter Solstice 1pm & 2pm (Drawing No. DA-720-012, Revision S2)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Shadow Diagrams Gardeners Road Winter Solstice 3pm (Drawing No. DA-720-013, Revision S2)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Solar Amenity Ground Level – L5 (Drawing No. DA-721-000, Revision S3)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Solar Amenity 6 – L11 (Drawing No. DA-721-001, Revision S3)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Solar Amenity L12 – L13 (Drawing No. DA-721-002, Revision S3)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Cross Ventilation Ground Level – L5 (Drawing No. DA-722-000, Revision S3)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Cross Ventilation Amenity Level 6 – L11 (Drawing No. DA-722-001, Revision S3)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Cross Ventilation Amenity Level 12 – L13 (Drawing No. DA-722-002, Revision S3)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Calculations (Drawing No. DA-723-000, Revision A)	Turner	Dated 30/03/2016 Received by Council 31/03/2016
Supplementary Drawings Adaptable Apartments (Drawing No. DA-813-000, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
Proposed Envelopes for Northern site (Drawings SK001 - 5, Revision A)	Turner	Dated 19/02/2016 Received by Council 22/02/2016
Materials and Finishes (Drawing No. DA-910-001, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
Photomontage – View from South West – Kent Road (Drawing No. DA-920-001, Revision S1)	Turner	Dated 09/11/2015 Received by Council 31/03/2016

Drawing No.	Author	Dated Received
Photomontage – View from North West – Kent Road (Drawing No. DA-920-002, Revision S1)	Turner	Dated 09/11/2015 Received by Council 31/03/2016
Photomontage – View West at New Street Junction (Drawing No. DA-920-003, Revision S1)	Turner	Dated 09/11/2015 Received by Council 31/03/2016
8.00 Apartment Schedule (Revision 5 78) (DA-15/216/03) (DA-15/216/02)	Turner	Dated 31/03/2016 25/10/2016 27/10/2016 Received by Council 31/03/2016 26/10/2016 31/10/2016

- 2 No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.
- 3 This Consent relates to land in Lot 30 on DP 789177 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 4 The consent given does not imply that works can commence until such time that:
 - (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) The consent authority; or,
 - (ii) An accredited certifier; and,
 - (b) The person having the benefit of the development consent:
 - (i) Has appointed a principal certifying authority; and
 - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - (iii) The person having the benefit of the development consent has given at least 2 days' notice to the council of the person's 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 (*and as amended*) for the each building in the development are fulfilled. (DA-15/216/03)
 - (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.

- 7 The Right-Of-Carriageway 7.0 wide, over Lot 31 in DP 789177 and benefiting Lot 30 in DP 789177, is to be extinguished within 40 days of alternate public road access being available to Lot 30 (other than Kent Road). The access may be to the Mascot precinct new north-south street (Muller Lane) upon its dedication as public road, or to another public road. The Right-Of-Carriageway is to be extinguished at no cost to the owner(s) of Lot 31, DP 789177 or to the Council.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

- 8 The following condition is imposed by **Ausgrid** and is to be complied with:
Ausgrid has identified the following assets to be affected by the development works:

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

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

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

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

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

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

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

(a) Water

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

(b) Wastewater

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

(c) Sydney Water E-Planning

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

Further advice and requirements for this proposal are at attachments 1 and 2 (overleaf). If you require any further information, please contact Beau Reid of Urban Growth

(d) Sydney Water Servicing

- (i) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water (prior to the issue of any Occupation Certificate) for that stage. 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.

(e) Building Plan Approval

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

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

(f) Requirements for Business Customers for Commercial and Industrial Property Developments

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

Trade Wastewater Requirements

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

The permit application should be emailed to Sydney Water's Business Customer Services at businesscustomers@sydneywater.com.au. It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

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

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

(g) Backflow Prevention Requirements

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

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

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

Before you install a backflow prevention device:

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

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

(h) Water Efficiency Recommendations

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

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

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

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

(i) Contingency Plan Recommendations

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

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

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

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

- (a) Roads and Maritime has previously resumed and dedicated a strip of land as road along the Kent Road frontage of the subject property, as shown by grey colour on the attached Aerial- "X" (see Attachment 1 to the conditions).

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

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

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

The report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.

Telephone 8849 2114
Fax 8849 2766

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

- (c) The redundant driveways on Kent Road shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Kent Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services,

Manager Developer Works, Statewide Delivery, Parramatta (telephone 88492138).

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

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

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

Details should be forwarded to:

The Sydney Asset Management

Roads and Maritime Services

PO Box 973 Parramatta CBD 2124.

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

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

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

- (a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
- (b) The application sought approval for the property development to a height of 51.0 metres Australian Height Datum (AHD).

- (c) In the capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, the Airfield Design Manager has no objection to the erection of this development to a maximum height of 51.0 metres AHD. Should you wish to exceed this height a new application must be submitted.
- (d) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- (e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- (f) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)). The height of the prescribed airspace at this location is 51 metres above AHD.
- (g) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)). The height of the prescribed airspace at this location is 51 metres above AHD.
- (h) Planning for Aircraft Noise and Public Safety Zones: Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF). Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.
- (a) Application for Approval of Crane Operation
 - (i) Pursuant to s. 183 of the Airports Act 1996 and Reg 7 of the Airports (Protection of Airspace) Regulations 1996, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("controlled activity") set out in the Schedule.
 - (ii) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
 - (iii) The operation must not commence without approval, and must only proceed in compliance with any conditions imposed on such approval.

- (iv) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
- (v) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
- (vi) The Secretary and the Airport, as applicable, may request further information before determining an application.
- (vii) The "Important Notes" must be read and accepted.
- (viii) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

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

- 12 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.

- 13 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.

- 14 Prior to the commencement of any excavation or building works, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority.

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

- 15 A Construction Management Program shall be submitted to, and approved in writing by the Certifying Authority prior to any excavation or building works. The program shall detail:

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

16 A detailed Traffic Management Plan for the pedestrian and traffic management of the site during the proposed works shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:

- (a) be prepared by a RMS accredited consultant,
- (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police,
- (c) during construction, if access from Kent Road is required, the applicant is to submit documentary evidence to the Principal Certifying Authority that the required Section 138 Consent under the Roads Act, 1993 has been issued by the New South Wales Roads and Maritime Services, and

- (d) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

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

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

- 18 A Stage 3 – Remedial Action Plan (RAP) shall be prepared by a suitably qualified and experienced contaminated land consultant and shall be in accordance with:

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

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

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

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

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

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

- 21 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.
- 22 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.

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.
- 23 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.
- 24 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.
- 25 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.
- 26 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
 - (a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;

- (b) Each toilet provided:
 - (i) must be standard flushing toilet; and,
 - (ii) must be connected:
 - (iii) to a public sewer; or
 - (iv) if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - (v) if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - (c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 27 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.
- 28 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.
- 29 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993, where relevant: -
- It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.
- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - (b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - (c) Permit to install temporary ground anchors in public land,
 - (d) Permit to discharge ground water to Council's stormwater drainage system,

- (e) Permit for roads and footways occupancy (long term/ short term),
 - (f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - (g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - (h) Permit to place skip/waste bin on footpath and/or nature strip, and
 - (i) Permit to use any part of Council's road reserve or other Council lands.
- 30 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. As no owner's consent has been received for any works on private property, evidence that all legal rights to use private property has been obtained is to be provided to Council and the certifying authority, and approval for rock anchors the like on Council's land is to be submitted, prior to issue of the construction certificate.
- 31 In relation to the Arboricultural Assessment Report by T.A.L.C in Condition No. 1, in order to ensure that tree #9, tree #10 and tree#11 at the north west of the site along Kent Road, together with two (2) Harpulia pendula trees and four (4) Casuarina trees within the 7-9 Kent Road portion of the pocket park at the western end of the new East West Street are retained and protected during construction, and their health and structural stability ensured, the following is required:
- (a) Trees #9, #10 and #11 and the six (6) existing retained trees (2 x Harpulia pendula and 4 x Casuarina) within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street shall be shown on all plans.
 - (b) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
 - (c) All tree works and tree management shall be undertaken in accordance with the Arborist report by Tree and Landscape Consultants (TALC) (dated 10th November 2015). For all tree root and canopy work to trees, comply with the recommendations and requirements and management plan contained within this report.
 - (d) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.
 - (e) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using

1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.

- (f) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
- (g) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
- (h) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- (i) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
- (j) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- (k) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
- (l) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
- (m) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- (n) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
- (o) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained, including the Council Street tree on the southern corner of Church Avenue and Kent Road. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.

- (p) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.
 - (q) If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.
- 32 The Applicant has permission to remove trees Tree #1, Tree #2, Tree #3, Tree #4, Tree #5, Tree #6, Tree #7 and Tree #8 as identified by the Consultant Arborist in the report by Tree and Landscape Consultants (TALC) (dated 10th November 2015).
- 33 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.
- 34 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- (a) The Erosion and Sediment Control Plan;
 - (b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
 - (c) Protection of the Environment Operations Act 1997.

CONDITIONS WHICH MUST BE SATISFIED AT THE COMPLETION OF EXCAVATION WORKS

- 35 An assessment of the status of asbestos in soil at the site shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - (b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
 - (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The validation report shall provide a notice of completion of any required remediation works identified during the additional assessment of asbestos in soils at the site required prior to the issue of the construction certificate and commencement of works on the site, and include a clear statement on the suitability of the site for residential use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works.

36 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.

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

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

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

- | | | |
|-----|------------------------------|---------------------------------|
| (a) | Development Control | \$12,900.00 |
| (b) | Damage Deposit | \$157,500.00 (Condition No. 39) |
| (c) | Street Tree Maintenance Bond | \$10,000.00 (Condition No. 38) |

38 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 12 months after final inspection of new street trees by Council. At the completion of the 12 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.

39 Prior to the issue of the Construction Certificate for above ground works, the applicant shall lodge a Damage Deposit of **\$157,500.00** (GST Exempt) by way

of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupation Certificate has been issued.

- 40 The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with the City of Botany Bay Section 94 Development Contributions Plan 2016. A total contribution of ~~\$3,488,798.56~~ ~~\$3,369,125.87~~ **\$3,557,747.67** is payable prior to the issue of the first construction certificate for above ground works. (DA-15/216/03) **(DA-15/216/02)**

Note 1: The Section 94 Contributions are subject to quarterly review and the current rates are applicable for the quarter year in which your consent is granted. If you pay the contribution in a later quarter you will be required to pay the indexed contribution applicable at the time.

Note 2: Any difference between the original s94 contribution and the amended s94 contribution be paid within 14 days of approval of this s96(2) Modification Application. (DA-15/216/02)

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

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

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

- (a) Provision of an On-site Detention system (OSD) in accordance with but not limited to Part 6 of the SMTG,
- (b) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
- (c) Stormwater discharge to Council/RMS Kerb & Gutter shall be limited to a single outlet with maximum capacity of 10L/s. If greater discharge rate is proposed (up to the maximum discharge rate stated in the point above), the a direct connection to Council/RMS pit and pipe system is required,
- (d) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of Botany Bay's SMTG,
- (e) The rainwater tank size shall be designed based on a supply/demand management approach. In addition, please note that in order to contribute to environmental sustainability and apply Water Sensitive Urban Design (WSUD) principles, consideration can be given to offset

the storage requirements of the onsite detention system provided that the rainwater tank for reuse and all downpipes are connected to the rainwater tank. The volume to be offset from the onsite detention system is equivalent to 50% of the size of the rainwater tank(s),

- (f) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a “fully tanked” structure,
- (g) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- (h) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
- (i) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
- (j) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- (k) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the “Botany Bay & Catchment Water Quality Improvement Plan” which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
- (l) The submission of detailed calculations including computer modelling where required to support the proposal.

42 Prior to the issue of the Construction Certificate for above ground works, the applicant shall submit amended plans to Council for approval, showing the following:

- (a) At least ~~three~~ ~~four~~ **two** car parking spaces allocated to the retail component (DA-15/216/03) (**DA-15/216/02**);
- (b) An awning over the ramp (along Kent Road) and outdoor seating area of the retail tenancy;
- (c) The 2 and 3 bedroom apartments without a dedicated study are to indicate that a desk can be comfortably accommodated within the open-plan living area (Part 4C.4.2, Control 2 of the BBDCP 2013);
- (d) The balcony size of U202 is at least 10sqm;
- (e) Internal reconfiguration of Apartment UG01 to provide at least an additional 1m³ of storage within the apartment in order to comply with the total minimum requirement of storage of 5m³ (to be provided within the apartment);
- (f) The bottom half of the gymnasium glass fronting Kent Road as frosted glass up to a maximum height of 1.2m;
- (g) ***The southern portion of the car park mechanical ventilation intake at podium level is to be reduced slightly to align with the balustrade of the balcony of Unit U410 so that its height can be***

integrated into, and hide behind the balustrading of the balcony and not protrude into the balcony. (DA-15/216/02)

- 43 All storage cages, whether floor or ceiling mounted, are to be made of perforated metal and constructed so that no goods can be stored within 500mm of the sprinkler head. This will ensure compliance with Part E1.5 of the BCA & Australian Standard 2118 is maintained. Details are to be submitted to the certifying authority for approval prior to the issue of a Construction Certificate.
- 44 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the above ground Construction Certificate. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
- 45 Prior to the issue of the Construction Certificate for above ground works, the plans and specification including sections information showing compliance with the following requirements are to be submitted to and approved by the Principal Certifying Authority in relation to passenger vehicles
- (a) All driveways/access ramps/vehicular crossings conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
 - (b) Longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 46 Prior to the release of the Construction Certificate, the plans and specification including sections showing the following are to be submitted to and approved by the Principal Certifying Authority in relation to garbage truck access:
- (a) All driveways/access ramps/vehicular crossings conform with Australian Standards AS 2890.2 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines;
 - (b) All service vehicles shall enter the property front in front out;
 - (c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck;
 - (d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and

- (e) A longitudinal section plotting headroom clearance above driveway access.

47 Prior to the release of the Construction Certificate for above ground works, plans and specifications including sections are required 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 Transport Impact Assessment, by ARUP, dated 19 February 2016, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
- (b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.

48 The drawings for the construction certificate for the basement car park shall show the minimum following parking requirements:

Car Parking Rates	Required
0.6 space / 1 bed unit	30 33 spaces
0.9 space / bed unit	83 77 spaces
1.4 space / bed unit	136 118 132 spaces
1 visitor space / 7 dwellings	35 32 34 spaces
Retail Spaces	3 2 spaces
TOTAL REQUIRED	287 264 275 spaces
TOTAL PROVIDED	371 384 377 spaces

(DA-15/216/03) (~~DA-15/216/02~~)

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

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

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

50 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 consultant report shall be submitted to the certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.

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

The work detailed in the report includes:

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

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

- 51 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Certifying Authority prior to the issue of the Construction Certificate and its location and specifications endorsed on the construction drawings.
- 52 In order to maximise visibility in the basement car parks, the ceilings shall be painted white. This requirement shall be reflected on the Construction Certificate plans.
- 53 The private domain landscape areas shown on the plan by Context, Plans L01 to L105 (Issue D, dated 19th February 2016) shall have prepared detailed landscape construction documentation (plans and specifications) to be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to issue of the Construction Certificate for above ground works. The landscape documentation is to be prepared by Context Landscape Architects and shall include, but not be limited to:
 - (a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
 - (b) Canopy trees are required to be incorporated within the landscape setback along Kent Road frontage and New East West Street frontage.
 - (c) Canopy trees are to be used extensively within the community park between Buildings B and C. Planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with DCP Part 10 Part 4.6.

- (d) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees.
- (e) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the development that is appropriate to the scale of the building heights.
- (f) Indicate the location of all basement structures relative to the landscape areas.
- (g) The six (6) existing retained trees (2 x *Harpulia pendula* and 4 x *Casuarina*) within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street shall be shown on all plans.
- (h) Covered barbeque facilities to be incorporated within the Level 4 Podium Courtyard 1.
- (i) Within the new community park between Buildings B and C, areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- (j) The car park vent, which protrudes at the podium level, to be adequately screened from the view of surrounding apartments.
- (k) A way finding strategy proposal.
- (l) Full details of furniture, and lighting to Australian Standards.
- (m) *Details and sections of the interface treatment between the retail component and the Kent Road frontage, due to the difference in levels between the retail and Kent Road street frontage, are to be submitted to Council's Landscape Architect for approval prior to issue of the Construction Certificate for above ground works. (DA-15/216/03).*
- (n) ***Full details including plans, sections and materials palettes indicating the proposed treatments of the interface between the privately owned through site link (between buildings B and C) and the public domain are to be submitted to Council's Landscape Architect for review and approval prior to issue of the Construction Certificate for above ground works. The proposed treatment shall not impede public access and is not to be inconsistent with Condition 88(a)(ii) of the Development Consent. The proposed treatments (including, but not limited to fencing, landscaping and paving) should take the following into consideration:***
 - (i) ***Landscaping based solutions are encouraged over any type of fencing;***
 - (ii) ***The treatment will need to read as being publically accessible;***
 - (iii) ***It should be fully permeable, with large-scale, wide gates that will allow full access to the space during the day for the public;***
 - (iv) ***Materiality will need to be in keeping with the Public Domain Manual for Mascot Station Precinct and the***

opportunity exists to be innovative and creative with use of such materials such as corten steel blades or similar treatments (for fencing). (DA-15/216/02).

- (o) Detailed plans of the treatment of the car park mechanical ventilation intake to be provided as part of the private domain landscape plans that are required to be submitted to Council for approval prior to the issue of the Construction Certificate for above ground works. (DA-15/216/02).***

54 A detailed current and future public domain landscape and embellishment plan shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to the issue of the public domain Construction Certificate. The applicant shall meet with Council prior to any submission to discuss Council's requirements. Following this, detailed landscape construction documentation (plans and specifications) must be submitted to and approved by the City of Botany Bay Council Landscape Architect. The landscape documentation is to be prepared by a suitably qualified Landscape Architect and shall include, but not be limited to:

- (a) The clear delineation of all public domain areas as follows:
 - (i) Kent Road, New East West Street footpath areas
 - (ii) The public park located at the western end of New East-West Street
- (b) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
- (c) Street trees are required along Kent Road, the new East West Street, and within the community park north of new North South Street.
- (d) All street trees are to be in tree pits that are at grade with the footpath.
- (e) All deep soil areas are to include evergreen canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration comparable to the scale of the buildings.
- (f) 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.
- (g) 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.
- (h) New in road blister islands between parking bays are to be incorporated along New East-West Street. The blister islands shall be of adequate dimensions for the required street tree and are to function as WSUD pits to capture and filter storm water. Full detailing is required.
- (i) Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. This includes areas within the new community

park at the northern end of New North South Street. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.

- (j) Details of all fencing, privacy screening, arbors and the like – elevations and materials, impacting or visible to public domain areas.
- (k) 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.
- (l) Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
- (m) A way finding signage proposal.
- (n) 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.
- (o) 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.
- (p) Indicate the location of all basement structures relative to the landscape areas.
- (q) The six (6) existing retained trees (2 x *Harpulia pendula* and 4 x *Casuarina*) within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street shall be shown on all plans.
- (r) The Ausgrid lighting poles along Kent Road, will need to be decommissioned and new lighting poles shall be constructed satisfying V3 lighting requirements for Kent Road and any other requirements as specified by Council, RMS and any other service provider,
- (s) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
- (t) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council. Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

DURING WORKS

- 55 An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of

both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

- 56 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas in the private domain, inclusive of the new community park between Building B and C. 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.
- 57 The public footpaths in Kent Road, New East West Street and in the new community park shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
- 58 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.
- 59 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.
- 60 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 and relevant approval authority, prior to their installation.
- ~~61 During Construction, the applicant must ensure compliance with the SWMP, CMP and CTMP. (DA-15/216/02)~~
- 62 During Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 63 During Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas.
- 64 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Construction Traffic Management Plan and Construction Management Plan at all times.
- 65 Any new information that comes to light during works which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.

- 66 The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Preliminary Acid Sulfate Soils Management Plan (Consulting Earth Scientists, 2015, or as updated and submitted to council).
- 67 For any water from site dewatering is to be managed in accordance with the Groundwater Management Plan (Coffey, 25 February 2016, or as updated and submitted to council).
- 68 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.
- 69 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill (should this be required) shall be appropriately certified material and shall be validated in accordance with the:
- (a) Office of Environment and Heritage (OEH) approved guidelines; and
 - (b) Protection of the Environment Operations Act 1997; and
 - (c) Protection of the Environment Operations (Waste) Regulation 2014.
 - (d) All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- 70 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- (a) The Erosion and Sediment Control Plan;
 - (b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
 - (c) Protection of the Environment Operations Act 1997.
- 71 Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the construction works.
- 72 Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
- 73 All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.

- 74 Vibration caused by excavation and construction at any residence or structure outside the site must be limited to: a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006). Vibratory compactors must not be used in the vicinity of residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.
- 75 The following shall be complied with during construction and demolition:
- (a) Construction Noise
 - (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
 - (b) Level Restrictions
 - (i) Construction period of 4 weeks and under:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
 - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - (c) Time Restrictions
 - (i) Monday to Friday 07:00am to 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.
- 76 During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.

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

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE FOR THE RELEVANT STAGE, UNLESS OTHERWISE STATED

- 78 Prior to use and occupation of any building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.
- 79 The applicant must prior to the issue of any Occupation Certificate for the final building, pay the following fees:
- | | | |
|-----|------------|-------------|
| (a) | Waste Levy | \$12,391.20 |
|-----|------------|-------------|
- 80 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.
- 81 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Kent Road, and all the new stormwater drainage lines constructed on new East-West Street and Kent Road.
- (a) The camera and its operation shall comply with the following:
 - (b) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
 - (c) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
 - (d) Distance from the manholes shall be accurately measured, and
 - (e) The inspection survey shall be conducted from manhole to manhole.
 - (f) The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council for review. Any damage to the culvert/pipeline since the commencement of construction on the site shall be repaired in full to the satisfaction of Council. A written acknowledgement shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

- 82 Prior to the issue of the Occupation Certificates, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 83 Prior to the issue of any Occupation Certificate the applicant shall construct the new east-west road as per the civil engineering design provided by the Council, in accordance with Council Infrastructure specifications and with the written approval by Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer.
- 84
- (a) Prior to the issue of any Occupation Certificate for any stage, embellish the public domain of the east-west street opposite that stage as per the approved public domain plan.
 - (b) Prior to the issue of any Occupation Certificate for the residential component of Buildings B and C, carry out the embellishment of the community park between Buildings B and C as per the approved private domain plans.
- 85 Prior to the issue of any Occupation Certificate for the final building:
- (a) On Kent Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council and RMS Infrastructure Specifications. Location of kerb & gutter to be confirmed with RMS and Council prior to construction,
 - (b) On Kent Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications.
 - (c) Carry out embellishment of the east-west road and pocket park as per the approved public domain plan.
- 86 Prior to the issue of any Occupation Certificate for the final building, 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.
- 87 Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- (a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
 - (b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information

Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.

88 Prior to the issue of any Occupation Certificate for the final building, the following is to be complied with:

- (a) Dedicate to Council and at no expense to the Council and generally in accordance with the draft Subdivision Plan ref. no. 20974 by B & P Surveys, dated 11 November 2015 and the following:
 - (i) Along the southern boundary, dedicate a 9.0metre wide portion of land to Council for the constructed East-West Road and pocket park. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The draft Plan of Dedication shall be lodged with Council for approval. The proposed new road shall be unlimited in stratum. Once approval from Council is granted, the plan shall be registered with Land & Property Information prior to the issue of any Occupation Certificate for the final building. A copy of the registered document shall be submitted to Council for record purposes, and
 - (ii) Over the proposed North-South oriented community park between Buildings B and C, register a new 16.6 wide "Easement for Public Access". The draft plan of easement shall be lodged with Council for approval. The proposed new easement shall be limited in stratum. Once approval from Council is granted, the plan shall be registered with Land & Property Information prior to the issue of any Occupation Certificate for the final building, or following any Occupation Certificate for the residential component of Buildings B and C, whichever is the earlier. A copy of the registered document shall be submitted to Council for record purposes.

89

- (a) Amended stratum subdivision plans are to be provided to Council for review and approval which, along with an application for a Stratum Subdivision Certificate, bring the Stratum Subdivision Plan as referenced at Condition No. 1 into line with the approved plans and showing, but not limited to, the following:
 - (i) Removal of the child care centre and replacement with residential units;
 - (ii) Addition of the retail tenancy on ground floor at the corner of Kent Road and the pocket park;
 - (iii) Extension of the basement to the northern site boundary;
 - (iv) Removal of the 10 apartments within Buildings B and C (as per the JRPP deferral dated 28 April 2016);
 - (v) The communal park between Buildings B and C.
- (b) The Stratum Subdivision Certificate 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 submitted to Council

following registration with the Land and Property Information Department, and must also include the following:

- (i) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 15/216.
- (ii) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 15/216.
- (iii) Responsibilities regarding the maintenance of the car wash bay(s) (as required by the Traffic Impact Assessment, prepared by ARUP) the Owners Corporation / building owner.
- (iv) Responsibilities for ensuring owners and/or tenants have adequate and hygienic disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times in accordance with a Plan of Management.
- (v) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997.
- (vi) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.
- (vii) The linen plan must include details of any easements, encroachments, rights of way, including right of footway restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
- (viii) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
- (ix) The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines;
- (x) Maintenance of required acoustic measures of Development Consent No. 15/216; and
- (xi) CCTV surveillance of all public areas within the development site.

- 90 Prior to the issue of any Occupation Certificate for the development, the Right-Of-Carriageway 7.0 wide, over Lot 31 in DP 789177 and benefiting Lot 30, DP 789177, is to be extinguished. The Right-Of-Carriageway is to be extinguished at no cost to the owner(s) of Lot 31, DP 789177 or to the Council.
- 91 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.
- 92 Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building.
- 93 Prior to release of the Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 94 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.
- 95 Prior to the issue of any Occupation Certificate for any stage, street numbers shall be clearly displayed for that stage, with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
- 96 Prior to the issue of any Occupation Certificate for final stage, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
- (a) A Floor Space Ratio (FSR) of 3.08:1 and height of RL 51m AHD (47.2m) as approved under this Development Consent No. 15/216, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
 - (b) The development as built, stands within Lot 30 in DP 789177.
- 97 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.

- 98 Any damage not shown in the photographic survey as required under Condition No. 40 of Development Consent DA-15/215 (submitted to Council before excavation works have commenced), will be assumed to have been caused as a result of the site works undertaken as part of DA-15/215 or DA-15/216 and must be rectified at the applicant's expense, prior to the issue of the Occupation Certificate.
- 99 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).
- 100 To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 shall be submitted to Council clearly demonstrating that the site is suitable for the proposed commercial and residential development. This shall be provided prior to the release of any Occupation Certificate.
- Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to ensure that they form part of the consent conditions.
- 101 Landscaping on the property and in the current and future public domain must be installed in accordance with the revised landscape plans as approved by Council's Landscape Architect pursuant to Condition No. 53 and 54, prior to the issue of the interim Occupation Certificate for the relevant stage. This amended plan supersedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained up until the issue of the final Occupation Certificate, and then 12 months after the issue of the final Occupation Certificate, and in accordance with the Council stamped and approved landscape documentation and the conditions of development consent.
- 102 Landscaped areas in the public domain are to be maintained up until the issue of the final Occupation Certificate, and then 12 months after issue of the final Occupation Certificate.
- 103 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the issue of the interim Occupation Certificate for the relevant stage.

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

- 104 For the purposes of car parking assessment, the commercial tenancy on the ground floor is approved for the use as commercial premises, including food and drink premises (other than a pub or small bar), in accordance with the definition in the Standard Instrument.
- 105 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.
- 106 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.
- 107 The use of the premises shall not give rise to any of the following when measured or assessed at “sensitive” positions within any other property. These “sensitive” positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 108 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.
- 109 All loading and unloading associated with the commercial/retail tenancy is to be undertaken within the ground floor of Building C.
- 110 The collection of garbage associated with the whole development (commercial and residential) shall be restricted to 6am to 6pm Monday to Sunday.
- 111
- (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.
- 112 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.
- 113 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 15/216 dated as 13 November 2015 *and as amended by s96(1A) Modification Application DA-15/216/03 dated 15 September 2016 and as amended by s96(2) Modification Application DA-15/216/02 dated 15 September 2016* and that any alteration, variation, or extension to the use, would require further approval. (DA-15/216/03) **(DA-15/216/02)**

ADVISORY CONDITIONS

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

Surveillance

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

Lighting

- (a) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.
- (b) Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens).
- (c) The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis.
- (d) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.
- (e) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.

Territorial Reinforcement

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

Space/Activity Management

- (a) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.

- (b) It is NOT advised to install storage cages or similar for the residents in the underground car park. If it is required, consider that they should NOT be constructed in an isolated area. The cages are easy targets when they have little supervision. CCTV cameras must cover this area if they are constructed. Solid steel housing and quality key locks should be used to prevent access. All cages to be at least 8ft in height with adequate roofing, cages below this allow people access over the top.

Access Control

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

not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms).

- (g) The main access to the underground car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering.
- (h) The main entry/egress doors to the development should have an electronically operated lock which require security swipe pass for entry. The lifts operating in the building should have the same security swipe pass technology. When an occupant buzzes in a visitor the lift should recognise the floor the occupant resides and only allow the visitor access to that floor in the lift.