

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2016SYE112 DA
<b>DA Number</b>	16/165
<b>LGA</b>	Bayside Council
<b>Proposed Development</b>	Integrated Development Application for the demolition of existing buildings and associated structures and the construction of a five (5) storey mixed commercial and residential apartment building with two large retail units, 66 residential apartments and two levels of basement car parking.
<b>Street Address</b>	19-25 Robey Street, Mascot
<b>Applicant/Owner</b>	Robey Mascot Pty Limited
<b>Date of DA lodgement</b>	16 September 2016 (amendments received 1 March 2018)
<b>Number of Submissions</b>	Three (3) submissions to original proposal  Nil submissions to amended proposal
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Development with a CIV of \$26,379,700.00
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• <i>Environmental Planning &amp; Assessment Act 1979, Part 4 – Development Assessment &amp; Schedule 4A – Development for which regional panels may be authorised to exercise consent authority functions of councils</i></li> <li>• <i>Environmental Planning &amp; Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications</i></li> <li>• <i>State Environmental Planning Policy (Infrastructure) 2007</i></li> <li>• <i>State Environmental Planning Policy No. 55 – Contaminated Land</i></li> <li>• <i>State Environmental Planning Policy 2004 (BASIX);</i></li> <li>• <i>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide</i></li> <li>• <i>Botany Bay Local Environmental Plan 2013</i> <i>Botany Bay Comprehensive Development Control Plan 2013</i></li> <li>• <i>Botany Bay Section 94 Contribution Plan 2016</i></li> </ul>
<b>List all documents submitted with this report for the Panel's</b>	<ul style="list-style-type: none"> <li>• Development Assessment Report (2016SYE112DA)</li> <li>• Schedule of Consent Conditions</li> <li>• Annexure B – Amended SEE</li> </ul>

<b>consideration</b>	<ul style="list-style-type: none"> <li>• Annexure C – Amended Clause 4.6 Variation</li> <li>• Annexure D – Amended Plans</li> </ul>
<b>Report prepared by</b>	Christopher Mackey – Coordinator Development Assessment
<b>Report date</b>	3 May 2018

### Summary of s79C matters

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

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### Legislative clauses requiring consent authority satisfaction

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

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

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### Clause 4.6 Exceptions to development standards

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

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### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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### Conditions

Have draft conditions been provided to the applicant for comment? **No**

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

## RECOMMENDATION

In view of the below comments, it is RECOMMENDED that the Sydney Eastern City Planning Panel (SECPP), as the determining authority, resolve to:

- a) *Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum height of 21 metres (RL26.25m); and*
- b) *Grant approval to Development Application No. 2016/165 for Integrated Development Application for the demolition of existing buildings and associated structures and the construction of a five (5) storey mixed commercial and residential apartment building with two large retail units, 66 residential apartments and two levels of basement car parking, subject to the draft conditions outlined in this report.*

## EXECUTIVE SUMMARY

Council received Development Application No. 16/165 on 16 September 2016 seeking consent for a mixed use development comprising two (2) buildings of five (5) storeys consisting of ground floor retail and residential apartments above in one building (Site A) and residential apartments in the other building (Site B). The development originally comprised a total of 81 residential apartments, 5 retail tenancies and two (2) levels of basement car parking in each building, containing a total of 160 car parking spaces.

Amendments were made to the development application following concerns raised by Council with the proposal throughout the assessment of this application. Subsequently, the proposal then consisted of Site A only and proposed two basement parking levels with a total of 111 car parking spaces, three (3) retail premises on the ground floor, and 54 residential apartments (the previous amended proposal). Associated landscaping, stormwater and other infrastructure are also proposed.

The application was considered by the Panel at its meeting of the 7 December 2017, where the Panel resolved to defer determination of the application, subject to the following:

*The Panel was not satisfied that the current proposal achieved satisfactory internal or external amenity and design nor that it satisfactorily addressed the streetscape that might be assumed for a B2 zone. However, the Panel was made aware that Council staff had indicated a preference for the current design over a previous scheme.*

*The applicant requested a deferral to address the Panel's concerns and the Council agreed to accept amended plans and work with the applicant to achieve a better outcome.*

*The Panel therefore unanimously agreed to defer the determination so that the applicant can provide amended plans which address the following:*

- 1. The communal open space as proposed is unacceptable due to its location and its inability to achieve adequate solar access. Communal open space should therefore be relocated on the roof of the development and lift access provided.*
- 2. The floor to floor heights shall be a minimum of 3.1 metres for level 1 and above. The Panel notes that this will vary the ADG suggested height for Level 1.*
- 3. A new Clause 4.6 variation shall be submitted to Council for consideration in relation to any development standard breach;*

4. *The Panel questions whether the proposal as submitted achieved the level of solar access and cross ventilation reported in the assessment report. Accordingly more detailed solar access information and cross ventilation information shall be provided to demonstrate compliance with the ADG or to justify any non compliance. In this review any redesign should maximise the sites northern exposure which may require internal layout changes;*
5. *Any amended plans should maximise views and orientation over the adjoining park;*
6. *If a re-design results in zero side boundary setbacks to match the adjoining building at 27-29 Robey Street (up to 3 levels) this would retain streetscape consistency and may be desirable.*
7. *Consideration should be given to exploring a re-design of the internal courtyard to improve internal amenity.*

*Amended plans shall be submitted to Council no later than 1 March 2018 (or as agreed with the Panel). On receipt of the amended plans Council shall provide a supplementary report to the Panel no later than two months after receipt of the amended plans. When this information has been received, the Panel will consider the matter at a public meeting.*

## **BACKGROUND TO AMENDMED APPLICATION**

The applicant submitted the amended plans on 1 March 2018. It is noted that since deferral of the application by the Panel, both the applicant and architects have changed, as the ownership of the land has also changed. The proposal in its amended form only comprises of those lots fronting Robey Street (as was the case with the previous amended proposal).

In addressing the concerns of the Panel, the amended design was referred to the Bayside Design Review Panel (DRP) on the 15 February 2018, who considered that the proposed design of the development was of high excellence and supported the height increase to the rear building. The main comments included the following:

- *The Panel considers that Council and the applicant should consider opportunities to connect John Curtin Reserve to Elizabeth Avenue and Brodie Street, through the site;*
- *The Panel considers that the density proposed is acceptable;*
- *The Panel considers that the design demonstrates acceptable levels of sustainability but could include further sustainability initiatives above and beyond those required by BASIX, such as solar energy generation, rainwater harvesting, etc. The Panel notes that access is already provided to the rooftop of the middle wing of the development which would facilitate solar energy harvesting, for instance.*
- *The plans which were provided to the Panel do not fully describe the security arrangements for the design, such as lines for secure fencing, boundary treatments, etc. These should be included on the drawings.*
- *The application satisfies the design quality principles contained in SEPP 65.*

The development application was notified to surrounding properties, advertised in the local newspaper and to those persons who originally made a submission for a period of 30 days from 14 March 2018 to 24 April 2018. No submissions were received.

The proposal as now further amended seeks consent for the following:

Integrated Development Application for the demolition of existing buildings and associated structures and the construction of a five (5) storey mixed commercial and residential apartment building with two large retail units, 66 residential apartments and two levels of basement car parking.

The proposed amended unit mix is:

- 21 x 1 bedroom apartments (32%)
- 39 x 2 bedroom apartments (59%)
- 6 x 3 bedroom apartments (9%)

## DESCRIPTION OF SITE AND SURROUNDING LOCALITY

The subject site is legally known as 19-25 Robey Street and 5, 5A and 5B Elizabeth Avenue, Mascot. The site comprises seven (7) parcels of land described as Lot 15 Sec A DP 4115, Lot 16 Sec A DP 4115, Lot 1 DP 946234, Lot 1 DP 455491, Lot 19 Sec A DP 4115, Lot C DP 418600 and Lot 1 DP 931264. The consolidation of these lots into one lot is proposed in this application.

The site is located on the northern side of Robey Street, between Botany Road to the east and O'Riordan Street to the west, and the southern side of Elizabeth Avenue. Botany Road is approximately 130 metres to the east, containing the Mascot Town Centre while Sydney Kingsford Smith Airport is a short distance to the south-west of the site. Mascot train station is approximately 1.2Km to the north-west of the site, with a bus interchange located within 200 metres of the site along Botany Road. John Curtin Reserve adjoins the site to the north. The site location is illustrated in **Figure 1**.

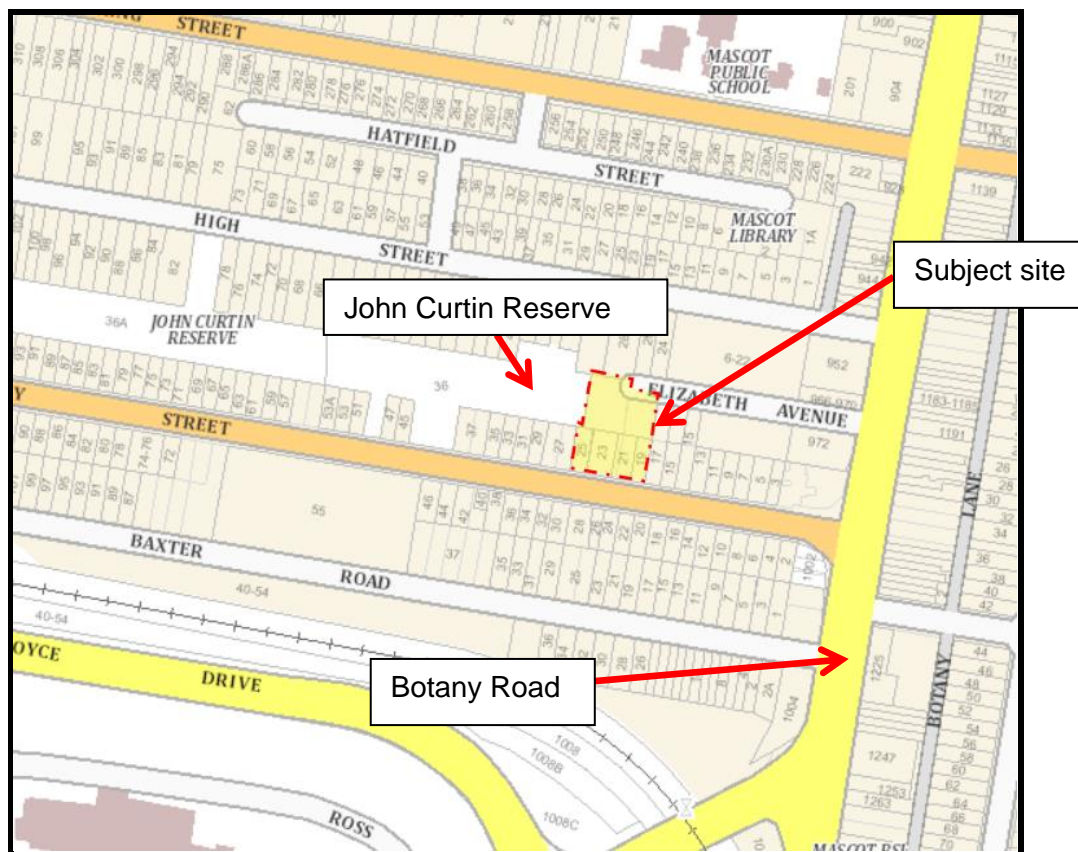


Figure 1: Locality Plan (Source: SIX Maps)

The site has a total area of 2,590m<sup>2</sup> with a 47 metre street frontage to Robey Street and two street frontages to Elizabeth Avenue of 6.6 metres and 18.3 metre frontage. The side boundaries comprise 53.8 metres along the eastern boundary and 60.3 metre along the western boundary. The rear boundary (stepped) to Elizabeth Avenue is 44.2 metres long.

The site comprises a generally regular shaped parcel of land, with the two street frontages to Robey Street and Elizabeth Avenue. There are numerous vehicle crossings into the site along Robey Street, while there is also existing vehicle access to the Elizabeth Avenue properties from the cul-de-sac in Elizabeth Avenue.

Existing development within the site consists of single storey detached dwellings on the Robey Street sites, some with vehicle access and car parking, The Elizabeth Avenue sites contain a part single, part two (2) storey industrial building with brick offices and workshops with a sawtooth-roof industrial building attached to the rear.

The site is relatively flat, with a 1.5 metre fall across the site from north to south. The internal areas of the site are largely devoid of vegetation with the exception of landscaping beds. There are a number of street trees along the Robey street frontage. There is a drainage easement which extends through the site, approximately between No's 21 and 23 Robey Street, which is proposed to be realigned to the western side boundary in this proposal.

The site is illustrated in **Figures 2, 3, 4 & 5** from the various street frontages.



**Figure 2: View towards the north-west showing the subject site from Robey Street**





**Figure 3: View towards the west showing the subject site form Elizabeth Avenue**



**Figure 4: Existing factory building at the end of Elizabeth Avenue to be demolished**



**Figure 5: View of site from John Curtin Reserve from north-west of the site**

### **Description of the Locality**

The surrounding area includes a mix of residential, commercial and open space uses. Land to the north is occupied by single and two (2) storey detached dwelling houses with frontages to High Street. John Curtin Reserve, an area of passive public open space, is located adjoining the site to the north-west and links High Street with Robey Street to the west of the site. A three (3) storey residential flat building is located to the north-east of the site along High Street while the Mascot Town Centre is located further to the east along Botany Road.

An 8 storey serviced apartments building is currently nearing completion to the west at 62-66 Robey Street on the southern side of Robey Street. A mixed use building at the corner of Robey Street and Botany Road has also recently been constructed, which comprises five storeys and a maximum height of 17.99 metres. A five (5) storey mixed use building has been approved on the adjoining site to the west, known as No 27-29 Robey Street, with a gross floor area of 1,526.94m<sup>2</sup> and a maximum height of 16.16 metres. This adjoining and nearby development is illustrated in **Figures 6, 7 and 8**.





**Figure 6: Photomontage of Approved Development at No 27-29 Robey Street (adjoining site to west) (Source: Botany Council DA Tracker)**

## SITE HISTORY

The site currently contains a mix of uses, including low density detached housing along Robey Street, with industrial and manufacturing uses occurring on the sites along Elizabeth Avenue. There is no other site history relevant to this development application.



**Figure 7: Development under construction at 62-66 Robey Street - Rex Serviced Apartments**



**Figure 8: Approved Development on the corner of Robey Street and Botany Road**  
*(Source: Botany Council DA Tracker)*

## **DESCRIPTION OF AMENDED PROPOSAL**

Integrated Development Application for the demolition of existing buildings and associated structures and the construction of a five (5) storey mixed commercial and residential apartment building with two large retail units, 66 residential apartments and two levels of basement car parking.

### **Basement Levels**

Two levels of basement car parking are proposed, in total accommodating 133 parking spaces. Vehicular access is from Robey Street, with basement access driveway located at the south-eastern corner of the site.

Each basement level contains 2 x lift cores and two fire egress stairs, as well as plant and equipment rooms, and storage areas for residents:

- Basement 2 comprises of 70 spaces (including 6 accessible spaces).
- Basement Level 1 containing 63 spaces (8 retail, 14 visitor and 2 accessible spaces).

### **Ground Floor**

Comprising of 2 large retail tenancies with frontage to Robey Street being 91m<sup>2</sup> – 102m<sup>2</sup>, 2 x 1 bedroom apartments, 5 x 2 bedroom apartments and 1 x 3 bedroom apartment. Each unit with a balcony/courtyard accessible from the main living area.

A substation chamber is also located on the western side setback and vehicular access to the basement is proposed from the driveway along the eastern boundary. The driveway also provides access to a loading bay, residential and retail waste collection areas. Pedestrian access to the site is located within the western side setback, and through the northern rear setback which includes a link between Elizabeth Street and John Curtin Reserve.



### Level 1

Contains 5 x 1 bedroom apartments, 9 x 2 bedroom apartments, and 1 x 3 bedroom apartment, each with a balcony/courtyard.

### Level 2

Contains 5 x 1 bedroom apartments, 9 x 2 bedroom apartments and 1 x 3 bedroom apartment, each with a balcony/courtyard.

### Level 3

Contains 4 x 1 bedroom apartments, 9 x 2 bedroom apartments and 1 x 3 bedroom apartment, each with a balcony/courtyard.

### Level 4

Contains 5 x 1 bedroom apartments, 7 x 2 bedroom apartments and 2 x 3 bedroom apartments, each with a balcony/courtyard.

### Roof Level

Comprises of a flat roof form accommodating the communal open space for the development in the form of a landscaped rooftop terrace. The terrace is located at the northern portion of the site and accessed from the northern lift core.

The proposal is illustrated in **Figure 9** below.



**Figure 9: Proposal from Robey Street (Source: DKO Architects, February 2018)**

### Demolition

The proposed demolition involves the demolition of the four (4) existing dwelling houses and associated attached and detached structures on the Robey Street lots within the site and the removal of two (2) warehouses and associated structures on the Elizabeth Avenue sites.

### Built Form

The design responds to the existing character and future context of the locality. It is proposed to configure retail frontages to the Robey Street frontage with apartments at the upper levels. The proposal does not perpetuate the zero side setbacks at 27 Robey Street to the immediate west, instead providing ADG compliant non habitable separation, including a sculptural awning element to the street edge for continuity. A habitable setback is incorporated to the eastern façade. The previous proposal comprised of a core communal open space area with exposed corridors above. This has been replaced with a “C” shaped form.

### Colours and Materials

The proposed development will be finished in a variety of materials and finishes including:

- Light and dark painted render;
- Feature wall cladding.

### Apartment Mix

The proposed unit mix is:

- 21 x 1 bedroom apartments (32%)
- 39 x 2 bedroom apartments (59%)
- 6 x 3 bedroom apartments (9%)

A schedule of the proposed apartments, including overall internal sizes and private open space is outlined below in **Table 2**.

**Table 1: Proposed Apartment Schedule**

Level	Unit No	Unit Type	Internal Area	Level	Unit No	Unit Type	Internal Area
Ground (8 units)	001	1	51	Level 3 (14 units)	301	2	77
	002	2	77		302	2	82
	003	2	82		303	2	82
	004	2	75		304	1	50
	005	1	50		305	2	76
	006	3	97		306	1	53
	007	2	77		307	1	52
	008	2	80		308	2	78
Level 1 (15 units)	101	1	50		309	2	82
	102	1	50		310	2	75
	103	2	77		311	1	50
	104	2	82		312	3	97
	105	1	50		313	2	78
	106	2	76		314	2	80
	107	2	75	Level 4 (14 units)	401	1	50
	108	1	52		402	3	95
	109	2	78		403	2	71
	110	2	82		404	1	50
	111	1	75		405	2	76
	112	1	50		406	1	53
	113	3	97		407	1	52
	114	2	78		408	2	78
	115	2	80		409	2	82
					410	2	75
Level 2	201	1	50				



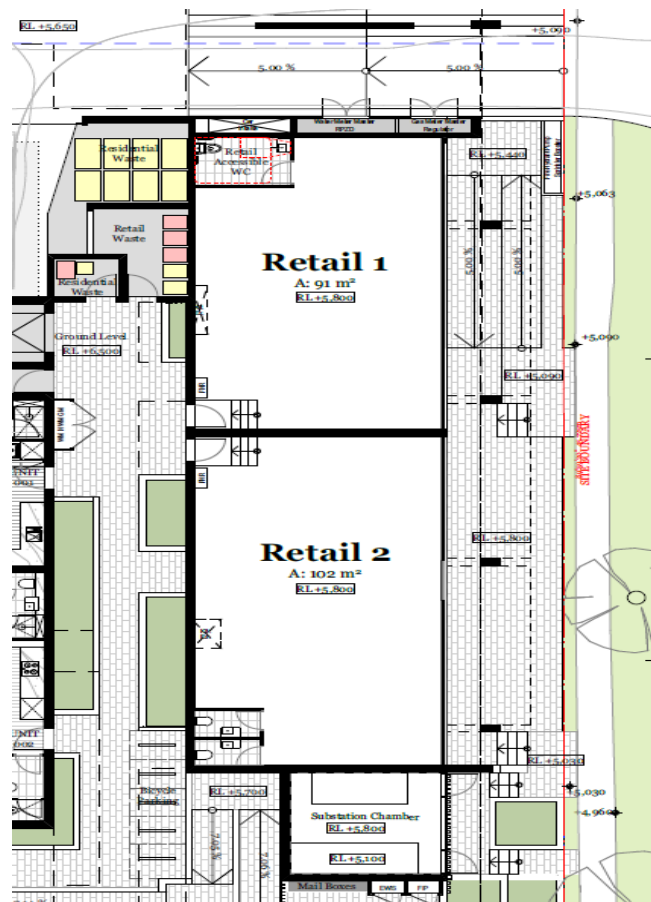
(14 units)	<b>202</b>	1	50		<b>411</b>	1	50
	<b>203</b>	2	77		<b>412</b>	3	97
	<b>204</b>	2	82		<b>413</b>	2	77
	<b>205</b>	1	50		<b>414</b>	2	80
	<b>206</b>	2	76				
	<b>207</b>	2	75				
	<b>208</b>	1	52				
	<b>209</b>	2	78				
	<b>210</b>	2	82				
	<b>211</b>	2	75				
	<b>212</b>	1	50				
	<b>213</b>	3	97				
	<b>214</b>	2	78				
	<b>215</b>	2	80				

### Commercial/Retail premises

Two commercial/retail tenancies are proposed along the Robey Street frontage of the site. These retail spaces comprise the following (refer to **Figure 15**):

- Retail 1 – 91m<sup>2</sup>
- Retail 2 – 102m<sup>2</sup>

Eight (8) car parking spaces are provided for the commercial uses on Basement level 1.



**Figure 100: Proposed Commercial Tenancies (Source: DKO Architecture February 2018)**

## Lot Consolidation

The proposal involves the consolidation of the existing seven (7) separate allotments into one (1) allotment. Relevant conditions have been recommended to be imposed to ensure this lot consolidation is undertaken and completed.

## Key Controls

The key controls relevant to the proposal are provided below in Table 3:

**Table 2: Consideration of the Key Controls**

Control	Required	Proposal	Complies (yes/no)
Site Area	-	Site Area: 2,590sqm	N/A
<b>SEPP 65 - ADG</b>			
<b>Communal Open Space (Part 3D)</b>	25% of site (647.5m <sup>2</sup> )	649m <sup>2</sup> (25.05% of the site)	Yes
	50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours during mid-winter Note: Part 4C requires that COS receives 3 hours in winter.	More than 50% of COS receives greater than 2 hours of sun.	Yes
<b>Deep Soil (Part 3E)</b>	Objective 3E-1 requires 7% of the site (for sites over 1,500sqm) as deep soil area with min. dimensions of 6m	211m <sup>2</sup> (8%)	Yes
<b>Building Separation/ Visual Privacy (Part 3F)</b>	<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>Ground to Level 2</u> Eastern boundary: 3-6m Western boundary: Nil – 4.5m Northern boundary: 6m	Yes Yes Yes
	<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>Level 3 &amp; 4</u> Eastern boundary: 6m Western boundary: – 4.5m (balcony) Northern boundary: <b>6m</b>	<b>Refer to Note 1</b>
<b>Solar Access (Part 4A)</b>	Living rooms and POS for at least 70% of apartments (and in neighbouring development) to achieve 2 hours between 9am and 3pm	47 (71%) of apartments receive sunlight Neighbouring property- communal open space receives >2 hours	Yes Yes
	Max 15% of apartments in a building receive no direct	10 (15%) of the proposed apartments receive limited solar access as they	Yes

Control	Required	Proposal	Complies (yes/no)
	sunlight between 9 am and 3 pm at mid-winter	face due south (towards Robey Street).	
<b>Natural Ventilation (Part 4B)</b>	Min 60% of units to be naturally cross ventilated	41 apartments (62%) naturally ventilated	Yes
<b>Building Depth (Part 4B)</b>	Use a range of appropriate maximum apartment depths of 12-18 metres	Variety of depths averaging 10 metres	Yes
<b>Ceiling Height (Part 4C)</b>	Habitable Rooms: 2.7m Non-habitable: 2.4m Mixed Use: 3.3m for ground and first floor 2 storey units – 2.7 main floor & 2.4m for 2 <sup>nd</sup> floor where area does not exceed 50% of apartment area	Ground floor (habitable) - 3.3m. Level 1 (habitable) – 3.1m Level 2 (habitable) – 3.1m Level 3 (habitable) – 3.1m Level 4 (habitable) – 3.1m.	<b>As discussed with the Panel Refer to Note 2</b>
<b>Dwelling Size (Part 4D)</b>	Minimum internal areas as follows: 1 bed unit: 50sqm 2 bed unit: 70sqm 3 bed unit: 90sqm	1 bed units: 50 – 55sqm 2 bed units: 75 – 82sqm 3 bed units: 95-97sqm	Yes Yes Yes
<b>Balcony Sizes (Part 4E)</b>	1 bed: 8sqm 2 bed: 10sqm 3+ bed: 12sqm Ground Floor: 15sqm	1 bed: 15sqm 2 bed: 10-20sqm 3 bed: 12-15sqm Ground Floor: 15-20sqm with widths of 2m-4m	Yes Yes Yes Yes
<b>Storage (Part 4G)</b>	1 bed: 6m <sup>3</sup> 2 bed: 8m <sup>3</sup> 3+ bed: 10m <sup>3</sup> 50% of the storage area is to be contained in the unit	1 bed: 6sqm min. 2 bed: 8sqm min. 3+ bed: 10sqm min. 50% of the storage area is contained in unit	Yes Yes Yes Condition
<b>Adaptable/Livable (Part 4Q)</b>	Min 20% of apartments	13 units (20%) are liveable/adaptable units	Yes
<b>BBLEP 2013</b>			
<b>Zone</b>	B2	Local Centre (Residential Flat Building, Commercial tenancies and Shop Top Housing)	Yes
<b>FSR</b>	2:1 under BBLEP 2013	2:1 (5,180m <sup>2</sup> )	Yes
<b>GFA</b>	5,180m <sup>2</sup> (maximum) calculated based on permissible FSR under BBLEP 2013	5,180m <sup>2</sup>	Yes

Control	Required	Proposal	Complies (yes/no)
<b>Height</b>	14 metres (maximum)	Building Height: Lift Overrun = 21 m (RL 26.2m) – 50% variance Roof form = 17.2m (RL22.7m)	<b>No- Refer to Note 3</b>
<b>BBDP 2013</b>			
<b>Car Parking</b>	<u>Residential</u> 1 space/studio or one (1) bed dwellings (21 spaces req) 2 spaces/two (2) bed or more dwellings (90 spaces req) 1 visitor space/5 dwellings (13.2 spaces req) 1 car wash (as visitors space)  <u>Commercial (shop)</u> 1 space / 25sqm (7.7 spaces eq.)  <u>Service Bays</u> 1/50 units (1 req.) Note: 50% of service bays to be designed for MRV or larger)  <b>132 car parking spaces required</b>	<u>Residential</u> 111 spaces (8 accessible)  <u>Visitor</u> 14 spaces  <u>Commercial</u> 8 spaces  <u>Service Bays</u> Service vehicle: 1 provided (SRV) car wash bay can be provided via condition  <b>133 car parking spaces provided</b>	Yes
<b>Bicycle Parking</b>	10% of required car spaces (>600m²). <b>Total required: 13.2</b>	Residential: 14 bicycle spaces within the ground level central communal space open area <b>Total provided: 14 spaces</b>	Yes
<b>Adaptable Housing</b>	20% of dwellings to be adaptable dwellings designed in accordance with AS 4299 Class B (when 10+ dwellings	13 (10%) adaptable apartments provided	Yes
<b>Basement Access</b>	Minimum clearance height of 4.5m for MRV	3.5m proposed, therefore no access for MRV to the basement or loading dock (required headroom of min. 4.5m not provided).	<b>Acceptable</b>
<b>Streetscape Presentation</b>	The maximum length of a building is 24m	The length of the building along Robey Street is 38m	<b>No Refer to Note 4</b>
<b>Landscaped Area</b>	Minimum of 35% (906.5m²)	1185m² (46%)	Yes
<b>Front setback</b>	3 metres	3 metres	Yes



Control	Required	Proposal	Complies (yes/no)
<b>Unit Mix</b>	No greater than 25% 1 bedroom units	21 apartments proposed (32%)	<b>No Refer to Note 5</b>
<b>Dwelling Layout and Family Friendly Apartment Buildings</b>	Satisfy the Family Friendly controls	Majority of proposed apartments do not satisfy these controls	<b>No Refer to Note 6</b>
<b>Building form and design</b>	2 storey wall height to street	4 storey wall height to street	<b>No Refer to Note 4</b>
<b>Communal Open Space</b>	70% capable of growing plants	>70%	Yes
<b>Solar Access</b>	(i) Neighbouring developments will obtain at least 2 hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms;	Achieved	Yes
	(ii) 30% of any communal open space will obtain at least 2 hours of direct sunlight between 9am and 3pm on 21 June	Achieved	Yes

## SECTION 4.15 CONSIDERATIONS

The following is a summary of the assessment of the application (plans received 20 March 2018) in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

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

Environmental Planning and Assessment Act 1979 –Part 4, Division 4.8 – Special Procedures for Integrated Development and Environmental Planning and Assessment Regulations 2000 – Part 6, Division 3 – Integrated Development

The relevant requirements under Part 4, Division 4.8 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the development application.

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

In this regard, the development application was referred to Water NSW. In a letter dated 6 November 2016, Water NSW provided its General Terms of Approval (GTA) for the proposed development. This development application has been recommended for approval subject to conditions imposed by the GTAs from the Water NSW.

## State Environmental Planning Policy (Infrastructure) 2007

*State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP) aims to facilitate the effective delivery of infrastructure across the State and among other things, identifies matters to be considered in the assessment of development adjacent to particular types of development. The relevant clauses of the Infrastructure SEPP to this proposal are considered below:

### *Clause 101 – Development with frontage to a Classified Road*

The application is accompanied by a Traffic Impact Assessment Report prepared by *Traffix Traffic and Transport Planners* dated February 2018. Robey Street is not a State classified road and vehicular access to the proposal is from Robey Street, and therefore Clause 101(a) is not relevant to the proposal.

### *Clause 102 – Impact of road noise or vibration on non-road development*

Pursuant to Clause 102 of Infrastructure SEPP, development on land in or adjacent to a road corridor with an annual average daily traffic volume of more than 40,000 vehicles must take appropriate measures to enquire that nominated LAeq levels are not exceeded. Roads with between 20,000 and 40,000 are recommended to include such an assessment. Robey Street is not included in either of these thresholds for daily traffic counts and therefore this clause is not relevant to the proposal.

The Development Application is accompanied by an Acoustic Report, prepared by Acoustic Logic dated 11 April 2017. This report concluded that subject to the recommended measures, the proposal is satisfactory with regards to aircraft noise and traffic noise. Relevant conditions have been recommended to be imposed requiring compliance with these report recommendations.

### *Clause 104 – Traffic-generating development*

Pursuant to Clause 104, certain development must be referred to the Roads and Maritime Services (RMS) for comment based on the type, capacity or location of the proposal. In this instance the proposal does not meet the criteria for traffic generating development as the site is more than 90 metres from a classified road (Botany Road to the east) and accordingly, a referral to the RMS is not required.

The proposal is consistent with the Infrastructure SEPP.

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

*State Environmental Planning Policy 55 – Remediation of Land* (SEPP 55) aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health and to the environment. Clause 7 of SEPP 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application. SEPP 55 has been considered in the assessment of this development application as the proposed development involves excavation of approximately 6 metres below ground level to accommodate two (2) levels of basement car park and has been used for past industrial land uses.

In relation to potential land contamination, the following reports have been completed for the site and form part of this assessment (the contamination reports):

- *Environmental Investigation Services (September 2016) 'Stage 1 Desktop Environmental Site Assessment for proposed residential development at 24-26 High Street, 5 Elizabeth Avenue and 19-25 Robey Street, Mascot' (REF: E29461KHrpt).*
- *Environmental Investigation Services (September 2016) 'Stage 2 Environmental Site Assessment and Acid Sulfate Soil Screening for proposed residential development at 24-26 High Street, 5 Elizabeth Avenue and 19-25 Robey Street, Mascot' (REF: E29461KHrpt-FINAL).*
- *JK Geotechniques (July 2016) 'Geotechnical Investigation for proposed residential development at 19-25 Robey Street, 24-26 High Street and 5-5A Elizabeth Avenue, Mascot, NSW', (Ref: 29461ZRpt).*

The Stage 1 report indicated that, given the site's history for residential and industrial uses, that there are potential sources of contamination including fill material across the entire site, the historical use of No 5 Elizabeth Avenue for metal works (engineering) and the construction materials of the buildings on the site since they were constructed prior to the 1990's when hazardous building materials were used. This report concluded that a Stage 2 investigation was required to further understand the potential risks for future development.

The Stage 2 report conducted a soil and material sampling program which was analysed for a range of contaminants identified in the Stage 1 report. The results of the analysis were assessed against the relevant criteria, with this report concluding that the site could be made suitable for the proposed residential development provided a Hazardous Materials Assessment for the existing buildings was undertaken prior to the commencement of demolition work and that a licensed asbestos assessor removed any asbestos containing material removed from the site.

A contingency plan was also recommended in the event that any fibre cement fragments were discovered during earthworks. In summary, the contamination reports concluded that the site can be made suitable for the proposed redevelopment of the site subject to conditions.

Council's Environmental Scientist has reviewed the development proposal and has provided the following comments:

*"The site can be made suitable for a proposed commercial/residential use. There minimal exceedances within 0.1-0.3m of fill and these areas are located within the proposed basement excavation footprint. Some asbestos removal is required from the surface of the site. Should the basement footprint be changed a reassessment of the need to remove these areas will be required. Acid sulfate soil has not been located and there is an Acid Sulfate Soil Management Plan is not required. The development will extend into groundwater and dewatering during construction of the basement will be required. This water will require treatment prior to discharge to Councils stormwater system.*

#### **Recommendations**

*I have no objections subject to conditions...."*

Based on the conclusions of the Contamination Reports and by Council's Environmental Scientist, the site can be made suitable for the proposed residential use and no objections are raised subject to conditions of consent recommended in the attached Schedule. It is considered that the applicant has adequately

demonstrated that the site can be made suitable to accommodate the intended use and satisfy the provisions of SEPP No. 55.

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

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* ("BASIX SEPP") applies to the proposal. The application was accompanied by BASIX Certificate No. 902705M\_02 dated 25 February 2018 prepared by Senica Consultancy Group Pty Ltd committing to environmental sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. Accordingly, a condition has been imposed on the consent to ensure that these requirements are adhered to. The proposal is consistent with the BASIX SEPP.

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

The provisions of *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Building* (SEPP 65) have been considered in the assessment of the Development Application.

Clause 28(2) of SEPP 65 requires that the consent authority is to take into consideration the following matters in determining a development application for consent to carry out development to which this Policy applies:

- (a) the advice (if any) obtained from the design review panel, and
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the *Apartment Design Guide (ADG)*.

#### Design Review Panel

The amended design currently under assessment was referred to the meeting of 15 February 2018. The DRP concluded that the design exhibited a high degree of design excellence and provided recommendations for further refinement, as follows:

**Table 3: Consideration of DRP Recommendations**

DRP Recommendation	Comment
Context & Neighbourhood Character	The Panel considers that the design demonstrates a high degree of design excellence in relation to this issue. The Panel considers that Council and the applicant should consider opportunities to connect John Curtain Reserve to Elizabeth Avenue and Brodie Street, through the site.
Built Form & Scale	The Panel considers that the design demonstrates a high degree of design excellence in relation to this issue. The Panel supports the height increase to the rear building.
Density	The Panel considers that the density of the



DRP Recommendation	Comment
	proposed development is acceptable.
Sustainability	The Panel considers that the design demonstrates acceptable levels of sustainability but could include further sustainability initiatives above and beyond those required by BASIX, such as solar energy generation, rainwater harvesting, etc. The Panel notes that access is already provided to the rooftop of the middle wing of the development which would facilitate solar energy harvesting, for instance.
Landscape	The Panel considers that the design as presented at the meeting has the potential to demonstrate a high degree of design excellence in relation to this issue, however this is not currently reflected in the landscape drawings, which need to include further information in relation to species selection and materiality.
Amenity	The Panel considers that the design demonstrates a high degree of design excellence in relation to this issue.
Safety	The plans which were provided to the Panel do not fully describe the security arrangements for the design, such as lines for secure fencing, boundary treatments, etc. These should be included on the drawings.
Housing Diversity and Social Interaction	The Panel considers that the design is acceptable in relation to housing diversity and social interaction.
Aesthetics	The Panel considers that the design demonstrates a high degree of design excellence in relation to this issue.

The amended proposal has incorporated the majority of these DRP recommendations listed above as outlined in Table 4 and is therefore consistent with Clause 28(2)(a) of SEPP 65.

#### Design Quality Principles

The applicant has submitted an assessment against the design quality principles specified in Schedule 1 of SEPP 65. It is considered that the proposal has had adequate regard for these design principles as summarised below:

- Principle 1 (context and neighbourhood character) - The proposal is generally consistent with the desired future character of the area, which is undergoing a transition from a low density residential area to a high density mixed use precinct adjoining the Botany Shopping strip along Botany Road and in close proximity to a large area of public open space.
- Principle 2 (built form and scale) - The proposal is of a similar bulk and scale to the adjoining development at No 27-29 Robey Street and is generally consistent with the desired future character of the area. The proposal is consistent with the maximum FSR, however, exceeds the maximum height limit under BBLEP 2013 which is discussed further in this report.

- Principle 3 (density) - The proposal is consistent with the maximum FSR under BBLEP 2013 and provides adequate amenity in the proposed apartments given the general consistency with the ADG in relation to apartment and bedroom sizes.
- Principle 4 (sustainability) - The proposal is consistent with the BASIX requirements and provides sufficient solar access to the proposed apartments.
- Principle 5 (landscape) - The proposed landscaping on the site is considered to be satisfactory given the site is located within a local centre.
- Principle 6 (amenity) - The proposal provides for adequate and functional outdoor private open space, communal open space and privacy for residents, the internal layouts of the proposed apartments are desirable and there is an adequate mix of apartments including for families.
- Principle 7 (safety) - The proposal provides adequate casual surveillance opportunities of public and communal open spaces. There is a clear distinction between public and private areas and there is adequate access control to the building and basement car parking levels.
- Principle 8 (housing diversity and social interaction) - The proposal provides for a range of dwelling types including family friendly and adaptable apartments.
- Principle 9 (aesthetics) - The proposed built form achieves a number of design measures to improve the aesthetics of the building, including using a variety of colours and materials, providing an articulated façade and incorporating landscaping throughout the site.

The proposal is considered to be consistent with Clause 28(2)(b) of SEPP 65.

#### Apartment Design Guide ('ADG')

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

#### **Note 1 – Visual Privacy (Part 3F)**

Objective 3F-1 of the ADG requires separation between windows and balconies to ensure that visual privacy is achieved. This requires the building to have a 6 metre separation distance between habitable rooms and 3 metres for non-habitable rooms up to 12 metres in height.

The proposal has been designed to meet side setback – separation design criteria on the site, is consistent with the adjoining development at 27 – 29 Robey Street and allows for future redevelopment of the adjoining site to east. The western elevation is designed with a nil – 3m setback creating a street wall design to Robey Street and meets the recommendation of the SECPP.

#### **Note 2 – Ceiling Height (Part 4C)**

Part 4C of the ADG sets minimum ceiling heights for apartments, which is measured internally from the finished floor level to finished ceiling level. The minimum ceiling heights are outlined in Table 4, along with the proposed ceiling heights for the

development. As outlined below, there are numerous non-compliances with the ceiling heights in the proposal.

**Table 4: Minimum Ceiling Heights under the ADG**

Type/location of room	Min Ceiling Height (Part 4C of the ADG)	Proposal (to finished ceiling level)	Comply
Habitable rooms	2.7m	Level 2 (habitable) – <b>3.1m</b> Level 3 (habitable) – <b>3.1m</b> Level 4 (habitable) – <b>3.1m</b> .	Yes
Non-habitable	2.4m	N/A	N/A
Attic spaces	1.8m at edge of room (30°min ceiling slope)	N/A	N/A
If located in mixed used areas	3.3m (ground & 1st floor to promote future flexibility of use)	Ground floor (habitable) - 3.3m. Level 1 (habitable) – <b>3.1m</b>	Yes  <b>No</b>

The Panel had stated in its reasons for deferral that design amendments were required to achieve a greater level of internal amenity. As such, it was suggested that the required floor to floor heights for Level 1 would be varied provided that the minimum 3.1 metres floor to floor heights were achieved for Level 1 and above. The applicant has complied with this requirement.

The proposal is considered to be generally consistent with Clause 28(2)(c) of SEPP 65, despite these variations, with the exception of ceiling heights as discussed above.

Clause 30(1) of SEPP 65 states that if a development application satisfies the design criteria for car parking, internal area of each apartment and ceiling heights, the consent authority cannot refuse an application in relation to those matters. The car parking criteria of the ADG does not apply in this instance as the site is more than 800 metres from a train station while the proposal generally complies with the minimum unit area of Part 4D of the ADG (with a minor variation which is considered acceptable as outlined in this report).

In relation to ceiling height, the proposal is inconsistent with the controls of Part 4C of the ADG, which is considered to be unacceptable in this instance. Accordingly, Clause 30(1) of SEPP 65 allows the consent authority to refuse the application on ceiling heights, if this was considered to be the most appropriate recommendation. In this case, it is considered that the proposal is capable of amendment to comply with the minimum ceiling heights of the ADG. Accordingly, a deferred commencement condition to address the ceiling height issue is considered to be the most appropriate recommendation in this instance.

#### Botany Bay Local Environmental Plan 2013 (BBLEP 2013)

The provisions of the *Botany Bay Local Environmental Plan 2013* (BBLEP 2013) have been considered in the assessment of this Development Application and the following information is provided in Table 5:

**Table 5: BBLEP 2013 Compliance Table**

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Land use Zone	-	The site is zoned B2 Local Centre under the BBLEP 2013.
Is the proposed use/works permitted with development consent? (CI 2.3)	Yes	The proposed residential flat building, shop top housing and commercial premises are permissible with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zone? (CI 2.3)	Yes	<p>The proposed development is consistent with the following objectives of the B4 zone:</p> <ul style="list-style-type: none"> <li>• <i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</i></li> <li>• <i>To encourage employment opportunities in accessible locations.</i></li> <li>• <i>To maximise public transport patronage and encourage walking and cycling.</i></li> </ul> <p>The proposal is consistent with these zone objectives in that it provides for a range of retail uses at ground level which will assist in serving the needs of the local population and encourages employment opportunities in accessible locations given the proximity to Botany Road for bus and other services. This proximity also assists with maximising the use of public transport and encouraging walking and cycling in the area.</p>
Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Clause 2.5 does not apply to the subject site.
Is subdivision proposed? (CI 2.6)	Yes	Lot consolidation is proposed and is permissible with consent (being a form of subdivision).
Is demolition proposed? (CI 2.7)	Yes	Demolition is proposed and is permissible with consent.
What is the height of the building? (CI 4.3)	<b>No Refer to Note 3</b>	<p>The maximum permissible building height is 14 metres. The proposed building height is:</p> <p>Lift Overrun = 21 m (RL 26.2m) – 50% variance.</p> <p>Roof form = 17.2m (RL22.7m)</p>
What is the proposed FSR? (CI 4.4)	Yes	The maximum FSR allowed on the site is 2:1 (5,180sqm). The proposed FSR is 2:1 (5,180sqm).
Is the site within land marked "Area 3" on the FSR Map (CI 4.4A)	N/A	The subject site is not identified as being within "Area 3" on the FSR map.
Is the land affected by road widening? (CI 5.1)	Yes	The site is not affected by any road widening or any other land acquisition.

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area? (Cl 5.10)	N/A	The site is not identified as a Heritage Item or within a Heritage Conservation Area.
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <p>6.1 – Acid sulfate soils (ASS)</p> <p>6.2 –Earthworks</p> <p>6.3 – Stormwater Management</p> <p>6.8 – Airspace Operations</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The subject site is affected by Class 4 ASS and there is excavation proposed for 2 basement levels. This clause requires consent for works &gt;2m below the natural ground level and works by the watertable is likely to be lowered &gt;2m below the natural ground surface.</p> <p>The Geotechnical report lodged with the application states that excavations to a maximum depth of about 6.5m will be required to achieve design subgrade levels.</p> <p>Council's Environmental Scientist has reviewed the application and raises no objections given there has not been any ASS located. Standard conditions of consent are recommended in the event that during excavation, ASS is encountered on the site. The development is considered to be consistent with this Clause.</p> <p>A Geotechnical report has been provided which concluded that the development is feasible subject to detailed design, including dewatering during construction.</p> <p>A Concept Stormwater Plan has been prepared by SGC Consulting Engineering. Relocation of an existing drainage easement is proposed as well as on-site detention. Council's Engineer has considered the proposal and raised no objections to the proposal, subject to the imposition of conditions of consent. These conditions have been included in the schedule of conditions. The development is considered to be consistent with this Clause.</p> <p>The site is within an area defined in the schedules of the Civil Aviation (Building Control) Regulations that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority.</p> <p>The application proposed buildings above this maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration. SACL raised no objections to</p>

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
6.9 – Development in areas subject to aircraft noise	Yes	the proposed maximum height of 27.0 metres AHD, subject to conditions to be imposed on any consent. The development is considered to be consistent with this Clause subject to recommended conditions.  The subject site is affected by the 25-30 ANEF contour. An acoustic report has been submitted with the development application, which indicates that if the development incorporates the recommendations of the report, it will comply with ASA2021-2000. The development is considered to be consistent with this Clause subject to recommended conditions.
6.15 – Active street frontage	Yes	The development proposes retail spaces along Robey Street for the entire length of the frontage which complies with Clause 6.15 of the BBLEP 2013.

### **Note 3 – Clause 4.6 variation to the height development standard**

The BBLEP 2013 sets a maximum permissible height of 14 metres for the site. The development proposes an overall height of 16.1 metres when measured in accordance with the BBLEP definition of building height, thereby exceeding the maximum height development standard by 7 metres to 21 metres (50% exceedance).

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

Clause 4.6 states the following:

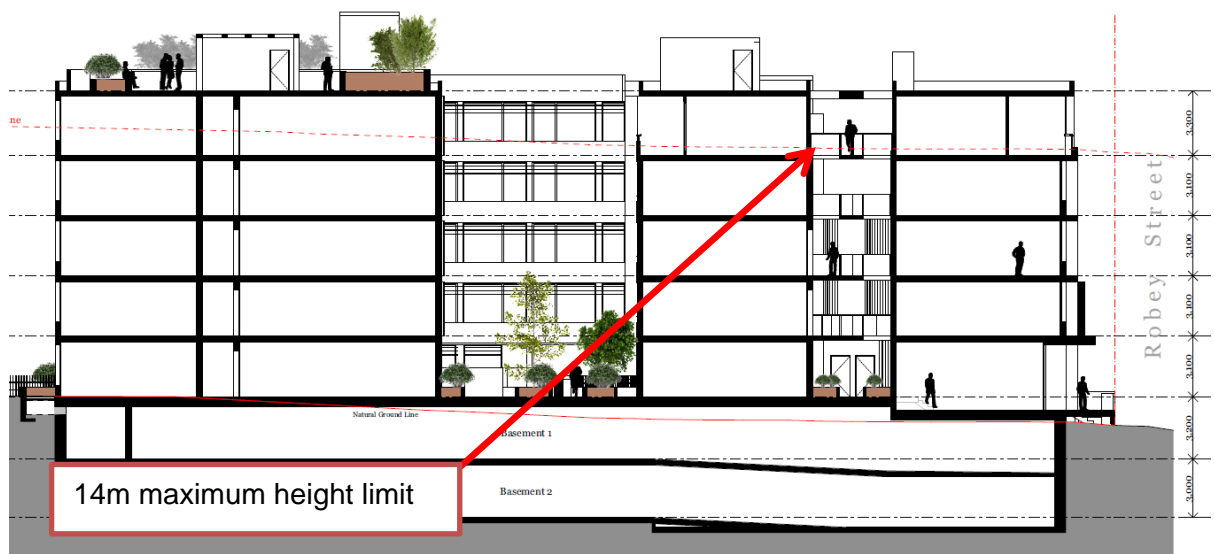
*(2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument...*

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

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

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





**Figure 11: Height Exceedance (Source: DKO Architecture, February 2018)**

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

*“The development proposal has sufficient grounds to vary the 14m building height control contained in Clause 4.3 of Botany Bay LEP 2013. The variation is confined to the upper level, communal roof terrace toward the rear of the site, and lift overrun centrally located in the roof form of the proposal.*

*The building has been designed to present a 5 storey form to Robey Street, with parapet height consistent with the adjoining development at 27-29 Robey Street and the desired planning outcome for the Mascot Town Centre.*

*The portion of the building exceeding the height control is suitable for the site context and locality and will not be visually dominant from the public domain noting support of the building height in accordance with the Bayside Design Review Panel assessment under SEPP65 design principles.*

*Further, the encroachment to the 14 metre height will not generate unreasonable additional overshadowing or contribute to unreasonable amenity impacts to the adjoining properties.*

*In my opinion, the application to vary the building height development standard is well founded and as addressed the proposed height meets the objectives of the building height development standard and achieves an acceptable development outcome for the subject site that is in the public interest. In accordance with the environmental planning grounds addressed in this clause 4.6 variation the building height can be supported”.*

#### Council Officer’s Comment:

Council acknowledges that the proposed development, as presented in the amended plans, exceeds the development standard by 7 metres to the top of the lift overrun.

Taking into consideration that the applicant has undertaken a comprehensive redesign of the development, maintaining compliance with the maximum permitted FSR for the site and achieving general compliance with the floor to floor heights as required by the panel, the flood affectation of the site and the improved relationship with the adjoining development to the west, the proposed height variation is supported in this instance.

There are several surrounding developments which have been approved that also exceed the maximum height of buildings development standard of 14 metres under BBLEP 2013. These developments are outlined in **Table 6**.

**Table 6: Approved FSR and Height of adjoining and nearby developments**

Site	Location	Approval Body	Units	FSR	Height
62-66 Robey Street (DA 14/207)	West of the site along Robey Street	Former JRPP	146 serviced apartments	1.49:1 (12,222sqm) (max 1.5:1)	26.78 metres RL 31.250 (exceedance – 638mm - architectural roof feature; max 22m)
27-29 Robey Street (DA 15/254)	Adjoining to the west	Council meeting 7/09/2016	18 + 1 retail	FSR: 2:1 (1501.339 m <sup>2</sup> )	16.16 metres – RL 21.1m AHD (max 14m)
1 Robey Street (DA 13/223)	To the east (corner of Robey St & Botany Rd)	Council	18 + 4 retail	2.10:1	17.99 meters (max 14m)

The adjoining development to the west, No 27-29 Robey Street, was approved with a maximum height of 16.16 metres (to RL 21.1). While the ground floor of this adjoining building provides a ceiling height of only 2.7 metres (and not 3.3 metres required in mixed use areas), there is only one commercial premise of 45m<sup>2</sup> provided and accordingly this variation was supported. The remaining levels of this approved adjoining building comply with the minimum ceiling heights, with all habitable floors having a ceiling height of 2.7 metres.

The subject site is also known to be impacted by flooding, requiring the finished floor levels of the retain tenancies to be at least 1 metre above the footpath levels in Robey Street.

The matters to be considered by Clause 4.6 are considered for the proposal in Table 7. Clause 4.6(6), (7) and (8) are not required to be considered in this instance.

**Table 7: Consideration of Clause 4.6**

Matter	Proposal	Comply
1. The objectives of this clause are as follows: (a) to provide an appropriate	(a) The proposed height of 21 metres is an	

Matter	Proposal	Comply
<p><i>degree of flexibility in applying certain development standards to particular development,</i></p> <p>(b) <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i></p>	<p>appropriate use of this flexibility in that the site is flood affected at its Robey Street portion, the floor to floor heights have been amended, the relationship to adjoining development has been refined, the maximum FSR has been complied with and that a far greater level of internal and external amenity is now provided for future residents by the inclusion of the rooftop communal terrace and its lift access which is contributing to the height exceedance.</p> <p>(b) A better outcome is now achieved by the proposal exceeding the maximum height by this extent as the height exceedance creates a greater level of compatibility with adjoining development and the surrounding context.</p>	<p>Yes</p> <p>Yes</p>
<p>2. Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</p>	<p>Development consent may be granted to this proposal as the maximum height development standard of 14 metres pursuant to Clause 4.3(2) of BBLEP 2013 is capable of being varied under this Clause.</p>	<p>Yes</p>
<p>3. Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:</p> <p>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</p> <p>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</p>	<p>The applicant has provided a Clause 4.6 request which addresses the matters required by Clause 4.6(3).</p> <p>(c) It is considered that compliance with the h14 metre control is unreasonable in this instance as the site is flood affected, the floor to floor heights have been amended, the relationship to adjoining development has been refined, the maximum FSR has been complied with and that a far greater level of internal and external amenity is now provided for future residents by the inclusion of the rooftop communal terrace and its lift access which is contributing to the height exceedance.</p> <p>(d) There are sufficient environmental planning grounds to justify exceeding the maximum height standard due to the flooding constraints of the site, and the resulting improve amenity both internally and externally that will be achieved as a result of the amended design.</p>	<p>Yes</p> <p>Yes</p>

Matter	Proposal	Comply
<p>4. Development consent must not be granted for development that contravenes a development standard unless:</p> <p>(a) the consent authority is satisfied that:</p> <p>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p> <p>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p> <p>(b) the concurrence of the Secretary has been obtained.</p>	<p>(a) (i) The applicant has provided a Clause 4.6 request which addresses the matters required by Clause 4.6(3).</p> <p>(ii) the objectives of the height development standard are:</p> <p><i>(a) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,</i></p> <p><i>(b) to ensure that taller buildings are appropriately located,</i></p> <p><i>(c) to ensure that building height is consistent with the desired future character of an area,</i></p> <p><i>(d) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,</i></p> <p><i>(e) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.</i></p> <p>The proposed height exceedance is considered to be consistent with objective (a) in that the applicant has adequately addressed the matters required to be addressed under Clause 4.6(3).</p> <p>The resulting built form represent the coordinated and cohesive development of the locality with the height exceedance is greater at the northern part of the development, and appropriately located on site.</p> <p>The proposed building height will result in a development that is consistent with the desired future character of the area and does not contribute to visual impact, disruption of views, loss of privacy or solar access.</p> <p>The proposal when viewed from Robey Street will provide a continuous streetscape presentation with an active street frontage and separate residential entrances. Connectivity with the adjoining John Curtin Reserve is also proposed which is a significant public benefit for the local residents.</p> <p>The proposal is consistent with the zone objectives although such objectives are</p>	<p>Yes</p> <p>Yes</p>

Matter	Proposal	Comply
	generally concerned with the use of the development than the overall height or design of the proposal. (b) The concurrence of the secretary; is a matter for the Panel, however the matters for consideration are relevant and are considered below.	Yes
5. In deciding whether to grant concurrence, the Secretary must consider: (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and (b) the public benefit of maintaining the development standard, and (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.	(a) There are no matters raised by the height exceedance of state or regional importance. (b) It is considered that there is a public benefit in allowing the variation to the development standard as it will allow the buildings in the evolving streetscape to be compatible in terms of height and provide a high level of amenity to the proposed apartments. (c) No other matters are considered relevant.	N/A  Yes        N/A

### Summary

The Clause 4.6 variation to the building height development standard has been assessed in accordance with the BBLEP 2013. The proposal is consistent with the underlying objectives of the standard identified given the sites flood affectation, the amended compliant floor to floor heights and the relocation of the communal open space to the northern rooftop terrace with lift access, that results in a variation of 7 metres above the 14 metre development standard.

Maintaining and enforcing the development standard in this case is unreasonable and unnecessary as the proposal will result in a development that provides a better environmental planning outcome for the site. There are also sufficient planning grounds to justify the variation given that no privacy or overshadowing impacts result to adjoining development, the relationship to existing and approved development is more appropriately refined and that the maximum FSR for this site remains compliant.

The applicant's Clause 4.6 is well-founded and the departure to the height of buildings development standard is in the public interest. On this basis, it is recommended that the development standard relating to the maximum building height for the site pursuant to Clause 4.3(2) of the BBLEP 2013, can be varied in the circumstances as discussed above.

### Botany Bay Development Control Plan (BBDCP) 2013

The development proposal has been assessed against the controls contained in the *Botany Bay Development Control Plan 2013* (BBDCP 2013) as follows:

#### *Part 3 – General Controls*

An assessment against Part 3 relating to the general controls of BBDCP 2013 has been provided below in Table 8 insofar as they relate to the proposed development.

**Table 8: Consideration of Part 3 - General Controls of BBDCP 2013**

Control	Proposed	Complies (yes/no)
<b>3A Parking and Access</b>		
<b>3A.2. Parking Provisions of Specific Uses</b> <u>Residential</u> 1 space/studio or one (1) bed dwellings (21 spaces req) 2 spaces/two (2) bed or more dwellings (90 spaces req) 1 visitor space/5 dwellings (13.2 spaces req) 1 car wash (as visitors space)  <u>Commercial (shop)</u> 1 space / 25sqm (7.7 spaces eq.)  <u>Service Bays</u> 1/50 units (1 req.) Note: 50% of service bays to be designed for MRV or larger)  <b>132 car parking spaces required</b>	<u>Residential</u> 111 spaces (8 accessible)  <u>Visitor</u> 14 spaces  <u>Commercial</u> 8 spaces  <u>Service Bays</u> Service vehicle: 1 provided (SRV) car wash bay can be provided via condition  <b>133 car parking spaces provided</b>	Yes  Yes  Yes Condition
<b>3A.3.1 Car Park Design</b> Pedestrian entrances and exits shall be separated from vehicular access paths. For mixed use development, residential off-street parking facilities separated from other uses with security roller doors for residential security.	Waste collection and servicing within ground floor parking level; Traffic Assessment provided; Stormwater plans provided; Pedestrian access easily identifiable. Pedestrian entrances and exits are separated from vehicular access paths. Commercial and residential parking spaces are separated by roller door inside basement level.	Yes
<b>C40</b> The waste collection point shall be designed to: (i) Allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles,	The garbage holding room (to be serviced by the garbage truck) is located within the ground floor which contains separate retail/commercial waste room. The loading dock area does not have sufficient head clearance to allow the lifting arc with a void area above. Onsite waste collection will occur via a private contractor as a recommended condition of consent with the use of a small rigid vehicle. Such a vehicle can enter and exit the loading	Yes



Control	Proposed	Complies (yes/no)
<p>internal roadways and ramps; and</p> <p>(ii) Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like.</p>	<p>dock in a forward direction as shown on the swept path analysis provided.</p>	
<p><b>3A.3.2 Bicycle Parking</b></p> <p><b>C1-C5</b> To comply with AS2890.3 &amp; AUSTROADS. (i.e. 10% of the required amount of car parking = 11.1)</p>	<p>14 bicycle spaces are provided in the ground level car communal area.</p>	<p>Yes</p>
<p><b>3A.3.4 On-site Loading &amp; Unloading</b></p> <p><b>C1-C11</b> 1 service bay/50dwgs (50% to be Medium Rigid Vehicle (MRV) or larger) (1 req.)</p>	<p>Service vehicles: 1 SRV space provided</p>	<p><b>No-Acceptable</b></p>
<p><b>3C Access and Mobility</b></p>		
<p>Controls relating to access to buildings and car parking areas.</p>	<p>An Access Report prepared by Accessible Building Solutions dated 26 February 2018 has been submitted and provides an accessibility overview of the proposal. Part 3C of BBDCP 2013 requires the following to be provided:-</p> <ul style="list-style-type: none"> <li>• Statement of consistency with Part 3C of the DCP;</li> <li>• 20% of dwellings to be adaptable dwellings designed in accordance with AS 4299 Class B (when 10+ dwellings proposed).</li> <li>• Appropriate access for all persons through the principal entrance of a building and access to all common facilities.</li> <li>• Accessible parking - half of the adaptable dwellings provided are required to have allocated accessible resident parking, Minimum 80% of these accessible spaces will be designed to AS4299 and maximum 20% of spaces complying with AS2890.6.</li> </ul> <p>The amended proposal provides 13 apartments as adaptable units (20%) which satisfy these controls. There is a lift to all levels and an access platform to provide access from the street level to the ground floor level of the development. Eight (8) disabled car parking spaces are provided for the residential development which is consistent with the controls.</p>	<p>Yes</p>
<p><b>3E Subdivision and Amalgamation</b></p>		
<p>Development Applications shall demonstrate that the proposed subdivision or amalgamation is consistent with the Desired Future</p>	<p>The proposal involves the consolidation of the existing seven (7) lots into one (1) allotment. Relevant conditions have been recommended to address lot consolidation.</p>	<p>Conditioned</p>

Control	Proposed	Complies (yes/no)
Character of the area.		
<b>3G.2 Stormwater Management</b>		
<b>C1-C6</b> Comply with Stormwater Management Technical Guidelines; Part 3G.5 Stormwater Quality.	The site is affected by flooding, with the 1:100 year flood level for the site is 5.80AHD. The Stormwater plans have been submitted and reviewed by Council's Development Engineer. Conditions of consent have been recommended.	Yes
<b>3H Sustainable Design</b>		
<b>C1-C6</b> BASIX; Solar hot water encouraged.	A revised BASIX Certificate for the amended proposal has been provided.	Yes
<b>3I Crime Prevention Safety &amp; Security</b>		
Site layout, design & uses; Building design; Landscaping & lighting; Public domain, open space & pathways; Car parking areas; Public Facilities.	The established setback pattern of the street has been maintained and therefore there is natural surveillance of the street along the length of the development. Landscaping is generally low set which does not obscure lighting or sightlines in and around the communal open space and pathways throughout the site. The proposal is consistent with this Part of the DCP subject to conditions.	Yes
<b>3J Aircraft Noise &amp; OLS</b>		
ANEF; Aircraft height limits in prescribed zones.	<p>The subject site is located within ANEF contour 25-30. An acoustic report was submitted with the application. Pursuant to Clause 3J.2 (C3), the proposed development is "unacceptable" under Table 2.1 of AS2021-2000, in which case development may only take place, subject to Council consent and compliance with the requirements of AS2021-2000.</p> <p>An amended Acoustic report was prepared by Acoustic Logic (revised on 11 April 2017) which concluded that subject to the recommendations of the report, the development will comply with ASA2021-2000. Council's Environmental Health Officer has reviewed the proposal and has raised no objection subject to relevant conditions.</p> <p>In relation to the Obstacle limitation surface, the application was referred to SACL who have raised no objection to the proposal subject to conditions. The proposal is consistent with this Part of the DCP subject to conditions. SACL comments received – no objection.</p>	Yes
<b>3K Contamination</b>		
Consider SEPP 55 & Contaminated Land Management Act 1997.	A detailed Site Investigation Reports (Stage 1 and 2) on Contamination prepared by Environmental Investigation Services dated 20 July 2016 and a Geotechnical Investigation prepared by JK Geotechnics dated July 2016, are submitted in support of the application. The reports conclude that the site can be made suitable for the proposed redevelopment.	Yes Refer to SEPP55 discussion
<b>3L Landscaping and Tree Management</b>		
General Requirements; Planting design & species; Landscaping in car parks; Green roofs.	Appropriate conditions have been recommended in the consent. Landscape Plans and Arborist reports have been provided.	Yes
<b>3N Waste Minimisation &amp; Management</b>		
<b>C1</b> Residential	A WMP, prepared by Senica Consultancy Group dated 22	Yes

Control	Proposed	Complies (yes/no)
Development must provide recycle/waste bins in accordance with Table 3.	February 2018 has been submitted for ongoing management of waste generated from the site.	
<b>C3</b> Where a building consists of 40 or more residential units, 660L bins can be used, subject to negotiation with Council. The use of 660L bins will only be considered where: (i) The building has > 20 units; and (ii) Adequate off site access for waste collection vehicles is provided and is in accordance with relevant Australian Standards.	Separate waste storage areas are provided for residential and commercial components on the ground floor of the development. There is sufficient room in the waste rooms to store the required number of bins for the development.	Yes
<b>C11</b> Garbage Chutes.	Garbage chutes provided on each level.	Yes
<b>C19</b> min 4m <sup>3</sup> caged area for bulky items (>10 units).	Can be accommodated in the ground floor waste room behind loading dock.	Yes

#### *Part 4C – Residential Flat Buildings*

An assessment against Part 4C relating to Residential Flat Buildings has been provided below in **Table 9** insofar as they relate to the proposed development.

**Table 91: Consideration of Part 4C Controls of BBDCP 2013**

Control	Proposed	Complies (Yes/No)
<b>4C.2.1 Design Excellence</b>		
<b>C1</b> Create high quality architecture which integrates environmental and social sustainability design principles early in the design process, to ensure equitable access to all.	The amended proposal provides an appropriate built form to the streetscape along Robey Street, being of a compatible scale and design to that approved on the adjoining site to the west. The use of a variety of materials and articulation through the use of breaks in the façade, windows and balconies assists in reducing bulk and scale to the street.	Yes
<b>C2</b> Design development to promote good health and social wellbeing.	The amended proposal provides adequate communal open space with solar access and proximity to services and public transport which encourages social interaction.	Yes
<b>C3</b> Respond positively to the existing and desired future neighbourhood character and urban context.	This is achieved as outlined above.	Yes
<b>4C.2.2 Streetscape Presentation</b>		

Control	Proposed	Complies (Yes/No)
<b>C1</b> New development must be compatible in building bulk and scale with adjoining residential developments and reflect the patterns of buildings in the streetscape. It must respond to building setbacks, building height and treatment of the building facades.	The massing of the proposal is generally acceptable in terms of being compatible with the future character and the recently approved surrounding development given the precinct is undergoing transition from a low to high density mixed use area.	Yes
<b>C2</b> Development must comply: (i) Max length of any building - 24 metres; and (ii) Façades articulated and employ materials and finishes to enhance and complement streetscape character.	The length of the building along Robey Street is 38 metres at the main façade of the building, however articulation is provided with the incorporation of the articulated/broken awning at the pedestrian edge and with the inclusion of material changes to the upper level. There is a good balance of both horizontal and vertical elements with recessed window glazing areas, solid balcony balustrades and privacy treatments at Level 1.	<b>No – Refer to Note 4</b>
<b>C3</b> Buildings sited to address the street and relate to neighbouring buildings. Developments on sites with two or more frontages are to address both frontages. Buildings that are oriented contrary to the established development pattern are intrusive and are not permitted.	The proposal adequately addresses the street frontages along Robey Streets.	Yes
<b>4C.2.3 Height</b>		
<b>C1</b> New buildings to consider topography and shape of site and respond to predominant and characteristic height of buildings within the neighbourhood.	The amended proposal has had regard for the topography and constraints of the site and is generally consistent with the prevailing scale of the desired future character of the area.	Yes
<b>C2</b> Maximum number of storeys must not exceed that identified in the relevant character statement for each precinct (Part 8 - Character Precincts). If not identified, max number of storeys must be consistent with existing characteristic building height set by immediately surrounding apartment buildings.	The proposal exceeds the maximum permissible height under BBLEP 2013.	<b>No Refer to Note 3</b>
<b>4C.2.4 Landscaped Area and Deep Soil Planting</b>		
<b>C1</b> A residential flat development must have a minimum landscaped area of 35% and a maximum un-built upon area of 20%.	The amended proposal provides 1185m <sup>2</sup> (46% of site area) as landscaped area.	Yes
<b>C3</b> Landscaped areas distributed on site to minimise dominance of buildings, structures and paving when viewed from the street, public places and surrounding properties.	There are adequate areas of landscaping distributed throughout the site including along the side and rear boundaries with some landscaping along the front boundary.	Yes

Control	Proposed	Complies (Yes/No)
<b>4C.2.5 Open Space</b>		
<b>C3</b> Open space will be designed to: (i) Encourage positive outlook, respite and attractive internal views; (ii) Provide building separation and achieve a balance between open space and built form; (iii) Provide visual and acoustic privacy and an area of good solar access for recreational purposes; and (iv) Through location, arrangement and design provide functional, usable and liveable spaces for a mix of recreational pursuits	<p>There is communal open space provided on the site in accordance with the ADG controls. This open space is usable and will provide for social interactions amongst future residents.</p> <p>The rooftop communal open space area has been incorporated into the development and building separation is increased by creating a "C" shaped form with additional landscaping opportunities throughout the site.</p> <p>On balance, enough of the communal open space areas receive the minimum required amount of solar access during mid-winter. The range of COS areas allow for the use for different activities and user groups within the development.</p>	Yes
<b>4C.2.6 Setbacks</b>		
<b>C2</b> All front, side and rear setbacks are to provide deep soil zones to allow unencumbered planting areas.	<p>Deep soil zones are located along the rear boundary as well as various portions of the side boundaries. A small area of deep soil is provided along the front elevation. On balance there are sufficient areas of deep soil located within the setbacks areas on the site.</p>	Yes
<b>Front Setbacks</b> <b>C1</b> Building setbacks from the existing front boundary must match the setback of adjoining properties, but must be a minimum of 3 metres or 4 metres if fronting a classified road.	<p>The front setback is 3 metres and is generally consistent with adjoining development to the west.</p>	Yes
<b>4C.2.7 Through Site Links &amp; View Corridors</b>		
<b>C1</b> Building footprints are to take into account the requirement for consolidated open space as well as for view corridors.	<p>The proposal is consistent with surrounding development and allows for view corridors around the development given the variable side setbacks. A pathway is provided along the rear of the site to provide access for residents of the site to the park. This path is to remain private as it is considered undesirable to provide a public pathway in this location given the area is relatively isolated and there is considered to be sufficient linkages to the park from both High and Robey Streets.</p>	Yes
<b>C2</b> If a site has a frontage to two (2) or more streets with a boundary length greater than 25 metres, then one through site link to the other street/s must be provided.	<p>The site has only one (1) street frontage to Robey Street.</p>	N/A
<b>4C.2.8 Consideration of Site Isolation</b>		
<b>C1</b> Applicants must demonstrate that adjoining parcels not included in their development site will be capable of being economically developed as required by Council as part of the development assessment process for their site. This will include establishing appropriate separation distances	<p>The site includes 7 currently separate allotments. In terms of potential site isolation, there are ample sites to the east along Robey Street to allow redevelopment, while the adjoining site to the west (27-29 Robey Street) has approval for a redevelopment.</p>	Yes

Control	Proposed	Complies (Yes/No)
between adjoining buildings.		
<b>4C.3.1 Building Entries</b>		
<b>C1</b> Entrances must provide shelter and be well-lit and safe spaces to enter building, meet and collect mail. The front door must be visible from, and have direct access to, the street.	The entry area provided from Robey Street is approximately 4 meters wide and provides mailboxes at the entry and weather protection. This provides an entry which is clearly identifiable with direct access from the street.	Yes
<b>C2</b> A main pedestrian entry to be provided, separate from car parks or car entries. Disabled access through the primary entrance to the building must be provided.	Separate pedestrian and vehicle access is provided, with access provided via an access platform lift from street level into the proposed building from the street (Robey St).	Yes
<b>C5</b> Mailboxes designed and provided so that they are convenient for residents and do not clutter the appearance of the development from the street.	Letter boxes are provided at the front entry from Robey Street.	Yes
<b>4C.3.3 Materials and Finishes</b>		
<b>C1</b> A Schedule of Finishes and a detailed Colour Scheme for the building facade will accompany all Development Applications involving building works.	The proposal provides streetscape character through the use of cladding as well as glazing elements which add texture and visual interest to the main building material of painted surfaces. The changes in building alignment and the use of setbacks assist in achieving building articulation.	Yes
<b>4C.4.1 Dwelling Mix and Layout</b>		
<b>Apartment Size and Mix</b> <b>C1</b> Developments of ten or more apartments are to provide a range of apartment sizes, including studio, 1, 2, and 3+ apartments so as to meet the needs of residents and accommodate a range of household types.	The proposed development provides a range of apartment sizes and types.	Yes
<b>C2</b> For development with ten or more apartments, the following unit mix control will apply: (i) A maximum of 25% of apartments are to be Studio and 1 Bedroom; (ii) All 2 Bedroom apartments are to satisfy the amenity controls for Family Apartments; and (iii) All 3+ Bedroom apartments are to satisfy the amenity controls for Family Apartments.	(i) The proposal provides the following: ▪ 21 x 1 bedroom apartments (32%) ▪ 39 x 2 bedroom apartments (59%) ▪ 6 x 3 bedroom apartments (9%)  The number of 1 bedroom apartments exceeds 25%. (ii) The 2 and 3 bed units do not satisfy the family apartments requirements (refer below).For a response to the family friendly controls, please refer to Note 15.	<b>No</b> <b>Refer to Note 5</b>  <b>No</b> <b>Refer to Note 5</b>
<b>Apartment Layout</b> <b>C1</b> Dwellings with 3 or more bedrooms are to have two (2) separate and appropriately sized living spaces. A study alcove may be located within the second living space. Should a freestanding study alcove be provided	The 3 bedroom apartments do not have two separate living spaces.	<b>No</b> <b>Refer to Note 5</b>



Control	Proposed	Complies (Yes/No)
the height of the walls enclosing the study are to be a maximum of 1500mm		
<b>C4</b> Designs which utilise light corridors and saddle back bedroom designs are not acceptable.	All habitable rooms have windows and do not rely on saddle back/snorkel designs or light wells for light and ventilation.	Yes
<b>C5</b> Kitchens are to be naturally ventilated.	Refer to ADG.	Yes
<b>4C.4.2 Family Friendly Apartment Buildings</b>		
<b>C1</b> Family apartments are apartments with two or more bedrooms designed so as to accommodate the living needs of families with children.	The two and three bedroom apartments have generally been designed in accordance with the Family Friendly controls, although there are some inconsistencies. Refer to the assessment below.	<b>No</b> <b>Refer to Note 6</b>
<b>C2</b> Family apartments are to include a study to meet the needs of couple families with dependents households. The design of the study should allow for a parent to easily work from home whilst supervising a child.	9 (16.6%) of the proposed apartments have study nooks.	<b>No</b> <b>Refer to Note 6</b>
<b>C3</b> Other than the master bedroom, each bedroom is to be large enough to accommodate a single bed, a desk or table, and floor space for playing, to be illustrated on a standard apartment layout plan.	Each of the second (and third) bedrooms is shown to be able to accommodate a double bed and therefore would be capable of accommodating a single bed and desk.	Yes
<b>C4</b> The floor surface of the entry, dining room and kitchen floor and internal storage area are to be water-resistant and easy to be cleaned and maintained, not carpet.	This has not been demonstrated on the plans. A relevant condition has been recommended to be imposed that requires water resistant floors to these areas.	<b>Condition</b>
<b>C5</b> Two bathrooms are required. One bathroom is to be a shared bathroom which is accessible off a common corridor. This shared bathroom is to have a bathtub, and is to be large enough to allow for parental supervision.	Two bathrooms have been provided for all of the 2 and 3 bedroom apartments with at least one of these bathrooms in each of these apartments capable of accommodating a bath tub.	Yes
<b>C6</b> The private outdoor space is to be clearly visible from the kitchen.	All private open space areas can be viewed from the kitchen.	Yes
<b>C7</b> The entry areas and main corridors within apartments are to be generous in proportion to permit room for toys and sporting equipment, and for drying of wet shoes, boots and clothing	Generally provided.	Yes
<b>C8</b> The Apartment Design Guide sets out storage space requirements. The	Storage rates comply with ADG and have been provided in easily accessible areas and have adequate proportions for a	Yes

Control	Proposed	Complies (Yes/No)
storage room is to be located near the entry, and be of adequate proportions to accommodate large household items including strollers, wheeled toys, suitcases, and sporting equipment.	range of family items.	
<b>4C.4.3 Internal Circulation</b>		
<b>C1</b> Development will provide multiple cores within the building.	Two lift and stair cores have been provided within the building.	Yes
<b>C2</b> In buildings of more than four storeys served by elevators ensure that alternative access to another elevator is available in the event that any elevator is out-of-service due to breakdown or routine servicing.	Two elevators service the building as well as fire stairs.	Yes
<b>4C.4.4 Views</b>		
<b>C1</b> Development to preserve views of significant topographical features (urban skyline, landmark buildings and areas of high visibility).	There are no significant views in the area which will be obstructed by the proposal.	Yes
<b>4C.4.5 Acoustic Privacy</b>		
<b>C1</b> An acoustic report prepared by a certified acoustic consultant will be submitted with the development application addressing the requirements detailed in Controls C2, C3 and C4 below.	An Acoustic report has been provided which concludes that the proposal can comply with the relevant requirements including aircraft and road noise, subject to its recommendations. Relevant conditions recommended.	Yes
<b>4C.4.7 Site Facilities</b>		
<b>C1</b> Development must not be carried out on the land until arrangements satisfactory to Sydney Water have been made for the provision to the land of water and sewerage services.	Adequate Sydney Water services provided to the site.	Yes
<b>C2</b> Mailboxes located indoors in accordance with Australia Post's requirements.	Mailboxes are provided at the Robey Street frontage.	Yes
<b>C5</b> Garbage storage and collection points comply with the provisions of Part 3N.	A waste chute and storage area provided with access to the loading area.	Yes
<b>C8</b> The existing above ground electricity and telecommunication cables within the road reserve and within the site will be replaced, at the applicant's expense, by underground cable and appropriate street light standards, in accordance with the Energy and Communication Provider's guidelines.	Relevant conditions where appropriate.	Yes
<b>4C.4.8 Safety &amp; Security</b>		

Control	Proposed	Complies (Yes/No)
<b>C1</b> Applications must comply with Part 3I - Crime Prevention, Safety and Security.	The amended proposal is satisfactory with respect to safety and security.	Yes
<b>4C.4.9 Car and Bicycle Parking and Vehicle Access</b>		
<b>C1</b> Development not located within 800m of Mascot Train Station must comply with the car parking and bicycle rates and design requirements within Part 3A - Car Parking. Development that is located within this area must comply with the provisions of the ADG.	Refer to Part 3A.	Yes
<b>C7</b> Basement car parking: (i) Max 1.2 metres out of the ground; (ii) Must be located under building footprint; (iii) Must not extend under dwelling balconies or setback areas; (iv) Must be designed to have adequate vertical clearance for largest vehicle accessing the basement car parking area; (v) Must have suitable intercom system link to all units within development at vehicle entrance to ensure visitors to the site can gain access to visitor parking; (vi) For mixed use developments the loading/unloading facilities separate from the vehicle car parking area; (vii) For mixed use developments a security roller gate or door to be provided for separation between residential and non-residential car parking areas; and (viii) Natural top lighting and ventilation must be integrated into the building and/or landscape design.	Generally complies. Roller door/gate provides the required separation between commercial and residential car parking.	Yes
<b>4C.5.1 Adaptable Housing</b>		
<b>C1</b> A statement from the architect or builder must be submitted with the development application certifying that the adaptable dwelling has been designed in accordance with the provisions of the Australian Standards AS 4299-1995 Adaptable Housing.	A total of 11 (20%) of the proposed apartments are adaptable, which complies with Council's requirement for 20%. An Access Report has been provided. Refer to Part 3C for adaptable housing.	Yes
<b>4C.5.2 Access</b>		
<b>C1</b> All applications are to include a statement on how the development will comply with the provisions of the Disability Discrimination Act and	An Access Report, prepared by Accessible Building Solutions dated 2 September 2016, has been submitted with the application. The architectural design in terms of the prescriptive provisions of each 'Essential feature' and	Yes

Control	Proposed	Complies (Yes/No)
comply with Part 3C - Access and Mobility.	'Desirable feature' within AS4299 – 1995 (Adaptable Housing) have been complied with.	
<b>4C.7 Mixed Use</b>		
<b>C1</b> Any retail or commercial component must be located at ground level.	The proposed commercial development is located on the ground floor.	Yes
<b>C2</b> Adequate storage provided for commercial or retail premises.	Can be provided at rear of tenancies if required.	Yes
<b>C4</b> Building to encourage uses that will enhance and promote active street front activities.	Active street frontages provided along Robey Street.	Yes
<b>C5</b> Layout and design of building to ensure privacy for dwellings within the development.	Privacy provided for dwellings given the proposed commercial uses are located along the front elevation and facing away from the proposed residential apartments on the site.	Yes
<b>C6</b> Parking areas and loading facilities is to take into account the use of these areas by a range of activities and will minimise any conflicts that may arise as a result of the multiple use of these facilities.	Adequate service facilities provided (refer to Note 7).	Yes
<b>C7</b> Visitor parking for shop component conveniently located,	Commercial car parking provided on the upper basement level and is adequately separated from residential car parking.	Yes
<b>C8</b> Site facilities, storage, mailboxes, and garbage collection points designed to adequately service needs of the occupants of building and are to be conveniently located within the development.	These facilities have been provided and are adequately separated between residential and commercial facilities.	Yes

#### **Note 4 – Streetscape Presentation & Street Wall Height**

The objectives of the Mascot Centre controls include:

- O3 To ensure that development recognises predominant streetscape qualities (i.e. setbacks & design features);*
- O4 To ensure development complements the height and architectural style found in the immediate vicinity, particularly where this has a clearly established character;*
- O6 To allow reasonable redevelopment and to improve the architectural quality of building stock;*
- O7 To retain a coherent streetscape with a consistent street wall and parapet line;*

The proposal presents a building length of 38m that exceeds the 24m building length control. The length of the building along Robey Street is considered to be acceptable creating a street wall design consistent with the recommendations of the Panel and the Bayside Design Review Panel.

The proposal presents an active street frontage that is articulated by both horizontal and vertical wall elements to contribute to the visual interest within the streetscape.

The proposal is appropriately landscaped, with street trees located within the Robey Street nature strip to further soften the appearance of the proposal when viewed from the street.

Articulation is provided with the incorporation of the broken awning at the pedestrian edge to Robey Street and with the inclusion of material changes to the upper level. There is a good balance of both horizontal and vertical elements with recessed window glazing areas, solid balcony balustrades and privacy treatments at Level 1.

Parts 5.2.2.8 (Mascot Local Centre - Botany Road (C4) and 5.3.1.3 of BBDCP 2013 require that buildings are aligned along the street frontage to create a consistent street wall no higher than two storeys. The controls also state that a variation to the two storey wall height along the street frontage will only be permitted in certain circumstances where the height of adjoining buildings on the street exceeds two storeys or where the site is located on a street corner.

The proposal involves a street wall height of four storeys. While this exceeds the controls, it is consistent with the approved development adjoining to the west at 27-29 Robey Street. However, when considering the proposed articulation treatments and the consistency in the existing streetscape character on the northern side of Robey Street, the proposed 4 storey street wall height is acceptable.

The proposal, with its three storey street wall height is therefore consistent with the emerging character in this street, given the approved adjoining development to the west. Furthermore, the slightly higher street wall height does not adversely impact on the streetscape given the articulation of the building form and the proposed landscaping which allows the proposal to be integrated into the streetscape. The setbacks of the proposal from both the front and side boundaries also reduce its bulk and scale to the street such that there is a satisfactory pedestrian scale achieved for the proposal. Accordingly, it is considered that this variation is acceptable in this instance.

#### **Note 5 - Unit Mix**

Part 4C.4.1 provides controls for dwelling mix and layout and requires that developments with 10 or more units provide a maximum of 25% of the total units as studio and one (1) bedroom units. The proposed development includes 21 x one (1) bedroom units, comprising 32% of the total development, being inconsistent with this control.

The ADG does not stipulate a specific unit mix, although recommends that an 'appropriate unit mix should be provided' and should take into consideration the distance to public transport, employment, and education centres, the current market demands, projected future demographic trends and the demand for social and affordable housing. The subject site is located in close proximity to services, employment opportunities and public transport within the Mascot Local Centre to the east of the site. All of the proposed apartments comply with the minimum unit sizes and balcony sizes providing a high level of internal amenity to future residents.

The relevant objectives of the DCP controls include:

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

*O2 To ensure that apartments are flexible to suit the occupant's requirements;*

*O3 To ensure residential development contains a mix of residential types (based on the number of bedrooms) to increase the potential to accommodate all the varied family sizes in future years;*

*O4 To ensure adequate provision, design and location of internal facilities;*

The aim of these controls is to promote dwelling choice where it would not ordinarily be provided by the market. The variation is supported in this instance as the 1 bedroom unit mix exceedance is minor and the development provides a mix of unit sizes, particularly in relation to 3 bedroom apartments provided, to reflect current market demand.

The proposal is consistent with these objectives notwithstanding this variation, as the development provides a range and mix of apartment sizes comprising one, two and three bedroom apartments including adaptable units as well as some units which are family friendly (discussed below). Given the variation is minor and provides an adequate range of apartments sizes, the proposal is acceptable in this instance.

#### **Note 6- Family Friendly Apartments and Apartment Layout**

The two and three bedroom apartments are required to comply with the family friendly provisions of BBDCP 2013 so as to accommodate the living needs of families with children. The proposed apartments generally comply with these requirements with the exception of Control C2 which requires a study to be provided in each of the two and three bedroom apartments.

While approximately 23% of these apartments provide a study nook (indicated on the plans), the size of the two and three bedroom apartments are generally in excess of the minimum ADG requirement of 70sqm and 90sqm which indicates that there is sufficient size within the apartment to accommodate a desk within the open plan living area. This ensures that there is sufficient space within the proposed apartments to support the separation of conflicting activities within the living spaces. This satisfies Objective O2 and O3 which state:

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

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

Since there is sufficient room for a study nook/space to be accommodated within the open-plan living area, the proposal is generally consistent with this control.

Control C5 requires that the apartments have a minimum of two bathrooms, with at least one of the bathrooms capable of accommodating a bathtub to be used for children. This has been achieved by the proposal, although with no actual bathtubs indicated on the plans.

Control C6 requires that the private outdoor space is to be clearly visible from the kitchen. All kitchens are in close proximity to the primary balconies which are the



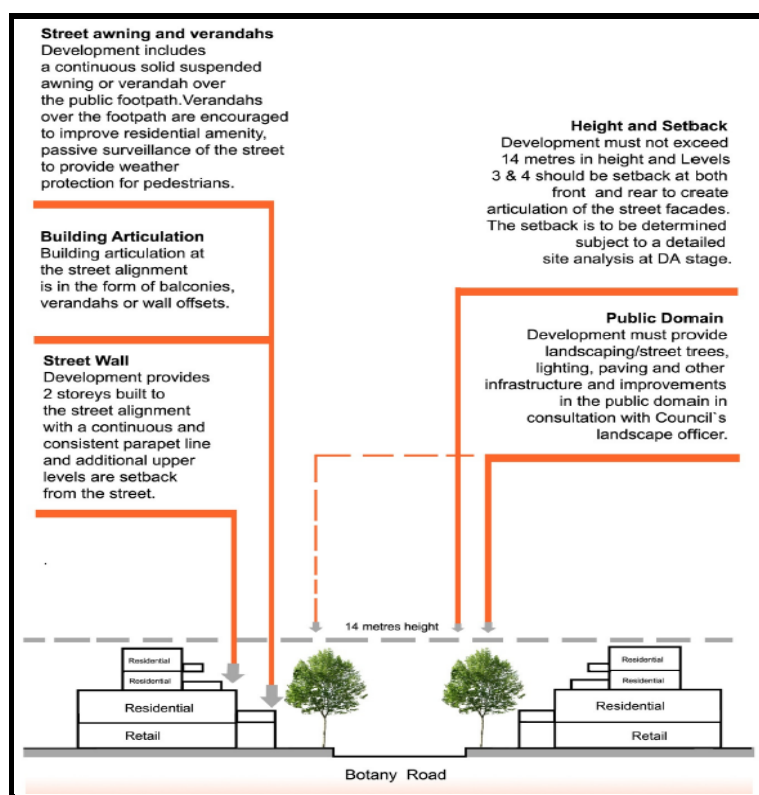
principal open space for the apartments. The private outdoor areas (balconies) are generally designed to be an extension to internal living area.

Controls C7 & C8 require that a storage space is provided near the entry and be of water-resistant materials. The plans indicate that the majority of apartments contain 50% of their storage areas within the apartment. Some apartments have generous enough space at the entry for the storage of household items whilst other apartments, due to the layout of the floor plate, have a narrow entry but provide a storage area further within the apartment, or area within a laundry. Conditions are recommended to be imposed to require a water-resistant floor covering in the entry areas. The proposal is otherwise generally consistent with these controls.

While there are family friendly apartment controls which the proposal does not strictly comply with, in general the proposal provides sufficiently sized and designed apartments to ensure families could comfortably live within these apartments. The provision of sufficient communal open space areas and equitable access throughout the building will make living in the building with small children in prams and the like more comfortable. The proposal is acceptable having regard to the family friendly provisions of the BBDP 2013.

#### *Part 5 – Business Centres*

An assessment against Part 5 relating to Business Centres, in particular the controls of Part 5.2.2.8 for the Mascot Local Centre, have been provided below insofar as they relate to the proposed development. **Figure 12** contains the controls for the Mascot Centre outlined in **Table 10**.



**Figure 111: Mascot Local Centre Controls - Part 5 of BBDP 2013 (Figure 26 of Part 5 of BBDP 2013)**

**Table 20: Consideration of Part 5 Controls (Business Centres) of BBDP 2013**

Control	Proposed	Complies (Yes/No)
<b>5.2 Character Statements For the Business Centres</b>		
<b>5.2.2.8 Mascot Local Centre (Botany Road)</b>		
<b>Public Domain/Streetscape</b> <b>C1</b> Development must provide landscaping, street trees, lighting, public seating, paving and other public domain improvements identified by Council.  <b>C2</b> Pedestrian amenity and connectivity must be enhanced in conjunction with new development. Through site links and arcades are encouraged with redevelopment to improve pedestrian access, amenity and safety.	<p>Street trees are retained and are to be augmented. Council's Landscape officer has provided conditions recommended to be imposed.</p> <p>Pedestrian amenity is satisfactory with the development adequately setback.</p>	<p>Yes</p> <p>Yes</p>
<b>Site Amalgamation</b> <b>C3</b> Redevelopment encouraged through logical lot consolidation of sites and infill development. Avoid inappropriate lot consolidation patterns that would isolate and unreasonably restrict redevelopment on a single lot.	<p>Site amalgamation and lot consolidation is proposed, and there will be no site isolation resulting from the proposal.</p>	<p>Yes</p>
<b>Building Form and Design</b> <b>C4</b> Design of development generally consistent with desired future character of the centre (Figure 26).  <b>C5</b> New development to take into account and respond sympathetically to an established streetscape with strong architectural features and identity. New buildings are to reinforce these features and contribute to its character by incorporating traditional shopfronts and building facades.  <b>C6</b> A setback to the rear may be required where a site adjoins a residential area and is to be determined following a detailed site analysis at development application stage. Applicants must therefore demonstrate to Council with the development application that the amenity of neighbouring residential properties is protected in terms of sunlight and natural daylight access privacy and visual amenity.	<p>The proposal is generally consistent with the desired future character for the area, although the proposed street wall height is four storeys when Figure 26 of the DCP indicates a maximum street wall height of two (2) storeys. While this is consistent with the adjoining development to the west, this exceeds the controls.</p> <p>The proposal is consistent with the desired future character for the area.</p> <p>Rear setback is characterised by a landscaped deep soil area, which is satisfactory.</p>	<p><b>No</b> <b>Refer to</b> <b>Note 4</b></p> <p>Yes</p> <p>Yes</p>

Control	Proposed	Complies (Yes/No)
<p><b>C7</b> Contemporary architectural design solutions encouraged, however designs will need to demonstrate that they will not lead to a replacement or diminution of a street's existing character. Council encourages diversity in building designs provided that development outcomes complement the existing character of the centre.</p>	The building is of a contemporary design, using a variety of colours and materials to minimise bulk and scale.	Yes
<p><b>C8</b> Buildings must address the street and their entries are to be readily apparent from the street. Developments on sites with two or more frontages must address both frontages, to promote, add prominence and diversity to the streetscape.</p>	The building addresses Robey Street and is consistent with the bulk and scale of the emerging street character, with mailboxes and pedestrian comfort considered in the design. The entry is 4 metres wide which is clear and legible from the street.	Yes
<p><b>C9</b> Shop top housing must have windows and/or verandahs in the street elevation to encourage surveillance of the street.</p>	Windows and balconies are provided on the upper levels which overlook the street.	Yes
<p><b>C11</b> New development when viewed from the street is to be compatible with the character of buildings within the site's visible locality by using similar shaped windows, doors and similar building materials.</p>	The proposal is compatible with the emerging character on the northern side of Robey Street and responds to the elements of low density development to the south.	Yes
<p><b>Parking and Access</b></p> <p><b>C17</b> All loading and unloading to be carried out on-site or from rear laneway where it exists.</p>	A loading dock is proposed which will allow service vehicles to enter and exit the site in a forward direction to Robey Street. Elizabeth Ave is too narrow and inappropriate for service as well as other general vehicle access.	Yes
<p><b>Advertising and Signage</b></p> <p><b>C19</b> Maintain limited advertisements and business signage to minimise visual impact.</p>	Advertising and signage will be subject to a separate (future) development application.	Yes
<p><b>Stormwater</b></p> <p><b>C24</b> A Stormwater Management System is to be provided in accordance with Part 3G - Stormwater Management.</p>	Stormwater plan provided, refer to Part 3G of BBDCP 2013.	N/A
<b>5.3 General Controls</b>		
<b>5.3.1 Built Form</b>		
<p><b>5.3.1.3 Street Setbacks</b></p> <p><b>C1</b> Buildings to be aligned along street frontage to create a consistent street</p>	A street wall height of 4 storeys is proposed.	No





Control	Proposed	Complies (Yes/No)
<b>5.3.2.4 Awnings and Verandahs</b> <b>C1</b> New development must provide awnings above the footpath to provide weather protection for pedestrians.	There is weather protection for the retail and pedestrian entries to the proposed buildings from the balconies on the first floor.	Yes
<b>5.3.2.5 Public Domain Interface at Ground Level</b> <b>C2</b> Development must be designed so that it has a clearly definable entry and addresses street.  <b>C3</b> For mixed use development which contains residential dwellings, the primary area of outdoor private open space must not be located on the street frontage, unless it is on the first floor or above.  <b>C5</b> Public domain improvement works such as footpath paving, reconstruction of kerb and gutter, landscaping, street trees, amenity area lighting and furniture may be required at the developer's expense.	An active street frontage and clear entry areas are provided along Robey Street.  There is no private open space at ground level provided along the street.  Appropriate conditions where required.	Yes  Yes  Yes
<b>5.3.2.6 Active Street Frontages</b> <b>C1</b> Development to provide active street frontages in accordance with the Active Street Frontages Map and Clause 6.15 Active Street Frontages under BBLEP 2013.  <b>C3</b> Developments must identify landscaping, street paving and furniture etc along the active street frontage to improve the private and public domain interface at the ground level. Any proposed works in the public domain must be approved by Council and be consistent with the Desired Future Character for the centre, as identified in Part 5.2 -Character Statements for the Business Centres.	An active street frontage is provided along Robey Street with shops proposed in accordance with CI 6.15 of BBLEP 2013.  Appropriate conditions where required.	Yes  Yes
<b>5.3.2.9 Landscaped Area</b> <b>C1</b> Residential setbacks from streets and parks are to support planting, at a scale that allows passive surveillance of the public domain. This requirement may vary with each block.	There is landscaping within the front and rear setbacks in close proximity to John Curtin Reserve. Relevant conditions have been recommended to be imposed as outlined by Council's Landscape officer.	Yes
<b>5.3.2.10 Private Open Space &amp; Communal Open Space</b> <b>C1</b> The primary area of outdoor private open space must not be located at	There are no balconies at ground level on the street frontage.	Yes

Control	Proposed	Complies (Yes/No)
<p>grade on the street frontage.</p> <p><b>C2</b> Communal open space can be provided at grade or on podiums and roof tops. The space must be appropriately landscaped and provided with a recreational facilities or features, for example BBQ area, seating, children's play area, landscape features or the like and must include pedestrian scale lighting, to be shown in the detailed landscape plan.</p> <p><b>C3</b> More than 70% of the communal open space area must be capable of growing plants, grasses and trees of carrying height and canopy.</p> <p><b>C4</b> Where a site adjoins a residential property, 3 metre wide landscape planting must be provided along the common boundary to provide a visual separation between the residential and the non-residential development. The area is to be mass planted with tall shrubs and suitable dense trees.</p>	<p>Communal open space is provided at the communal rooftop terrace consistent with the controls.</p> <p>The communal open space is largely located at the rooftop, remaining perimeter deep soil areas are provided to allow an adequate deep soil zone capable of growing shrubs and other landscaping. This area is considered acceptable.</p> <p>A 6 metre landscape zone is provided to the northern boundary and a similar setback with some planting to the eastern and western boundaries.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p><b>5.3.2.11 Materials and Finishes</b></p> <p><b>C1</b> A Schedule of Finishes and a detailed Colour Scheme for the building facade is to accompany all Development Applications involving building works.</p>	<p>The proposed materials and colours are satisfactory. A variety of materials and colours Are incorporated into the design using both lighter and darker tones and a mixture of glazing and panelling throughout the façades.</p>	<p>Yes</p>
<p><b>5.3.2.12 Servicing</b></p> <p><b>C1</b> New commercial or mixed use buildings must provide a loading dock on-site. Where this is not viable loading and unloading may be permitted from to a rear lane or side street subject to Council's engineer approval.</p> <p><b>C2</b> Loading and unloading areas must be well screened from the public domain and located underground where practical.</p> <p><b>C3</b> Service vehicles must enter and leave the loading dock in a forward direction.</p> <p><b>C4</b> Delivery and operation of loading</p>	<p>A loading dock is provided from Robey Street.</p> <p>The proposed loading dock has been integrated into the design of the front façade to the street and is acceptable.</p> <p>The loading dock allows vehicles to enter and leave the site in a forward direction. A condition has been imposed which requires that the site is serviced by a private contractor via an SRV until the site can be serviced by Council using such a vehicle.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Condition</p>



Control	Proposed	Complies (Yes/No)
docks is to be restricted to the approved trading hours.	Conditions required.	
<b>C5</b> No garbage collection is permitted between 10pm and 6am.	Conditions required.	Condition
<b>C6</b> Loading docks must comply with AS 2890/2 (2002) – Off-street commercial vehicle facilities.	The loading dock allows a small rigid vehicle to enter and leave the site in a forward reaction.	Yes
<b>C7</b> The largest delivery vehicle permitted will be restricted to Medium Rigid Vehicle (MRV) as denoted by AS 2890.2. Vehicles larger than MRV may be considered by Council for a large development site with loading and unloading to be carried out on-site only.	The site is to be serviced by SRVs for garbage collection as outlined above. Relevant conditions have been recommended to be imposed.	Yes
<b>5.3.3 Amenity</b>		
<b>5.3.3.1 Acoustic Privacy</b> <b>C1</b> Dwellings close to high noise sources such as busy roads, railway lines and airports must be designed to locate noise sensitive rooms and secluded private open spaces away from noise sources and be protected by appropriate noise shielding techniques.	Addressed in acoustic report.	Yes
<b>5.3.3.2 Visual Privacy</b> <b>C1</b> In some cases potential visual privacy impacts can be mitigated by incorporation of one or more of the following design measures: (i) Fixed screens of a reasonable density (min 75% block out); (ii) Fixed windows with translucent glazing (providing natural ventilation is not compromised); (iii) Appropriate screen planting or planter boxes;	The proposed windows and balconies are adequately setback from the side boundaries to ensure there are minimal overlooking opportunities. Where possible, the main living area windows are orientated to the street or the rear common open space. There is also significant landscaping proposed along the side boundaries to reduce potential overlooking between properties.	Yes
<b>5.3.3.3 Solar Access &amp; Shadow</b> <b>C1</b> Development must demonstrate: (i) Neighbouring developments will obtain at least 2 hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; and (ii) 30% of any communal open space will obtain at least 2 hours of direct sunlight between 9am and 3pm on 21 June.	There will be adequate sunlight to adjoining properties as the overshadowing from the proposal largely falls to Robey Street in the morning during mid-winter with only a minor portion of the north-eastern corner of the adjoining property to the west (No 27-29) being affected by shadow in the morning during mid-winter.  At midday, the shadow is largely cast over Robey Street.  In the afternoon, the shadow falls over the adjoining property	Yes

Control	Proposed	Complies (Yes/No)
<p><b>C2</b> The Development Application must provide solar diagrams that, as a minimum, illustrate compliance with the above control and comprise of plans and elevations demonstrating the shadows of the proposal at 9am, 12 noon, and 3pm on 21 March, 21 June and 21 December.</p> <p><b>C3</b> Buildings designed and sited to ensure sun access to private and communal open space within the development, and adjoining properties and public open space.</p>	<p>to the east along Robey Street (No 17 Robey Street). While the windows along this elevation and rear private open space will be overshadowed at this time, it will receive adequate solar access in the morning during mid-winter.</p> <p>Shadow diagrams have been provided and are acceptable.</p> <p>The rooftop communal open space area receives adequate solar access, whilst the central courtyard will be overshadow throughout the day in mid-winter until the afternoon hours. The common open space along the eastern boundary will receive solar access throughout the morning during mid-winter. The balconies of the proposed apartments will receive adequate open space.</p> <p><i>Adjoining properties</i> The adjoining property to the west (No 27-29 Robey Street) will receive adequate solar access to its communal open space (located at the rear) from midday and throughout the afternoon in mid-winter. This will also be the case for the private open space/balcony areas which are generally located to the front (from midday throughout the afternoon) and to the rear (throughout the day in mid-winter). In relation to the adjoining property to the east (No 17 Robey Street), this private and communal open space areas will receive adequate solar access in the morning and throughout the early afternoon.</p>	<p>Yes</p> <p>Yes</p>
<p><b>5.3.3.6 Stormwater Management &amp; Flooding</b></p> <p><b>C1</b> Development must comply with Part 3G - Stormwater Management.</p>	<p>Refer to Council's Engineer comments. Subject to conditions</p>	<p>Yes</p>

### *Part 8 – Character Precinct*

Part 8.7.2 Desired Future Character of the Mascot Character Precinct has been considered in the assessment of this application. The subject site is located within an area of mixed character consisting of largely single and two (2) storey detached dwelling houses with some newer construction occurring along the southern side of Robey Street, comprising the REX serviced apartments building. To the east is the linear retail shopping strip along Botany Road comprising largely shop top housing within two storey buildings.

The precinct is undergoing transition from a low density residential area to a mixed use area with commercial at ground floor and residential apartments on the upper levels over

basement car parking. This changing character has commenced with the serviced apartments to the south-west and the adjoining site to the west (No 27-29 Robey Street) gaining recent development consent for a five (5) storey mixed development similar to the current proposal. A large area of open space exists to the north-west of the site, being John Curtin Reserve.

The site is located within the B2 Local Centre zone with a frontage to Robey Street. The proposal is considered to be consistent with the function and diversity controls in that the proposal enhances the public domain due to the active street frontage provided along Robey Street, and the articulated facade and the landscaping proposed along the street frontage. Neighbourhood amenity is also provided via the casual surveillance of the street, the level and identifiable entry and the general compatibility with development in the area. The proposal retains the future character as a residential area with a dominance of high rise residential and encourages a site layout, building style and design which are consistent with the surrounding built form and dwelling styles. The proposal provides a consistent streetscape through the use of front setbacks and landscaping.

The proposal satisfies the form, massing, scale and streetscape controls in that the Robey Street frontage is integrated into the site with landscaping along this elevation. The 5 storey height however is an inappropriate scale for the area given the inconsistency with the ceiling height control will require this height to be increased. The articulation in the façade is consistent with the height and architectural style of future development in this area of Mascot. A flat roof is proposed which is of a contemporary design and is compatible with existing development.

The proposal is generally consistent with the setback controls in that the front setback is generally consistent with existing development in the area and the side setbacks are consistent with future development in the area.

In terms of solar access, the submitted shadow diagrams indicate that there will be adequate solar access to adjoining properties. Noise and traffic impacts have been addressed by the proposal as outlined in this report.

There is adequate car parking proposed as required by BBDCP 2013 and the proximity of public transport and services to the site. There are no view corridors which will be obstructed by the proposal. The proposal is consistent with the controls for the Mascot Character Precinct pursuant to Part 8.7 of the BBDCP 2013.

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

The proposed development will have no significant adverse environmental, social or economic impacts on the locality. The proposal will result in a development that contributes to the housing needs of the immediate local area and will provide commercial tenancies at ground level fronting Robey Street that will contribute to the economic viability of the locality.

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

The site is affected by flooding and appropriate conditions have been recommended.

Adequate information has been submitted to demonstrate that the site is suitable for the proposed development in relation to potential land contamination. Appropriate conditions have been recommended in the attached Schedule in relation to contamination, flooding and aircraft noise attenuation.

The traffic impacts have been considered and are satisfactory and Sydney Airport have raised no objection to the increased height of the amended design.

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

In accordance with Part 2 Notification & Advertising of the BBDCP 2013, the original amended proposal was notified to surrounding property owners and advertised in the local newspaper for a period of thirty (30) days from 5 October 2016 to 4 November 2016. Three (3) submissions were received which generally raised issue with traffic generation, overdevelopment, potential impacts on amenity, infrastructure provision, demolition of the existing warehouse building and the current state of Robey Reserve. These issues were addressed in the assessment report prepared for the Panel in December 2017.

The latest amended proposal was publicly exhibited for a period of thirty (30) days from 14 March 2018 to 24 April 2018 and was advertised in the Southern Courier. Those persons that originally made a submission were also notified. No submissions were received as a result of this exhibition period.

**(e) The public interest.**

The proposed development is in the public interest, as it will provide for housing stock within an appropriately zoned area, located in close proximity to the Mascot Local Centre and Mascot Station. It will provide services and employment opportunities through the provision of the retail tenancies, and will provide appropriate housing opportunities across a mix of apartment types (including adaptable housing).

## OTHER MATTERS

### Internal and External Referrals

The development application was referred to Council's internal referral officers as well as various external departments for comment. Appropriate conditions have been recommended to address the relevant issues raised. **Table 11** provides a brief summary of the comments raised by each referral department.

**Table 31: Internal and External Referrals**

Referral Agency	Response Date	Comments
<b>External Referrals</b>		
Sydney Airport Corporation Limited (SACL)	4 May 2018	No objection to the construction of this development to a maximum height of 27m AHD. This information has been included in the Schedule of Consent Conditions.
Sydney Water	2 November 2016	No objection to the proposed development subject to conditions. These comments have been included in the Schedule of Consent Conditions.
Water NSW	9 November 2016	General Terms of Approval have been received and have been included in the Schedule of Consent Conditions.

Referral Agency	Response Date	Comments
Ausgrid	23 November 2017 (Council)	No objections to the proposed development subject to conditions included within the Schedule of Consent Conditions.
DRP	15 February 2018	Comments are discussed in this report.
<b>Internal Referrals</b>		
Traffic Engineer / Traffic Advisory Committee	February 2017	Recommendations made at the Traffic Advisory Committee have been considered in this assessment and addressed in the amended plans, including relocating the vehicle access to Robey Street.
Landscape Architect	2 May 2018	Plans (as amended) have generally addressed the initial comments provided by the Council's Landscape Architect. Conditions have been incorporated into the Schedule of Consent Conditions.
Development Engineer	2 May 2018	Plans (as amended) have incorporated the initial comments provided by the Development Engineer. Conditions have been incorporated into the Schedule of Consent Conditions.
Traffic Engineer	1 November 2017	Plans (as amended) have incorporated the initial comments provided by the Development Engineer in that an SRV can enter and leave the loading dock/site in a forward direction. Conditions have been incorporated into the Schedule of Consent Conditions.
Environmental Scientist	9 November 2016	No objections subject to conditions which have been incorporated into the Schedule of Consent Conditions.
Environmental Health Officer	16 November 2016	No objections subject to conditions which have been incorporated into the Schedule of Consent Conditions.

### Section 94 Contributions

The Section 94 Contributions (indexed at the time of writing the report) for the proposed development are calculated as follows:

#### *Section 94 Development Contributions Plan 2016*

The construction of a five storey mixed use development containing a total of 66 apartments and commercial tenancies of 169sqm in total:

### Residential

Unit Type	Proposed	Contribution per dwelling	Total payable
1 bed	21	\$8,654.53	\$181,745.13
2 bed	39	\$14,239.60	\$555,344.40
3 bed	6	\$18,609.44	\$111,656.64
<b>TOTAL</b>	<b>66</b>		<b>\$848,746.17</b>

#### Credit for Existing Development

Pursuant to Clause 2.16(2) of the *Section 94 Contributions Plan 2016*, where existing dwellings are to be replaced by new dwellings on the site, the applicant will be entitled to a credit for one existing dwelling and the new dwelling/s will be charged at the applicable occupancy rate under the Plan. In this instance, a credit for four (4) existing dwellings on the site is to be applied to the total amount payable. This credit is for 4 x 2 bedroom dwellings. Therefore  $\$14,239.60 \times 4 = \$56,958.40$  credit.

The total contribution, following the application of this credit, is **\$848,746.17**.

#### Commercial

As the proposal lies outside of the Mascot Station Precinct, no contributions are payable for commercial development under the *Section 94 Development Contributions Plan 2016*. Contributions for commercial development in this location would be calculated under the *Section 94A Development Contributions Plan 2016* plan. However, only one of the plans can be applied to any given application. The contribution under the Section 94A plans would be significantly less than that available under the Section 94 plan, and it is therefore appropriate to require payment in accordance with the plan requiring the highest contribution.

For the condition, the breakdown is as follows:

- Community Facilities = \$145,984.34
- Recreation = \$632,315.89
- Transport = \$59,412.24
- Administration = \$11,033.70

## **CONCLUSION**

The proposed development has undergone extensive redesign in order to achieve a far greater level of internal amenity for the future residents of the site and the locality. The application has been referred to the Bayside design Review Panel and the majority of the Panels' comments have been appropriately addressed in the proposal.

The proposal seeks a 7m height variation to the maximum building height development standard which results in a 50% variation. When giving consideration to provision of compliant floor to floor heights (other than Level 1 as was previously agreed to by the Panel), and the provision of the communal rooftop terrace, the height exceedance has merit. A Clause 4.6 variation request was submitted stating that the adjoining development to the west exceeded the height limit (albeit the height exceedance was misrepresented as having an approved height of 18.4m to the lift overrun when in fact it was 16.1m with no lift overrun) and that the subject site is affected by flooding. The Clause 4.6 request to the maximum height is well founded and the variation to the height control is supported in this case.

Non-compliances with the ADG and DCP controls have been considered and are acceptable, in particular building separation, unit mix, family friendly apartments, vehicle access for service vehicle requirement as well as the building form controls requiring a two (2) storey wall height.

The amended application was the publicly exhibited for 30 days, and in the local newspaper as well as to those persons who originally made a submission. No submissions were received in relation to the amended design proposal.

The proposal has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposal is permissible within the B2 – Local Centre zone and will result in a development that is suitable in the context and locality.

Based on the above assessment the proposed development has merit and is recommended for approval, subject to the draft schedule of conditions.

**19-25 Robey Street and 5, 5A and 5B Elizabeth Avenue, Mascot**

**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.

<b>Plans</b>	<b>Author</b>	<b>Date Received</b>
Cover Page, Drawing No. DA001, Rev A dated 27 February 2018	DKO Architecture	1 March 2018
Site Analysis Plan, Drawing No. DA101, Rev A dated 27 February 2018		1 March 2018
Site Plan, Drawing No. DA102, Rev A dated 27 February 2018		1 March 2018
Demolition Plan, Drawing No. DA103, Rev A dated 27 February 2018		1 March 2018
Ground Floor Plan, Drawing No. DA201, Rev A dated 27 February 2018		1 March 2018
Level 1 Plan, Drawing No. DA202, Rev A dated 27 February 2018		1 March 2018
Level 2 Plan, Drawing No. DA203, Rev A dated 27 February 2018		1 March 2018
Level 3 Plan, Drawing No. DA204, Rev A dated 27 February 2018		1 March 2018
Level 4 Plan, Drawing No. DA205, Rev A dated 27 February 2018		1 March 2018
Roof Terrace, Drawing No. DA206, Rev A dated 27 February 2018		1 March 2018
Basement 1 Plan, Drawing No. DA207, Rev A dated 27 February 2018		1 March 2018
Basement 2 Plan, Drawing No. DA208, Rev A dated 27 February 2018		1 March 2018
Adaptable Units, Drawing No. DA209, Rev A dated 27 February 2018		1 March 2018
South Elevation, Drawing No. DA301, Rev A dated 27 February 2018		1 March 2018
North Elevation, Drawing No. DA302, Rev A dated 27 February 2018		1 March 2018
East Elevation, Drawing No. DA303, Rev A dated 27 February 2018		1 March 2018
West Elevation, Drawing No. DA304, Rev A dated 27 February 2018		1 March 2018
Section A, Drawing No. DA305, Rev A dated 27 February 2018		1 March 2018
Section B, Drawing No. DA306, Rev A dated 27 February 2018		1 March 2018
Section C, Drawing No. DA307, Rev A dated 27 February 2018		1 March 2018
Streetscape, Drawing No. DA308, Rev A dated 27 February 2018		1 March 2018



Landscape Concept Ground Floor Plan, DWG No. LSDA-201, Issue C dated 7 February 2018	Greenplan	1 March 2018
Landscape Concept Roof Floor Plan DWG No. LSDA-202, Issue C dated 7 February 2018		1 March 2018
Landscape Planting Ground Floor DWG No. LSDA-301, Issue A, dated 7 February 2018		1 March 2018
Landscape Planting Roof Floor, DWG No. LSDA-302, Issue A dated 7 February 2018		1 March 2018
Landscape Details Planting, DWG No. LSDA-401, Issue A, dated 7 February 2018		1 March 2018
Landscape Details Typical Construction, DWG No. LSDA-404, Issue A dated 7 February 2018		1 March 2018
Cover Sheet, Drawing No. SW100, Revision A dated 26 February 2018	SCG Engineering	1 March 2018
Stormwater Concept Design – Basement 2 Plan, Drawing No. SW200, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Ground Floor Plan, Drawing No. SW201, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Roof Plan, Drawing No. SW202, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Details Sheet 1 of 2, Drawing No. SW300, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Details Sheet 2 of 2, Drawing No. SW301, Issue A, dated 26 February 2018		1 March 2018
Erosion & Sediment Control – Plan & Details, Drawing No. SW400 dated 26 February 2018		1 March 2018
Stormwater Concept Design – Music Catchment Plan, Drawing No. SW500, Issue A, dated 26 February 2018		1 March 2018
Survey Plan (Ref: 3558), dated 7 June 2016	Cedar Surveying Services Pty Ltd	16 September 2016
Ground Floor Swept Paths – 6.4m SRV, Drawing No TX.01 Rev C, dated 23 February 2018	Traffix Traffic and Transport Planners	1 March 2018
Ground Floor Swept Paths – B85 & B99 Drawing No TX.02 Rev C, dated 23 February 2018		1 March 2018
Basement Level 1 B99 Circulation & Passing, Drawing No. TX.03, Rev C dated 23 February 2018		1 March 2018
Basement Level 2 B99 Circulation & Passing, Drawing No. TX.04, Rev B dated 18 January 2018		1 March 2018
Ramp Profile, Drawing No. TX.05, Rev C dated 23 February 2018		1 March 2018

Reference Document(s)	Author	Date Received
Amended Statement of Environmental Effects	Chapman	1 March 2018

	Planning Pty Ltd	
Amended Clause 4.6 variation to the height development standard dated 27 February 2018	Chapman Planning Pty Ltd	1 March 2018
Statement of Compliance: Access for people with a disability (Ref: 216196), dated 26 February 2018	Accessible Building Solutions	1 March 2018
SEPP 65 Report dated 26 February 2018	DKO Architecture	1 March 2018
Traffic Impact Assessment Rev B- Ref: 17.607v02, dated 23 February 2018	Trafix Traffic and Transport Planners	1 March 2018
BASIX Certificate No. 902705M_02, dated 25 February 2018	Senica Consultancy Group Pty Ltd	1 March 2018
NATHERS Certificates with various dates	Senica Consultancy Group Pty Ltd	1 March 2018
Acoustic Report- Ref: 20161114.1/1104A/R1/RL (Rev 1), dated 11 April 2017;	Acoustic Logic	21 April 2017
Arboricultural Assessment Report (Ref: R 17/11), dated 24 August 2016.	Angophora Consulting Arborist	16 September 2016
Arboricultural Assessment Report - Tree Impact Statement & Root Investigation dated 12 April 2017;	Naturally Trees	21 April 2017
BCA Compliance Assessment Report No. 18/002, dated 23 February 2018	Paul Aramini Consulting Pty Ltd	1 March 2018
Waste Management Plan 2018/02034 dated 22 February 2018	Senica Consultancy Group	1 March 2018
Stage 1 Desktop Environmental Site Assessment (Ref: E29461KHrpt dated 20 July 2016.	Environmental Investigation Services (EIS)	16 September 2016
Stage 2 Environmental Site Assessment (Ref: E29461KHrpt2-interim) dated 16 September 2016;	Environmental Investigation Services (EIS)	16 September 2016
Geotechnical Investigation- Ref: 29461ZRpt dated 20 July 2016;	JK Geotechnics	16 September 2016

- 2 This Consent relates to land in Lot 15 Sec A DP 4115, Lot 16 Sec A DP 4115, Lot 1 DP 946234, Lot 1 DP 455491, Lot 19 Sec A DP 4115, Lot C DP 418600 and Lot 1 DP 931264 and as such, building works must not encroach on to adjoining lands or the adjoining public place, except as otherwise permitted by this consent.
- 3 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:
    - (a) The consent authority; or
    - (b) An accredited certifier; and
  - b) The person having the benefit of the development consent:

- (a) Has appointed a principal certifying authority; and
  - (b) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
  - (c) The person having the benefit of the development consent has given at least 2 days' notice to the council of the persons intention to commence the erection of the building.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 5 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for each building in the development are fulfilled.
  - a) Note:
 

Relevant BASIX Certificate means:

    - (a) 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
    - (b) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
    - (c) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

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

- 6 The following conditions provided by **Ausgrid**:
  - a) 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).
  - b) In general, works to be considered by Ausgrid include, but are not limited to, the following:
    - (i) Changes in electrical load requirements
    - (ii) Changes to Ausgrid's infrastructure (i.e. asset relocations, decommissioning substations etc.);
    - (iii) Works affecting Ausgrid's easements, leases and/ or right of ways
    - (iv) Changing the gradients of any roads or paths
    - (v) Changing the level of roads or foot paths

- (vi) Widening or narrowing of roads
    - (vii) Closing roads or laneways to vehicles
    - (viii) In all cases Ausgrid is to have 24 hour access to all its assets
  - c) Any work undertaken near overhead power lines needs to be done in accordance with:
    - (i) WorkCover Document ISSC 23 "*Working Near Overhead Power Lines*"
    - (ii) Ausgrid's Network Standard
    - (iii) Ausgrid's Electrical Safety Rules
  - d) The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrid's network.
- 7 The conditions provided by **Sydney Airport Corporation Limited (SACL)** in their letter dated 7 May 2018 are imposed:
- a) The approved development is permitted to be constructed to a maximum height of 27.0 metres AHD. Should you wish to exceed this height a new application must be submitted.
- 8 The conditions provided by **Sydney Water** in their letter dated 3 November 2016 are imposed.
- 9 The conditions provided by **Water NSW** in their letter dated 9 November 2016 are imposed.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE DEMOLITION OF ANY BUILDING OR STRUCTURE**

- 10 A Hazardous Building Material Assessment (HBMA) shall be carried out and a report provided to council to ensure that any hazardous materials that may have been used within the structural components of buildings and infrastructure are adequately addressed to protect site personnel and the public from the risk of exposure. This shall be undertaken by an appropriately qualified consultant and shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the demolition of any building or structure.
- Should any hazardous materials be identified a Work Management Plan completed in accordance with *AS2601 – Demolition of Buildings* shall be submitted to the Principal Certifying Authority prior to the demolition of any building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.
- 11 Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

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

- a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
  - b) Induction training for on-site personnel;
  - c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
  - d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
  - e) Disconnection of Gas and Electrical Supply;
  - f) Fire Fighting – Firefighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
  - g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
  - h) Waterproofing of any exposed surfaces of adjoining buildings;
  - i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
  - j) Working hours, in accordance with this Development Consent;
  - k) Confinement of demolished materials in transit;
  - l) Proposed truck routes, in accordance with this Development Consent;
  - m) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
  - n) Sewer – common sewerage system.
- 12 Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
- 13 Vibration levels induced by the demolition activities shall not exceed levels listed in Standard DIN 4150-3 (1999-02), Structural vibration Part 3 – Effects of vibration on structures Table 12-7. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises. Prior to commencement a specific vibration monitor shall be set up to monitor and record the vibration levels affecting surrounding buildings.
- 14 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.

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

- 15 The applicant must prior to the issue of any Construction Certificate, pay the following fees:
- (a) Development Control \$2,940.00
  - (b) Builders Security Deposit \$47,000 (Refer to Condition below)
  - (c) Section 94 Contributions **\$848,746.17** (Refer to Condition below)
- 16 Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$47,000.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
- 17 Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans, a contribution of **\$848,746.17** is payable as calculated below:

***City of Botany Bay Section 94 Contributions Plan 2016***

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

a) Community Facilities	= \$145,984.34
b) Recreation	= \$632,315.89
c) Transport	= \$59,412.24
d) Administration	= \$11,033.70

**TOTAL: \$848,746.17.**

The total Section 94 Contribution of **\$848,746.17** is to be paid to Council prior to the issue of any Construction Certificate.

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

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

- a) Storage areas are to comply with the minimum ADG requirement of 6sqm for 1 bedroom apartments, 8sqm for 2 bedroom apartments and 10sqm for 3 bedroom apartments. 50% of the storage area is to be included within the apartments. A breakdown of the storage area is to be provided within a Schedule;
  - b) Front entries of the apartments, dining rooms, kitchen floors and internal storage areas are to be finished with materials that are water resistant and easy to clean (family friendly apartment provisions of the BBLEP 2013).
- 19 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the relevant Construction Certificate. The garbage and recycling storage area shall be adequately ventilated. 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.
- 20 The drawings for the construction certificate for the basement shall show the following parking requirements:
- a) Residential - 111 car parking spaces;
  - b) Visitor - 14 car parking spaces;
  - c) Commercial – 8 car parking spaces;
- Any excess parking is to be allocated to residential apartments. This information is to be provided prior to the issue of the relevant Construction Certificate.
- 21 The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the certifying authority prior to the issue of the relevant Construction Certificate and the building plans endorsed with the required acoustical measures.
- The measures required in the approved acoustical assessment report 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.

- 22 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Certifying Authority prior to the issue of the relevant Construction Certificate and its location and specifications endorsed on the construction drawings.
- 23 Prior to the issue of the relevant construction certificate, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
  - b) Negotiate with the utility authorities (e.g. Ausgrid, Sydney Water, Telecommunications Carriers and Council in connection with:
    - i. The additional load on the system, and
    - ii. The relocation and/or adjustment of the services affected by the construction.
- 24 Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority.
- The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
- 25 A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of any Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed;
  - b) The proposed phases of construction works on the site and the expected duration of each construction phase;



- c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
  - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
  - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
  - f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
  - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
  - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent;
  - i) Proposed protection for Council and adjoining properties;
  - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation; and
  - k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- 26 Prior to the release of the Construction Certificate, the applicant shall provide certification from a suitably qualified Traffic Engineer to the Private Certifying Authority attesting that the design of the proposed development is in accordance with the approved Traffic Management Report by Traffix.
- 27 Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications, currently under review. These include but are not limited to E-01, E-04, E-07 and E-16.
- As part of this development, a new driveway layback shall be constructed as part of the new driveway. A minimum 1.0 metre length of existing kerb and gutter on each side of the driveway layback shall be removed and replaced with new kerb and gutter to enable a transition for a correct tie-in with proposed public domain works.
- The design shall be submitted to the Private Certifying Authority for approval and the approved design shall form part of the subsequent road opening permit application.
- 28 Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be

prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:

- a) be prepared by a RMS accredited consultant;
- b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police;
- c) during construction, where 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 Council and/or NSW 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.*

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

- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines; and
- b) The applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure;
- c) All service vehicles shall enter the property front in front out;
- d) Demonstrate safe headroom clearance is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Small Rigid Vehicle (SRV);
- e) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
- f) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.

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

- a) Disabled car parking spaces shall be provided and clearly marked as per the Traffic Impact Assessment Report by Traffix, dated February 2018,

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.
- 31 Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant’s expense.
- 32 You are advised that Bayside Council’s current adopted flood level for this location is RL 5.99m AHD. The proposal includes habitable/non-habitable areas that are below the flood level, the approved floor levels are 5.80m AHD for the commercial tenancies. Use of this development should reflect the flood risk. Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 6.50 metres Australian Height Datum, which is 500mm above the 1% Annual Exceedance Probability (AEP) Flood level.
- 33 Prior to the issue of the construction certificate, details shall be provided certifying that the proposed substation chamber is flood proofed/protected up to a level of at least RL 6.50m AHD.
- 34 Prior to the issue of the Construction Certificate, the subsurface structures shall be designed with a waterproof retention system (ie tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and “flotation” (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably qualified engineer. Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.
- 35 A civil design plan must be prepared by a suitably qualified engineer and be approved by Council public domain department for all frontage works that are required to be constructed within the public domain. The frontage works shall be in accordance with any Council town centre plans and standard design drawings. Preliminary consultation with Council public domain department is highly recommended.
- 36 **Prior to the issue of the Construction Certificate**, A Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided, the flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The Plan must make provision for the following:
- (a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development.
  - (b) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.

- (c) Flood warning signs/depth indicators for areas that may be inundated.
- (d) A flood evacuation strategy.
- (e) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
- (f) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

Flood modelling data can be obtained from Council on payment of the appropriate fee.

- 37 Prior to the issue of the Construction Certificate, all surface runoff from parking facilities and access ways shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted to the Principal Certifier.
- 38 Prior to the issue of a construction certificate, the applicant shall detail the provision for a traffic management & vehicle priority system at the top of the basement ramp & around the loading bay to help reduce the likelihood of vehicular crashes around this key circulation area.
- 39 Prior to the issue of the Construction Certificate, the applicant shall confirm the location of the Council pipeline that traverses the property. A report prepared by a qualified plumber certifying the location, depth and width of this pipeline shall be provided to the satisfaction of the Principal Certifier.
- 40 Prior to the issue of Construction Certificate, if neighbouring properties or roadway are to be utilised for excavation support, the legal rights of any adjoining properties must be respected including for permanent and temporary excavation supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for excavation support or other material in adjacent lands must be lodged to the principal certifier.

Where excavation support materials are proposed to be used in public land, an application must be made to Council for approval under Section 138 of the Roads Act 1993, via a permit application. The submission will need to be supported by an engineering report prepared by a suitably qualified engineer, with supporting details addressing the following issues:

Demonstrate that any structures will not adversely affect public infrastructure, and the proposed supports within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.

The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.

- 41 A suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1%

AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.

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

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

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

- a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and **permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition;**
- b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG;
- c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site;
- d) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011;
- e) The submission of detailed calculations including computer modelling where required supporting the proposal;
- f) The finished floor levels of any non-habitable and habitable buildings/structures shall be minimum 100mm and 300mm above the maximum top water level of the OSD system, which free-standing OSD tanks, situated on a the ground floor slab, would not be able to achieve;
- g) Particular attention is also drawn to the requirements of SMTG Part 6, with respect to 6.2 (i) and (iii) – Discharge Control Pit and Storage Tank configuration; 6.2 (viii) and (x) – Orifice plate requirements; Part 7 – Underground Structures; Part 8 – Finished Floor Levels;
- h) Concrete encasement of stormwater drainage pipelines within proposed Council drainage easements is not permitted by Council. Furthermore, the proposed diversion of stormwater drainage pipelines within proposed easements shall be shown on plans (with long-sections showing cover over pipes, pits and pit sizes, pipe sizes, pipe gradients, pipe material, and other

relevant pipe characteristics) to be submitted to Council for approval prior to the issue of a construction certificate. The detailed design shall be in accordance with the requirements of Parts 12 and 13 of the SMTG. All costs involved in the creation, dedication and registration of the easements shall be born entirely by the applicant, and the easements shall be registered with Land and Property Information NSW prior to the issue of the Final Occupation Certificate; and

- i) The basement shall be protected from inundation up to and including the 1% AEP flood by a driveway crest situated on land that is not public land, and with a flood planning level of the 1% AEP flood level plus 300mm freeboard.

43 Prior to the issue of any Construction Certificate, detail design and construction plans in relation to the Council pipeline diversion for the development shall be submitted to the 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) Detailed hydraulic assessment that includes analysis of upstream catchments and hydraulic performance of the proposed system is required to be undertaken for the proposed diversion of Council assets within the property. The existing connections to adjoining properties shall be investigated and maintained. The new proposed pipeline shall have a minimum capacity for a 20 year ARI event. The existing, redundant pit on Robey Street, within the frontage of 21 Robey Street, shall be investigated for if it requires upgrade and/or relocation. The existing pit on Elizabeth Avenue shall be investigated for whether it requires upgrade and/or relocation. The current catchment of Elizabeth Avenue and surrounding properties drains to the existing system within the property, the proposed Council drainage system shall consider the Stormwater run-off generated from Elizabeth Avenue and surrounding properties that are currently draining to the existing system within site. A connection to the existing drainage infrastructure within the frontage of 1-3 Elizabeth Avenue may be required for the development.
- b) Detailed plans & analysis shall indicate the proposed diversion of Stormwater drainage pipelines within proposed easements shall be shown on plans (with long-sections showing cover over pipes, pits and pit sizes, pipe sizes, pipe gradients, pipe material, and other relevant pipe characteristics) to the Robey Street Council drainage system from the end of Elizabeth Avenue & the end of John Curtin Reserve. The detailed design shall be in accordance with the requirements of Parts 12 and 13 of the SMTG and the diversion is to be contained wholly within the subject property and Council property. The final drainage easement locations shall be located wholly within the site. The details required above shall be submitted to Council for assessment and approval. All costs involved in the creation, dedication and registration of the easements shall be born entirely by the applicant, and the easements shall be registered with Land and Property Information NSW prior to the issue of the Final Occupation Certificate.

- 44 Prior to the issue of Construction Certificate, the applicant is to submit payment for a Street Tree Planting Bond of \$6,000 to ensure the installation and establishment of specific street trees in accordance with Councils *Street Tree Master Plan*. Establishment includes watering for a period of six months following installation. The duration of the Bond shall be limited to a period of 6 months after Council approval of the planted tree. At the completion of the 6 month period the Street Tree Planting Bond shall be refunded pending a satisfactory inspection by Council. If the tree was found to be in decline, damaged, dead, excessively pruned or removed then all or part thereof of the bond shall be forfeited to allow Council to replace or maintain the tree.
- 45 The **Final Landscape Plan** generally in accordance with the approved Landscape Plan prepared by Greenplan (Issue A, dated 23 February 2018) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by Council's Landscape Architect prior to the issue of the Construction Certificate. The landscape documentation 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;
    - (i) Robey Street Tree Planting, the following is to be installed:
      - 2 x trees - *Fraxinus griffithii* min. height 1.4 metres and pot size (45 litre) and 1 x *Callistemon viminalis* (Botany *Street Tree Master Plan 2014*) shall be installed in the Robey Street nature strip at 7 metre centres by a qualified landscape contractor to aid to the public amenity are required along the Robey Street reserve;
      - A Dial-Before-You-Dig enquiry is required prior to all tree planting;
      - The shrubs shall be planted in an area measuring 1 metre square, backfilled with imported soil/compost, water holding additive and fertiliser, and mulched with leaf mulch to a depth of 100mm. The trees are to be staked in accordance with Council's Landscape DCP and NATSPEC recommendations;
      - Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post planting;
      - The Applicant is required to obtain a Council inspection of new trees prior to the maintenance period commencing;
      - Verge plantings of low shrubs and groundcovers are also highly encouraged for aesthetic appeal to the streetscape of Robey Street. This verge under planting species should consist of Dianellas, Lomandras, native grasses and groundcovers such as *Brachyscome multifida* and *Chrysocephalum apiculatum*;
  - b) 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;

- c) 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;
  - d) Indicate the location of all basement structures relative to the landscape areas;
  - e) A tree removal and tree retention plan is required to be submitted that clearly shows trees numbered to correspond with the Arborist report;
  - f) Areas of paving, schedule of materials, edge treatments, tactile and sectional construction details. Use of WSUD initiatives or materials is required to be indicated. All internal access driveways, parking areas and pedestrian walkways shall be unit paved (interlocking pavers). Large areas of asphalt or concrete are not permitted. The basement driveway shall be constructed of plain broom finished concrete;
  - g) Impervious surfacing is to be minimised. Permeable pavements are to be used where possible, e.g. Decks, pebbles, spaced pavers, specialised permeable pavers (DCP - 3L Landscaping and Tree Management);
  - h) Rigid polyethylene sheet type tree root barriers shall be installed alongside the kerb and footpath edge for all new street trees for a depth of 900mm, for 3 metres each side of the tree centre and shall be located 150mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the root ball are not permissible. Trees planted within paved areas shall have the barriers installed around the inside edge of the pavement cut-out. The Applicant is required to contact Council's Landscape Architect for an inspection of root barriers located within the public domain prior to backfilling and turfing; and
  - i) A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable.
- 46 Side boundary fences forward of the building alignment shall be no more than 1 metre in height. Encourage and retain fencing character, styles and height for each street which may in some circumstances include no fences.
- 47 Planter boxes constructed over podium shall be built in accordance with the following requirements:
- a) Ensure soil depths in accordance with Council's DCP. 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; and

Details are to be provided on the Final Landscape Plan prior to the issue of the Construction Certificate.

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

48 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.

49 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.

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

51 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
  - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
  - c) Permit to install temporary ground anchors in public land;
  - d) Permit to discharge ground water to Council's stormwater drainage system;
  - e) Permit for roads and footways occupancy (long term/ short term);
  - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve;
  - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services;
  - h) Permit to place skip/waste bin on footpath and/or nature strip; and
  - i) Permit to use any part of Council's road reserve or other Council lands.
- 52 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 53 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.
- 54 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 55 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:
    - (a) must be standard flushing toilet; and
    - (b) must be connected:
      - to a public sewer; or
      - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or
      - if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
  - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 56 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 57 Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 58 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.
- 59 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.
- 60 For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.
- All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 61 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 62 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.

- 63 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 Bayside 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.
- 64 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.
- 65 In order to ensure that the Trees 17 and 26 are protected during construction, and its health and structural stability ensured, the following is required:
- a) Engage the Consultant Arborist for all tree root and canopy work to trees. Comply with recommendations and requirements and management plan contained within the *Tree Risk Assessment Report* by Angophora consulting Arborist, dated 24 August 2016.
  - b) 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/Landscape Plan.
  - c)
    - (i) 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 or 1.5 metre steel pickets and nylon para-webbing/hessian to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete;
    - (ii) 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;
    - (iii) Fencing shall be erected to ensure the public footway is unobstructed;
    - (iv) 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);
  - d) 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;
  - e) All detailed Construction Certificate plans shall show trees to be protected and the TPZ;

- f) All TPZ's as well as the entire Council nature strip are a "No-Go" zone. 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);
  - g) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage;
  - h) Excavation within the canopy dripline or within an area extending 3 metres outward of the canopy dripline of any tree shall be carried out manually using hand tools to minimise root damage or disturbance;
  - i) Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer (or the consulting Arborist) after a site inspection so as not to unduly impact or stress the tree;
  - j) It is the Applicant's responsibility to ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under separate application. This will be required for Tree NO 20 (Council Street Tree). Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- 66 Sub-surface OSD tanks and infiltration trenches are to be located at least 3 metres away from the canopy dripline of any existing tree to be retained and not located where it will limit the planting of trees on the site. Excavation proximate to trees shall be carried out manually using hand tools, or with small machinery to minimise tree root damage, disturbance or soil compaction. If tree roots are encountered Council's Tree Officer must be called for a site inspection. If tree roots cannot be cut without compromising the tree then the OSD will be required to be re-configured or relocated.
- 67 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 Robey Street road reserve and the pipes traversing 21 Robey Street between Robey Street and Elizabeth Avenue. The camera and its operation shall comply with the following:
- a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner;
  - b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints;
  - c) Distance from the manholes shall be accurately measured; and
  - d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council prior to the commencement of any works. A written

acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

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

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

- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services;
- b) Negotiate with the utility authorities (e.g. Ausgrid, Sydney Water, Telecommunications Carriers and Council in connection with:
  - (a) The additional load on the system; and
  - (b) The relocation and/or adjustment of the services affected by the construction;
- c) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider; and
- d) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

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

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

70 If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:

- a) Must preserve and protect the building/ fence from damage; and
- b) If necessary, underpin and support such building in an approved manner;
- c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish

particulars of the excavation to the owner of the building being erected or demolished;

- d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
- e) If the soil conditions required it:
  - i) Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:
  - ii) Adequate provision must be made for drainage.

### **DURING WORKS**

71

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council;
- b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition;
- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.

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

73 Separate permits are required to be obtained and approved by Bayside Council for all works including but not limited to road and footpath closure, stand and operate a

registered vehicle or plant, occupy road with unregistered item, work zone, hoarding, shoring support (anchoring), tower crane operation, public land access, temporary dewatering, and any excavation and works proposed to be undertaken on public land. Note: A permit is required for the construction of Council drainage under section 68 of the local government act and/or the roads act.

- 74 The construction of the Bayside Council pipe diversion shall be inspected by Bayside Council's engineering department prior to backfill as per the instructions of the issued permit. A minimum 5 working day notice shall be given to Council prior to inspection. An inspection fee is required to be paid prior to inspection.
- 75 The approved elements including driveways, stormwater connections, (etc) prevail over the location of existing utility services and power poles. All services shall be adjusted at the applicants cost to suit the construction of approved design elements.
- 76 Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete;
  - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete;
  - c) Formwork inspection of Council's footpath prior to laying of concrete;
  - d) Final inspection of driveway layback and adjacent kerb and gutter;
  - e) Final inspection of Council's kerb and gutter;
  - f) Final inspection of Council's footpath.
- 77 During demolition, excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
- 78 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
- 79 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 80 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:



- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operations (Waste) Regulation 2014;
  - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 81 A clearance certificate for the removal of asbestos from the site shall be prepared by a suitably qualified 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 report shall provide a notice of completion of asbestos remediation works at the site and shall be submitted after completion of asbestos removal works and prior to the commencement of building works on the site. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority).
- 82 For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 83 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 84 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.
- 85 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
  - b) Protection of the Environment Operations Act 1997; and

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

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

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

- a) The Soil and Water Management Plan;
- b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
- c) Protection of the Environment Operations Act 1997.

- 87 Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

- 88 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.

- 89 Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.

- 90 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 Interim Construction Noise Guideline 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.
- 91 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.
- 92 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.
- 93 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.

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

- 94 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C (1)(c) and 109M of the *Environmental Planning and Assessment Act 1979*.
- 95 Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
- 96 Prior to the issue of the Occupation Certificate, the public footpaths in Robey Street and Elizabeth Avenue 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).
- 97 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source.

Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

- 98 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.
- 99 The consolidation of all allotments into one allotment must be undertaken. Details demonstrating compliance with this requirement are to be submitted to the satisfaction of the Principal Certifying Authority prior to the release of the Final Occupation Certificate. Evidence of registration shall be submitted to Council or the Principal Certifying Authority prior to occupation and use of the building.
- 100 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two and three bedroom apartments.
- 101 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
- a) 111 residential spaces;
  - b) 14 visitors spaces;
  - c) 8 commercial/retail spaces;
  - d) 1 carwash bay located in the basement car park level;
- Any excess parking is to be allocated to an apartment.
- 102 Prior to the issue of the relevant Occupation Certificate, at least 14 bicycle spaces are to be provided in the car park.
- 103 Prior to the issue of any Occupation Certificates:

- a) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, 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;
  - b) 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 a directory board or notice board, where it can easily be observed and read by persons entering the building; and
  - c) Where a building is to be Strata subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
- 104 Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
- 105 Prior to the issue of any Occupation Certificate, the applicant shall lodge an infrastructure performance bond to safe guard against defective public civil works (associated with the Council pipeline diversion) undertaken by the main contractor for a period of twelve (12) months from the date of completion as agreed by Council. The bond shall be lodged in a form of cash deposit, cheque or unconditional bank guarantee, which will be refundable (with no interest) subject to the approval of Councils Engineers at the end of the maintenance period. Council will require a cost estimate prepared by a Quantity Surveyor in accordance with Rawlinsons Construction Cost Guide or equivalent. The cost of work shall include, but not limited to, construction of the pipe/pits, filing, excavation, traffic control, reinstatement of landscaping/paving and any other associated works with the pipeline diversion. The required bond amount to be lodged with Bayside Council shall be subject to the cost estimate as approved by Council, with consideration for inflation & unexpected costs over the bond period. During this bond period, the contractor is liable for any part of the work, which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.
- 106 An easement to drain water shall be created over the Council pipe(s) that traverses the site and be to the benefit of Council. The terms of the easement shall be in accordance with the Conveyancing Act, the easement shall be legally registered with the relevant authority. The width of the easement shall be in accordance with Council specifications. All costs involved in the creation, dedication and registration of the easements shall be born entirely by the applicant, and the easements shall be registered with Land and Property Information NSW prior to the issue of the Final Occupation Certificate;
- 107 Should the flood risk management report require a flood evacuation plan. The flood evacuation plan shall be located and fixed in a suitable location that can be accessed by all residents/occupiers to the satisfaction of the principal certifier.
- 108 Prior to the issue of any Occupation Certificate, a suitably qualified engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification.

109 The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or principal certifier upon request

110 Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property, where applicable:

- a) The car park has been completed, line marked and all signage relating to car parking erected;
- b) A notice has been clearly displayed at the Robey Street frontage to indicate that visitor parking is available within the property with access from Robey Street.

111 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 condition of the existing and new stormwater drainage infrastructure on **Robey St, Elizabeth Avenue and the site**.

The camera and its operation shall comply with the following:

- e) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner;
- f) 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;
- g) Distance from the manholes shall be accurately measured; and
- h) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council for review. Any damage to the culvert/pipeline since the commencement of construction on the site shall be repaired in full to the satisfaction of Council. A written acknowledgement shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

112 On completion of the development construction and prior to the issue of the Occupation Certificate, the following asset details shall be submitted to Council for consideration, in Excel format;

For each pit

- Pit code as per the work-as-executed plan.
- Pit type and lintel size.
- Total value to the nearest \$1,000.
- Construction date – month and year.
- Built by (contractor's name).
- Street name where applicable.
- Grate RL (AHD).
- Invert RL (AHD).

For each conduit

- Line code as per the work-as-executed plan.
- Description – type, eg RCP, FRC, RRJ, box culvert, open channel, etc.\
- Size (mm).
- Length (m).
- Total value to the nearest \$1,000.
- Construction date – month and year.
- Built by (contractor's name).
- Street name where applicable.

113 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.

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

- a) On Robey St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction;
- b) On Robey Street and Elizabeth Avenue St, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications;
- c) On Robey Street, adjacent to development, construct new stormwater pipe underneath and adjacent to the new kerb & gutter location and repair (where required), at the applicants expense, Council's Stormwater Drainage Infrastructure as per Council's Infrastructure specifications;
- d) On Elizabeth Avenue, adjacent to development, construct kerb and gutter, drainage pits and pipes to be confirmed in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction;
- e) Reconstruct the blind end of Elizabeth Avenue where the road pavement is more damaged as per civil engineering design and in accordance with Council Infrastructure specifications and with the written approval by Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer.

The Robey Street public footpath shall be constructed in accordance with Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with this specification only. Pavers shall be ordered accounting for adequate lead time for manufacture.

Construction hold points and Council inspections are required at the following points:

- (i) after formwork installation and to prior pouring the concrete blinding slab,
- (ii) at the commencement of paving works, and

(iii) at final completion.

Council approval of public domain works is required prior issue of Occupation Certificate.

Elizabeth Avenue footpath to be constructed to Council standard. This footpath should be accessible and be minimum width of 700mm

- 115 Prior to the issue of any Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
- 116 Prior to the issue of any Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the *Conveyancing Act 1919* and lodged with the NSW Land and Property Information:
- a) The pathway as indicated on the landscape plan along the northern boundary is to remain private with a public Right of Footway over the path from Elizabeth Avenue to John Curtin Reserve and must be noted as such on any future strata title subdivision. Appropriate access control gates and ambient lighting is required to provide adequate safety for residents outside of daylight hours.
  - b) Restrictions on Use of Land and Positive Covenants for On-site Stormwater Detention systems and Stormwater Quality Improvement Devices (SQIDs). Refer to Appendices B and E of the SMTG for suggested wording.
  - a) Waste collection is to be undertaken within the site by a private collection service using a small rigid vehicle until such time as Council vehicles are able to access the site.

*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.*

- 117 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.
- 118 That before entering a lease/occupancy agreement, all tenants and occupiers of the development is to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes. Prior to the issue of the relevant Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building.
- 119 Prior to release of the any Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic



engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

- 120 All services (Utility, Council, etc.) within the road reserve (including the footpath) shall be relocated and/or adjusted to match the proposed/existing levels as required by the development.
- 121 Prior to the issue of any Occupation Certificate, an application is to be made to Council for the new street numbers for the development. All street numbers are to be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
- 122 Prior to the issue of any Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
- (a) All reduced levels shown upon the approved plans, with relation to the drainage, boundary and road reserve levels, have been strictly adhered to; and
  - (b) A Floor Space Ratio (FSR) of 2:1 and height of RL 27m AHD as approved under this Development Consent No. 16/165, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
  - (c) The development as built stands within Lot 15 Sec A DP 4115, Lot 16 Sec A DP 4115, Lot 1 DP 946234, Lot 1 DP 455491, Lot 19 Sec A DP 4115, Lot C DP 418600 and Lot 1 DP 931264.
- 123 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.
- 124 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).
- 125 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the Bayside Council prior to the Issue of an Occupation Certificate.
- 126 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.
- 127 Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

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

- 128 The use of the retail tenancies is subject to a separate approval (DA or complying development certificate).
- 129 Any signage or advertising is subject to a separate approval (DA or complying development certificate).
- 130 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.
- 131 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.
- 132 Ongoing maintenance of the road verges and footpaths and nature strips in Robey Street and Elizabeth Avenue shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
- 133 The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
- 134 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
  - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
  - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

- (d) For assessment purposes, the above  $L_{Aeq}$  sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 135 All intruder alarms shall be fitted with a timing device in accordance with the requirements of the *Protection of the Environment Operations (Noise Control) Regulation 2008*, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.
- 136 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.
- 137 All loading and unloading associated with the retail tenancies are to be undertaken within the ground floor loading dock.
- 138 The loading dock shall not be used between the hours of 6pm and 6am Monday to Sunday.
- 139 No garbage collection associated with the retail premises is permitted between 10pm and 6am.
- 140 The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.
- 141
- (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.
- 142 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.
- 143 You are advised that Bayside Council's current adopted flood level for this location is RL 5.99m AHD.

This building includes habitable/non-habitable areas that are below the flood level, the approved floor levels are 5.80m AHD for the commercial tenancies. Use of this development should reflect the flood risk.

- 144 Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 6.50 metres Australian Height Datum, which is 500mm above the 1% Annual Exceedance Probability (AEP) Flood level.
- 145 The operation of the development and movements of vehicles for both the residential apartment and commercial/retail car park uses shall comply with the following requirements:
- a) All vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction;
  - b) The maximum size of vehicle accessing the loading bay shall be limited to 6.4m long Small Rigid Vehicle (SRV) (as denoted in AS2890.2);
  - c) Loading and unloading activities associated with the delivery shall take place wholly within the dedicated loading area;
  - d) The maximum number of delivery vehicle on-site at any one time shall be limited to one (1).