

SYDNEY CENTRAL PLANNING PANEL DETERMINATION MEETING

JRPP No	2017SCL031
DA Number	DA14/146/03
Local Government Area	Bayside Council
Proposed Development	<p>Section 96(2) application to modify Development Consent No. 14/146 approved by the former Joint Regional Planning Panel for Integrated Development – The proposal comprises:</p> <ul style="list-style-type: none"> - Modify approved unit layouts and mix in Building B, increasing the overall number of residential apartments from 470 to 500 and reducing the overall floor space ratio by 138.1 sqm; - External changes to window and balcony position due to internal unit configuration; - Repositioning of rooftop skylights due to internal unit reconfiguration; and - Update the approved car parking schedule for Basement Level 1, Level 1 and Level 2 to reduce the overall parking from 739 spaces to 725 spaces; - Changes to the Section 94 contributions to reflect the proposed change in unit mix.
Street Address	256 Coward Street, Mascot
Applicant/Owner	Krikis Tayler Architects
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	Section 96(2) Application to modify a consent determined by the former Joint Regional Planning Panel on 12 June 2015.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • List all of the relevant environmental planning instruments: s79C(1)(a)(i) <ul style="list-style-type: none"> ○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; ○ Botany Bay Local Environmental Plan 2013; • List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii); <ul style="list-style-type: none"> ○ Nil

	<ul style="list-style-type: none"> • List any relevant development control plan: s79C(1)(a)(iii); <ul style="list-style-type: none"> ○ Botany Bay Development Control Plan 2013; • List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv); <ul style="list-style-type: none"> ○ Draft Voluntary Planning Agreement for public commuter car park. • List any coastal zone management plan: s79C(1)(a)(v) <ul style="list-style-type: none"> ○ Nil • List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288; <ul style="list-style-type: none"> ○ Nil
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Planning Assessment report with amended conditions, amended architectural plans and supporting information.
Recommendation	Approval
Report by	Christopher Mackey – Coordinator - Development Services

EXECUTIVE SUMMARY

On 12 June 2015, the former Joint Regional Planning Panel – Sydney East determined to approve Integrated Development Application No. 14/146 for the:

- Demolition of the existing commercial building, removal of trees and construction of two 14 storey mixed use buildings containing 1440sqm of retail and 470 residential apartments.
- Three basement levels and one ground level of car parking will be provided below Building A, linking with the basement for the adjoining building at 39 Kent Road. Building B includes one basement level and three above ground parking levels.
- The proposal provides a total of 739 car parking spaces plus a public pay car park for approximately 93 car parking spaces.
- A Voluntary Planning Agreement under S93F of the Environmental Planning and Assessment Act, 1979 accompanies the development application for the proposed works which include:
 - Dedication and embellishment of a through site link to provide public pedestrian access from Coward Street to John Street.
 - Provision of a public pay car park accommodating approximately 93 car parking spaces.

Council received this Section 96(2) application on the 2 March 2017, which seeks to:

- Modify approved unit layouts and mix in Building B, increasing the overall number of residential apartments from 470 to 500 and reducing the overall floor space ratio by 138.1 sqm;
- External changes to window and balcony position due to internal unit configuration;
- Repositioning of rooftop skylights due to internal unit reconfiguration; and
- Update the approved car parking schedule for Basement Level 1, Level 1 and Level 2 to reduce the overall parking from 739 spaces to 725 spaces;
- Changes to the Section 94 contributions to reflect the proposed change in unit mix.

The proposed changes to apartment mix in Building B result in changes to parking requirements and Section 94 Contributions imposed on the consent. The Botany Bay Section 94 Contributions Plan 2016 therefore applies to the Section 96 application as an increase in apartments is proposed. This will marginally increase the Section 94 contribution for Building B applied under Condition No. 43. A number of other condition changes are required and discussed further.

The Section 96(2) application was publicly advertised from 13 April 2017 to the 22 May 2017. No submissions were received.

The Section 96(2) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval.

DESCRIPTION OF SITE & SURROUNDING LOCALITY

The subject site is known as 256-280 Coward Street Mascot and is located within the Mascot Station Precinct. The legal description of the site is described below.

- Lot 3 in DP 1221649 – 256-280 Coward Street Mascot.

256-280 Coward Street is located on the northern side of Coward Street, to the east of the Kent Road and Coward Street intersection. The site is an irregular shaped allotment with a frontage of 182.825 metres to Coward Street. The site is zoned B2 Local Centre under the BBLEP 2013.

The site has a fall of approx. 3.6 metres from east to west along Coward Street and approx. 700mm to 2.5m south to north across the site. The site was previously occupied by a warehouse and office complex, which is now largely demolished.

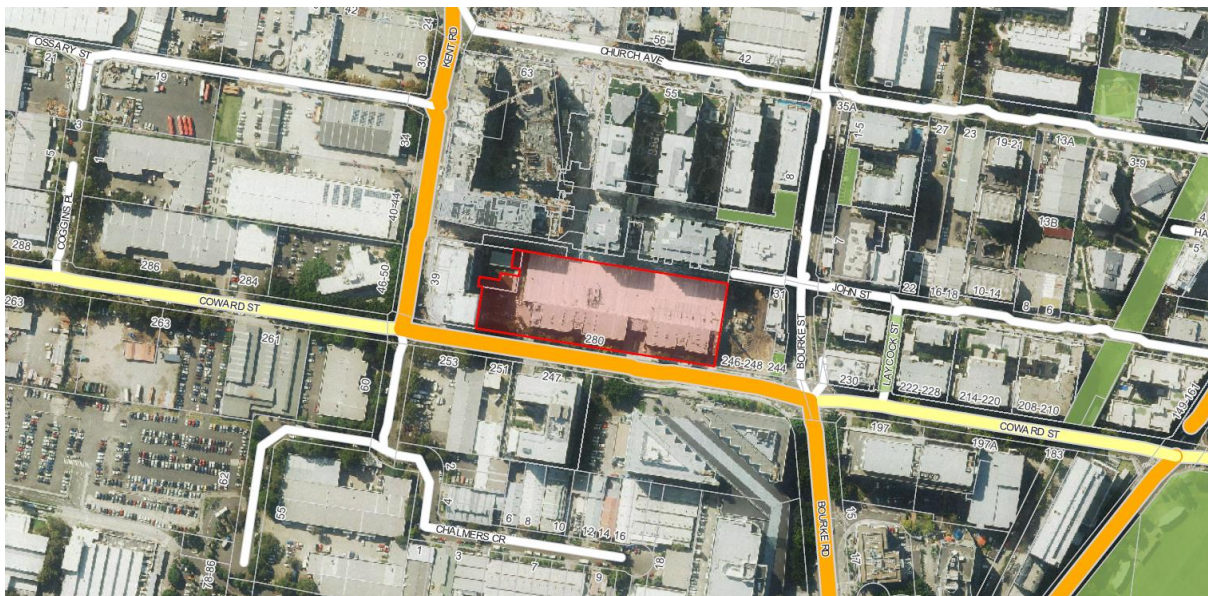


Figure 1 – The subject site.

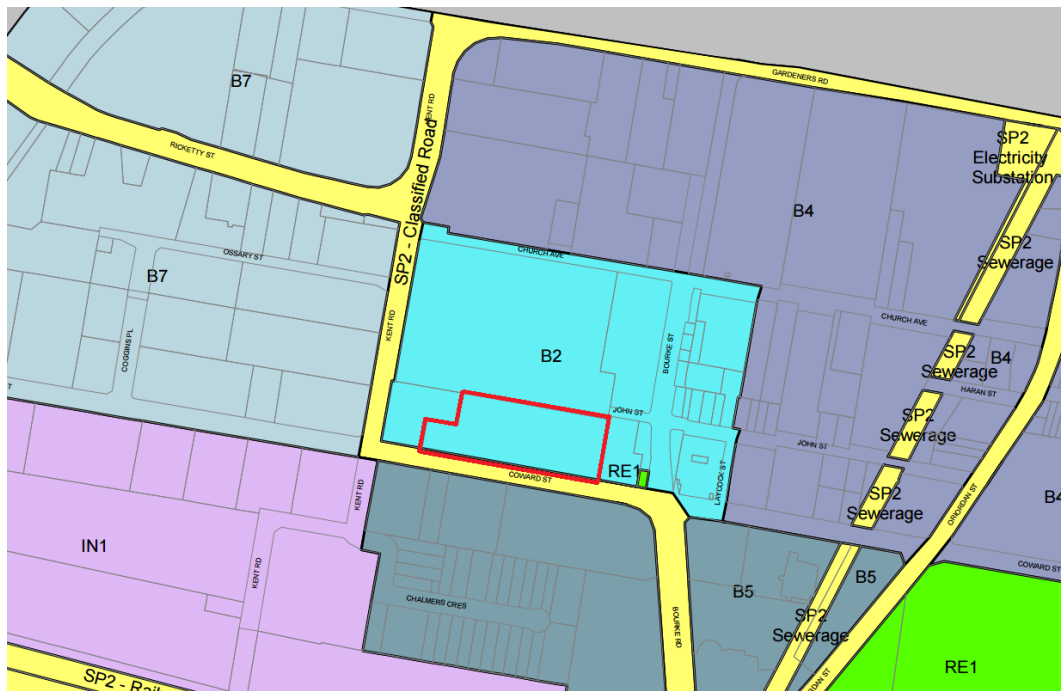


Figure 2 – Zoning Map of the development site



Photo 1: Existing building, as viewed from Coward Street



Photo 2: Existing building, as viewed from Coward Street

2. SURROUNDING DEVELOPMENT

The subject site is located approximately 1km from Sydney Domestic Airport Terminal and 3km from Sydney International Airport Terminal.

The site is located within the Mascot Station Precinct and is in close proximity to the underground Mascot station. The precinct is located in close proximity to major regional road networks and Port Botany.

The site is situated within the Mascot Station Precinct (Urban Block 1) which is bounded by Kent Road Street to the west, Gardeners Road to the north, Coward Street to the south and Bourke Street to the east. The precinct is comprised of a variety of land uses including commercial/warehousing, distribution centres offices and mixed use residential/retail.

To the north of the site is the recently approved 19-33 Kent Road development currently under construction by Meriton (DA 13/200). To the west of the site is 39 Kent Road, which has an approval for a 14 storey building (DA 13/227).

To the south of the site and outside of the Mascot Station Precinct is the Qantas Headquarters and other office/commercial activities generally related to Sydney Airport including TNT.



Photo 3: Adjoining development along Bourke Street Mascot



Photo 4: Development along Coward Street Mascot



Photo 5: View of John Street, from Bourke Road



Photo 6: TNT Building along Coward Street

APPROVED DEVELOPMENT

In its approved form, the development is for:

- Demolition of the existing commercial building, removal of trees and construction of two 14 storey mixed use buildings containing 1440sqm of retail and 470 residential apartments.
- Three basement levels and one ground level of car parking will be provided below Building A, linking with the basement for the adjoining building at 39 Kent Road. Building B includes one basement level and three above ground parking levels.
- The proposal provides a total of 739 car parking spaces plus a public pay car park for approximately 93 car parking spaces.
- A Voluntary Planning Agreement under S93F of the Environmental Planning and Assessment Act, 1979 accompanies the development application for the proposed works which include:
 - Dedication and embellishment of a through site link to provide public pedestrian access from Coward Street to John Street.
 - Provision of a public pay car park accommodating approximately 93 car parking spaces.

The following is a breakdown of the number of apartments and retail GFA within the approved development:

	Building A	Building B	TOTAL
Studio	7	3	10
1 bedroom	106	159	265
2 bedroom	74	116	190
3 bedroom	3	2	5
	190	280	470

	Building A	Building B	TOTAL
Retail GFA	725	715	1440

The following montages and plans depict the approved development.

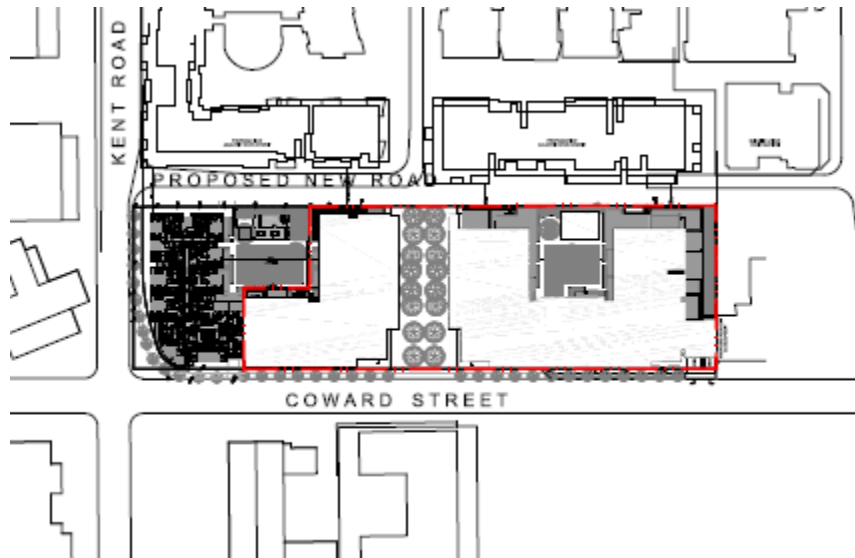


Figure 3 - Approved Site Plan

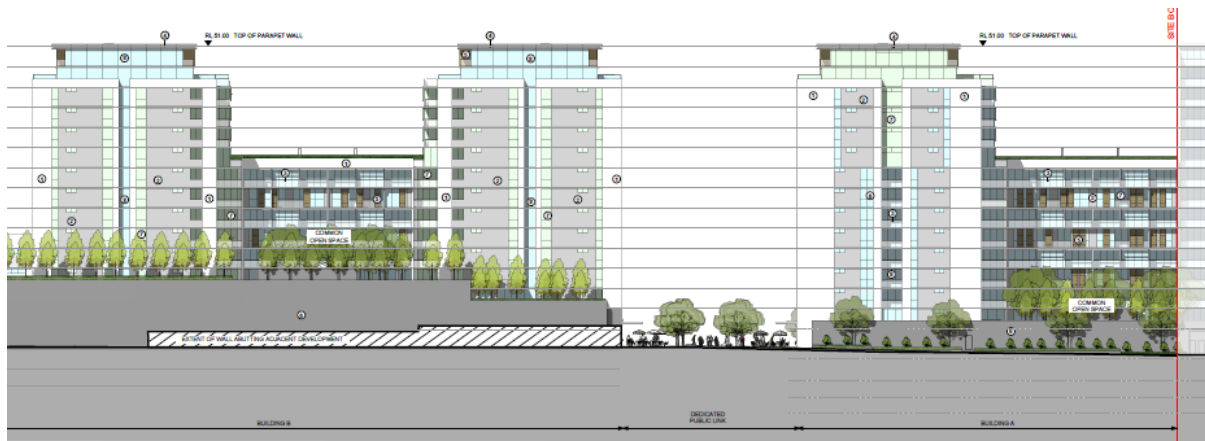


Figure 4 – Approved Northern Elevation (Building B on left as viewed from Jackson Drive)

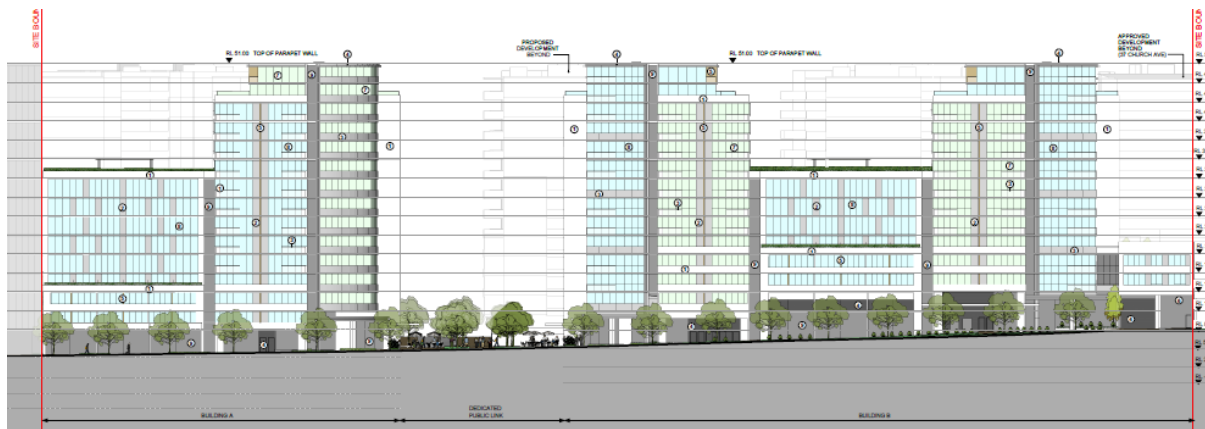


Figure 5 – Approved Southern Elevation (Building B on right)



Figure 6 – Perspective of the site looking north-west

PREVIOUS MODIFICATIONS

The other Modification Applications lodged to date are in the Table below:

DA14/146	<p>Integrated Development Application No. 14/146 for the:</p> <ul style="list-style-type: none"> • Demolition of the existing commercial building, removal of trees and construction of two 14 storey mixed use buildings containing 1440sqm of retail and 470 residential apartments. • Three basement levels and one ground level of car parking will be provided below Building A, linking with the basement for the adjoining building at 39 Kent Road. Building B includes one basement level and three above ground parking levels. • The proposal provides a total of 739 car parking spaces plus a public pay car park for approximately 93 car parking spaces. • A Voluntary Planning Agreement under S93F of the Environmental Planning and Assessment Act, 1979 accompanies the development application for the proposed works which include: <ul style="list-style-type: none"> - Dedication and embellishment of a through site link to provide public pedestrian access from Coward Street to John Street. - Provision of a public pay car park accommodating approximately 93 car parking spaces. <p>Approved by the former JRPP on the 12 June 2015.</p>
DA13/200/02	<p>Section 96(1A) application to modify Development Consent No. 14/146 to stage the construction certificates including the staging of the payment of</p>

	the Section 94 contributions and to amend the description of the consent to reflect the approved apartment numbers, being 470. Approved under delegated authority on the 1 November 2016.
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DESCRIPTION OF MODIFICATIONS

This Section 96(2) modification application was received on 2 March 2017 and seeks to modify Development Consent DA 2014/146 in the following manner:

- Modify approved unit layouts and mix in Building B, increasing the overall number of residential apartments from 470 to 500 and reducing the overall floor space ratio by 138.1m²;
- External changes to window and balcony position due to internal unit configuration;
- Repositioning of rooftop skylights due to internal unit reconfiguration;
- Update the approved car parking schedule for Basement Level 1, Level 1 and Level 2 to reduce the overall parking from 739 spaces to 725 spaces; and
- Changes to the Section 94 contributions to reflect the proposed change in unit mix.

Changes to the approved apartment layouts, sizes and mix in Building B only:

- Increase in the total number of apartments by 30 from 280 to 310;
- Change the unit mix of Building B by increasing the number of 2 bedroom units and decreasing the number of studio and one bedroom units to create the following mix:

	TOTAL Building B	Unit Mix
Studio/1 bedroom	148	47%
2 bedroom	150	49%
3 bedroom	12	4%
	310	100%

- Increase in the variety of unit sizes as follows:

1 bedrooms – 53-78m²
2 bedrooms – 75-104m²
3 bedrooms – 103-117m²

External changes to window and balcony position due to internal unit configuration:

- The proposed changes to apartment layouts do not increase the building footprint or setbacks to the various levels of the building, however do result in the shifting of some balconies or mirror reversing in some instances.

Repositioning of rooftop skylights due to internal unit reconfiguration

- It is proposed to have a large skylight to each living area of each of the Level 14 apartments, to increase internal amenity.

Update the approved car parking schedule for Basement Level 1, Level 1 and Level 2 to reduce the overall parking from 739 spaces to 725 spaces.

- There are four levels of approved car parking. As a result of the requirement to provide safe and efficient pedestrian access to and from the approved public carpark on Ground Level, the total number of public car parking spaces is proposed to be reduced from 93 to 91. The public car park is subject to a separate Draft VPA.
- It is also proposed to reduce the parking for Building B from 435 spaces to 421 spaces to align with the proposed unit mix and the new parking requirements under the ADG. The parking rates proposed exceed the requirements of the ADG, however are less than the former DCP rate that was applied at the time of the original DA assessment and approval.

Changes to the Section 94 contributions to reflect the proposed change in unit mix.

- As the proposed Section 96(2) application involves an increase in the number of dwellings, the relevant Section 94 plan is the City of Botany bay Section 94 Contributions Plan 2016. As such, the contributions applied to Building B under Condition 43 are required to be re-calculated.

The amended proposal is depicted in the following elevations and montages.



Figure 7 – Proposed South Elevation



Figure 8 – Proposed North Elevation

ASSESSMENT OF MODIFICATION

1. Changes to the approved apartment layouts, sizes and mix in Building B only

The approved unit sizes and apartment layouts in Building B were compliant with the old DCP unit sizes in BBDCP 2013, prior to the changes ensuring consistency with the ADG sizes.

The Section 96(2) application seeks only to apply ADG unit sizes to Building in some instances. Largely, the unit sizes provided are a balance of the older DCP control and the new ADG sizes. There is no objection to the change in unit sizes, as this contributes to the range of apartment layouts within the Mascot Station Precinct and equates to 55% of all 310 apartments now proposed in Building B being compliant with the ADG sizes and 46 % remaining compliant with the older DCP sizes, which is an acceptable mix.

The proposed change in unit mix is as follows:

	TOTAL Building B	Unit Mix
Studio/1 bedroom	148	47%
2 bedroom	150	49%
3 bedroom	12	4%
	310	100%

The approved unit mix currently is as follows:

	TOTAL Building B	Unit Mix
Studio/1 bedroom	162	57%
2 bedroom	116	41.8%

3 bedroom	3	1.2%
	280	100%

Officer Comment:

The proportion of studio and 1 bedroom apartments now proposed under this Section 96(2) application is reduced from 57% to 47%, due to the increase in the number of 2 bedroom apartments now proposed under the ADG sizes. There is no objection to this proposed change as it will provide a greater range of apartment sizes and types within Building B, which is encouraged. The proposed change in unit size, layout and unit mix only applies to Building B and as only 55% of the apartments in Building B are proposed to change, the modifications will result in a development that is substantially the same as that already approved.

2. External changes to window and balcony position due to internal unit configuration:

The proposed changes to apartment layouts do not increase the building footprint or setbacks to the various levels of the building. There is no change to the window and balcony location for a large number of apartments in Building B. The introduced apartments each have a balcony compliant with the ADG and in some cases, apartments have been mirror reversed, maintaining the same size/layout and balcony size.

The changes are a result of the introduction of the additional apartments and as this contributes to the range of sizes and layouts within Mascot Station Precinct the window and balcony changes are required and supported. The Section 96(2) application has been accompanied by an updated BASIX Certificate to reflect the plan and elevation changes.

The Section 96(2) application has also been accompanied by a Design Verification Statement prepared Nick Tayler of Krikis Tayler Architects Pty Ltd.

The application has not been referred to Council's Design Review Panel, given that the changes do not result in any additional height, FSR, or changes to the floor plates of the levels. The proposed apartment layouts, sizes and orientation are adequate in providing a good level of amenity for the building occupants and is consistent with the requirements of the ADG. A more detailed assessment of SEPP 65 Design Quality Principles and the ADG is detailed in this report and on balance, the proposed changes are supported.

3. Increase in the number of skylights and repositioning of rooftop skylights due to internal unit reconfiguration

The approved plans indicate that only 6 out of 19 apartments on Level 13 have roof skylights within the living rooms, being 32%.

The proposed modification will increase the number of apartments with skylights in living rooms to 11 out of 13, being 85%. This proposed change is supported, as whilst the internal layouts and orientation of each top floor apartment is adequate, each also be a two storey apartment, the skylights provide additional solar access and internal amenity for the future occupants of the building.

4. Update the approved car parking schedule for Basement Level 1, Level 1 and Level 2 to reduce the overall parking from 739 spaces to 725 spaces.

The approved car parking for Building B is compliant with Council's DCP parking rates as indicated in the table below, however with the changes to SEPP 65, and as the site is within 800m of Mascot Station, the Section 96(2) application seeks to apply a more relaxed rate of car parking, that is between the old DCP rate and the rate within the RMS Guide to Traffic Generating Development, which is consistent with the rate applied under Section 96, to DA13/200 at the adjoining site at 19-33 Kent Road, Mascot.

Required Spaces under BBDCP rate	Required	Approved
1 space/ Studio/1 bedroom	162	162
1 space/2 bedroom	232	232
2 spaces/ 3 bedroom	4	4
Visitor spaces = 1 space per 10 units	28	28
Commercial 1 space/80sqm	9	9
TOTAL	435	435

The proposed parking rates are indicated in the table below:

Required Spaces (as calculated between DCP and ADG)	Required	Proposed
0.6 spaces/1 bedroom	88.8	88.8
0.9 spaces/ 2 bedroom	135	135
1.4 spaces/ 3 or 4 bedroom	16.8	16.8
Visitor spaces = 1 space per 7 units	45	45
Commercial 1 space/80sqm	9	9
TOTAL	295	295

The proposed reduction in car parking for Building B will result in a number of apartments not having a car space, however the rate proposed is in excess of the RMS rate, and given the site location in such close proximity to Mascot Station, the proposed rates are acceptable. It is recommended that a condition be imposed on the modified consent to require that those apartments with no spaces be restricted to the studio apartments. There is no change to the approved public car park, except that the total number of spaces is reduced from 93 to 91, to accommodate a more safe and appropriate pedestrian movement into and out of the car park.

5. Section 94 Contributions

Condition 43(b) identifies the contributions for the approved unit mix in Building B as follows:

- b) Prior to the issue of the Construction Certificate for Stage 2, the following Section 94 Contributions are required to be paid:***

Botany Bay Section 94 Contributions Plan 2005 - 2010

\$2,698,395

Drainage Contribution 2/3 = \$72,025.2

Mascot Station Section 94 Contributions Plan Amendment No. 1 2004

\$1,742,874.00

Half Credit (for previous industrial use of the site)

Half of the Total Credit = \$440,917.50

Total Contribution = \$4,072,376.10 (DA14/146/02)

However, as the application is submitted under Section 96 and proposes additional dwellings, the application must be considered under the Botany Bay Section 94 Contributions Plan 2016. The Section 94 calculated for the revised unit mix in Building B is indexed to September 2017 and results in a total contribution of **\$4,146,135.59**, being a marginal increase in Section 94.

No credits can be applied under the 2016 Plan where existing industrial development in Mascot Station is being replaced with residential development and as such, the previous half credit given to Building B no longer applies.

On this basis, Condition No. 43(b) is recommended to be updated to reflect the revised contribution amount.

c) Other Condition Changes

- Amend Condition No. 1 and 125 to reference the amended plans and documents relating to the amending plans and reference documents;
- Amend Condition No. 6 to reference the BASIX Certificate now submitted for Building B;
- Amend Condition No. 43, to reflect the revised Section 94 Contributions as detailed above;

- Amend Condition No. 71 to update the change to car parking rates for Building B;
- Amend Condition Nos. 73(a) to exclude the unit sizes approved under this modification;
- Add Condition 74A requiring external cladding to be compliant with the National Construction Code;
- Amend Condition No. 93(b) to reference the change in parking rates for Building B and to require that apartments with no space are restricted to studio apartments.

SECTION 96(2) CONSIDERATIONS

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

(a) Substantially the same development

The approved development is for 2 separate stages, being Building A and Building B and this modification relates only to Building B. The Section 96(2) modification application seeks to add an additional 30 apartments to Building B, to introduce smaller units sizes for 55% of the total proposed apartments; and to reduce the car parking rates from the old DCP rates to a new rate that is between the old DCP rate and the new ADG/RMS rate.

There is no increase in height or increase in floor plates of the building and there is a marginal reduction in GFA from 46,556m² to 46,417.9m², being a reduction in FSR from 4.42:1 to 4.41:1, which still exceeds the maximum FSR for the site of 3.2:1. The approved retail GFA remains as already approved.

As there are no built form changes as perceived from public domain, the proposal will result in a development that is materially the same as that already approved by the former Panel. The proposed changes will result in an additional 80 bedrooms across Building B, however given that the site is located in immediate proximity to Mascot Station and is located close to other services and goods providers, the additional apartments are unlikely to result in any significant measurable intensity of the land beyond that already envisaged and approved, particularly in regards to traffic impact. The reduced parking rate is beyond that required by the ADG/RMS rate and is consistent with the objectives of the B2 – Local Centre zone, which seeks to encourage walking and cycling.

On this basis, the proposed modification will result in a development that is substantially the same as that already approved by the former Panel.

(b) Consult with the relevant Minister

The proposed modification was not required to be referred to any Minister for further concurrence.

(c) Notification.

The Section 96(2) Application was notified to surrounding property owners from 13 April 2017 to 22 May 2017 in accordance with Part 2 - Notification & Advertising of the Botany Bay Development Control Plan (BBDCP) 2013.

(d) Submissions.

No submissions were received.

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

SECTION 79C CONSIDERATIONS

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

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

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the proposed development. The Section 96(2) application was accompanied by BASIX Certificate No. 539890M_07, dated 11 April 2017, received by Council 12 April 2017, committing to environmental sustainable measures.

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (Amendment No. 3)

The provisions of SEPP No. 65 have been considered in the assessment of the Section 96(2) application. The SEPP was amended on the 17 July 2015 and applies to applications to modify a development consent. The Section 96(2) application has been supported by Architectural Design Statement prepared by Registered Architect, Nick Tayler of Krikis Tayler Architects. An assessment of the proposed modification against the ADG requirements are provided below.

The Apartment Design Guide

The proposal has been assessed against the Apartment Design Guide (ADG). The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

Clause	Design Criteria	Comments	Complies
3A Site Analysis	Objective 3A-1 Site Analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	The setbacks, massing and form proposed is consistent with the approved scheme, which was carefully considered taking into account surrounding land uses and built form, including the proximity to adjacent tall residential towers to the north, west and east, the Coward Street frontage to the south and neighbouring commercial sites to the south.	Yes
3B Orientation	Objective 3B – 1 Building types and layouts respond to the streetscape and site while optimising solar access within the development. Objective 3B – 2 Overshadowing of neighbouring properties is minimised during mid winter.	The site adjoins neighbouring residential towers of up to 14 storeys to the west, north and east. Apartments will maintain a mix of aspects to the north, south, east and west to maximise solar access and ventilation. Neighbouring properties to the immediate south are overshadowed by the proposal in mid winter, however these are commercial in nature and setback from Coward Street. There is no increase or change in the built form, so there is no change in shadowing from that already approved.	Yes

Clause	Design Criteria	Comments	Complies
3C Public Domain Interface	Objective 3C – 1 Transition between private and public domain is achieved without compromising safety and security.	The entrance lobby to Building B remains unaltered from its approved location in the south-western corner	Yes
	Objective 3C-2 Amenity of the public domain is retained and enhanced.	The amenity of the public domain interface is retained and enhanced as approved with the public park dedication and the embellishment of Coward Street.	Yes
3F Visual Privacy	Building separation for a building up to 25m (5-8 storeys) = 9m to habitable rooms and balconies	As approved. No proposed changes.	Yes
3H Vehicle Access	Objective 3H – 1 Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	Vehicle access point is from Coward Street, as approved.	Yes
3J – Bicycle and Car Parking	Objective 3J – 1 Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.	Car parking is compliant with the ADG/RMS rates for sites within 800m of a train station.	Yes
	Design Criteria ▪ Car parking needs for developments must be provided off street.		Yes
4A – Solar and daylight access	Living rooms and private open space of at least 70% of apartments receive minimum 2 hours direct sunlight between 9am and 3pm midwinter. Max 15% apartments receive no direct sunlight between 9am	The development was approved with only 57% of apartments achieving the minimum 2 hours, due to the constraints from overshadowing by the building to the north.	No – acceptable.

Clause	Design Criteria	Comments	Complies
	and 3pm midwinter	The proposed changes will marginally improve this to 58% of apartments achieving the minimum 2 hours.	
4B – Natural Ventilation	Min 60% of apartments are naturally ventilated in the first 9 storeys of the building.	62% of apartments achieve the ADG criteria.	Yes
4C Ceiling Heights	Min for habitable room = 2.7m Min for non habitable room = 2.4m	No change from that already approved.	Yes
4D – Apartment Size and Layout	Min internal areas: Studio = 35m ² 1 bed = 50m ² 2 bed = 70m ² 3 bed = 90m ²	As proposed, all units will satisfy the minimum internal areas.	Yes
4E – Private Open Space and Balconies	Min external areas: Studios = 4m ² 1 bed = 8m ² 2 bed = 10m ² 3 bed = 12m ²	Each apartment achieves the minimum balcony areas and depths.	Yes
4F – Common circulation spaces	Achieve good amenity and properly service the number of apartments. Maximum of 8 per core.	12 apartments per core, however as already approved.	No – acceptable.
4G Storage	Adequate well designed storage to be provided to each apartment. 1 bedroom = 6m ³ 2 bedroom = 8m ³ 3 bedroom = 10m ³ At least 50% of the required storage is to be located within the apartment.	Each apartment is provided with adequate storage to meet the ADG requirement.	Yes
4H Acoustic Privacy	Minimise noise transfer through the siting of buildings and building layout	Through adequate building separation from neighbouring buildings and uses. Bedrooms of adjacent apartments are located next to each other and living rooms where possible are located next to adjacent apartment living rooms.	Yes
4K Apartment Mix	Provide a range of	The Section 96	Yes

Clause	Design Criteria	Comments	Complies
	types and sizes to cater for different household types now and into the future. Distribute apartment mix to suitable locations in the building.	provides a greater number of 2 bedroom apartments.	
4L Ground floor apartments	Maximise street activity through provisioned ground floor apartments.	Ground floor apartments are maintained to the public park. Retail space is required along Coward Street.	Yes
4M Facades	Provide visual interest along the street whilst respecting the character of the area	The design has incorporated changes to the facades as required by Council.	Yes
4O Landscape Design	Provide a viable and sustainable landscape design which contributes to the streetscape and residential amenity.	The detailed landscape theme is acceptable and will provide for a sustainable and high quality area for future residents.	Yes
4Q Universal Design	Encourage spaces which are flexible housing. Achieve a 20% silver level liveable housing	A variety of apartments are now proposed and are able to comply.	Yes
4U Energy Efficiency	Incorporate passive design, passive solar access to maximise heat storage in winter and reduce heat transfer in summer and provide adequate natural ventilation.	The design provides natural light to all habitable rooms, incorporates passive solar access measures including overhangs, insulated walls, roofs and floors. A revised Basix Certificate has also been submitted with the application.	Yes
4W Waste Management	Adequately sized storage areas for rubbish. Waste storage area to be designed to minimise impacts on streetscape, building entry and amenity of residents.	A communal waste chute is proposed. Separate garbage and recycling chutes are proposed centrally at each core.	Yes

Botany Bay Local Environmental Plan (BBLEP) 2013

The following provides an assessment against the relevant provisions of BBLEP 2013:

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Landuse Zone	Yes	The site is zoned B2 – Local Centre under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The approved residential flat buildings and business premises are permissible with Council's consent under BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	<p>The proposed modification application is consistent with the following objectives in the BBLEP 2013:</p> <ul style="list-style-type: none"> • <i>To provide a range of retail, business, entertainment and community uses that serve the needs of the people who live in, work in and visit the local area;</i> • <i>To encourage employment opportunities in accessible locations;</i> • <i>To maximise public transport patronage and encourage walking and cycling.</i>
Does Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Schedule 1 does not apply to the subject site.
<p>What is the proposed FSR?</p> <p>Does the FSR of the building exceed the maximum FSR?</p> <p>Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m² min and maximum height of 22 metres and maximum FSR of 1.5:1?</p>	No – already approved by the JRPP	The proposed changes will result in a reduction in GFA from 46,556m ² to 46,417.9m ² , being a reduction in FSR from 4.42:1 to 4.41:1, which still exceeds the maximum FSR for the site of 3.2:1.
Is the site within land marked "Area 1" on the FSR Map?	N/A	The subject site is not located within "Area 1" on the FSR Map.
Is the land affected by road widening?	N/A	The subject site is not affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not listed as a Heritage Item or within a Heritage Conservation Area.

The objectives and provisions of the BBLEP 2013 have been considered in the assessment of the Section 96(2) application and the proposal is consistent with the provisions of BBLEP 2013.

Botany Bay Development Control Plan (BBDCP) 2013

The provisions of the Botany Bay Development Control Plan (BBDCP) 2013 have been considered in the assessment of the proposed modifications. It is not likely that the additional works will impact on any adjoining or nearby residential dwellings.

The proposed changes to unit mix and car parking are supported and will not result in a significant change to the intensity of the site, from that initially envisaged by Council in the approved development. The internal changes are proposed in order to improve the amenity for the future occupants of the development. Accordingly, the proposed modifications raise no concerns in relation to compliance with the BBDCP 2013.

(b) The public interest.

The proposed amendments relate to changes to Building B to provide 30 additional apartments and to change the unit mix and unit sizes to increase the number of 2 bedroom apartments and to introduce smaller sized apartments as permitted under SEPP65 and the ADG; to reduce the number of car parking spaces in line with that permitted under the ADG/RMS rates.

The proposed changes will not result in any adverse amenity impacts on the streetscape or onto adjoining properties. The proposed amendments will have no significant adverse impact upon the public interest.

(c) 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 modifications are minor in nature and will not affect the design or operation of the development in any significant manner. The proposed amendments will not have an adverse environmental, social or economic impact on the immediate locality. The changes will result in a development that will provide a range of residential dwelling types to meet the needs of the local population and encourages walking and cycling.

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

The site is suitable for the development as proposed to be modified.

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

The Section 96(2) Application was notified to surrounding property owners from 13 April 2017 to 22 May 2017 in accordance with Part 2 - Notification & Advertising of the Botany Bay Development Control Plan (BBDGP) 2013. No submissions were received.

(f) The public interest.

The proposed modifications are in the public interest.

CONCLUSION

The Section 96(2) Application seeks to modify Development Consent No. 14/146 that was approved by the former JRPP in June 2015 for the:

- Demolition of the existing commercial building, removal of trees and construction of two 14 storey mixed use buildings containing 1440sqm of retail and 470 residential apartments.
- Three basement levels and one ground level of car parking will be provided below Building A, linking with the basement for the adjoining building at 39 Kent Road. Building B includes one basement level and three above ground parking levels.
- The proposal provides a total of 739 car parking spaces plus a public pay car park for approximately 93 car parking spaces.
- A Voluntary Planning Agreement under S93F of the Environmental Planning and Assessment Act, 1979 accompanies the development application for the proposed works which include:
 - Dedication and embellishment of a through site link to provide public pedestrian access from Coward Street to John Street.
 - Provision of a public pay car park accommodating approximately 93 car parking spaces.

This Section 96(2) application seeks to modify Development Consent 14/146 to:

- Modify approved unit layouts and mix in Building B, increasing the overall number of residential apartments from 470 to 500 and reducing the overall floor space ratio by 138.1 sqm;
- External changes to window and balcony position due to internal unit configuration;
- Repositioning of rooftop skylights due to internal unit reconfiguration; and
- Update the approved car parking schedule for Basement Level 1, Level 1 and Level 2 to reduce the overall parking from 739 spaces to 725 spaces;

The proposed amended architectural plans incorporate apartment styles, sizes and mix that are appropriate for a site in close proximity to public transport and employment land within Mascot. The proposal will result in Building B having a mix of apartments that comply with the older BBDGP unit sizes and the new SEPP65 unit sizes and will introduce a new parking rate that is between the old DCP rate and the ADG/RMS rate.

On balance, the proposed changes will not result in any adverse impacts on the local road network or on adjoining development. The increased population on site does not result in any additional GFA, only a conversion of the existing approved apartments to the ADG sizes to accommodate an increase in 2 bedroom apartments. The proposed changes support the viability of surrounding land use including employment lands, public transport infrastructure, goods and services providers.

On this basis, the proposed modifications are acceptable, except for the height variation and the deletion of the traffic conditions, and the application is recommended for approval.

SCHEDULE OF CONSENT CONDITIONS**GENERAL CONDITIONS**

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

Drawing No.	Author	Dated
A03, Issue G	Krikis Tayler Architects	16/01/15
A04, Issue H	Krikis Tayler Architects	16/01/15
A05, Issue H	Krikis Tayler Architects	16/01/15
A06, Issue K	Krikis Tayler Architects	16/01/15
A07, Issue L	Krikis Tayler Architects	03/02/15
A08, Issue J	Krikis Tayler Architects	16/01/15
A09, Issue J	Krikis Tayler Architects	16/01/15
A10, Issue J	Krikis Tayler Architects	16/01/15
A10-01, Issue B	Krikis Tayler Architects	16/01/15
A10-02, Issue B	Krikis Tayler Architects	16/01/15
A11, Issue J	Krikis Tayler Architects	16/01/15
A12, Issue J	Krikis Tayler Architects	16/01/15
A13, Issue L	Krikis Tayler Architects	05/05/15
A14, Issue L	Krikis Tayler Architects	22/01/15
A15, Issue J	Krikis Tayler Architects	22/01/15
A20, Issue E	Krikis Tayler Architects	12/05/15
A21, Issue E	Krikis Tayler Architects	12/05/15
A22, Issue E	Krikis Tayler Architects	12/05/15
A23, Issue G	Krikis Tayler Architects	22/01/15
A24, Issue F	Krikis Tayler Architects	22/01/15

Drawing No.	Author	Dated
A25, Issue F	Krikis Tayler Architects	22/01/15
A26, Issue F	Krikis Tayler Architects	22/01/15
A27, Issue F	Krikis Tayler Architects	22/01/15
A50, Issue E	Krikis Tayler Architects	13/05/15

Section 96(2) Drawings as they relate only to Building B (Added DA14/146/03)

Drawing No.	Author	Date received
<i>A05, Issue L</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A06, Issue N</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A07, Issue R</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A08, Issue P</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A09, Issue P</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A10, Issue P</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A10-01, Issue G</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A10-02, Issue G</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A10-03, Issue G</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A10-04, Issue G</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A11, Issue P</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A12, Issue P</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A12-01, Issue N</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A13, Issue R</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A14, Issue Q</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A15, Issue P</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A20, Issue I</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>
<i>A21, Issue I</i>	<i>Krikis Tayler Architects</i>	<i>2 March 2017</i>

Drawing No.	Author	Date received
A22, Issue I	Krikis Tayler Architects	2 March 2017

Reference Document(s)	Author	Dated
Clause 4.6 Exceptions to Development Standards Report	LJB Urban Planning Pty Limited	25 June 2014, amended 14 and 22 May 2015
Design Verification Statement – SEPP 65	Krikis Tayler Architects	26 June 2014
Survey Plan	H Ramsay Surveyors	16 November 2012
Landscape plan 55.15(14)/068	Iscape Landscaping	February 2015
Acoustic Report, 44.5039.R4MSC	The Acoustic Group	26 June 2014
Stormwater plans 140163	Australian Consulting Engineers Pty Ltd	27 May 2014
Access Report	Accessibility Solutions	7 July 2014
Detailed Cost Report	Washington Brown	17 June 2014
BCA Report	Barry Johnson & Associates	2 July 2014
Traffic Impact Assessment Report ref 13-017-5	Thompson Stanbury Associates	February 2015
Geotechnical Investigation, Report No. E22226 GB	Environmental Investigations Pty Ltd	18 June 2014
Environment Site Assessment Report Ref E22226 AA – Rev 01	Environmental Investigations Pty Ltd	12 June 2014
Waste Management Plan	Elephants Foot Recycling Solutions	June 2014
Pedestrian Wind Environment Statement WB956-02F01 (Rev 1)	Windtech	3 October 2014
Section 96(1A) Application Planning Report (DA14/146/02)	LJB Urban Planning	1 July 2016
Section 96(2) Statement	LJB Urban Planning	24 February 2016

Reference Document(s)	Author	Dated
<i>Amended Traffic & Parking Impact Statement</i>	<i>Thompson Stanbury Associated</i>	<i>February 2017</i>
<i>Unit Schedule</i>	<i>Krikis Tayler Architects</i>	<i>18 February 2017</i>
<i>Design verification Statement</i>	<i>Nick Tayler</i>	<i>22 February 2017</i>

Design Changes

2

- a) The materials and finishes of the façade of Building B is to be finished in different materials to the façade of Building A. Specifically, Building B must contain a reduction in rendered walls and commercial style glazing. Building B should include a selection of high grade materials to be finished in a series of colour treatments that will generate visual interest and relief. A revised façade elevation and materials and finishes schedule for Building B is to be submitted to Council for the approval by the Director, Planning and Environment, prior to the issue of any Construction Certificate for Stage 2. (DA14/146/02)
- b) The public car park must have a direct pedestrian access to Coward Street, ~~or close to the lobby in Building B~~ or via the public plaza link to the west. In addition, provision is to be made for a doorway to John Street, so as to provide a possible future pedestrian access in a direct manner to Mascot Station, should Council obtain an easement over land owned by the Meriton Group. (DA14/146/02)
- c) The access to the car park in terms of people with a disability, including all pedestrian access must be verified by a report prepared by an Access Consultant.

Amended plans for the car park level compliant with item b. and c. are to be submitted to Council for approval prior to issue of first Construction Certificate besides shoring and excavation for Stage 2. (DA14/146/02)

Planning Agreement

3

- a) In accordance with the letter dated 6 August 2014, the landowner is to enter into a Planning Agreement under Section 93F of the Environmental Planning and Assessment Act 1979 with Botany Bay City Council to undertake the following:

- Provision of a public car park, providing approximately 90 car parking spaces, to be publicly accessible for vehicles via a public road. The car park is to be dedicated to Botany Bay Council in a future stratum subdivision.
 - Dedication and embellishment of a public through site-link of approximately 1600sqm in land.
- 4 The preparation of the Planning Agreement and the works subject to the Planning Agreement are to be at no cost to Council. The Planning Agreement is to be entered into prior to the issue of any Construction Certificate for Stage 2, or as otherwise agreed by Council's General Manager. The works the subject of the Planning Agreement are to be carried out and completed prior to the issue of the relevant Occupation Certificate. (DA14/146/02)

Public Domain Works

- 5 A Public Domain Plan, in accordance with Council's Public Domain Manual is to be submitted for Coward Street and the through site link. Full public domain details – plans and specifications are to be submitted to Council for approval, prior to the issue of the Construction Certificate for above ground works for either Stage 1 or Stage 2. The following is to be addressed in the Plan:
- a) Clearly indicate all landscape structures and finishes, furniture and walling details (incl. skateboard restrictors), paving details and the like. All proposed public parks are required to be fully documented as it will be dedicated to and maintained by Council. Greater detail of amenity lighting locations;
 - b) Additional detailed cross sections are required in both directions through the space showing the relationship to the streetscape and adjacent development;
 - c) Bins located within the new streets and public parks are recommended to be the Council standard (spec supplied) to retain consistency with other public domain areas in the precinct;
 - d) Appropriate and suitable additional street lighting, if required by the RMS, to a high decorative standard is to be provided to the Coward Street frontage of the site, so as to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements. (DA14/146/02)
- 6 A revised BASIX Certificate is to be submitted to Council for approval. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the each building in

the development are fulfilled. ***BASIX Certificate number: 539890M_06 applies to Building B. (Added DA14/146/03)***

a) Note:

Relevant BASIX Certificate means:

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

Remediation

- 7 The applicant is to prepare a Phase 2 Site Environmental Assessment Report. A Remedial Action Plan is to be prepared if necessary. If Category 2 remediation is required, the provisions of SEPP 55 are to be complied with including the notification of commencement of remediation work to be given to Council. All remediation must be completed and a Site Audit Statement issued prior to issue of the Construction Certificate for above ground works for Stage 1 and separately for Stage 2. (DA14/146/02)
- 8 This consent given does not imply that works can commence until such time that:
- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - i) The consent authority; or,
 - ii) An accredited certifier; and,
 - b) The person having the benefit of the development consent:
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

- a) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
 - b) All plumbing stacks, vent pipes, stormwater downpipes and the like shall be kept within the building and suitably concealed from view;
 - c) The basement of the building must be designed and built so that on completion, the basement is a “fully tanked” structure, i.e. it is designed and built to prevent the entry of ground water / ground moisture into the inner part of the basement; and
 - d) Air conditioning units must not be visible from any public place.
- 10 This Consent relates to land in Lot 1 of DP 805156 (256-280 Coward Street) and Lot 1 DP 1081391 (39 Kent Road) and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public works required by this consent.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

- 11 The following condition is imposed by **Sydney Water** and is to be complied with:

Water

- The proposed development is located in the Mascot Station Urban Activation precinct
- The 150 mm drinking water main in Kent and 150mm in Coward Street fronting the proposed development does not comply with the Water Supply Code of Australia (Sydney Water Edition — WSA 03-2002) requirement for minimum sized mains for the scope of development
- Although the property has frontage to the existing 500mm main in O’Riordan Street, service connections off this trunk main will not be permitted
- The developer will be required to amplify the existing system providing a 200mm water main frontage to service the proposed development
- The proposed drinking water infrastructure for this development will be sized & configured according to the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012)

Wastewater

- The wastewater main available for connection is the 225 mm main constructed under WO 40307
- The proposed development site is traversed by a number of wastewater mains
- Where proposed works are in close proximity to a Sydney Water asset, the developer may be required to carry out additional works to facilitate

there development and protect the wastewater main. Subject to the scope of development, servicing options may involve adjustment/deviation and or compliance with the Guidelines for building over/adjacent to Sydney Water assets. Refer to your WSC for details of requirements.

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

- a) The design and construction of the proposed gutter crossing off Coward Street shall be in accordance with AS2890.1 — 2004 and the Roads and Maritime's requirements. Further details of these requirements could be obtained from the Roads and Maritime's Project Manager, Statewide Delivery Section, Parramatta Ph: 8849 2144.

A Certified copy of the design plans shall be submitted to the Roads and Maritime for consideration and approval prior the release of a construction certificate by Council and commencement of road works.

The Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of the works.

Any redundant driveways along the site's Canterbury Road [Coward Street] frontage are to be removed with kerb and gutter reinstated to the Roads and Maritime's requirements.

- b) Council should ensure that post development storm water discharge from the subject site into the Roads and Maritime drainage system does not exceed the pre development discharge.

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

Details should be forwarded to:

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

A plan checking fee may be payable and a performance bond may be required before the Roads and Maritime's approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime's Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

- c) The proposed development should be designed such that road traffic noise from Coward Street is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.
- d) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to RMS for assessment in accordance with Technical Direction GTD 2012/001;

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

The report and any enquiries should be forwarded to :

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124
Telephone 8848 2114
Fax 8849 2766

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

- e) The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions, loading dock) should be in accordance with AS 2890.1-2004, AS 2890.2 – 2002 and AS 2890.6:2009;
- f) All vehicles must be wholly contained on site before being required to stop.
- g) All works/regulatory signposting associated with the proposed development are to be at no cost to the Roads and Maritime.

13 The following conditions are imposed by the **NSW Office of Water**:

General and Administrative Issues

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

- c) Sufficient drainage will be provided beneath and around the outside of the watertight structure to ensure that groundwater is able to drain around the structure and does not cause an impediment to natural groundwater flow which would lead to an increase in hydraulic gradient across the footprint of the basement greater than

Prior to Excavation

- d) Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken and a report provided to the NSW Office of Water. A schedule and indicative plans of the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report;
- e) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the calculation method shall be included in the report;
- f) A copy of a valid development consent for the project shall be provided to the NSW Office of Water;
- g) Groundwater quality testing shall be conducted on a suitable number of samples using suitable suite of analysis and completed by a NATA certified laboratory with the results collated and certificates appended to a report supplied to the NSW office of Water. Samples must be taken prior to the substantial commencement of dewatering, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
- h) The method of disposal of pumped water shall be nominated (i.e. street drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (tailwater) must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority;
- i) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water that is to be reinjected must be

demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During Excavation

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

Following excavation

- q) Should pumping volumes or groundwater quality significantly differ from the predictions supporting the DA and licence applications, detailed monitoring records must be provided to the NSW Office of

Water, together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.

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

- a) The PROPERTY DEVELOPMENT at 256-280 COWARD STREET, MASCOT lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of this Corporation.
- b) The Civil Aviation Safety Authority (CASA) have no objection to the erection of the building to a height of 51 metres above Australian Height Datum (AHD).
- c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerals, TV antennae, construction cranes etc.
- d) Should you wish to exceed the above heights, a new application must be submitted. Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. SACL advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by SACL prior to any approval is to include:
 - i) the location of any temporary structure or equipment, ie. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
 - ii) the swing circle of any temporary structure/equipment used during construction;
 - iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
 - iv) the period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
- f) Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of

works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.

- g) The development is to comply with the Civil Aviation Safety Authority (CASA) requirements as outlined in the Council's Development Application Guide for Multi-Unit Residential, Commercial and Industrial.

- 15 **Ausgrid** have advised that until the electrical load requirements of the development are provided, the accommodation of an electrical substation should be allowed for within the premises. Accordingly, the applicant is to liaise with Ausgrid to obtain confirmation on this issue, prior to a Construction Certificate.

Before the location of any substation is agreed with AusGrid, approval from Council to the location must be obtained.

CONDITIONS TO BE SATISFIED PRIOR TO COMMENCEMENT OF DEMOLITION AND DURING DEMOLITION AS NOTED

- 16 Prior to commencement of any works on-site, a dilapidation report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a qualified person and submitted to Council.

- a) The report shall include records and photographs of the following area that will be impacted by the development: All properties immediately adjoining the site and Coward Street.
- b) The applicant shall bear the cost of all restoration works to buildings/structures and public infrastructure that been damaged during the course the demolition, site clearing and site remediation works. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer's expense.
- c) In addition, the following issues shall also be complied with:
 - i) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediately adjoining properties owners and public utility authorities. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;
 - ii) A second dilapidation report, including a photographic survey shall then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report together with the accompanying

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

- d) Should demolition, site clearing and site remediation works cause rise to public safety and/or workplace safety; works shall halt until absolute safety is restored.

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

- 17 There shall be no loss of support to the Council's nature strip area as a result of the construction within the site. Details prepared by a practicing Structural Engineer of how this support will be maintained during the demolition works shall be submitted to Council prior to the commencement of works.
- 18 Council's property shall be supported at all times. Where any shoring is to be supporting (or located on) Council's property, certified engineering drawings showing all details including the extent of encroachment, the type of shoring and the method of removal, shall be submitted prior to the issue of the Construction Certificate. If the shoring cannot be removed, it shall be cut to 150mm below footpath level and the gap between the shoring and any buildings shall be filled with a 5Mpa lean concrete mix.
- 19 Prior to the commencement of demolition work, a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority. The statement must be in compliance with: AS2601-1991 Demolition of Structures," the requirements of WorkCover Authority and conditions of the Development Approval, and must include provisions for:
 - a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
 - b) Induction training for on-site personnel;
 - c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
 - d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with

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

- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- h) 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) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”;
- m) Sewer – common sewerage system;
- n) On site monitoring both during asbestos removal and the remainder of demolition activities.

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

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

21 Demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 Demolition of Structures and the requirements of the NSW

WorkCover Authority; and Australian Standard 2601 - 1993 "*Demolition of Structures*".

- 22 Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment and Climate Change and Water and with the provisions of:
- a) New South Wales Occupational Health and Safety Act, 2000;
 - b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
 - c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
 - d) Protection Of the Environment Operations Act 1997 (NSW); and
 - e) Department of Environment and Climate Change Waste Classification Guidelines (2008).
- 23 Prior to demolition of any building constructed before 1970, the person acting on this consent shall ensure compliance with Australian Standard AS2601-2001, *Demolition of Structures* by a person with suitable expertise and experience. This may involve a Work Plan that identifies any hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimize any dust nuisance and the disposal methods for hazardous materials, including:
- a. Removal, cleaning and disposal of lead-based paint shall conform to the current EPA guidelines. Demolition of materials incorporating lead is to be conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS2601-1991 *Demolition of structure*.
 - b. Hazardous dust shall not be allowed to escape from the site. Any existing accumulations of dust (e.g.; ceiling voids and wall cavities) shall be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water shall not be allowed to enter the street and stormwater systems. Demolition is not to be performed during high winds, which may cause dust to spread beyond the site boundaries.
 - c. All contractors and employees directly involved in the removal of hazardous dusts and substances wearing protective equipment conforming to Australian Standard AS1716 *Respiratory Protective Devices* and shall adopt work practices in accordance with the

requirements of WorkSafe's *Control of Inorganic Lead At Work* (NOHSC: 102(1994) and NOHSC: 2015(1994).

- d. All lead-contaminated materials being disposed of in accordance with the Environment Protection Authorities Environmental Guidelines; *Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999)* and *The Protection of the Environment Operations Act 1997 (NSW)*.

24 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 *Roads Act 1993* and *Local Government Act 1993*. 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:

- Permit to erect hoarding on or over a public place, including Council's property/road reserve,
- Permit to construction works, place and/or storage building materials on footpaths, nature strips,
- Permit for roads and footways occupancy (long term/ short term),
- Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
- 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,
- Permit to place skip/waste bin on footpath and/or nature strip,
- Permit to install temporary shoring under Council's road reserve, and
- Permit to use any part of Council's road reserve or other Council lands.

25 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.

- 26 Any soil disposed of offsite shall be classified in accordance with the procedures in the NSW EPA Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes (1999).
- 27 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.
- 28 Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
- 29 The approved Waste Management Plan for the site prepared by Elephants Foot Recycling Solutions, dated June 2014, shall be complied with at all times during demolition works and construction works.
- 30 Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A free copy of the sign is available from Council's Customer Service Counter.
- 31 All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 32 The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.
- 33 A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;

- a) stating that unauthorised entry to the work site is prohibited;
- b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
- c) the Development Approval number;
- d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
- e) any such sign is to be removed when the work has been completed.

34 A Demolition Management Program shall be submitted to, and approved in writing by the Council prior to commencement of demolition The program shall detail:

- a) The proposed method of access to and egress from the site for 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 demolition works on the site and the expected duration of each phase,
- c) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of the demolition process,
- d) The proposed method of loading and unloading machinery. Wherever possible mobile cranes should be located wholly within the site,
- e) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during demolition
- f) 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,
- g) 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,
- h) Proposed protection for Council and adjoining properties, and
- i) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

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

- be prepared by a RMS accredited consultant,
- 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, and
- 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.

- 36 All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:

- a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
- b) Prior to placement of concrete (kerb and gutter and footpath);
- c) Prior to construction and placement of road pavement materials; and
- d) Final inspection.

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

- 37 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.

- 38 The upper noise level from the demolition operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).
- 39 If any material containing asbestos is found on site during the demolition process the material is to be removed and disposed of in accordance with WorkCover requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
- 40 The operation shall not give rise to offensive odour or other air impurities in contravention of the *Protection of the Environment Operations Act 1997*. The principal contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- a) Covering excavated areas and stockpiles,
 - b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
 - c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,
 - d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
 - e) All loads entering or leaving the site are to be covered,
 - f) The use of water sprays to maintain dust suppression,
 - g) Keeping excavated surfaces moist.
- 41 During demolition, remediation, excavation, and construction, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:
- a) Approved Erosion and Sediment Control Plan;
 - b) Approved Traffic Management Plan and;
 - c) Approved Demolition Management Plan and Construction Management Plan.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE OR THE RELEVANT CONSTRUCTION CERTIFICATE AS NOTED

Note: Unless indicated otherwise all conditions must be satisfied prior to both Stage 1 in relation to works to be undertaken in that Stage, and also to Stage 2, in relation to works to be undertaken in that Stage. (DA14/146/02)

42 The applicant must prior to the issue of the Construction Certificate for Stage 1, pay the following fees and bonds: (DA14/146/02)

- | | | |
|----|---------------------------|-----------------------------|
| a) | Builders Security Deposit | \$548,725.00 (Condition 44) |
| b) | Development Control | \$12,300.00; |

42A Prior to the issue of any Construction Certificate for above ground works in relation to Building A, written evidence must be submitted to the Council demonstrating that:

- (a) there are perpetual lawful access rights (whether by way of a public road, easement, or otherwise);
- (b) from Kent Road;
- (c) for all persons, including by foot and by vehicle;
- (d) over the existing formed access way to the north of Building A and the building at 39 Kent Road;
- (e) to the land upon which building A is proposed;

unless Council's director of planning has provided written certification that Council is satisfied with such other alternate arrangements for access as may be proposed.

Development Contributions

43

- a) Prior to the issue of the Construction Certificate for Stage 1, the following Section 94 contributions are required to be paid:

Stage 1 – Building 2A

Botany Bay Section 94 Contributions Plan 2005 - 2010

\$1,827,952

Drainage Contribution $1/3 = \$36,012.6$

Mascot Station Section 94 Contributions Plan Amendment No. 1 2004

\$1,194,919

Half Credit (for previous industrial use of the site)

Half of the Total Credit = \$440,917.50

Total Contribution = \$2,617,966.10 (DA14/146/02)

- b) **Prior to the issue of the Construction Certificate for Stage 2, the following Section 94 Contributions are required to be paid:**

Botany Bay Section 94 Contributions Plan 2016 (indexed to September 2017):

\$4,146,135.59

Botany Bay Section 94 Contributions Plan 2005 - 2010

\$2,698,395

Drainage Contribution 2/3 = \$72,025.2

Mascot Station Section 94 Contributions Plan Amendment No. 1 2004

\$1,742,874.00

Half Credit (for previous industrial use of the site)

Half of the Total Credit = \$440,917.50

Total Contribution = \$4,072,376.10 (DA14/146/02)

~~The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with the Mascot Station Precinct Section 94 Contributions Plan and Contributions Plan 2005 - 2010 a contribution of \$7,202,085.00 is required, less a credit under the Mascot Precinct Plan of \$356,735 and a credit under the 2005-2010 Plan of \$300,850, being a total credit \$657,586.~~

~~The Section 94 Contribution of \$6,544,499 is to be paid to Council prior to the issue of any Construction Certificate.~~

~~**The Section 94 Contribution fees above are indexed to June 2015 and 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.**~~

- 44 **Prior to the issue of any Construction Certificate for Stage 1, the applicant shall lodge a Damage Deposit of \$548,725.00 (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. (DA14/146/02)**

- 45 A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of the first Construction Certificate for Stage 1. The program shall detail: (DA14/146/02)
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
 - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
 - f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
 - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
 - i) Proposed protection for Council and adjoining properties, and
 - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
 - k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

- 46 Prior to the issue of any Construction Certificate for Stage 1, 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. (DA14/146/02)
- 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.
- 47 Prior to the issue of the Construction Certificate for Stage 2, the planter boxes at the rear upper levels of the building shall be amended to have minimum dimensions of 1.2 metres in height and 1.0 metres in width. Details shall be submitted with the Construction Certificate. (DA14/146/02)
- 48 The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 "Access for People with Disabilities" and Australian Standard AS1428.1 (2001) - Design for Access and Mobility - Part 1 General Requirements for Access - Buildings. This requirement shall be reflected on the Construction Certificate plans for each Stage. (DA14/146/02)
- 49 Prior to the issue of a Construction Certificate, the construction drawings shall indicate the following:
- a) That water will be prevented from penetrating behind fittings/linings and into concealed spaces in laundry, sanitary areas and bathrooms etc;
 - b) That floor to ceiling in laundry and bathroom areas to be tiled;
 - c) That timbers used in the development are plantation, recycled or regrowth timbers of timbers grown on Australian farms or State forest plantations and that no old growth or rainforest timbers are to be used in any circumstances; and
 - d) That plumbing to each dwelling will be separated and adequately contained to prevent noise transmission and vibration.
- 50 Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:

- 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,
- All service vehicles shall enter the property front in front out,
- Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
- Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
- A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.

51 Prior to the release of the Construction Certificate, the following required details are to be submitted to and approved by Council:

- Disabled car parking spaces shall be provided and clearly marked in accordance with Australian Standard AS 2890.6, SEPP 65 Design Code and Council requirements, and
- All off street disabled parking shall have access to the adjacent road(s) as per Australian Standard AS 2890.6 and Council requirements.

52 The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development. Dilapidation survey reports (one prior to commencement and one at completion) of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the release of Construction and Occupation Certificate.

53 During demolition, excavation, remediation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery

vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

54

- a) All imported fill shall be validated in accordance with Department of Environment and Conservation approved guidelines to ensure that it is suitable for the proposed development from a contamination perspective. Imported fill shall be accompanied by documentation from the supplier, which certifies that the material is suitable for the proposed residential/recreational land use and not contaminated based upon analyses of the material.
- b) To prevent contaminated soil being used onsite, all imported fill shall be certified VENM material and shall be validated in accordance with the Office of Environment and Heritage (OEH) approved guidelines to ensure that it is suitable for the proposed development. 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.
- c) Any soil disposed of offsite shall be classified in accordance with the procedures in the Department of Environment and Climate Change Waste Classification Guidelines (2008).

55 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.

56 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 Coward Street, road reserve. The camera and its operation shall comply with the following:

- The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,

- 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,
- Distance from the manholes shall be accurately measured, and
- 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.

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

- 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,
- Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - The additional load on the system, and
 - The relocation and/or adjustment of the services affected by the construction.
- All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of any 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.

58 A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to *'Do It Right On-Site' Soil and Water Management for the Construction Industry* (available from Council) and NSW EPA's *Managing Urban Stormwater: Construction Activities* and submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. This Plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be

maintained at all times during the construction works. A copy of the Soil and Water Management Plan shall be kept on-site at all times and made available to Council Officers on request.

- 59 Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
- 60 Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.
- 61
- a) Prior to the issue of the Construction Certificate, the measures required in the Noise Impact Assessment Report No. 610.12456-R3 prepared by The Acoustic Group dated 26 June 2014 shall be undertaken in accordance with the provisions of *AS2021-2000: Acoustics – Aircraft Noise Intrusion – Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021-2000 shall be incorporated into the construction of the building;
 - b) Prior to the issue of the Construction Certificate, a compliance report from a suitably qualified acoustic consultant shall be submitted to Council indicating any required noise mitigation measures to the approved dwelling, as detailed in the NSW Road Noise Policy 2011 in accordance with AS 3671-1989 – Acoustic – Road Traffic Intrusion;
 - c) Prior to the issue of the Construction Certificate details are to be provided on acoustic treatment to the entry and exit roller door to driveway of the development to comply with the Office of Environment & Heritage's Industrial Noise Policy and Noise Control Guidelines.
- 62 Prior to the issue of the Construction Certificate, the measures required in the Wind Impact Assessment, Report prepared by Windtech Pty Ltd dated 3 October 2014 shall be detailed on the Construction Certificate plans.

- 63 Prior to the issue of the Construction Certificate, a Certificate under Section 73 of the Sydney Water Act 1994 shall be obtained and submitted to Council for each stage of construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges.

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

- 64 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:

- a) The rooms for the storage of garbage and recyclable materials shall be:
 - i) fully enclosed;
 - ii) adequately ventilated;
 - iii) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
 - iv) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.
 - v) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
- b) Waste arising from the development (when complete) is to be removed from the Coward Street, the detail of which is to be submitted with the Construction Certificate.
- c) All garbage must be collection within the site. The head clearance of the loading dock area to facilitate this must be a minimum of 4.6 metres.

- 65 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 the Certifying Authority prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.

66 Prior to the issue of the Construction Certificate, detailed construction plans in relation to the development shall be revised and submitted to Council for approval. The plan shall be revised to include the following: Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distances stipulated in AS 2890.2.

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

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

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

- Provisions made in the Stormwater Drawings, ref. no. 140163 by ACE, dated 27 May 2014,
- Provision of a minimum 10kL rainwater tank for each building collection system for internal reuse in accordance with Section 4 of Botany Bay's SMTG,
- No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
- The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- On Coward St, connect proposed Building A's outlet pipe to Council's existing stormwater inlet pit and reconstruct existing stormwater inlet pit with 1.8metre Lintel with a hinged steel galvanised grate,
- On Coward St, the proposed new stormwater pipe shall be minimum 375diameter Class 4 Reinforced Concrete, and
- On Coward St, the proposed new stormwater inlet pit shall have a 1.8metre Lintel with a hinged steel galvanised grate.

68 Prior to the issue of the relevant Construction Certificate, design certification, prepared by a suitably qualified engineer shall be submitted to the Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2 (for loading area) and AS2890.6.

- 69 In order to maximise visibility in the basement car parks, the ceilings shall be painted white. This requirement shall be reflected on the relevant Construction Certificate plans.
- 70 The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council approval.
- 71 The development shall make provision for the following car parking allocations, for the development itself:

STAGE 1 – BUILDING A

Car Parking Rates	Required
1 space per studio and 1 bedroom unit	113 spaces
2 spaces per 2 bedroom unit	148 spaces
2 spaces per 3 bedroom unit	6 spaces
1 visitor space per 7 dwellings	27 spaces
Commercial spaces	9 spaces
TOTAL REQUIRED	303

STAGE 2 – BUILDING B

<i>Car Parking Rates</i>	<i>Required</i>
<i>1 space per studio and 1 bedroom unit</i>	<i>162 spaces</i>
<i>2 spaces per 2 bedroom unit</i>	<i>232 spaces</i>
<i>2 spaces per 3 bedroom unit</i>	<i>4</i>
<i>1 visitor space per 10 dwellings</i> <i>of which 3 will be dual use as car wash bays</i>	<i>28 spaces</i>
<i>Commercial spaces</i>	<i>9 spaces</i>
<i>TOTAL REQUIRED</i>	<i>435</i>

Car Parking Rates	Required
0.6 spaces/1 bedroom unit	88.8 spaces
0.9 spaces/2 bedroom unit	135 spaces
1.4 spaces/3 bedroom unit	16.8
1 visitor space per 7 dwellings of which 3 will be dual use as car wash bays	45 spaces
Commercial spaces	9 spaces
TOTAL REQUIRED	295

(Added DA14/146/03)

This requirement shall be reflected on the Construction Certificate plans and any future strata subdivision. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times. ***Those apartments in Building B not allocated a space are to be restricted to Studio apartments on any future strata plan. (Added DA14/146/03)***

72 Prior to the issue of the relevant Construction Certificate, the following documentation shall be submitted to Principal Certifying Authority:

- a) Longitudinal sections along centreline of all the ramps between each basement parking levels;
- b) Design certification, prepared by a suitably qualified engineer, showing the longitudinal sections shall be designed in accordance with AS2890.1 (including gradients and gradient transitions).
- c) Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans includes the required sight lines for safety and has been designed in accordance with AS 2890.1, AS2890.2 (for loading area) and AS2890.6.
- d) Details including swept paths demonstrating that a MRV vehicle and a garbage truck can access the Coward Street vehicular entry/exit to the building are to be submitted.
- e) The vehicular driveways to be the building are to be a minimum of 6m.

Note: Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distances stipulated in AS 2890.2.

- 73 Plans submitted with the relevant Construction Certificate shall demonstrate compliance with the following:
- a) All residential unit sizes excluding balconies as minimum must be as following: ***(Except as otherwise approved under DA14/146/03)***
 - i) Studio = 60m²
 - ii) 1 bedroom = 75m²
 - iii) 2 bedroom = 100m²
 - iv) 3 bedroom = 130m²
 - b) Adaptable units must be provided in accordance with Section 4C.6.1 of Botany Bay Development Control Plan 2013. Such units shall be designed in accordance with AS 4299 and BBDCP 2013 (Section 4C.6.1). Details to be submitted with the Construction Certificate.
- 74 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 with details shown on plans submitted with the construction certificate.
- 74A Prior to the issue of the Construction Certificate for Stage 2, the external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:**
- a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and***
 - b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built. (Added DA14/146/03)***

DURING WORKS

- 75 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.

- 76 During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 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
- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
 - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times

and in particular at the end of each working day or as directed by Council's Engineer.

- 80 If the work involved in the construction of a building:
- a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
 - b) involves the enclosure of a public place:
 - i) a hoarding or fence must be erected between the work site and the public place.
 - ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
 - iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
 - iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
 - c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
- 81 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves the erection of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
- a) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - (1) to a public sewer; or
 - (2) if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - (3) 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.
 - ii) The provisions of toilet facilities in accordance with this clause must be completed before any other work is commenced.

- a) Any new information that comes to light during demolition, excavation, remediation and or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council;
 - b) Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
- 83 The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.
- 84 Throughout the demolition and construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
- 85 During demolition 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.
- 86
- a) Existing structures and or services on this and adjoining properties shall not be endangered during any demolition associated with the above project. The Applicant is to provide details of any stabilisation works required to adjacent developments to Council.
 - b) As the development involves an excavation that extends below the level of the base of the footings of a building or road on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) Protect and support the adjoining premises from possible damage from the excavation, and
 - ii) Where necessary, underpin the adjoining premises to prevent any such damage.
 - iii) Must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of his intention to do so to the owner of the

adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished.

- 87 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.
- 88 The operation shall not give rise to offensive odour or other air impurities in contravention of the Protection of the Environment Operations Act 1997. The Principle contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- a) Covering excavated areas and stockpiles,
 - b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
 - c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,
 - d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
 - e) All loads entering or leaving the site are to be covered,
 - f) The use of water sprays to maintain dust suppression,
 - g) Keeping excavated surfaces moist.
- 89 The Development is to be constructed to meet the following construction noise requirements:
- a) Construction Noise
 - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:
 - 1. The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not less than 15 minutes when the

construction site is in operating must not exceed the background level by more than 10dB(A).

- ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

- 1. The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

- c) Time Restrictions

- i) Monday to Friday 07:00am to 06:00pm;
 - ii) Saturday 08:00am to 4:00pm;
 - iii) No Construction to take place on Sundays or Public Holidays.

- d) Silencing

- i) All possible steps should be taken to silence construction site equipment.

90 The following shall be complied with:

- a) The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW Environmental Noise Control Manual;
- b) Vibration levels induced by the demolition and construction activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
- c) Vibration levels induced by the demolition and construction activities shall not exceed 3mm/sec peak particle velocity (ppv) when measured at the footing of any unoccupied building.
- d) The upper noise level from the demolition and construction operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).

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

Note: Unless otherwise stated, conditions are to be satisfied prior to the issue of the Occupation Certificate for Stage 1 and prior to the separate issue of the Occupation Certificate for Stage 2, as related to the completion and use of the relevant building. (DA14/146/02)

- a) Prior to the issue of the Occupation Certificate, the development is to be constructed to meet the requirements detailed in the Acoustic Report prepared by The Acoustic Group dated 26 June 2014; and
 - b) All acoustic work including that acoustic work required at Condition No. 60 shall be completed prior to the issue of the Occupation Certificate and validated by a person with appropriate qualifications and experience.
- 91A Prior to the issue of any Occupation Certificate in relation to Building A, written evidence must be submitted to the Council demonstrating that:
- (a) there are perpetual lawful access rights (whether by way of a public road, easement, or otherwise);
 - (b) from Kent Road
 - (c) for all persons, including by foot and by vehicle;
 - (d) over the formed access way to the north of Building A and the building at 39 Kent Road
 - (e) to the land upon which building A is proposed;
- unless Council's director of planning has provided written certification that Council is satisfied with such other alternate arrangements for access as may be proposed.
- 92 Prior to the issue of the Occupation Certificate for Stage 2, the following is to be complied with: (DA14/146/02)
- Prior to the issue of any Occupation Certificate, the applicant shall carry out the public domain works on Coward Street and the through site link in accordance with the approved Public Domain Plan. All improvements shall be in accordance with Council Landscaping and Engineering specifications and requirements, including:
- a) The public footpath in Coward Street shall be re-constructed in accordance with Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specification and the approved landscape documentation. Construction hold points and Council inspections are required at the following minimum points:
 - (i) at the commencement of paving works, and
 - (ii) at final completion.
- Note:** Pavers shall be ordered accounting for adequate lead time for manufacture (10-12 weeks). No paver substitutes will be permitted.

- b) New street trees at min. 400 litre pot size specified shall be installed in the Coward Street verge. The trees shall be sourced from a reputable nursery/supplier that grows trees in accordance with the NATSPEC requirements. A Dial-Before-You-Dig enquiry is required prior planting - Council is not liable for any damage to subsurface infrastructure during public domain works. NOTE: Three (3) hold point inspections are required: during construction of tree pits, prior-planting street trees to ensure plant stock is suitable and post-planting to verify final finishes;
- c) On Coward St, adjacent to development, a new stormwater pipe is to be constructed underneath the new kerb & gutter location in accordance Stormwater Drawings, ref. no. 140163 by ACE, dated 27 May 2014 and as per Council's Infrastructure specifications; and
- d) The appropriate additional and street lighting to a high decorative standard, if required by the RMS, is to be installed to the street frontage of the site, so to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements;
- e) The Council nature strips shall be suitably replaced in accordance with Council Specification and the approved landscape documentation at the completion of construction work and at the Applicant's expense.

93 Plans submitted with the Occupation Certificate shall demonstrate compliance with the following:

- a) All residential unit size excluding balconies as minimum must be as following:
 - i) Studio = 60m²
 - ii) 1 bedroom = 75m²
 - iii) 2 bedroom = 100m²
- b) The 738 car parking spaces shall be made available to residents and visitors at all times, with such spaces being clearly marked and signposted prior to issue of the Occupation Certificate;

STAGE 1 – BUILDING A

Car Parking Rates	Required
1 space per studio and 1 bedroom unit	113 spaces
2 spaces per 2 bedroom unit	148 spaces

2 spaces per 3 bedroom unit	6 spaces
1 visitor space per 7 dwellings of which 4 will be dual use as car wash bays	27 spaces
Commercial spaces	9 spaces
TOTAL REQUIRED	303

STAGE 2 – BUILDING B

Car Parking Rates	Required
1 space per studio and 1 bedroom unit	162 spaces
2 spaces per 2 bedroom unit	232 spaces
2 spaces per 3 bedroom unit	4
1 visitor space per 7 dwellings of which 4 will be dual use as car wash bays	28 spaces
Commercial spaces	9 spaces
TOTAL REQUIRED	435

<i>Car Parking Rates</i>	<i>Required</i>
<i>0.6 spaces/1 bedroom unit</i>	<i>88.8 spaces</i>
<i>0.9 spaces/2 bedroom unit</i>	<i>135 spaces</i>
<i>1.4 spaces/3 bedroom unit</i>	<i>16.8</i>
<i>1 visitor space per 7 dwellings of which 3 will be dual use as car wash bays</i>	<i>45 spaces</i>
<i>Commercial spaces</i>	<i>9 spaces</i>
<i>TOTAL REQUIRED</i>	<i>295</i>

Those apartments in Building B not allocated a space are to be restricted to Studio apartments on any future strata plan. (Added DA14/146/03)

(Added DA14/146/03)

- e) ~~Allocation of the car parking shall be as follows:~~
- i) ~~Each studio/one (1) bedroom unit shall be allocated 1 car parking space;~~
 - ii) ~~Each two (2) bedroom unit shall be allocated 2 car spaces;~~
 - iii) ~~Fifty five (55) visitor car parking spaces (of which 4 are to be dual uses as car wash bays) shall be provided. Such spaces must be located nearby the entrance to the development; and~~
 - iv) ~~Eighteen (18) spaces for retail uses. (DA14/146/02)~~

94 All services (Utility, Council, etc) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.

95 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.

96 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 Coward Street, road reserve.

The camera and its operation shall comply with the following:

- The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
- 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,
- Distance from the manholes shall be accurately measured, and
- 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.

- 97 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.
- 98 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.
- 99 Prior to the issue of the ~~relevant~~ Occupation Certificate for Stage 2, the following is to be complied with: (DA14/146/02)
- a) Dedicate to Council and at no expense to the Council and generally in accordance with the Architectural Plans, project no. 1314 by Krikis Tayler, dated 22 January 2015 the following:
 - i) Embellish and dedicate the portion of land to Council for the purpose of a through site link connecting Coward Street to the new John Street to provide public pedestrian access. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes, and
 - ii) Dedicate and provide a public car park to Council accommodating approximately 90 cars.
- 100 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval prior to the issue of the Construction Certificate.
- 101 Prior to the issue of the Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the car parking area has been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6 requirements. The internal parking facilities shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standards.

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

- a) A new vehicular crossing including layback and/or gutter and any associated road restoration shall be constructed in accordance with Council's requirements. The applicant shall make a separate application to Council's Customer Service Counter for the construction/ reconstruction of vehicular crossing (either by Council or own forces) to the vehicular entry point of the site as shown on the submitted approved plan.
- b) The crossing shall be able to accommodate the turning movement of Medium Rigid Vehicle (MRV) entering and leaving the site and at 90° to the kerb and gutter in plain concrete. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant.
- c) The redundant vehicular crossing, together with any necessary works shall be removed and the footpath, nature strip and kerb and gutter shall be reinstated in accordance with Council's specification.
- d) Written confirmation / completion certificate obtained from Council.
- e) Inspection report (formwork and/or final) for the works on road reserve obtained from Council's engineer.
- f) A copy of the approved public domain civil works plans showing Work-as-Executed details (together with an electronic copy) prepared by a registered surveyor.
- g) Driveways and vehicular access paths shall be designed and constructed to comply with the minimum requirements (including changes of grade) of AS/NZS 2890.1.

103 Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels shown upon the approved plans, with relation to drainage, boundary and road reserve levels, have been strictly adhered to.

104 The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.

105

- a) In order to ensure that the required on-site detention, infiltration and rainwater reuse systems will be adequately maintained, Positive

Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built on-site detention, infiltration and rainwater reuse systems. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. The relative location of the on-site detention, infiltration and rainwater reuse systems, in relation to the building footprint, shall be shown on a scale sketch, attached as an annexure to the plans/ forms. Proof of registration shall be submitted to the Principal Certifying Authority prior to occupation of the premises.

- b) In order to ensure that the required pump-out system will be adequately maintained, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built pump-out system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. Proof of registration shall be submitted to the Principal Certifying Authority prior to occupation of the premises.

106 Prior to the issue of the Occupation Certificate:

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

107 Any damage not shown in the dilapidation report required under Condition No. 15 submitted to Council before site works have commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to the issue of the Occupation Certificate.

108 Landscaping shall be installed in accordance with the Council approved landscape plan. The landscaped areas on the property shall be maintained in

accordance with the approved landscape documentation, the conditions of consent and to Council's satisfaction at all times.

- a) An experienced Landscape Contractor shall be engaged to undertake the landscaping 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;
- b) The contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required, and
- c) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the Issue of an Occupation Certificate.

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

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

110 Prior to the issue of the Occupation Certificate:

- a) Certification shall be provided to the PCA that Lighting (lux) levels for this development must include the installation of low glare/high uniformity lighting levels in line with Australian Standard AS:1158. Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens). The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis. A limited amount of internal lighting should be left on at night to

enable patrolling police, security guards and passing people to monitor activities within the premises;

- b) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill; and,
- c) All lighting shall comply with AS4282-1997 Control of the obtrusive effects.

111 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

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

112 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.

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

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

- a) Ensure soil depths in accordance with Council's DCP Part 3L. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low

points elsewhere in the planter. There are to be no external weep holes;

- b) A concrete hob or haunch shall be constructed at the internal joint 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.

115 Vehicles making deliveries (including goods, merchandise and the like) and accessing the site shall comply with the following requirements:

- a) The maximum size of vehicles making deliveries and accessing to the site shall be limited to Medium Rigid Vehicle MRV only as per AS/NZS 2890.2-2002 only.
- b) All loading and unloading of vehicles shall be carried out wholly within the site. No deliveries to the premises shall be made direct from a public places, public streets or any road related areas (eg. footpath, nature strip, road shoulder, road reserve, public car park, service station etc).
- c) Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or similar vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.

116 The ongoing maintenance of the nature strip shall then be undertaken by the occupier/owner/strata body. Maintenance shall include mowing, watering and maintaining an even coverage of grass at all times. Maintenance does not include pruning, trimming, shaping, or any work to street trees located on the

road verge/nature strip at any time the removal of weeds and rubbish and maintaining a good, even coverage of grass at any time.

- 117 The landscape contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time monthly maintenance is required.
- 118 No roller shutters are to be installed to any of the shopfronts that front Coward Street.
- 119 The hours of operation of any future commercial use must be restricted to the hours of 7:00am to 9:00pm Monday to Saturday and 7:00am to 8:00pm Sunday and public holidays.
- 120 The use of the premises shall not give rise to any of the following when measured or assessed at “sensitive” positions within any other property. These “sensitive” positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
 - e) Noise controls specific to the amenity of the residential neighbourhood
 - i) The La10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5 dB between 9:00pm one day and 7:00am the day following

Monday to Sunday when measured at the boundary of any residential property; and,

- ii) Notwithstanding compliance with the above (Condition No. 108(e)(i)), the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 9:00pm one day and 7:00am the day following Monday to Sunday.

121 Any air conditioning units shall comply with the following requirements:

- a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
- b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - ii) Before 7 am or after 10 pm on any other day.
- c) The transmission of vibration to any place of different occupancy above the requirements of AS2670, Australian Standard AS2021-2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction. Australian Standard AS2107 2000: Recommended Design Sound levels and Reverberation levels for Building Interiors.
- d) Any air-conditioning unit shall comply with the City of Botany Bay's General Noise Criteria detailed in Condition 108 above.

122

- a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
- b) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces identified by the NSW Police in Note 5. shall be monitored by CCTV cameras at all times.

- 123 New public domain planting shall be maintained by the Applicant/Owner/Strata Corporation for 12 months after planting (ie. final hold-point inspection). Maintenance includes watering twice weekly to enable good establishment and sustain adequate growth. There shall be two (2) fertilizer applications using a suitable product for natives applied at manufacturer's recommendations, ongoing weed removal, mulch replenishment (minimum of 2) maintaining a 1 metre wide mulch ring at all times and removal of grass/weeds within the mulch ring. Maintenance does not include trimming or pruning the trees under any circumstances. Formative pruning will be undertaken by Council.
- 124 The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction at all times. The automatic drip irrigation system shall be maintained in working order at all times.
- 125 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 14/146 dated as 15 May 2015 and as modified under Section 80A(1)(b) on 10 October 2016 and as amended by Section 96(1A) application received by Council on 1 July 2016 (DA14/146/02) ***and as amended by Section 96(2) application (DA14/146/03) received by Council on 2 March 2017*** and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

ADVISORY NOTES

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

1. As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;

2. The CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas that are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or more cameras should be strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance);
3. Any proposed landscaping and vegetation should adhere to the following principles:
 - a) Shrubs bushes, plants should remain under 900mm in height;
 - b) Branches or large trees should start at a height of two (2) metres and higher;
 - i) This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
4. Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime.
5. Any storage cages in the underground car park areas should not be constructed in an isolated area. CCTV cameras must cover this area, as they are easy targets when they have little supervision. Solid steel housing and quality key locks should be used to prevent access.