

COUNCIL ASSESSMENT REPORT

Panel Reference	2018ECI005
DA Number	DA-2018/1187
LGA	Bayside Council
Proposed Development	Integrated Development - Construction of a fourteen (14) storey mixed use development including 305 residential units, commercial tenancies, a child care centre (74 places) and basement car parking for 440 cars (including 90 public car parking spaces) and public and private landscaping works
Street Address	256 Coward Street, Mascot
Applicant/Owner	Applicant: Karimbla Constructions Services (NSW) Pty Ltd Owner: Karimbla Constructions Services (NSW) Pty Ltd
Date of DA lodgement	9 October 2018
Number of Submissions	Nil
Recommendation	Approval, subject to conditions.
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Development with a Capital Investment Value of over \$30,000,000 (Nominated CIV: \$94, 906,102)
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (BASIX) 2004 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 • State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings • Botany Bay Development Control Plan 2013
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plans – PTW Architects • Statement of Environmental Effects – Meriton • Clause 4.6 Statement for Height of Building – Meriton • Amended Clause 4.6 Statement for Floor Space Ratio – Meriton
Report prepared by	Andrew Ison, Senior Development Assessment Planner
Report date	2 May 2019

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **Yes**

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

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

EXECUTIVE SUMMARY

Council received Development Application No. 2018/1187 on 9 October 2018 for the construction of a fourteen (14) storey mixed use development including 305 residential units, commercial tenancies, a child care centre (74 places) and basement car parking for 440 cars (including 90 public car parking spaces) and public and private landscaping works.

The Development Application is required to be referred to the Sydney Central Planning Panel (SCPP) pursuant to Schedule 7 (Regionally Significant Development) under State Environmental Planning Policy (State and Regional Development) 2011 as the Capital Investment Value of the proposal is greater than \$30,000,000.

The development application is Integrated Development under Section 4.46 (formerly Section 91) of the Environmental Planning and Assessment Act 1979. General Terms of Approval have been issued by Water NSW.

The Development Application was advertised from 26 October 2018 to 26 November 2018. No submissions were received during the notification period.

Key issues that were raised in the assessment were the following:

- Solar access to communal open space and units;
- Size of communal open space;
- Building separation on the "corner" units;
- Total number of proposed lifts;
- Variation to the Height of Building development standard;
- Variation to the Floor Space Ratio development standard;
- Total number of loading spaces; and
- Variation to the front building setback on the upper levels.

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

It is recommended that the application be granted consent, subject to the conditions in the attached Schedule.

SITE DESCRIPTION

The subject site is commonly known as 280 Coward Street, Mascot (Pts 101 in DP 1241951). It is located on the northern side between Kent Road to the west and Bourke Road to the east. The surrounding area is characterised primarily by various forms of residential accommodation, generally shop top housing / mixed use developments, as well as a large number of industrial related uses, particularly to the south of Coward Street and to the west of Kent Road. The subject site is located within an area known as the Mascot Station Precinct, to the west of the Mascot town centre, to the north of Sydney Airport and to the south of Gardeners Road. It is located approximately 250 metres from the main entrance to Mascot railway station, which is to the north west of the subject site.

At the time of writing this report, it is a cleared site with excavation and shoring works being undertaken, which have been approved as part of a separate DA approval. It has a frontage of 126 metres to Coward Street and a depth of 63 metres, and a total area of 7,968m². The site falls from east to west by about 3.5 metres. To the north is a 14 storey mixed use development at 55 Church Avenue, known as Mascot Central. To the north west is Jackson Drive, which provides vehicular access to Kent Road and to the north east is John Street which provides vehicular access into Mascot Central. A pedestrian walkway links between Jackson Drive and John Street, running along the northern edge of the subject property. To the east of the site is a 13 storey mixed use development at 248 Coward Street. To the south are two commercial buildings, one occupied by QANTAS at 10-12 Bourke Road and the other at 247 Coward Street, known as aero247. To the west is a 14 storey mixed use development that is currently under construction.



Figure 1: Aerial showing subject site, marked in red (Source: Bayside IntraMaps)



Figure 2: Subject site as viewed from the opposite side of Coward Street [taken 25 March 2019]



Figure 3: Coward Street looking west with neighbouring development at 248 Coward Street to the right and development at 280 Coward Street under construction [taken 25 March 2019]



Figure 4: Coward Street looking east with the under construction development at 280 Coward Street to the left [taken 25 March 2019]



Figure 5: Development to the south east of the subject site at 10-12 Bourke Road (QANTAS) [taken 25 March 2019]



Figure 6: Development to the south west of the subject site at 247 Coward Street (aero 247) [taken 25 March 2019]



Figure 7: Looking south from Jackson Drive. Subject site is in the background with the under construction development at 280 Coward Street to the right [taken 25 March 2019]



Figure 8: Looking south into the area to be occupied by the proposed north / south pedestrian link, with the under construction development at 280 Coward Street to the right [taken 25 March 2019]



Figure 9: Looking east from the pedestrian path along the northern edge of the subject site. The Mascot Central development is to the left, subject site to the right [taken 25 March 2019]



Figure 10: Looking west from end of John Street, approximately 50 metres from the Bourke Street intersection, providing vehicular access into Mascot Central. Subject site is to the left [taken 25 March 2019]

BACKGROUND

DA-2014/146 – Mixed use development

On 12 June 2015, this DA was approved by the now former Sydney East Joint Regional Planning Panel for an Integrated Development comprising the following:

- Demolition of the existing commercial building, removal of trees and construction of two 14 storey mixed use buildings containing 1440m² of retail and 499 residential units;
- Three basement levels and one ground level of parking below Building A, linking with the basement for the adjoining building at 39 Kent Road;
- One basement level and three above ground parking levels for Building B;
- A total of 792 car parking spaces plus a public pay car park for approximately 93 car parking spaces;
- A Voluntary Planning Agreement for works which include the dedication and embellishment of a through site link to provide public pedestrian access from Coward Street to John Street, and the provision of a public pay car park accommodating approximately 93 car parking spaces.

The reasons for the Panel decision were as follows:

1. The amended application has reduced the scale of the proposal.
2. While the proposal still requires variation of the FSR and building height standard, the variations are now comparable to what has been agreed to in other nearby developments and justified by the Clause 4.6 application. The fact that these variations have been agreed to (and constructed), would make it unreasonable and without purpose to insist on the strict observance of the development standards in this case.
3. The amended proposal is now of a scale that is consistent with the emerging character of the locality.
4. The dedication of open space, through-site links and additional parking near the rail station are a community benefit.

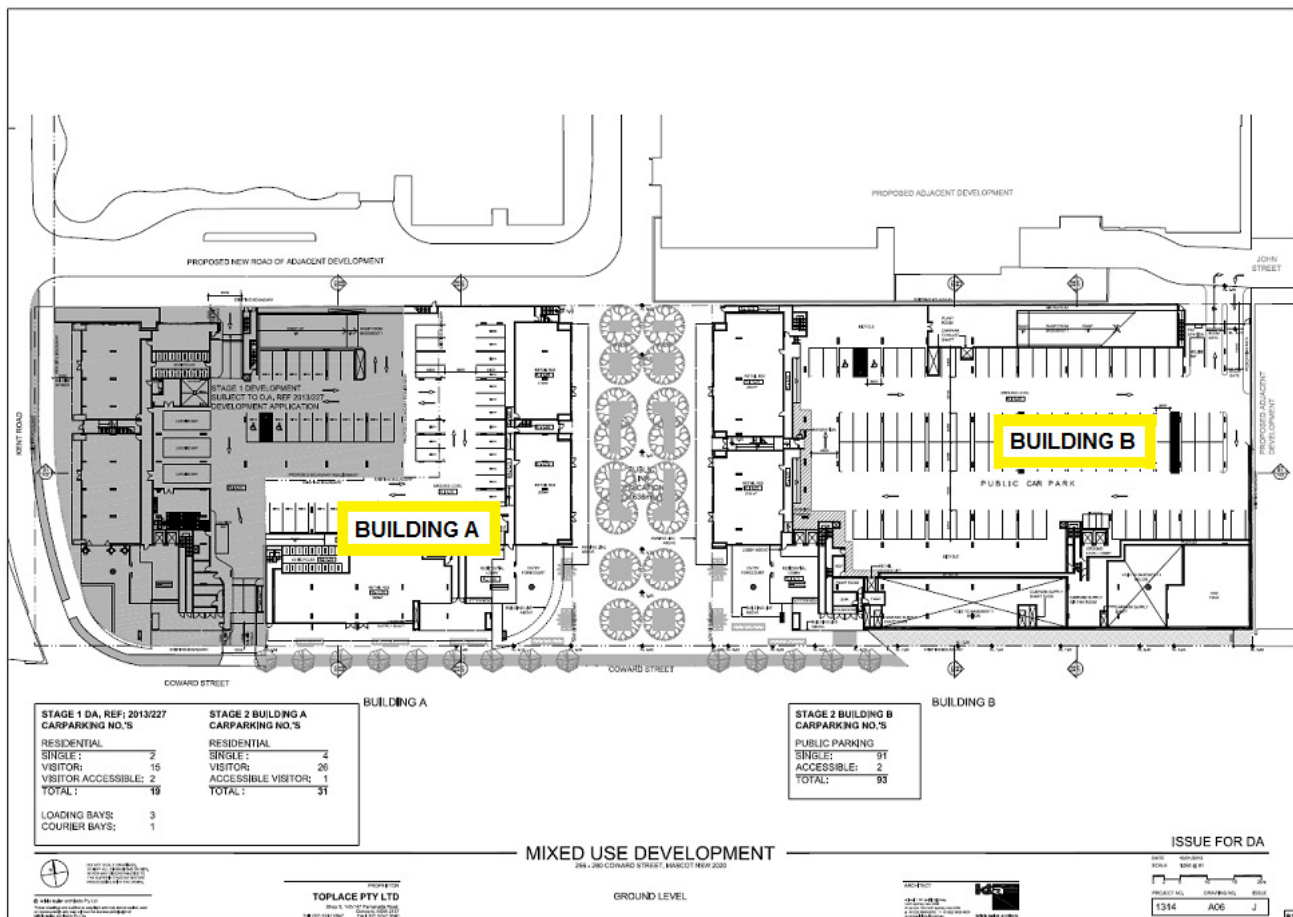


Figure 11: Approved site plan for DA-2014/145, with mark ups showing Building A and Building B (greyed area subject to a separate DA consent).

Three modifications have since been determined, as listed below:

- **DA-2014/146/02:** Section 96(1A) modification to amend Condition 43 to stage the payment of Section 94 Contributions. This was approved under delegated authority on 1 November 2016.
- **DA-2014/146/03:** Section 96(2) application to modify the unit layouts within Building B. This was approved by the Regional Panel on 5 October 2017.
- **BDA-2014/146/A:** Section 4.55(1A) application to modify Conditions 42 and 44 relating to the damage deposit. This was approved by resolution of the Bayside Planning Panel on 12 February 2019.

The consent has been activated by way of demolition of all buildings on site, as well as the construction of Building A. The area containing Building B as well as the north/south public pedestrian access have yet to be developed.

DA-2017/1185 – Amendments to Building A

On 11 September 2018, this DA was approved by resolution of the Bayside Local Planning Panel for the following:

- Four additional storeys at the western end of Building A (levels 9 through to 12), and 17 additional units and also the reconfiguration of five approved units.

DA-2017/1220 – Stratum subdivision

On 29 March 2018, this DA was approved under delegated authority for a two lot subdivision, with Lot 100 covering the area containing Building A and Lot 101 covering the north-south link as well as Building B.

This stratum subdivision cut the property into two parts, as seen below. The eastern building line for approved Building A abuts directly on to the boundary separating the two lots.

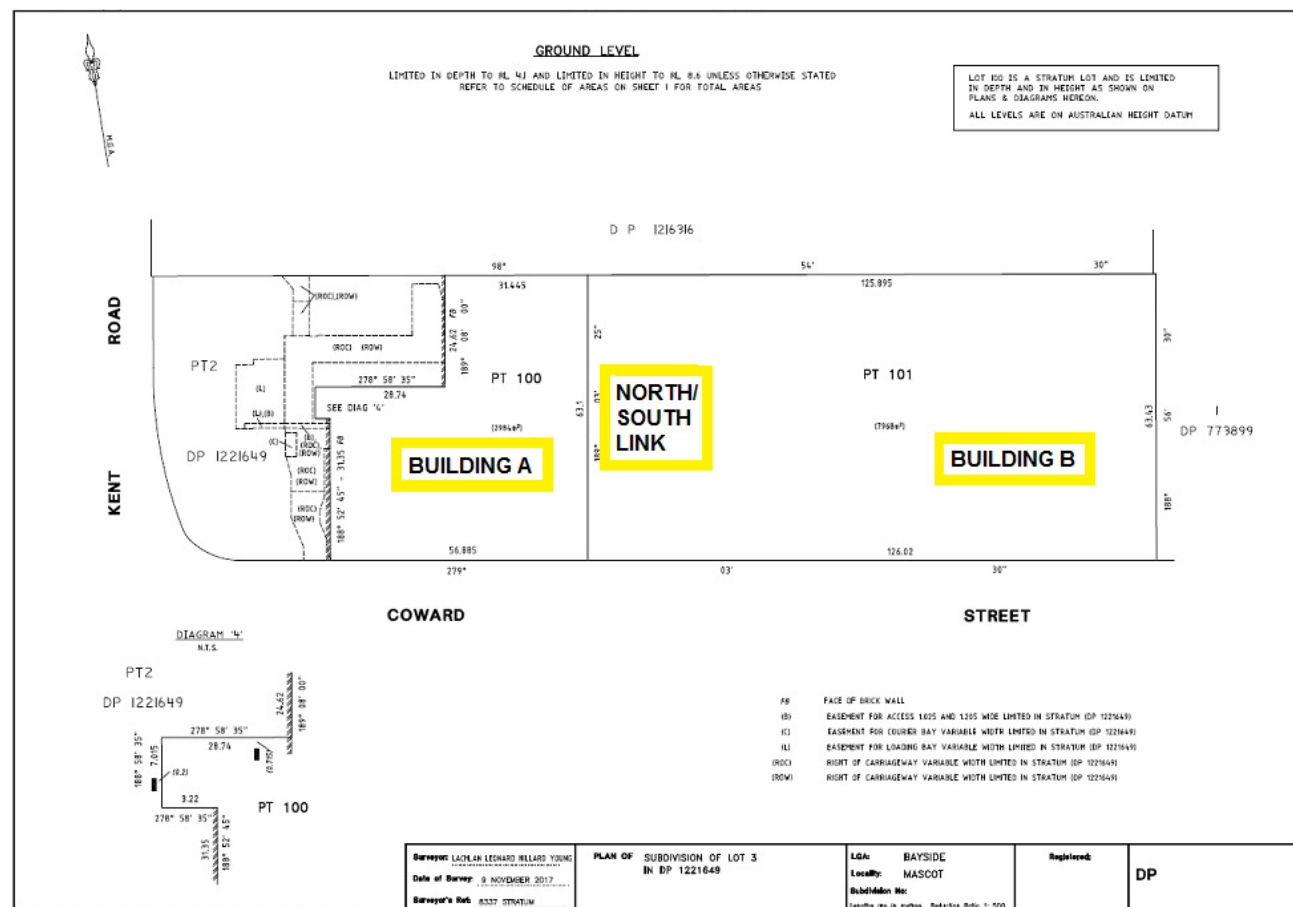


Figure 12: Approved subdivision plan for DA-2017/1220, with mark ups showing Building A and Building B.

This was registered on 22 May 2018 (DP 1241951).

DEVELOPMENT APPLICATION HISTORY

9 October 2018	DA lodged with Council.
26 November 2018	Advertising period finishes. No submissions received.
6 December 2018	Reported to the Bayside Design Review Panel.
20 December 2018	Reported to the Sydney Central Planning Panel for briefing.
4 February 2019	Correspondence sent to the applicant requesting additional information, relating to the Child Care Centre, compliance with the Apartment Design Guide, an amended Clause 4.6 statement for the Gross Floor Area, clarification on the proposed 1+ bedroom units, advice from the Bayside Development Traffic Committee and amended acoustic report.
19 February 2019	Additional information received.
20 March 2019	Second correspondence sent to the applicant requesting additional

	information, relating to engineering issues relating to the car park design and stormwater detail.
2 April 2019	Additional information received.
10 April 2019	Third correspondence sent to the applicant requesting additional information, relating to unresolved issues relating to the car park design.
18 April 2019	Meeting with applicant to discuss the unresolved issues
26 April 2019	Additional information received as a follow up to 18 April meeting.
2 May 2019	Assessment finalised and the subject to this report.

PROPOSED DEVELOPMENT

This Development Application seeks consent for the following:

- Construction of a 14-storey mixed use building, with a three level podium and two towers on the upper levels (Tower A to the west and Tower B to the east), containing a total of 305 residential units (113 x 1 bedrooms, 147 x 2 bedrooms and 45 x 3 bedrooms), 11 retail premises at street level, and an area to be occupied by a future child care centre;
- Basement parking for 440 cars (with 90 to be dedicated to Bayside Council for public parking);
- Landscaping; and
- Dedication of land to Bayside Council for a north/south pedestrian link.

The intention is to stage the proposed development into three stages, with separate Construction Certificates to be issued:

- Stage 1: Ground floor retail
- Stage 2: Tower B, including the proposed child care centre and 149 units (63 x 1 bedrooms, 73 x 2 bedrooms and 20 x 3 bedrooms); and
- Stage 3: Tower A with 156 units (53 x 1 bedrooms, 74 x 2 bedrooms and 3 x 22 bedrooms).

Further detail of the proposed development is as follows:

Basement Level 2

- 138 car parking spaces;
- 2 car wash bays;
- Bicycle parking (62 racks);
- 570m² of storage; and
- Plant and equipment.

Basement Level 1

- 132 car parking spaces;
- Pool, sauna, spa and gym;
- 370m² of storage;
- Plant and equipment;
- On site detention tank; and
- Grease trap.

Ground Floor

- 90 car parking spaces, to be dedicated to the public;

- Pedestrian access to John Street in the north eastern corner;
- Bicycle parking (62 racks);
- North/south pedestrian link on the western edge with a total width of 29 metres and area of 1,638m², to be dedicated to the public;
- 7 retail premises (total floor space of 574m²), with 5 addressing the site link and 2 addressing Coward Street;
- Lobby;
- Managers office;
- Mail room; and
- Plant and equipment.

Level 1

- Vehicular access to the car park at the eastern end of the site;
- 80 car parking spaces, for residential, the child care centre and retail;
- Loading area
- 4 retail premises (total floor space of 269m²);
- Lobby;
- Mail room;
- Bin rooms; and
- Plant and equipment.

Given the 3.5 metre cross-fall of the site from east to west, both the Ground Floor (western end) and Level 1 (eastern end) address Coward Street at street level.

Level 2

- Area in the north western corner for a proposed child care centre with 74 places in Tower A (with the fit out to be subject to a separate application);
- Communal open space on the podium, mostly located in the area occupied by Tower B; and
- 19 residential units, with 8 in Tower A (1 x 1 bedroom, 6 x 2 bedrooms, 1 x 3 bedrooms); and 11 in Tower B (4 x 1 bedrooms, 1 x 1+ bedrooms, 6 x 2 bedrooms).

Level 3

- 30 residential units, with 15 in Tower A (4 x 1 bedroom, 1 x 1+ bedroom, 9 x 2 bedrooms, 1 x 3 bedrooms); and 15 in Tower B (3 x 1 bedroom, 3 x 1+ bedrooms, 8 x 2 bedrooms, 1 x 3 bedrooms).

Level 4

- 30 residential units, with 15 in Tower A (4 x 1 bedroom, 1 x 1+ bedroom, 8 x 2 bedrooms, 3 x 1 bedrooms); and 15 in Tower B (3 x 1 bedroom, 3 x 1+ bedrooms, 8 x 2 bedrooms, 1 x 3 bedrooms).

Level 5

- 28 residential units, with 14 in Tower A (3 x 1 bedroom, 1 x 1+ bedroom, 9 x 2 bedrooms, 1 x 3 bedrooms); and 14 in Tower B (3 x 1 bedroom, 1 x 1+ bedroom, 9 x 2 bedrooms, 1 x 3 bedrooms).

Level 6

- 26 residential units, with 13 in Tower A (3 x 1 bedroom, 1 x 1+ bedroom, 6 x 2 bedrooms, 3 x 3 bedrooms); and 13 in Tower B (4 x 1 bedroom, 1 x 1+ bedroom, 5 x 2 bedrooms, 3 x 3 bedrooms).

Level 7

- 26 residential units, with 13 in Tower A (4 x 1 bedroom, 1 x 1+ bedroom, 5 x 2 bedrooms, 3 x 3 bedrooms); and 13 in Tower B (4 x 1 bedroom, 1 x 1+ bedroom, 5 x 2 bedrooms, 3 x 3 bedrooms).

Level 8

- 26 residential units, with 13 in Tower A (4 x 1 bedroom, 1 x 1+ bedroom, 5 x 2 bedrooms, 3 x 3 bedrooms); and 13 in Tower B (4 x 1 bedroom, 1 x 1+ bedroom, 5 x 2 bedrooms, 3 x 3 bedrooms).

Level 9

- 26 residential units, with 13 in Tower A (4 x 1 bedroom, 2 x 1+ bedroom, 6 x 2 bedrooms, 1 x 3 bedrooms); and 13 in Tower B (4 x 1 bedroom, 2 x 1+ bedroom, 6 x 2 bedrooms, 1 x 3 bedrooms).

Level 10

- 26 residential units, with 13 in Tower A (4 x 1 bedroom, 2 x 1+ bedroom, 6 x 2 bedrooms, 1 x 3 bedrooms); and 13 in Tower B (4 x 1 bedroom, 2 x 1+ bedroom, 6 x 2 bedrooms, 1 x 3 bedrooms).

Level 11

- 26 residential units, with 13 in Tower A (4 x 1 bedroom, 2 x 1+ bedroom, 6 x 2 bedrooms, 1 x 3 bedrooms); and 13 in Tower B (4 x 1 bedroom, 2 x 1+ bedroom, 6 x 2 bedrooms, 1 x 3 bedrooms).

Level 12

- 26 residential units, with 13 in Tower A (4 x 1 bedroom, 2 x 1+ bedroom, 6 x 2 bedrooms, 1 x 3 bedrooms); and 13 in Tower B (4 x 1 bedroom, 2 x 1+ bedroom, 6 x 2 bedrooms, 1 x 3 bedrooms).

Level 13

- 16 residential units, with 8 in Tower A (1 x 1+ bedroom, 3 x 2 bedrooms, 4 x 1 bedrooms); and 8 in Tower B (1 x 1+ bedroom, 3 x 2 bedrooms, 4 x 1 bedrooms).

STATUTORY CONSIDERATIONS

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

Part 4 Division 5 – Special procedures for integrated development

The relevant requirements under Division 4.8 of the EP&A Act and Part 6, Division 3 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of this application. It is Integrated Development in accordance with the Water Management Act 2000 as the development is deemed to be an Aquifer Interference Activity. In this regard, the Development Application was referred to Water NSW.

On 5 December 2018, Water NSW provided General Terms of Approval.

Section 4.15(1)(a)(i) – Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by a BASIX Certificate (Ref: 962528M_02) committing to environmental sustainable measures. The Certificate is in accordance with the SEPP.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 – Development with frontage to classified road

The proposed development is located on land with a frontage to Coward Street, in which that section is prescribed as a classified road as prescribed in the *Schedule of Classified Roads and Unclassified Regional Roads* as prepared by the Roads and Maritime Services (RMS). In this regard, this Clause must be considered before consent can be granted.

Council is satisfied that is satisfied that vehicular access into the development will be provided via a driveway at the eastern end of the site. The site is not able to be accessed from the northern boundary, either by Jackson Drive to the north west or John Street to the north east. Vehicular access is not possible off John Street on the northern property boundary, as evidenced in Figure 10 earlier in this report.

Clause 104 – Traffic Generating Development

The proposed development falls within the provisions of Schedule 3 of the SEPP – Traffic Generating Development, being a residential development with more than 75 dwellings with direct access on to a classified road.

The application was accompanied by a "Transport Impact Assessment" prepared by ARUP and dated 24 September 2018.

Plans and documentation were referred to the RMS for concurrence. In a letter dated 8 November 2018, the RMS has advised that it has no objection to the proposed development and has provided concurrence, subject to conditions.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The provisions of the SEPP apply to the proposal. The proposal seeks to remove a total of six trees located on the southern boundary (*Eucalyptus robusta* x 1, *Banksia intergrifolia* x 3, *Robinia pseudonacacia* x 1 and *Cupaniopsis anacarddioides* x 1), however, the two street trees on Coward Street (*Eucalyptus robusta* x 2) are intended to be retained.

An inspection by Council has revealed that the two street trees are in a poor condition, and hence they can also be removed and replaced with similar species. This will be imposed as a condition in the attached schedule.

Subject to compliance with conditions of consent, the proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017.

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Whilst it is noted that the fitout and use as a child care centre is subject to a future application, an assessment has still been made to consider whether the intended location is in an appropriate

location. The table below outlines the key controls within the SEPP that are applicable to the application:

Applicable Clause	Provision	Proposed	Complies
22 - Concurrence of Regulatory Authority for certain applications	a) Concurrence of regulatory authority required where a variation to the minimum required indoor / outdoor play areas is proposed. <i>(Reg.107/108 of Education & Care Services National Regulations)</i>	Concurrence of regulatory authority not sought by applicant.	N/A – this will be required as part of a future DA for fitout and use
23 – Child Care Planning Guideline	The consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development	The provisions of the Child Care Planning Guideline have been taken into consideration.	Yes
25 – Non Discretionary Development Standards	a) Location - the development may be located at any distance from an existing or proposed early education and care facility.	Noted.	Yes
	b) Indoor / Outdoor space (i) 3.25sq/m per child indoor (ii) 7sq/m per child outdoor	Based on 74 children, the development is required to provide 240.5m ² of indoor space and 518m ² of outdoor space. 258m ² of indoor space is proposed and 558m ² of outdoor play area is proposed.	Yes
	c) Site Area & Site Dimensions - the development may be located on a site of any size and have any length of street frontage or any allotment depth.	The subject site has a total area of 7,968m ² .	Yes
	d) Colour of building materials or shade structures - the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.	The site is not within a heritage conservation area and does not contain a heritage item.	Yes
26 – Development Control	A provision of a	Noted, however, the fit	N/A

Applicable Clause	Provision	Proposed	Complies
Plans	development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility.	out and proposed use will be subject to a separate application.	

Child Care Planning Guideline

3.1 Site selection and location

An acoustic report was lodged as part of this application, has provided indicative recommendations for the child care centre, including a more detailed acoustic review. Whilst it states the Construction Certificate stage, the intent is to be at the DA stage for the future child care centre. Council's Environmental and Health Officer has reviewed the report and has concluded that there is insufficient information to make a complete assessment, with relation to the noise impact that the child care centre will have during its operation. Further detail will be required as part of a future application for the fit out and use.

In the context of its location (i.e. the second storey podium in the north western corner of the proposed building), its setback is considered to be acceptable in relation to the nearest neighbouring residential units to the west at 280 Coward Street and to the north at 55 Church Avenue.

The required parking spaces and pick up / drop off zone is integrated into the proposed development and are located on within the level one parking area.

The subject site is located within an area identified as the Mascot Station Precinct in the Botany Bay DCP 2013, which contains a number of land uses including community facilities such as Nancy Bird-Walton Reserve on Church Avenue and the Linear Park about 250 metres to the east on Coward Street.

The subject site is not located near any heavy industries, service stations or odour generating uses.

3.2 Local character, streetscape and the public domain interface

The proposed child care centre site is integrated within the proposed development by way of being on the second floor, and furthermore it does not address Coward Street.

There are openings on the western elevation that will allow for passive surveillance to the north / south pedestrian link along the western edge of the proposed development.

The pedestrian entry from both the north/south pedestrian link as well as within the car park is clearly defined and identified.

3.3 Building orientation, envelope, building design and accessibility

A large portion of the outdoor play area (along the eastern edge) will receive satisfactory solar access in mid-winter.

Being located on the second floor podium, the outdoor play area is in a location that is protected from wind and other climatic conditions.

The subject location is greater than 10 metres from Coward Street.

It is considered to respect and respond to its physical context by way of adjoining built form, neighbourhood character and streetscape.

Being located in a proposed mixed use development, there are clearly defined entries from the north-south pedestrian link as well as within the level one car parking area, and are separated from other uses within the building.

With relation to access and mobility, a standard condition will be imposed relating to compliance with Part D3 of the National Construction Code.

3.4 Landscaping

Appropriate planting has been provided along the boundary integrated with fencing. This has been reviewed by Council's Landscape Architect and is deemed acceptable, subject to conditions.

3.5 Visual and acoustic privacy

There are two units directly to the south (Units 201 and 202). The outdoor play area is bounded by a 1.8m high acoustic wall. On this basis both it is considered that the visual and acoustic privacy is capable of being protected for the units. However, this could possibly be further refined when the future application for the child care centre fit out is being assessed.

No public areas nor the communal open space can overlook into the indoor and outdoor play areas.

The fences that enclose the outdoor play area ensures that it can not overlook into neighbouring internal living areas and private open space on that level.

As stated previously, a 1.8m high acoustic wall is proposed to envelop the outdoor play area. Further detail on its effectiveness will be required to be included in the acoustic report that will accompany the future application for the fit out and use.

A suitably qualified acoustic professional has prepared an acoustic report ("Development Application Acoustic Report" prepared by Acoustic Logic, prepared 3 April 2019).

3.6 Noise and air pollution

The site is within the 25 to 30 ANEF area given the site's close proximity to Sydney Airport. Indicative recommendations have been made in the acoustic report, relating to glazing construction, external walls, roof / ceiling construction and external doors. Further detail on its effectiveness will be required to be included in the acoustic report that will accompany the future application for the fit out and use.

The front section of the proposed mixed use development provides a sufficient buffer to any road noise that is generated from Coward Street.

Given the buffer to Coward Street as well there being no heavy industries, service stations or any odour generating activities, it is considered that an air quality assessment report is not required.

3.7 Hours of operation

The Plan of Management that was prepared and lodged as part of this DA has stated opening hours of 6am to 8pm Monday to Sunday. Whilst this is noted, this will undergo further assessment as part of the future application for the fit out.

3.8 Traffic, parking and pedestrian circulation

The car parking rates comply with those prescribed in the Botany Bay Development Control Plan 2013. This will be discussed further late in this report.

All parking as well as the pick up and drop off zones have been provided on level one of the car park.

Education and Care Services National Regulations

Regulation	Design Guidance	Proposal	Complies
104 – Fencing or barrier that encloses outdoor spaces	Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	The outdoor play area is fully enclosed by a 1.8m acoustic fence.	Yes
106 - Laundry & Hygiene Facilities	On site laundry facilities should contain: <ul style="list-style-type: none">• a washer or washers capable of dealing with the heavy requirements of the facility• a dryer• laundry sinks• adequate storage for soiled items prior to cleaning• an on site laundry cannot be calculated as usable unencumbered play space for children	A laundry is proposed	Yes
107 - Indoor Space Requirements	A minimum of 3.25m ² unencumbered indoor space per child.	Based on 74 children, the development is required to provide 240.5m ² of indoor space. 258m ² of indoor space is proposed.	Yes
	Storage <ul style="list-style-type: none">- min 0.3m³ per child external- min 0.2m³ per child internal	Identified storage spaces throughout the building generally appear compliant, however further assessment to be made with the future DA for fit out and use.	Yes

Regulation	Design Guidance	Proposal	Complies
108 - Outdoor Space Requirements	A minimum of 7m ² per child unencumbered outdoor space <i>Note - Calculating unencumbered space should not include areas of dense hedges / plantings along boundaries which are designed for landscaping purposes and not for children's play.</i>	Based on 74 children, the development is required to provide 518m ² of outdoor space. 558m ² of useable outdoor play area is proposed.	No
109 - Toilet & Hygiene Facilities	Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants.	Capable of complying, subject to a future DA for fit out and use.	Yes
110 – Ventilation & Natural Light	To achieve adequate natural ventilation, the design of the child care facilities must address the orientation of the building, the configuration of rooms and the external building envelope, with natural air flow generally reducing the deeper a building becomes. It is recommended that child care facilities ensure natural ventilation is available to each indoor activity room. Consideration should be given to: <ul style="list-style-type: none"> • providing windows facing different orientations • using skylights as appropriate • ceiling heights. 	The proposed child care centre has aspects to the east, north and west, with openings on each of these elevations. This allows for a maximisation of natural light and ventilation.	Yes
111 – Administrative Space	A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.	Capable of complying, subject to a future DA for fit out and use.	Yes

Regulation	Design Guidance	Proposal	Complies
112 – Nappy Change Facilities	Design considerations include: <ul style="list-style-type: none"> properly constructed nappy changing bench or benches a bench type baby bath within one metre from the nappy change bench the provision of hand cleansing facilities for adults in the immediate vicinity of the nappy change area a space to store steps positioning to enable supervision of the activity and play areas. 	Capable of complying, subject to a future DA for fit out and use.	Yes
113 – Outdoor Space Natural Environment	Outdoor spaces provided must allow children to explore and experience the natural environment.	There is a variety of materials, equipment and surfaces to maximise tactile learning	Yes
114 – Outdoor Space Shade	Adequate shaded areas required.	Shade sails proposed. The proposal is capable of complying, subject to a future DA for fit out and use.	Yes
115 – Premises Designed to Facilitate Supervision	Rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity.	Floor plan indicates a layout that demonstrates that it is capable of complying. However, further consideration is to be made as part of a future application for the child care centre.	Yes
97 / 168 - Emergency & Evacuation Procedures	Emergency and evacuation plan should be submitted with a DA.	None has been provided. However, further consideration is to be made as part of a future application for the child care centre.	Yes

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP No. 55 have been considered in the assessment of the development application. Clause 7 of SEPP No. 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application.

The following documents were lodged as part of the DA:

- 'Stage 1 Environmental Site Assessment – 256-280 Coward Street, Mascot, NSW' (Report No. E22226 AA – Rev.01) by Environmental Investigations Australia dated 12 June, 2014.
- 'Detailed Site Investigation Report - 256-280 Coward Street, Mascot, NSW' (Report E22925AA_Rev 0) by EI Australia dated 13 July 2016.
- 'Remediation Action Plan - 256-280 Coward Street, Mascot, NSW', (Report E22925 AC) by EI Australia dated 15 August 2016.
- 'Geotechnical Desktop Study - 256-280 Coward Street, Mascot, NSW' (Report No. E22226 GB) by Environmental Investigations Australia dated 18 June 2014.

The Detailed Site Investigation (DSI) identified data gaps of up to five underground storage tanks onsite that have not been removed, and vertical delineation of asbestos is not determined. F2 in the groundwater has been found in the site indicating the tanks may still be onsite.

The DSI and Remediation Action Plan (RAP) does not consider the proposed child care centre or the north / south pedestrian link.

The landscaped north / south link is required to be remediated to ensure it is suitable for public use without the need for a long-term Environmental Management Plan.

With respect to the child care centre given that the proposed location of the childcare centre is above the basement levels, it is considered that these issues can be addressed in a revised RAP for the site. It is recommended that this revised RAP is to be provided to Council for review and concurrence prior to the issue of the relevant Construction Certificate.

Excavation will be required for the lower basement level, however the western area of the site will not be excavated and is required to be suitably remediated. The excavation and installation of shoring will not impact the capacity of any remediation that may be required on the subject site.

Based on the above, it is considered that the relevant provisions under this SEPP have been satisfied.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings

In accordance with Clause 28(2) of this SEPP, the consent authority must take into consideration the following:

a. The advice of the Design Review Panel (DRP)

This DA was reported to the Design Review Panel on 6 December 2018.

The DRP supports the proposed development subject to the changes as listed below:

- *Further attention to be paid to the northern edge of the subject site where it abuts the east-west cross site link to John Street and the interface with existing built form and landscape as well as potential for enhanced activation and surveillance.*

Comment: The applicant has stated that the north boundary wall along the cross link will be treated as patterned precast wall and the wall patterns and colours will be developed to compliment this public link. However, the architectural plan (DA-20-0300) currently shows this as blank, but the applicant has requested that this requirement is to be conditioned as a requirement prior to the issue of the relevant Construction Certificate.

Council agrees with this request.

- *Interface of the green link with Jackson Drive and John Street with particular reference to lighting, landscape, edge profile and creation of opportunities for active and passive surveillance.*

Comment: The applicant has stated that the green link with Jackson Drive and John Street is part of the adjoining property to the north and acts as a fire escape path. Accordingly, these aspects are part of another property management's scope of work. However, the north/south link landscaped area has been amended in terms of pathway direction towards Jackson Drive, as amended on plans DA-10-1000 and DA-10-1100. Additional planter with large trees have been introduced in front of the crosslink balustrade to mitigate visual obstruction of the solid wall.

This is considered acceptable.

- *Further opportunities for including sustainability initiatives in the design above and beyond those required by BASIX such as solar energy generation, rainwater harvesting, community gardens etc should be pursued.*

Comment: Further opportunities for including sustainable initiatives have been investigated by the applicant in addition to the requirements of BASIX. Rainwater harvesting will be implemented whereby watering of the landscape areas is achieved from stored rainwater and not drinking water.

This can be conditioned.

- *Provision of accessible entries to all raised lawn areas within communal open spaces.*

Comment: The level 2 plan (DA-10-1200) has been amended with accessible ramps now being provided to all raised lawn areas within the communal open space.

This is supported by Council.

- *The long-term suitability of raised and mounded lawn areas and their interface with pathway networks.*

Comment: Accessible entries to raised lawns in communal open space have been added. This is also shown on the amended architectural plans.

This is supported by Council.

- *Attention to be made to the interface between the green link and the junction with the adjacent pedestrian link to John Street with the provision of larger scale canopy trees within the north/south 'green link' given the deep soil space provision.*

Comment: The interface of the north/south link and the adjoining John Street pedestrianised area has been amended to better address levels. The amended design also addresses the approved levels of the buildings on the site to the west to ensure that its egress points coordinate with the north/south link.

This is supported by Council.

- *Concerned about the relationship between the interface of the child care (public) parking and access to / separation of the adjacent (private) residential parking.*

Comment: The applicant has responded with the following – the child care centre parking is on Level 1 and will be line marked specifically for that purpose, as shown on the plans. The location of the child care centre spaces have been deliberately placed to a dedicated child care centre lift.

On this basis, this is supported by Council.

- *Interface with the adjacent cross site link to John Street with particular reference to lighting, landscape, edge profile and surveillance as well as enhanced activation needs to be considered.*

Comment: In addition to the current lighting along John Street, the amended landscape plan shows the location of lighting through the proposed open space. There will be plenty of light spillage from future retail uses and under awning signs along the park edge. The landscaping plan has been amended to provide pedestrian paths along the edges and within the middle of the open space to improve visibility and surveillance. Landscape amendments to the interface of the proposed ramp and stairs will improve overall surveillance of this area.

On this basis, this is supported by Council.

- *The Panel recommends that design development to improve natural light access to the lift foyers on all floors be explored.*

Comment: The applicant has stated that all circulation areas in the buildings have access to natural light and ventilation. This is evidenced by large openings near the lifts in the circulation area.

b. The design quality of the development when evaluated in accordance with the design quality principles.

The design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

Principle 1: Context and Neighbourhood Character

The locality is located within the Mascot Station Town Centre Precinct and is zoned B2 Local Centre as prescribed under the Botany Bay LEP 2013. The existing streetscape of Coward Street by a mixture of mixed use commercial and residential uses on the northern side, and commercial and industrial uses on the southern side. It is on the southern edge of the Mascot Station Town Centre Precinct and the subject site will provide an “infill” development to complement recently completed developments to both the east and west.

The zone objectives for the B2 Local Centre zone is to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area, to encourage employment opportunities in accessible locations and to maximise public transport patronage and encourage walking and cycling. Accordingly, this is an area that has gradually been undergoing transition, with a number of mixed use and shop top housing developments recently constructed within this Precinct. Furthermore, the proposal is consistent with the desired future character, with respect to generally meeting the relevant development standards in the Botany Bay LEP 2013 (with the exception of the Height of Building and Floor Space Ratio development standards, which will be further discussed later in this report) and most of the relevant standards in the Apartment Design Guide (ADG) as prescribed under this SEPP and development controls in the Botany Bay DCP 2013.

Principle 2: Built Form and Scale

The built form of the proposed development will actively contribute towards the evolving nature of the streetscape and character for the northern side of Coward Street, with respect to the scale, bulk and height of the building, and also manipulation of building elements adding visual interest from the street. Internal amenity, outlook and surveillance opportunities are provided through the location of living areas and the location of the communal open space on the second floor podium.

Principle 3: Density

The approved development exceeded the Floor Space Ratio (FSR) of 3:1 as prescribed under the Botany Bay LEP, and the additional floor area will further increase the FSR by another 13.8%. However, this is supported by Council and will be discussed later in this report.

There is sufficient communal open space and other passive and active recreation opportunities as well as private open space areas. The application of these principles means that it is not considered to be overdevelopment of the site. It is within the Mascot Station Town Centre Precinct, which has regular train and bus services, and is within walking distance of a number of public parks and reserves, as well as schools, services and employment opportunities.

Principle 4: Sustainability

The applicant has submitted a BASIX Certificate, demonstrating that the proposal achieves the relevant energy efficiency standards as specified by the BASIX SEPP. 189 of the 305 residential units (62%) will have living area windows and private open space that will receive a minimum of two hours sunlight between 9am and 3pm in mid-winter. It is noted that it does not comply with the minimum of 70% as prescribed in the Apartment Design Guide (ADG). However, given the site location and context this is supported by Council and will be discussed later in the report.

Principle 5: Landscape

Landscape details have been provided, with respect to the communal area, the private courtyard areas and also the north/south link on the western edge of the subject site. This has been reviewed by Council's Landscape Architect, and is deemed acceptable, subject to the imposition of conditions.

Principle 6: Amenity

The design provides a good level of amenity for future occupants by providing appropriate room dimensions, suitable solar access to a large number of units, appropriately sized balconies for each residential unit as well as communal open space, and ease of access for all age groups and degrees of mobility.

Principle 7: Safety

This application was referred to the NSW Police for comment.

In accordance with the Environmental Planning and Assessment Act, 1979, Section 79C Crime Prevention Guidelines, a Safer by Design Crime Risk Evaluation has been prepared.

As a result of this process a Medium crime risk rating has been identified for the proposed development on a sliding scale of Low, Medium, High and Extreme crime risk.

The NSW Police made a number of recommendations relating to surveillance, lighting, territorial reinforcement, space / activity management and access control. Where relevant, these will be imposed as conditions of consent.

Principle 8: Housing Diversity and Social Interaction

The proposed development will provide for a mixture of housing types that will cater for different budgets and housing needs. This will aid in addressing housing affordability.

Principle 9: Aesthetics

As discussed previously, the proposed development has been reviewed by Council's Design Review Panel. In general, it was supportive of the proposed development, subject to amendments.

These amendments have been either made on the plans or are intended to be completed, subject to conditions of consent.

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:

Section	Design Criteria	Proposed	Complies
Part 3 Siting the Development			
Part 3D: Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site.	The communal open space on Level 2 has an area of 1,673m ² , which is equal to 21% of the site.	No, see Note 1 below
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Less than 50% of the communal open space is able to receive a minimum of 2 hours of sunlight in mid winter	No, see Note 2 below
Part 3E: Deep Soil Zones	For sites greater than 1,500m ² , a deep soil area equal to 7% of the site and with a minimum dimension of 6m	The deep soil zone is located within the north/south link, which provides the equivalent of 9.2%	Yes, considered acceptable
Part 3F: Visual Privacy	For developments up to 8 storeys: <ul style="list-style-type: none"> • 9m between habitable/balconies and non-habitable • 4.5m between non-habitable rooms 	Greater than the minimum both within the proposed development and neighbouring properties, with the exception of the "corner units" at the eastern and western ends	No, see Note 3 below
	For developments 9 or more storeys: <ul style="list-style-type: none"> • 12m between habitable/balconies and non-habitable • 6m between non-habitable rooms 	Greater than the minimum both within the proposed development and neighbouring properties, with the exception of the "corner units" at the eastern and western ends	No, see Note 3 below

Section	Design Criteria	Proposed	Complies
Part 3J: Car Parking	On sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less	The Guide to Traffic Generating Developments only prescribes rates for residential, which has been used for the purposes of the assessment. Further detail will be required later in the report under "Impacts of the development".	---
Part 4 Designing the Building			
Part 4A: Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.	The living rooms and private open space areas for 189 out of the 305 apartments (62%) receive at least 2 hours of direct sunlight between 9am and 3pm on 21 June.	No, see Note 2 below
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	53 out of the 305 apartments (17%) receive no direct sunlight between 9am and 3pm on 21 June.	No, see Note 2 below
Part 4B: Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	118 of the 185 units (to nine storeys (63.8%)) will be naturally cross ventilated. The remaining 120 units from Level 9 to 13 have no enclosure of balconies, and hence are deemed to provide adequate natural ventilation.	Yes
Part 4C: Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: - 2.7m for habitable rooms - 2.4m for non-habitable rooms	The ceiling heights of all residential floors range from 3.1m to 3.3m from floor to ceiling.	Yes

Section	Design Criteria	Proposed	Complies
Part 4D: Apartment Size and Layout	<p>Apartment are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> - 1 bedroom: 50m² - 2 bedrooms: 70m² - 3 bedrooms: 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p>	<p>The minimum area for the 1 bedroom units are 54m². 35 of these 1 bedroom units are defined as 1+ bedroom units,</p> <p>The minimum area for the 2 bedroom units are 76m².</p> <p>The minimum area for the 3 bedroom units are 102m².</p>	Yes, see Note 4 below
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All habitable rooms have windows of acceptable size to facilitate acceptable solar access and natural ventilation.	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	The habitable room depths comply.	Yes
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	The size of all bedrooms comply.	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m, excluding wardrobe space.	Yes
	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> - 3.6m for studio and 1 bedroom apartments - 4m for 2 and 3 bedroom apartments 	The width of the studio and 1 bedroom units is at or greater than 3.6m, and the width of the 2 bedroom units is at or greater than are 4m.	Yes
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of each apartment is greater than 4m.	Yes

Section	Design Criteria	Proposed	Complies
Part 4E: Private Open Space and Balconies	<p>All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> - Minimum area of 8m² and minimum depth of 2m for 1 bedroom units - Minimum area of 10m² and minimum depth of 2m for 2 bedroom units - Minimum area of 12m² and minimum depth of 2m for 3 bedroom units <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p>	<p>89 of the units contain winter gardens.</p> <p>The minimum area for of the balconies for the studio units are 9m².</p> <p>The minimum area for of the balconies for the 1 bedroom units are 8m².</p> <p>The minimum area for the 2 bedroom units are 10m².</p> <p>The minimum area for of the balconies for the 3 bedroom units are 12m².</p> <p>All balconies have minimum depth of 2m.</p>	Yes
Part 4F: Common Circulation and Spaces	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	Based on 305 units, a total of 8 (rounded up) are required. Four are provided.	No, see Note 5 below
Part 4G: Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> - 6m³ for 1 bedroom units - 8m³ for 2 bedroom units - 10m³ for 3 bedroom units <p>At least 50% of the required storage is to be located within the apartment.</p>	There is a mixture of storage located within the units as well as within the basement areas.	Yes

Note 1 – Communal Open Space



Figure 13: Extract from Level 2 plan showing open space (redacted)

An area of 2,191m² of the second floor podium includes open space, which is to equivalent of 27.9%. However, 518m² of this area, in the north western corner, is dedicated outdoor play area for the proposed child care centre. As discussed previously in this report, this area is required in order

to meet the requirements based on the proposed number of children for the child care centre, and demonstrates compliance.

When the child care centre outdoor play area is subtracted, it leaves an area of 1,673m², which is to the equivalent of 21% of the site.

Despite the non-compliance, the proposal meets the relevant objectives under Part 3D of the Apartment Design Guide:

Objective 3D-1: An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping

Comment: At nearly 1,700m² in area, the proposed design provides a more than adequate area of communal open space. The large central area, adjacent to the child care centre site has dimensions of 34m wide by 44m deep. The residential amenity is enhanced by features such as a BBQ pavilion with picnic tables and informal seating and the plans indicate plentiful opportunities for landscaping, both turf and planting. The proposed landscaping has been reviewed by Council's Landscape Architect and is considered acceptable.

Objective 3D-2: Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting

Comment: The communal open space has been designed to allow for a range of activities. The design is attractive with well-designed landscaping and is inviting as it is fully accessible by way of getting there by way of lifts and stairs as well as within the space itself, by way of even surfaces and as accessible ramps to the raised areas within the communal open space.

Objective 3D-3: Communal open space is designed to maximise safety

Comment: The communal open space has been designed to maximise safety. This proposed development has been reviewed by the NSW Police, and is supportive of the design subject to a series of conditions, such as the design and location of furniture in that it maximises surveillance as well as the use of CCTV.

Objective 3D-4: Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood

Comment: The proposed north-south link on the western edge of the subject site, with a total area of 1,638m² will be dedicated to Council, subject to the execution of a Voluntary Planning Agreement. This area will supplement the communal open space as it will be used by future residents as well as the general public. Given the completed developments to the north as well as those under construction to the west, this will be responsive to the existing pattern of the locality as well as the uses of the neighbourhood.

Further to the communal open space, there is a proposed gymnasium and pool located within basement level 1 which will further enhance social interactions and also encourage passive and active recreational opportunities similar to that of the communal open space.

With the above considered, it is recommended that this variation is supported by the Sydney Eastern City Planning Panel.

Note 2 – Building Separation

The proposal does not meet the ADG minimum building separation distances in the “corner units” (a total of 44 from the proposed 305), with the separation distances ranging from 3.7m to 4m, as shown below:

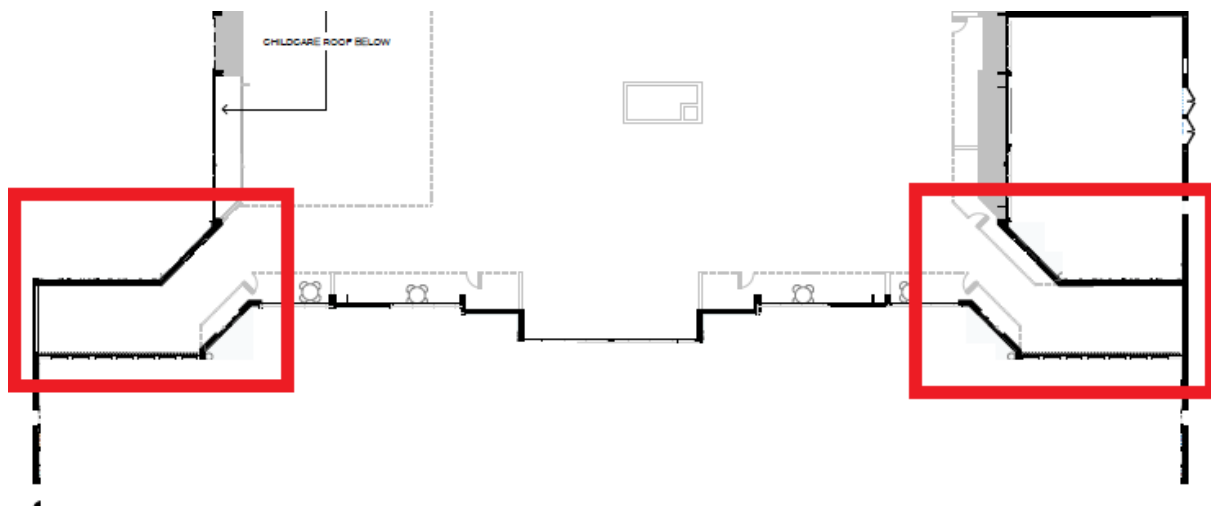


Figure 13: Extract from Level 3-4 plan highlighting the design element (redacted)

The applicant has provided a marked up privacy plan, as shown below:



Figure 14: Extract from privacy plan for corner units (redacted)

The southern elevation of the northern units will have full height and full width angled privacy screens that will cover the opening of one of the bedrooms. This is directly in line with the bedroom opening directly opposite for the north facing opening of the bedroom for the southern units, which will have no screenings. The screening will also protect the northern units from any overlooking that may occur from the private open space areas (i.e. balcony) which are directly north facing on the southern units.

The proposal meets the relevant objectives under Part 3F of the Apartment Design Guide:

Objective 3F-2: Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space

Comment: The screening has been placed on the southern elevation of the northern units as it will receive no natural light in mid-winter whilst no screening has been placed on the southern units as the relevant openings are north facing, which will not compromise these units to any access to light and air. It also strikes an appropriate balance with the outlook and views from habitable rooms and private open space for the southern units, as demonstrated in the figure above.

With the above considered, it is recommended that this variation is supported by the Panel.

Note 3 – Solar Access

The principal communal open space is located on Level 2 and has a northerly aspect. However, less than 50% of the total communal open space will receive more than 2 hours of natural light between 9am and 3pm in mid-winter as per Part 3D of the Apartment Design Guide.

A total of 189 of the 305 units (62%) of the units will receive a minimum of two hours sunlight to the living rooms and private open space areas between 9am and 3pm in mid-winter, which is less than the minimum of 70% as prescribed in Part 4A of the Apartment Design Guide.

Additionally, 53 of the 305 units have no direct sunlight which results in a total of 17%, thereby not complying with the maximum number of apartments with no direct sunlight of 15%.

It should be noted that the previous approved development under DA-2014/146 had a total of 58% of units that received a minimum of 2 hours sunlight in mid-winter and this was approved by the former Joint Regional Planning Panel (JRPP). Hence, the proposed development subject to this assessment report provides a scheme that provides a numeric improvement.

The primary contributor towards this non-compliance is that it is to the south of a completed 14 storey development at 55 Church Avenue (Mascot Central). Accordingly, the provision of solar access in this location is difficult to achieve as per the requirements of the Apartment Design Guide.

Objective 4A-1: To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space

Comment: The design maximises the north aspect with a large number of units having at least one aspect addressing the north. Given that Coward Street runs along the southern edge of the site, there is a requirement for units to address the street from a passive surveillance perspective, however, all efforts have been made to minimise the number of units with a single south facing perspective, with only four units on each floor having a single aspect to the south. The design of the proposed development also makes an effort to provide as many dual aspect units with private open space in an optimal location.

Objective 4A-2: Daylight access is maximised where sunlight is limited

Comment: The southern elevation has a higher proportion of glazing to masonry when compared to the other elevations, which will maximise daylight access where sunlight is limited.

Objective 4A-3: Design incorporates shading and glare control, particularly for warmer months

Comment: All balconies are recessed within the building footprint, which will allow both shading in the summer as well as allowing the penetration of sunlight in mid winter.

Based on the above, the proposal meets the relevant objectives of Part 4A of the Apartment Design Guide.

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

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

Comment: The site is located in a high density residential and mixed use area, in which the subject site remains the last undeveloped site in the perimeter block (Coward Street to the south, Kent Road to the north, Jackson Drive and John Street to the north and Bourke Road to the east. The proposal involves construction of a mixed use development with a height of 14 storeys. The proposal is generally consistent with the height of surrounding developments in the area.

Due to the location of the site (being on the southern edge of the Mascot Station Precinct) and the building envelopes that have been approved for the neighbouring sites, the departure from the building envelopes control to achieve a better solar access given the existing context (as described above), it is expected that a high density built form will be achieved as a result of the proposal.

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

Comment: The proposed solar access for the development at 62% is a significant improvement to that already approved for the site, which was 58%.

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

Comment: It is acknowledged that the proposed development exceeds the maximum FSR development standard as prescribed under the Botany Bay LEP 2013, which will be discussed further later in this report. The subject site allows adequate building separation between the buildings on the site and the neighbouring buildings. The building envelopes in terms of their location and orientation were set within Part 9A of the Botany Bay DCP 2013, and the proposed development generally complies with the footprint. As discussed above, the subject development proposal does not comply with the minimum solar requirement in mid-winter to the apartments and communal open space, however given the existing context, the orientation of the site and the improvement achieved from the existing and activated approval for the site, the overall design of the buildings does not contribute unreasonable overshadowing and is supported by Council.

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

Comment: The private open space areas for the subject site are defined as balcony spaces. The balconies have been orientated to gain the most exposure of sunlight. Therefore, the amount of achievable sunlight to the private areas is acceptable in the context of the site.

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

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

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

Comment: The area has and still is undergoing redevelopment from industrial to mixed use and residential development. The subject site is one of the last few sites within Mascot Station Precinct that is undeveloped. It is expected that the site would be developed for the purposes of a mixed use development with a height of approximately 14 storeys, as envisaged in both the LEP and DCP. The proposed height is similar to approved and constructed residential flat building immediately to the north, east and west. The neighbouring sites to the south are zoned B5 Business Development under the LEP and residential accommodation is not permissible.

With all of the above considered, it is recommended that this variation is supported by the Panel.

Note 4 – Common Circulation

The design criteria for Part 4F of the ADG requires buildings that are 10 storeys and over to have one lift per 40 units. The development proposes a total of 305 units therefore the total number of

lifts required is 8 when rounded up. The development proposes a total of 4 lifts, with 2 each in the eastern and western towers. This is a shortfall of 4 lift within the development.

It is to be noted that there is a fifth lift in the western tower, however it is exclusively for the child care centre and does not extend beyond the second floor.

Council has required the applicant to justify the departure in the lift numbers. The results of the analysis reveals that the performance of the lifts is excellent and that the proposed number of lifts within the development is more than adequate to provide for the residents of the development.

The four lifts are in two clusters grouped together. The applicant was asked to consider the possibility of relocating one of the lifts further to the north in each of the towers to provide a better distribution throughout the proposed development. The applicant has stated that the lift to the north was investigated in terms of design and structure. The Structural Engineers found that the proposed lift structures have been designed as a group to provide structural integrity to the building. Separating the lifts will compromise the structural integrity of the development.

With the above considered, it is recommended that this variation is supported by the Panel.

Note 5 – 1+ Bedroom Units

35 of the 1 bedroom units contain a second habitable room and are nominated as 1+ bedrooms. These second rooms do not comply with the relevant bedroom requirements in the Apartment Design Guide with relation to the size and the depth. The applicant has stated that the intention of these rooms is to function as a study or media room.

With the above considered, it is recommended that this variation is supported by the Sydney Eastern City Planning Panel.

Botany Bay Local Environmental Plan 2013 (LEP)

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application and the following information is provided:

Principal Provisions of BBLEP 2013	Compliance	Comment
Land-use Zone	Yes	The site is located within the B2 Local Centre zone.
Is the proposed use/works permitted with development consent?	Yes	The proposed developments, those being a mixed use development and child care centre are permissible in the zone.
Does the proposed use/works meet the objectives of the zones?	Yes	The proposed development is consistent with the relevant objectives.
What is the height of the building? Does the height of the building exceed the maximum building height?	--- Yes	The maximum building height allowed on the subject site is 44m. The proposal has an overall height of 45m. A Clause 4.6 variation has been lodged and is discussed further later in this report.
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	--- Yes	The site has a FSR of 3.2:1 as per Clause 4.4 of the LEP. The proposed maximum gross floor area is 29,536m ² , which includes the communal open space on the second floor as it is enclosed by a wall greater than 1.4 metres in height, as well as the 89 units that contain winter gardens. This equates to a FSR of 3.71:1 and thus exceeds this development standard. A Clause 4.6 variation has been lodged and is discussed further later in this report.

Principal Provisions of BBLEP 2013	Compliance	Comment
Is the site within land marked "Area 3" on the FSR Map?	No	N/A
6.1 – Acid Sulfate Soil	Yes	The site is located and Class 2 Acid Sulfate Soil zone. An Acid Sulfate Soil Assessment and Management Plan will be conditioned as a requirement prior to the issue of the relevant Construction Certificate.
6.3 – Stormwater management	Yes	The concept stormwater plan has been reviewed by Council's Development Engineer and is considered acceptable subject to conditions.
6.9 – Development in areas subject to aircraft noise	Yes	The site is within the 25 to 30 ANEF area given the site's close proximity to Sydney Airport. Indicative recommendations have been made in the acoustic report, relating to glazing construction, external walls, roof / ceiling construction and external doors. These recommendations will be imposed as conditions.

Height of Building

The proposal seeks maximum building height of 45m, which exceeds the 44m standard and represents a variation of 2.3%.

The proposed roof parapet seeks a 0.3 metre variation; and the proposed plantrooms seek a 1.0 metre variation. These components of the development occupy only a small proportion of the overall area of the development, as shown in the figure below:

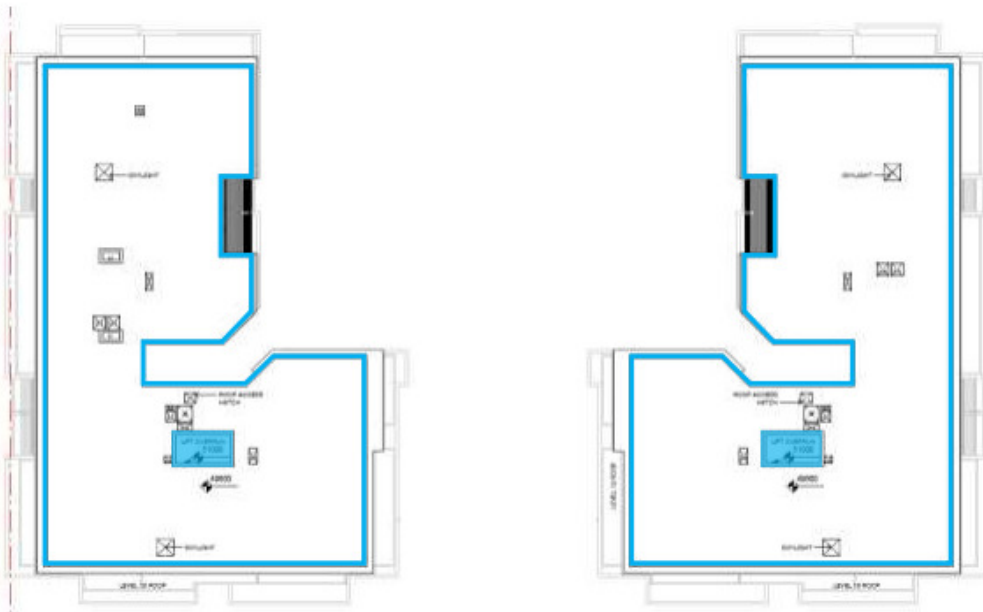


Figure 14: Extract from Clause 4.6 statement

As such, the applicant has lodged a statement under Clause 4.6 of the LEP.

Under sub-clause (3), development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by being unreasonable or unnecessary.

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

The applicant has applied the principles established by the Land and Environment Court in *Wehbe v Pittwater Council* [2007], which set out five ways of establishing that compliance with the standard is unreasonable or unnecessary. These were further tested in *Four2Five v Ashfield Council* where meeting the objectives of the standard was not sufficient to demonstrate that compliance was unreasonable or unnecessary.

Each of the five principles have been addressed by the applicant:

(1) *Compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

Applicant's Clause 4.6 statement

The proposed development and the additional height satisfies the objectives of the development standard.

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

The additional height of the parapet and lift overrun is consistent with the built form of the Mascot Station Precinct.

b) to ensure that taller buildings are appropriately located

The location of the lift overrun is sited towards the middle of each tower and the parapet is a feature of all buildings

c) to ensure that building height is consistent with the desired future character in an area

The proposed additional height will have no adverse impact and is consistent with the desired future character of the area.

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

No impact on views or shadowing will result from the variation, as any additional shadow is cast onto the building itself.

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

The minor variation of the lift overrun is not visible from the public domain and the parapet is a standard feature of the buildings. The buildings will appear cohesive and consistent over the site and will not have any adverse impacts on the streetscape.

Comment

- The nature of the full extent of the encroachment of the Height of Building is minor when compared with other developments in the area which have had

larger heights lawfully approved, hence the variation provides a built form that is coordinated and cohesive.

- The proposed building height is consistent with the desired future character in the Mascot Station Precinct as evidenced by the recently completed developments in the area, some of which have a height of building larger than that proposed for this application.
- The additional height will not further increase visual impact, disruption of views, loss of privacy and loss of solar access to neighbouring sites.
- It is agreed that the minor encroachment above the height of building development standard will not adversely impact the streetscape or skyline.

Accordingly, the development is considered to be compliant with the relevant objectives of the Height of Building development standard.

(2) *Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary*

Applicant's Clause 4.6 statement

The underlying objective is to ensure that no amenity impacts occur. It is evident from the minor proposed variation that the proposal will not result in any adverse impacts such as overshadowing or the like.

Comment

The underlying objective and purpose of the height of building development standard has been achieved as stated above, therefore the numerical standard, whilst being relevant, can be varied and strict compliance with the numerical requirement of 44 metres is unnecessary in this instance.

(3) *Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable*

Applicant's Clause 4.6 statement

Given that the proposal will have no adverse amenity impacts, the underlying objective of protection of amenity would be defeated / thwarted if compliance was required.

Comment

The underlying objectives and purposes of the height of building development standard remains relevant to the proposed development. However, the proposed development is consistent with the relevant objectives of the height of building development standard in the LEP as detailed above.

(4) *Establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable*

Applicant's Clause 4.6 statement

There are numerous buildings in the Mascot Station town centre area that have been approved with a height greater than that set out in the 44-metre Height of Buildings

development standard – and have been designed to the maximum height of RL 51.0 imposed by CASA. The extent of variations is such that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard. Some examples of such approvals are listed below:

Address	Approved height
256 Coward Street (previous DA)	45m
671-683 Gardeners Road	46.34m
1-5 Kent Road	47.2m
42 Church Avenue	46.3m
133 O'Riordan Street	44.41m

Comment

The development standard has not been abandoned by recent decisions that have consistently allowed variations for plant rooms and lift over runs. As evidenced in the above table, the proposed variation to 45 metres is at the lower end when compared to other neighbouring sites.

Furthermore, CASA have provided concurrence for the height of building as proposed as part of this application.

Therefore, the proposed height of building is generally consistent with those approved within the precinct.

- (5) ***Establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary***

Applicant's Clause 4.6 statement

The zoning and height development standard of the subject site has been applied over a large proportion of the Mascot Station Precinct. The reasonable height of buildings in such a key precinct is limited only by the height allowable with regard to the safe operation of civil aviation with the operations from Sydney Airport. The current DA approval has been designed to comply with the permissible height of RL 51.0 allowable by the Sydney Airport authority.

Comment

It has been established that the proposed development is appropriate and strict adherence to the development standard in this instance is unnecessary. Furthermore, the additional height of building does not result in adverse impacts to adjoining properties in terms of bulk and scale, streetscape impact, visual impact and overshadowing.

Accordingly, since the proposal does satisfy the objectives of the height of building development standard, the proposed development is appropriate and strict adherence to the development standard in this instance is unnecessary.

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

Applicant's Clause 4.6 statement

In Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC118, the written request under Clause 4.6 must be "environmental planning grounds" by their nature established under Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA.

The welfare of the community is served by the proposal by providing for additional housing stock and additional retail and childcare facilities. The proposal also includes a landscape pedestrian space to be dedicated to Council.

The proposal has been designed to meet the State imposed environmentally sustainable practices. In doing so, compliance with BASIX is achieved and ensures that the development plays its part in facilitating ecologically sustainable development. The minor height variation has no implications on this objective.

The proposed development and additional height has been designed to provide for the highest and best use of the land, which ensures the orderly and economic use and development of land. The minor height variation has no implications on this objective.

The proposal will deliver additional housing stock that will ensure the market supply promotes housing choice and affordability. The minor height variation has no implications on this objective.

The subject site is a former commercial industrial use and contains no habitat. The proposed additional height will have no impacts in respect of threats to native animals and plants, ecological communities and their habitats.

The subject site is a former commercial industrial use and contains no Aboriginal cultural heritage. The proposed additional height will have no impacts in this respect.

The additional height includes a parapet and the roof top which promotes good design for the building and provides stormwater management and safety. The minor height variation applying to the lift overrun takes place in the middle of each tower and is not visible from the street level of the surrounding public domain.

The proposed additional height will be constructed to the required standards, including the Building Code of Australia, to ensure the protection of the health and safety of their occupants.

The proposed additional height will have no impacts on the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.

The proposed additional height will be subject to neighbour notification upon Council's receipt of the subject Development Application.

Comment

It is considered that there are sufficient planning grounds for a variation to the Height of Building and the variation is in the public interest.

- The development will not adversely impact the surrounding streetscape and desired future character of the area;

- It is a minor height non-compliance under the LEP, which is supported for the reasons outlined in this report.
- The proposed height of building does not set an undesirable precedent for future development within the precinct.

Under sub-clause (4), development consent must not be granted for development that contravenes a development standard unless:

(a)(i) the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (3)

Comment: The applicant's written statement adequately covers matters required by sub-clause 3.

(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Applicant's 4.6 statement

This has been previously addressed by way of the objectives of the development standard.

Comment

It is considered that in the current case, the planning control can be varied as it will not affect the general planning controls in the area, particularly as it generates built form that is generally consistent with other approved development and construction in the area.

On the basis of this assessment, it is concluded that the variation is in the public interest and can be supported.

With the above considered, it is recommended that this variation is supported by the Sydney Eastern City Planning Panel.

Floor Space Ratio

The proposal seeks an FSR of 3.71:1 with a gross floor area of 29,536m², which exceeds the 3.2:1 standard and represents a variation of 13.8%.

As such, the applicant has lodged a statement under Clause 4.6 of the LEP.

Under sub-clause (3), development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by being unreasonable or unnecessary.

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

The applicant has applied the principles established by the Land and Environment Court in *Wehbe v Pittwater Council* [2007], which set out five ways of establishing that compliance with the standard is unreasonable or unnecessary. These were further tested in *Four2Five v Ashfield Council* where meeting the objectives of the standard was not sufficient to demonstrate that compliance was unreasonable or unnecessary.

Each of the five principles have been addressed by the applicant:

(1) *Compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

Applicant's Clause 4.6 statement

The proposed development and additional floor space ratio satisfies the objectives of the development standard.

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

Although the proposal seeks a variation from the allowable floor space ratio on the site, the proposal also results in a slight overall reduction from the approved gross floor area on the site – if the outdoor play area is not considered in the numbers. The floor space ratio proposed is mid range compared to previous approvals in the locality.

- b) *to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality*

The site is located within the Mascot Town Centre. The proposed development and additional floor space ratio has delivered an improved built form that has reduced the “walled” scaled effect compared to the original approval.

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

The site is located within a precinct undergoing transition from a predominantly industrial area, to a town centre. The design of the development using the approved gross floor area is a significant improvement to the streetscape and improves upon the existing character of the area.

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

The departure from strict compliance with the numerical FSR control will reduce the bulk or scale of the current approval by removing the large horizontal facade.

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

The proposal will not have any adverse impacts on the amenity of the public domain from matching the floor space to the current approval. In fact there will be improvements by constructing a 90 spaces public car park and public open space area between adjoining properties.

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

The proposed development has been designed to a scale that is consistent with the previous approval for the site having the same gross floor area and height. The design is entirely suitable in relation to the subject site, and also to the surrounding built form that makes up the Mascot Station Town Centre.

g) to facilitate development that contributes to the economic growth of Botany Bay.

The proposed development will contribute to the economic vitality of the Mascot Station Precinct. The addition of employment opportunities in the form of retail tenancies and a childcare centre will support this. The inclusion of a public car parking area will add to the convenience for visitors to the area, further adding to the economic growth of the locality.

Comment

- The intensity and density of the development is of a form that would be reasonably contemplated for the site. Whilst the proposed FSR is non-compliant, there are other sites within the Mascot Station Precinct that have been approved at a similar or higher FSR. The FSR, whilst beyond that prescribed in the development standard generates a bulk and scale that is in keeping with the desired future character of the area.
- The proposal has maintained an appropriate visual character in that the bulk and scale of the proposal will complement the adjoining approved developments to the west at 280 Coward Street and 39 Kent Road to the west and 248 Coward Street to the east. This provides a uniform streetscape presentation, providing an appropriate visual interface between new development and adjoining approved development.
- The proposal is not considered to generate adverse impacts to the use of adjoining properties and the public domain.
- The site is a large site that is capable of accommodating an increase in density without generating adverse impact. The density is considered to be similar to that of adjoining approved development in the precinct.
- The proposal shall contribute to the economic growth of the Botany Bay area via the provision of new housing and employment opportunities within proximity to public transport services and within the Mascot Station Precinct.

Accordingly, the development is compliant with the objectives of the FSR standard.

(2) *Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary*

Applicant's Clause 4.6 statement

The underlying objective is to ensure that no amenity impacts occur. The additional floor space ratio (excluding the childcare outdoor play area) is identical to the current DA approval, to which the amenity afforded to the public domain, adjoining sites and of proposed units was deemed suitable.

Specifically, the floor space being sought is no different what has been approved, and the development has been improved with SEPP 65 compliance and satisfying the Apartment Design Guidelines. The development incorporates a superior level of amenity afforded with a swimming pool, gymnasium, podium communal open space, public car park, an open space thoroughfare and ground floor retail for cafes, restaurants and the like.

Comment

The underlying objective and purpose of the floor space ratio control has been achieved as stated above, therefore the numerical standard, whilst being relevant, can

be varied and strict compliance with the numerical requirement of 3.71:1 is considered unnecessary in this instance.

- (3) ***Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable***

Applicant's Clause 4.6 statement

Given that the proposal will have no adverse amenity impacts, the underlying objective of protection of amenity would be defeated / thwarted if compliance was required.

Comment

The underlying objectives and purposes of the FSR control remain relevant to the proposed development. However, the proposed development is consistent with the objectives of the FSR control in the LEP as detailed above.

- (4) ***Establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable***

Applicant's Clause 4.6 statement

Previous approvals have contributed to a standard of development density in the area that is not consistent – and well above – the Council's LEP. The proposal seeks approval for a development that has the same gross floor area as the existing approved development on the site. Examples of previously approved developments in the Mascot Station area that exceed the 3.2:1 FSR control is shown in the table below.

Address	Approved FSR
39 Kent Road	4.26:1
214 Coward Street	4.24:1
230 Coward Street	3.6:1
13A Church Avenue	4.24:1
7 Bourke Street and 30-32 John Street	3.75:1
8 Bourke Road and 37 Church Avenue	3.82:1
208-210 Coward Street	4:1
2-4 Haran Street	3.79:1
256 Coward Street	4.41:1
246 Coward Street	3.88:1
133-141 O'Riordan Street	3.87:1
7-9 Kent Street	3.78:1
55 Church Avenue	3.72:1
671-683 Gardeners Road	3.43:1

Comment

This is noted. As evidenced in the above table, the proposed variation to 3.71:1 is at the lower end as compared to other neighbouring sites.

Therefore, the proposed FSR is considered to be generally consistent with the approved FSR's within the precinct.

- (5) ***Establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary***

Applicant's Clause 4.6 statement

The same zoning and floor space ratio development standard of the subject site has been applied over a large proportion of the Mascot Station precinct, and the floor space ratio has been exceeded in a number of cases/sites as outlined. The reasonable scale of buildings in such a key precinct is limited only by the height allowable with regard to the safe operation of civil aviation with the operations from Sydney Airport. The proposal has been designed to comply with the permissible height of RL 51.0 allowable by the Sydney Airport authority (concurrence had been received by the applicant prior to the lodgement of the DA).

Comment

It has been established that the proposed development is appropriate and strict adherence to the development standard in this instance is considered to unnecessary. Furthermore, the additional floor space does not result in adverse impacts to adjoining properties in terms of traffic, bulk and scale, streetscape impact, visual impact or overshadowing.

Accordingly, since the proposal does satisfy the objectives of the FSR development standard pursuant to the LEP, the proposed development is considered to be appropriate and strict adherence to the development standard in this instance is unnecessary.

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

Applicant's Clause 4.6 statement

- In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC118, the written request under Clause 4.6 must be "environmental planning grounds" by their nature established under *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined but would refer to grounds that relate to the subject matter, scope and purpose of the EPA.
- The welfare of the community is served by the proposal in that it will provide for additional housing stock and additional retail and childcare facilities. The proposal also includes a landscape pedestrian space for a public through site link from Coward Street to the Mascot Central Shopping Centre and Mascot Train Station. Additionally, 90 public car parking spaces will be provided in the proposed development.
- The proposal and associated additional floor space ratio has been designed to meet the State imposed environmentally sustainable practices. In doing so, compliance with BASIX is achieved and ensures that the development plays its part in facilitating ecologically sustainable development. In addition to this all private landscaped areas and communal open space will be watered from collected rainwater.
- The proposed development and additional floor space ratio has been designed to provide for the highest and best use of the land, which ensures the orderly and economic use and development of land.

- The proposed development and additional floor space ratio also promotes the orderly development of the land in that it is essentially the same as the approved development.
- The proposal and associated floor space ratio will deliver additional housing stock that will ensure the market supply promotes housing choice and affordability.
- The subject site is a former commercial industrial use and contains no habitat. The proposal will have no impacts in respect of threats to native animals and plants, ecological communities and their habitats.
- The subject site is a former commercial industrial use and contains no Aboriginal cultural heritage. The proposal will have no impacts in this respect.
- The proposal and associated floor space ratio has been designed to a high standard of architectural design. The proposal will also be complemented by a well-designed landscape that will offer a high level of amenity to residents and to visitors to the site.
- The proposal has been designed to improve upon the solar access and natural cross ventilation achieved under the existing development approval on the site.
- Solar access to apartments has been improved by 6%, achieving a result of 64%. The proposed development has been designed to maximise the possible solar access to the highest extent, and has managed to do this by slight variations to the DCP building footprints. The result in solar access that is not only better than that under the existing approval, but also better than what could be achieved under buildings that comply with the DCP footprints.
- The proposed buildings and additional floor space ratio will be constructed to the required standards, including the Building Code of Australia, to ensure the protection of the health and safety of their occupants. The childcare centre has been designed to comply with the relevant requirements – this includes the outdoor play area.
- The proposal will have no impacts on the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.
- The proposal will be subject to neighbour notification upon Council's receipt of the subject Development Application.

Comment

It is considered that there are sufficient planning grounds for a variation to the FSR and the variation is in the public interest, given that:

- The development will not adversely impact the surrounding streetscape and locality in terms of traffic impacts, overshadowing and privacy, as well as the desired future character of the area;
- The FSR results in a relatively minor non-compliance under the LEP when compared to other lawfully approved developments in the area, which is supported for the reasons outlined in this report.
- The FSR does not set an undesirable precedent for future development within the precinct.

Under sub-clause (4), development consent must not be granted for development that contravenes a development standard unless:

- (a)(i) **the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (3)**

Comment: The applicant's written statement adequately covers matters required by sub-clause 3.

- (a)(ii) **the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.**

Applicant's 4.6 statement

This has been previously addressed by way of the objectives of the development standard.

Comment

In terms of public benefit, it is noted that the proposal will provide a public car park and dedicated land for a through site link. Whilst the public benefit arising from the development alone is not sufficient to justify a non-compliant FSR, this Clause 4.6 assessment concludes that the proposal attains compliance with the objectives of the standard, and therefore, is in the public interest.

In the current case, the planning control can be varied as it will not affect the general planning controls in the area, particularly as it generates built form that is generally consistent with other approved development and construction in the area.

On the basis of this assessment, it is concluded that the variation is in the public interest and can be supported.

With the above considered, it is recommended that this variation is supported by the Sydney Eastern City Planning Panel.

Section 4.15(1)(a)(ii) – Provisions of any Draft EPI's

There are no current Draft EPIs applicable to this development.

Section 4.15(1)(a)(iii) – Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Botany Bay Development Control Plan 2013

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

Part 3A – Parking and Access

The Child Care Centre is relevant under this section of the DCP. However, given the multiple uses and with that the calculations sourced from other planning documents other than the DCP, a full detailed calculation will be made later in the report, under "Impacts of the Development" section.

As per Table 2, the following is required with regards to loading:

- For developments over 200 residential units, 4 service bays; plus 1 service bay (for MRV or larger) / 100 dwellings or units; and
- 1 space for a courier van, 1 space for a SRV and 1 space for a MRV for retail space of an area between 500m² and 899m² in area.

Based on the above, a total of 10 spaces of a variety of sizes for the types of vehicles listed above will be required.

A total of four spaces (2 for HRV vehicles and two for couriers) have been provided on level one, adjacent to the car parking entry off Coward Street at the eastern end of the subject site.

The applicant has provided the following response as a justification for the variation:

Further to this, recent extensive loading activity studies conducted by Arup with Transport for NSW were conducted within the Sydney CBD. These surveys indicate that there is a general relationship between the building size (or gross floor area) and peak loading movements for commercial uses. Using this relationship, it is estimated that the peak site generation could be a maximum of approximately 12 vehicles per hour conservatively for the whole site. Based on a managed 20-minute turnover, this equates to a peak loading bay requirement of four vehicles.

The proposed loading dock will cater for up to two large trucks (at least 12.5m Heavy Rigid Vehicle size) and two courier/vans to park independently. This is comparable to the mix of the surveyed vehicle types is shown below, which indicates a greater number of smaller vehicles rather than trucks (approximately 75% of loading activity was made up of cars/vans). If required, some of the retail tenancies may use their parking spaces if further servicing spaces are required. Meriton will also prepare a Loading Dock Management Plan to manage loading movements within this provision. Generally, booking systems are used by the building managers to ensure that the loading dock is appropriately managed.

This has been reviewed by Council and considered acceptable, as it is consistent with similar approvals at 42 Church Avenue and 200 Coward Street. A condition will be imposed relating to a Loading Dock Management Plan.

Part 3C – Access and Mobility

The proposal provides for fourteen disabled car parking spaces (six on each of the basement levels as well as two within the public car parking area on the ground floor) as well as appropriate lift access from the basement to the residential and commercial uses above ground. A total of 61 units have been nominated as adaptable units, which complies with the 20% minimum as per Table 2. Furthermore, a standard condition will be imposed relating to compliance with Part D3 of the National Construction Code.

Based on the above, the proposed development demonstrates compliance with the relevant provisions under this part of the DCP.

Part 3G- Stormwater Management

Stormwater plans have been provided as part of the application. They have been reviewed by Council's Development Engineer and are satisfactory subject to further conditions of consent.

Part 3I – Safer By Design

Refer to the Schedule 1 under SEPP 65 section earlier in the report which discusses the safer by design assessment.

Part 3J – Aircraft Noise and OLS

Refer to the Clause 6.9 under the Botany Bay LEP 2013 section earlier in the report which discusses the safer by design assessment.

Part 3K – Contamination

Refer to the SEPP 55 section earlier in the report which discusses the contamination of the site.

Part 3L – Landscaping and Tree Management

Refer to the earlier sections in the report under the Educational Establishments and Child Care Facilities SEPP (child care centre) and SEPP 65 (communal open space and north/south public link)

Part 3N – Waste Minimisation and Management

The development application was accompanied by a waste management plan which provided details on waste removal during construction and ongoing use of the premises and was found to be acceptable, subject to conditions. As discussed previously, one of the HRV spaces on the level one plan will accommodate a garbage truck for waste pick up in the bin areas that are adjacent to this space. This has been reviewed by both our Development Engineer and Waste officers and are acceptable.

Part 4C – Apartment Buildings

Part	Control	Proposed	Complies
Part 4C.5 Social Requirements	C1 A statement from the architect or builder must be submitted with the development application certifying that the adaptable dwelling has been designed in accordance with the provisions of the Australian Standards AS 4299-1995 Adaptable Housing.	No statement has been provided, however, this requirement can be imposed as a condition prior to the issue of the relevant construction certificate.	Yes
	C2 Adaptable and accessible housing are to be provided in accordance with Part 3C – Access and Mobility.	A total of 61 units have been nominated as adaptable units	Yes
Part 4C.6.2 Design and Siting	C1 The design and layout of development on sites in excess of 2000 m ² must be appropriate to the bulk and scale of surrounding developments.	It is considered that the design of the proposed development is consistent with the bulk and scale of the surrounding developments on the northern side of Coward Street	Yes
Part 4C.7 Mixed Uses	C1 Any retail or commercial component must be located at ground level.	All the proposed retail space is located at ground level	Yes
	C2 Adequate storage space is to be provided for the use of the commercial or retail premises	No storage facilities have been nominated on the floor plans for the retail tenancies, however, this requirement can be imposed as a condition	Yes
	C3 Noise insulation measures are to be incorporated into the development with particular attention to shared ceiling/floors and walls.	This can be imposed as a condition	Yes
	C4 The building is to be designed to encourage uses that will enhance and promote active street front activities.	All of the retail tenancies have a frontage to either Coward Street or the proposed north/south link which will enhance and promote active front activities	Yes

Part	Control	Proposed	Complies
	C5 The layout and design of the building is to ensure privacy for dwellings within the development.	There are no residential units on the ground floor and given that they address either Coward Street or the proposed north/south link ensures that privacy for the dwellings within the development will be maximised	Yes
	C6 The design of parking areas and loading facilities is to take into account the use of these areas by a range of activities and will minimise any conflicts that may arise as a result of the multiple use of these facilities.	The nominated parking and loading area for the retail area is located on level one and is clearly separated from the other activities on the site, such as the child care centre and the public spaces	Yes
	C7 Visitor parking for the shop component is to be conveniently located, identified as such, and accessible to the general public. Visitor parking is not to be located behind any security grill or gate.	It is conveniently located near the entry/exit point on to Coward Street, and not located behind any security grill or gate	Yes
	C8 Site facilities, storage, mailboxes, and garbage collection points must be designed to adequately service the needs of the occupants of the building and are to be conveniently located within the development.	These are appropriately designed and located within the development	Yes

Part 9A – Mascot Station Precinct

Part	Control	Proposed	Complies
9A.4.3.4 Street Setbacks	C1 All development within Urban Block 1 must comply with the street setbacks identified in Figures 30 and 31.	The ground level setback is greater than 3m	Yes
		The upper levels 5 to 13 are less than 5m	No see Note 1 below
	C4 All development within Urban Blocks 1, 3 and 4 must comply with the section plans in Figures 36, 37, 38, 39, 40, 41 and 42.	Does not comply with the section plans	No see Note 1 below
9A.4.4.4 Active Street Frontages and Awnings	C1 All development within Urban Blocks 1, 3 and 4 must provide retail or commercial street frontages where shown in Figures 49, 50, 51 and 52.	Commercial/retail tenancies are provided on the ground floor of Building facing both Coward Street and fronting the north/south link. No residential apartments are proposed on the ground floor.	Yes
	C2 All development within Urban Blocks 1, 3 and 4 must provide awnings where shown in Figures 53, 54, 55 and 56.	An awning is provided to the retail and commercial tenancies.	Yes

Part	Control	Proposed	Complies
	C4 There must be a minimum clear passage width of 2 metres between the adjacent building and leased area for outdoor dining to allow for clear passage of pedestrian traffic at all times.	There is adequate area in the through site link for outdoor dining and pedestrian movement.	Yes
9A.4.4.5 Residential and Non Residential Interface	C2 Shadow diagrams must be provided for all development proposals for the summer and winter solstices. Shadow diagrams must show shadow impacts at 9am, 12 noon and 3pm for both solstices. Additional building setbacks may be required where internal site shadow impacts or impacts on adjoining properties are considered by Council to be unreasonable.	<p>To the south of the site is commercial/light-industrial land, that is zoned B5 Business Development.</p> <p>The shadow diagrams indicate that the proposal shall overshadow land to the south. However, the land to the south does not include any residential properties.</p> <p>On balance, the shadow cast is considered reasonable, given the urban context of the site.</p>	Yes
9A.4.4.6 Building Articulation	C2 Blank external walls of greater than 100m ² must be avoided.	As stated earlier in the report, there is a large blank wall along the northern elevation addressing the pedestrian link between Jackson Drive and John Street, with a condition to be imposed relating to this being treated as patterned precast wall and the wall patterns and colours to be developed	Yes
9A.4.4.7 Dwelling Size and Mix	C2 The combined total number of studio units and one-bedroom apartments/dwellings must not exceed 35% of the total number of apartments/dwellings within any single site area.	The combined total of 1 bedroom units is 28%	Yes
9A.4.4.8 Landscaped Area	C8 Developers are required to execute all nominated proposed public domain works identified on Figures 57, 58, 59 and 60, including landscaping works.	The proposal incorporate a through site link which is greater than the requirements under the DCP. In addition, a public car park is proposed.	Yes
	C9 Public parks must generally contain a minimum of 80% of deep soil area, and support planting of large scale trees. The remaining 20% may contain pavement area or hard surfaces. The 80:20 ratio can be flexible depending on the design of space.	The proposed north/south site link shows at least 80% deep soil in the middle section with hard paving on the edges to enable street activation for the commercial tenancies as well as provide access to Jackson Drive to the north	Yes

Part	Control	Proposed	Complies
9A.4.4.11 Car Parking	C1 Car parking provision must comply with the following car parking rates: <i>Retail</i> 1 space/80sqm of GFA	A full detailed calculation will be made later in the report, under "Impacts of the Development" section	See later in the report
9A.4.5.4 Solar Access and Shadow	C3 Development must demonstrate: (i) Neighbouring developments will obtain at least three hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; and (ii) 30% of any common open space will obtain at least two hours of direct sunlight between 9am and 3pm on 21 June.	To the south of the site is commercial/light-industrial land, that is zoned B5 Business Development. The shadow diagrams indicate that the proposal shall overshadow land to the south. However, the land to the south does not include any residential properties.	Yes
9A.4.5.7 Wind Mitigation	C1 All new buildings are to meet the following maximum wind criteria: (i) 10 metres/second along commercial/retail streets; (ii) 13 metres/second along main pedestrian streets, parks and public places; and (iii) 16 metres/second in all other streets	A Qualitative Wind Assessment has been submitted with the application prepared by SLR dated September 2018. The report concludes that it has been predicted that most ground levels wind speeds within public access areas surrounding the development should remain at their present levels or be reduced with the addition of the proposed development and its wind mitigation treatments.	Yes, subject to design measures

Note 1 – Street setbacks

The proposal seeks a departure from the DCP layouts as prescribed in Part 9A.4.3.4 of the DCP, in that the upper level setbacks are less than 5 metres from Coward Street, with a minimum of 3 metres.

The applicant has provided a summary of the differences in the accompanying DCP Compliance Table which is an attachment to the Statement of Environmental Effects, as listed below:

- The proposed podium covers the extent of the site, and leaves a connection for the pedestrian link as anticipated in the DCP; and
- The eastern and western buildings have been combined together to create a 'U' shape development that sits on top of a landscaped podium.

It is to be noted that this is a minimum of 3 metres, with evidence of articulation on the eastern and western edges as well as within the central section where the setback is a minimum of 5 metres, which complies with the development control.

A maximum of six units out of the ten units that have a frontage to Coward Street encroach the 5 metres, with a large portion of these units containing private open space with relation to winter gardens.

As evidenced in the diagrams below, the extent of the non-compliance in fact decreases as the floor number increases.

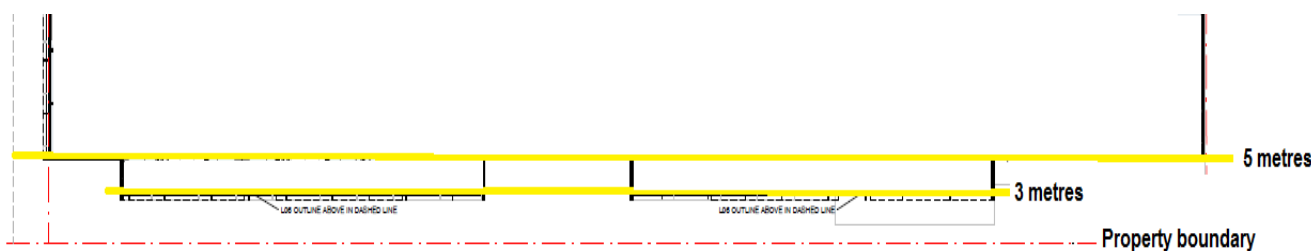


Figure 15: Typical front setback on upper levels (extract from Level 3-4 plan (redacted))

Despite the non-compliance, the proposal complies with the relevant objectives as listed below:

- It provides for a development that suitably buildings that spatially defines Coward Street with a well-articulated façade to the street;
- When compared to neighbouring developments that are already completed, it will be compatible with the desired future streetscape character; and
- There are well-articulated and stepped building facades on the upper levels, as demonstrated in the above figures.

It should be noted that the proposed layouts are consistent with those approved under the existing approved development on the site (DA-2014/146).

With the above considered, it is recommended that this variation is supported by the Sydney Eastern City Planning Panel.

S4.15(1)(a)(iiia) - Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

Voluntary Planning Agreement

On 29 August 2018, an offer was submitted to Council to enter into a Voluntary Planning Agreement (VPA) for the following public benefits:

- 90 spaces on the ground floor which are intended to be dedicated to Council for the purposes of a public car park in a future stratum subdivision.
- A 26 metre wide landscaped area (north/south link) on the western boundary of the site which will form the southern end of an approximately 430 metre long north / south corridor between Coward Street to the south and Gardeners Road to the north.

At the time of writing this report, this VPA is still under assessment. Accordingly, conditions will be imposed in the attached schedule relating to the VPA.

S4.15(1)(a)(iv) - Provisions of regulations

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

S4.15(1)(b) - Likely Impacts of Development

Car parking

As discussed earlier in various sections earlier in this report, the proposed development generates a number of car parking rates across a number of planning documents, as listed below:

Land Use	Document	Requirement	Number required
Residential: 305 units - 113 x 1 bed - 147 x 2 bed - 45 x 3 bed	RMS Guide to Traffic Generating Developments	0.6 spaces per 1 bedroom unit	$0.6 \times 113 = 67.8$
		0.9 spaces per 2 bedroom unit	$0.9 \times 147 = 132.3$
		1.40 spaces per 3 bedroom unit	$1.4 \times 45 = 63$
		1 space per 7 units (visitor parking)	$305 / 7 = 43.57$
		Total required	306.8 (307)
Child care centre: - 75 children - 12 staff	Part 3A Botany DCP 2013	1 space / 2 employees	$12 / 2 = 6$
		1 space / 5 children	$75 / 5 = 15$
		1 pick-up and set-down space / 20 children	$75 / 20 = 3.75 (4)$
		Total required	24.75 (25)
Retail: 843m ² of floor area	Part 9A Botany DCP 2013	1 space per 60m ² GFA within 800m of Mascot Station	$843 / 60 = 14.05 (15)$
		Total required	14.05 (15)

Based on the above, a total of 347 (307 + 25 + 15) spaces will be required. A total of 350 have been provided, and therefore complies.

Driveway location

This application was reported to the Bayside Development Traffic Advisory Committee on 5 December 2018. It made the following recommendations:

- That the application be requested to consider the relocation of the driveway further west to the signalised pedestrian crossing in Bourke Street;
- The application be requested to provide a secondary access driveway or demonstrate the queuing in and out can be accommodated in a combined driveway; and
- That the accessible parking spaces in the public car park can be placed near the main entrance.

The following response was provided by the applicant:

- *The signalised pedestrian crossings at the Bourke Street / Coward Street intersection (TCS1727) are located on the adjacent legs to the approaching road which the driveway fronts. Therefore, any pedestrians and vehicle conflicts will be controlled by the signals regardless of the distance of the driveway. A driveway closer to the signalised intersection on Coward Street (TCS2228) will cause confusion as it will be located on the departure leg of the signals and unsignalized. It is likely motorists will misjudge safe gaps or green signals from approaching motorists as they will not be able to sight the lanterns. There is also a risk of vehicles slowing down within the intersection to access the site causing hazardous conditions for vehicles travelling behind.*
- *Queuing on the driveway has been demonstrated by the passing swept paths of two trucks.*
- *It is suggested that a condition of consent be considered for Item 3 if required. The allocation of parking can be designed upon preparation of construction drawings.*

Based on the above, Council is supportive of the applicant's argument. Furthermore, and more importantly, the Roads and Maritime Services provided their concurrence to the proposed development based on the proposed location and thus are satisfied with the current location.

As outlined in the assessment above, the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

S4.15(1)(c) - Suitability of the site

The site is considered suitable for high density residential and mixed use development, which is permissible in the B2 Local Centre zone. It is located within the Mascot Station Precinct, which is strategically earmarked for revitalisation and redevelopment.

The site is contaminated, however, a Remediation Action Plan has been assessed and conditions have been provided.

The site is within a 25 to 30 ANEF corridor. An aircraft noise report has been assessed and conditions have been provided.

The site proposes access to a classified road. This has been assessed by the Roads and Maritime Services with concurrence provided.

Whilst there are a series of non-compliances as discussed earlier in this report, on balance it is considered suitable in its current form.

S4.15(1)(d) - Public Submissions

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was advertised on account of it being Integrated Development for 28 days from 26 October to 26 November 2018. No submissions were received.

S4.15(1)(e) - Public interest

Granting approval to the proposed development is in the public interest as it will not have an adverse impact upon the locality in terms of traffic impact, bulk, scale, visual impact and streetscape presentation or overshadowing

OTHER MATTERS

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

Referral Agency	Response Date	Comments
<i>External Referrals</i>		
Water NSW	5 December 2018	General Terms of Approval
Sydney Airport Corporation Limited	Pre lodgement – 2 October 2018	Concurrence
Roads and Maritime Services	8 November 2018	Concurrence
NSW Police	15 November 2018	Conditions
Ausgrid	Not received	Deemed approval – standard conditions to be imposed
Sydney Water	14 December 2018	Conditions
Telstra	22 October 2018	Conditions
<i>Internal Referrals</i>		
Design Review Panel	6 December 2018	Comments
Bayside Development Traffic Advisory Committee	5 December 2018	Comments
Development Engineer	29 April 2019	Conditions
Public Domain	30 April 2019	Conditions
Environmental Scientist	10 December 2018	Conditions
Section 7.11 Contributions	29 April 2019	Conditions
Waste	18 October 2018	Conditions
VPA	30 April 2019	Conditions

Referral Agency	Response Date	Comments
Address and Road Naming	20 November 2018	Conditions
Environment and Health Officer	26 April 2019	Not supportive of the acoustic report recommendations for the child care centre
Landscaping	26 October 2018	Conditions

Section 7.11 Contributions (formerly Section 94)

The provisions contained in Council's Section 94 Contributions Plan apply to developments involving the construction of additional residential development that creates further demand to improve or upgrade existing facilities, amenities or services.

A total of **\$6,359,756.89** has been calculated, and split into the three stages as stated at the start of the report. This payment will be imposed as a condition in the attached schedule.

CONCLUSION

In accordance with Schedule 7 (Regionally Significant Development) under State Environmental Planning Policy (State and Regional Development) 2011, the Application is referred to the Sydney East Central Planning Panel for determination.

The proposed development is permissible in the B2 Local Centre Zone. The applicant has submitted a Clause 4.6 Exception to the maximum FSR of 3.2:1 and Building Height standard of 44 metres.

The proposal has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

On balance, the proposed development in its current form should be appropriate for the site and it is recommended that the Panel approve DA-2018/1187 for the reasons outlined in this report.

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
DA-01-0200 A Site Plan	PTW Architects	13/9/18
DA-10-0800 A Basement Level 02 Plan	PTW Architects	29/3/19
DA-10-0900 A Basement Level 01 Plan	PTW Architects	29/3/19
DA-10-1000 A Ground Floor Plan	PTW Architects	29/3/19
DA-10-1100 A Level 01 Plan	PTW Architects	29/3/19
DA-10-1200 A Level 02 Plan	PTW Architects	13/2/19
DA-10-1300 A Levels 03-04 Plan	PTW Architects	13/2/19
DA-10-1500 A Level 05 Plan	PTW Architects	13/2/19
DA-10-1600 A Level 06 Plan	PTW Architects	13/2/19
DA-10-1700 A Levels 07-08 Plan	PTW Architects	13/2/19
DA-10-1900 A Level 09 Plan	PTW Architects	13/2/19
DA-10-2000 A Levels 10-12 Plan	PTW Architects	13/2/19
DA-10-2300 A Level 13 Plan	PTW Architects	4/10/18
DA-10-2400 A Roof Plan	PTW Architects	13/9/18
DA-20-0100 A South Elevation – Coward Street	PTW Architects	14/2/19
DA-20-0200 A West Elevation – Site Link Park	PTW Architects	27/9/18
DA-20-0300 A North Elevation	PTW Architects	27/9/18
DA-20-0300 A East Elevation	PTW Architects	27/9/18
DA-30-0100 A East Section – Tower A	PTW Architects	14/2/19
DA-30-0200 A West Section – Tower B	PTW Architects	14/2/19
DA-30-0300 A East-West Section	PTW Architects	27/9/18
DA-40-0100 A Perspective – Coward Street	PTW Architects	5/10/18
DA-40-0200 A Perspective – Corner South West	PTW Architects	5/10/18
DA-50-0100 A External Materials And Finishes	PTW Architects	5/10/18
DA-50-0200 A Façade Materials – Tower Facades – Sheet 1	PTW Architects	5/10/18
DA-50-0300 A Façade Materials – Tower Facades – Sheet 2	PTW Architects	5/10/18
DA-50-0400 A Façade Materials – Tower Facades – Sheet 3	PTW Architects	5/10/18
DA-50-0500 A Façade Materials – Tower Facades – Sheet 4	PTW Architects	5/10/18
DA-70-0100 A Adaptable Units	PTW Architects	14/9/18
DA-90-0310 A Corner Units Privacy	PTW Architects	7/2/19
DA-90-0400 A Landscape And	PTW Architects	13/9/18

Drawing No.	Author	Dated
Deep Soil Diagram		
DA-90-0500 A Communal Open Space Diagram	PTW Architects	13/9/18
DA-90-0600 A Staging Plan	PTW Architects	13/9/18
Landscape Development Application	Urbis	14/2/19
DAC002 General Notes and Legends	AT&L	28/9/18
DAC005 Typical Sections Sheet	AT&L	28/9/18
DAC010 Siteworks Details	AT&L	28/9/18
DAC015 Stormwater Details Sheet	AT&L	28/9/18
DAC020 Siteworks and Stormwater Plan	AT&L	28/9/18
DAC025 Stormwater Longsection and Details	AT&L	28/9/18
DAC026 OSD Tank Plan and Details	AT&L	28/9/18
DAC027 OSD Tank Sections	AT&L	28/9/18
DAC030 Pavement, Signage and Linemarking Plan	AT&L	28/9/18
DAC040 Sedimentation and Erosion Control Plan	AT&L	28/9/18
DAC041 Sedimentation and Erosion Control Details	AT&L	28/9/18
DAC050 Services and Utilities Coordination Plan	AT&L	28/9/18
DAC060 Stormwater Catchment Plan	AT&L	28/9/18

2

- a) The north boundary wall is to be treated as patterned precast wall and the wall patterns and colours will be developed to compliment this public link. 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 the relevant Construction Certificate.
- b) That the accessible parking spaces in the public car park can be placed near the main entrance.

3

In accordance with the letter of offer dated 29 August 2018, the landowner is to enter into a Planning Agreement under Section 7.4 of the Environmental Planning and Assessment Act 1979 with Council to undertake the following:

- (i) Provision of a public car park, providing approximately 90 car parking spaces to be publicly accessible for vehicles via Coward Street and for pedestrians via John Street. The car park is to be dedicated to Council as a stratum lot.
- (ii) Construction and embellishment of a public through site-link of approximately 1600m² in land, with registration of an easement in gross over the through site link allowing public access.

No Occupation Certificate can be issued until the corresponding obligations to deliver the public carpark and public access link as specified in the Voluntary Planning Agreement have been fulfilled.

4

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 relevant Construction Certificate for above ground works. 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.
- 5 The fit out and use of the child care centre on level 2 shall be subject to a separate Development Application.
- 6 Works to be completed in public space owned by Council and RMS, will be of no cost to Council or the RMS, including the following: Landscaping and embellishment of Coward Street, and John Street frontages to the development site, including footpaths, paving, street trees, tree pits/grates and other planting, and street furniture, etc. All landscape improvements shall follow the Mascot Station Town Centre Precinct Master Plan.
- a) Existing street trees, Tree 1 is dead and tree 2 is damaged, both trees shall be removed and replaced street tree planting shall be undertaken as detailed below.
 - b) Coward Street, (regional road with activated retail frontage setback).
 - i. Verge strip shall be planted with *Corymbia maculata* (Spotted Gum) along Coward Street as per Botany Bay Street Tree Management Plan 2014.
 - ii. Pot size supplied shall be not less than 400 Litre. Height above container 5.5 meters, calliper at 300mm greater than 70mm, with a clear trunk height of 1.5 meters.
 - c) John Street, New Local Street, *Corymbia maculata* along verge, between parking lane and footpath, and *Harpullia pendula* within road blisters, located in line with parking lane. Pot size supplied shall be not less than 200 Litre. Height above container 3.5meters, calliper at 300mm greater than 60mm, with a clear trunk height of 1.5 meters.
 - d) Trees provided shall conform to NATSPEC guide. Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries.
- 7 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 the relevant Construction Certificate by:
 - i) The consent authority; or,
 - ii) An accredited certifier; and,
 - b) The person having the benefit of the development consent:
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the person's intention to commence the erection of the building.
- 8
- 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.
- 9 Service Alterations – All mains, services, poles, etc., which require alteration due to works associated with the development, shall be altered at the applicant’s expense.
- 10 In designing the street tree layout, the consultant shall check and ensure that all new street trees are positioned such that there are no conflicts with the proposed street lights, utilities and driveway accesses. The proposed street lights will have priority over the street trees. All costs associated with the removal of existing street trees, where required, will be borne by the Developer.
- 11 This Consent relates to land in Pts 101 in DP 1241951 (256 Coward Street) 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

- 12 The following condition is imposed by **Sydney Water** and is to be complied with:
- (a) **Sydney Water Servicing**
A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.
Make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.
Applications must be made through an authorised Water Servicing Coordinator.
For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
 - (b) **Building Plan Approval**
The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.
The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of 30 November 2015.
The Tap in™ service provides 24/7 access to a range of services, including:
 - building plan approvals
 - connection and disconnection approvals
 - diagrams
 - trade waste approvals
 - pressure information
 - water meter installations
 - pressure boosting and pump approvals
 - changes to an existing service or asset, e.g. relocating or moving an asset.
 Sydney Water’s Tap in™ online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>
 - (c) **Trade Wastewater Requirements**
If this development is going to generate trade wastewater, the property owner must submit an application requesting permission to discharge trade

wastewater to Sydney Water's sewerage system. You must wait for approval of this permit before any business activities can commence.

The permit application should be emailed to Sydney Water's Business Customer Services at businesscustomers@sydneywater.com.au

It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

A Boundary Trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment. If the property development is for Industrial operations, the wastewater may discharge into a sewerage area that is subject to wastewater reuse. Find out from Business Customer Services if this is applicable to your development.

(d) **Backflow Prevention Requirements**

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

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

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

Before you install a backflow prevention device:

1. Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.
2. Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300 889 099.

For installation you will need to engage a licensed plumber with backflow accreditation who can be found on the Sydney Water website:

<http://www.sydneywater.com.au/Plumbing/BackflowPrevention/>

(e) **Water Efficiency Recommendations**

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

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

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

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

(f) **Contingency Plan Recommendations**

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

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

Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority. Have you thought about a contingency plan for your business? Your Business Customer Representative will help you to develop a plan that is tailored to your business and minimises productivity losses in the event of a water service disruption. For further information please visit the Sydney Water website at: <http://www.sydneywater.com.au/OurSystemsandOperations/TradeWaste/> or contact Business Customer Services on 1300 985 227 or businesscustomers@sydneywater.com.au

- 13 The following conditions are imposed by the **NSW Roads and Maritime Service (RMS)**.
- (a) The proposed driveway on Coward Street is to be designed to restrict all vehicles to Left-In, Left-Out arrangement. As such, the existing central median on Coward Street will need to be extended to the existing traffic signals on Coward Street.
The work shall be designed to meet Roads and Maritime requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of the relevant Construction Certificate by the Principal Certifying Authority and commencement of road works.
The developer is required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. 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.
 - (b) The design and construction of the new gutter crossing on Coward Street shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Developer Works Unit at developerworks.sydney@rms.nsw.gov.au
Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of the relevant Construction Certificate and commencement of any road works.
A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.
 - (c) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.
A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.
 - (d) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.
The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.
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) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
 - (e) 'No Stopping' signage will need to be installed across the entire frontage of the property, with the exception of the 'Bus Zone' which shall be retained. All works/signposting associated with the subject development (including public utility adjustment/relocation works) shall be at no cost to Roads and Maritime.

- (f) A Construction Pedestrian Traffic Management (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of the relevant Construction Certificate.
- (g) All demolition and construction vehicles are to be contained wholly within the site (or on local road) and vehicles must enter the site before stopping.
- (h) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Coward Street during construction activities.
- (i) A construction zone will not be permitted on Coward Street.
- (j) Vegetation and proposed landscaping/fencing must not hinder driver sight lines on Coward Street to other road users and critical road infrastructure.
- (k) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2002.
- (l) As construction may impact bus operations, the developer should consult with the local bus operator, as part of the CPTMP.

14 The following conditions are imposed by the **NSW Office of Water (General Terms of Approval)**:

- (a) A Water Supply Work Approval from WaterNSW must be obtained prior to commencing dewatering activity on the proposed site. Please complete an Application for approval for water supply works, and/or water use.
- (b) An application for a Water Supply Works Approval will only be accepted upon receipt of supporting documentation, and payment of the applicable fee (see Application fees for New or amended Works and/or Use Approvals). The information required for the processing of the water supply work application may include preparation of a dewatering management plan. Please refer to checklist attached.
- (c) If approved, the Approval will be issued for a period of up to 24 months to cover the dewatering requirements during the construction phase. It will include conditions to ensure that impacts are acceptable and that adequate monitoring and reporting procedures are carried out. The Approval will be issued subject to the proponent meeting requirements of other agencies and consent authorities. For example, an authorisation by either Sydney Water or the local Council, depending where the water will be discharged. If contaminants are likely, or are found to be present in groundwater, and are being discharged to stormwater, including high salinities, a discharge licence under the *Protection of the Environment Operations Act 1997 (NSW)* may also be required.
- (d) WaterNSW prefers “tanking” (i.e. total water proofing below the seasonal high water table) of basement excavations, and avoids the ongoing extraction of groundwater after the initial construction phase. It is also advised to adopt measures to facilitate movement of groundwater post construction (eg. a drainage blanket behind the water-proof membrane).
- (e) If the basement is not “tanked”, the proponent will require a Water Access Licence (WAL) and need to acquire groundwater entitlements equivalent to the yearly ongoing take of groundwater. Please note: Acquiring groundwater entitlements could be difficult, and may cause delay in project completion. If a WAL is required, please complete an Application for a new water access licence with a zero share component.

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

- (a) The CCTV cameras are installed as soon as power is available to the site.
- (b) No letter boxes be available/accessible to the public without security swipe pass.
- (c) Main entrance of all parking to be covered with CCTV footage.

- (d) The provision of covered lockable racks to secure bicycles increases the effort required to commit crime.
- (e) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.
- (f) 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 Building Premise.
- (g) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
- (h) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.
- (i) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
- (j) Signage needs to be provided to assist occupants to identify fire suppression equipment, eg extinguishers, fire hoses etc.
- (k) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours.
- (l) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development or at least ground levels situated on the outsides of the buildings.
- (m) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for buildings, AS:3745:2002 should be prepared and maintained by your development to assist workers and tenants in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://wwwv.ema.gov.au>.
- (n) The door and door frames to these premises should be of solid construction.
- (o) Doors should be fitted with locks that comply with the Australian Standard — Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are required for residential units.
- (p) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space. The doors in the required exits must be readily open-able without a key from the side that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor.

- (q) The windows and window-frames to these premises should be of solid construction. These windows should be fitted with locks with comply with the Australian Standard — Mechanical Locksets for windows in buildings, AS:4145 <http://www.standards.org.au> to restrict unauthorised access. This standard specifies the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical windows, such a wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses, Schools and factories. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms).
- 16 The following conditions are imposed by the **Sydney Airport Corporation Limited:**
- 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, aerials, 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.
- 17 The following conditions are imposed by **Telstra:**
- (a) No proposed vehicle crossover will be constructed over Telstra access pits or manholes.
 - (b) Contact is to be made to discuss footpath work effects on Telstra network on 1800 810443 or on-line via

<https://say.telstra.com.au/customer/general/forms/request-asset-relocation-or-commercial-works>

- (c) Telstra is to be contacted to inspect the network before any works on the footpath and road adjacent to the subject site.

- 18 **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 the relevant Construction Certificate.

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

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

- 19 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:
- 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
 - 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.
- 20 The applicant must prior to the issue of the relevant Construction Certificate, pay the following fees and bonds:
- Builders Security Deposit \$377,811.00 (Condition 21)
 - Development Control \$13,583.00

Development Contributions

- 21 A Section 7.11 contribution of **\$6,359,756.89** shall be paid to Council. The contribution is calculated according to the provisions contained within the Council's adopted Former City of Botany Bay s7.11 Development Contributions Plan 2016 (Amendment 1) and having regard to the Ministerial Directive of 21 August 2012 (the \$20,000 cap). The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained Contributions Plan. The contribution is to be paid prior to the issue of any compliance certificate; subdivision certificate or construction certificate. The contributions are only used towards the provision or improvement of the amenities and services identified below.

(a) Stage 1 Podium

Community Facilities	\$15,773.46
Recreation and Open Space	\$165,621.33
Transport Facilities	\$13,801.68
Administration	\$1,971.68
Total in 2018/19	\$197,168.25

(b) Stage 2 Tower B

Community Facilities	\$249,600.00
Recreation and Open Space	\$2,620,800.00
Transport Facilities	\$218,400.00
Administration	\$31,200.00

Total in 2018/19	\$3,120,000.00
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(c) Stage 3 Tower A

Community Facilities	\$243,407.09
Recreation and Open Space	\$2,555,774.46
Transport Facilities	\$212,981.20
Administration	\$30,425.89
Total in 2018/19	\$3,042,588.64

- 22 Prior to the issue of the first Construction Certificate, the applicant shall lodge a Damage Deposit of **\$377,811.00** (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.
- 23 A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of the first Construction Certificate. The program shall detail:
- 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,
 - The proposed phases of construction works on the site and the expected duration of each construction phase,
 - 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,
 - The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - 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,
 - The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
 - 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,
 - 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,
 - Proposed protection for Council and adjoining properties, and
 - 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.
- 24 Prior to the issue of the relevant Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority.
- The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable

for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

- 25 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 relevant Construction Certificate plans.
- 26 An amended Stage 3 – Remedial Action Plan (RAP) shall be prepared by a suitably qualified and experienced contaminated land consultant and in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.
- The RAP shall be updated by a suitably qualified and experienced contaminated land consultant to incorporate the proposed use that includes a childcare centre and park. It shall clearly state proposed clean-up objectives, and demonstrate how the site will be made suitable for the proposed uses.
- The RAP shall be submitted to Council for review and concurrence prior to the commencement of any remedial action and prior to the issue of the relevant construction certificate.
- 27 The Remedial Action Plan (RAP) shall avoid the use of containment, and contaminants should be treated onsite or removed from the site whenever possible. Any remediation that utilises a containment strategy for contaminants must be accompanied by a Long-term Environmental Management Plan (LTEMP). This LTEMP must be added to the title of the site.
- 28 An Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the issue of the relevant Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.
- This report shall be provided prior to the issue of the relevant construction certificate and all recommendations of the report shall be implemented during works on site.
- 29 The landscape areas shown on Urbis Landscape plans dated 14th September 2018 shall be the subject of detailed landscape construction level documentation to be submitted to and approved by the Bayside Council's Landscape architect prior to the issue of the relevant Construction Certificate. The plans shall address the following:
- (a) Include some landscape on sides of two units of Kiosk substation located on Coward Street. The substations are located approximately 4,7 metres from driveway, leaving an area of more than 23 m² on the east of the substation. This area shall include soft landscape treatment, considering that is located in the proposed deep soil setback area. Planting shall consist on accent plants and groundcovers to maximum 900mm height.

- (b) Central Linear Site Link, pocket park in private land with public access shall include the following:
 - (i) Seating areas with anti-skateboard/rollerblade edge protectors.
 - (ii) Pavement treatments to be approved by Council.
 - (iii) Bicycle racks, water feature, pedestrian lighting, sculptures and other furniture as required in the area.
 - (iv) Deep soil areas shall maximised the use of planting with groundcovers, feature plants and canopy trees.
- (c) Podium landscape on Level 02 .*Waterhousia floribunda* (Weeping Lilly Pilly) proposed to be in pots, is recommended to be in built in planter boxes. If tree planting will be provided in pots, these shall allow enough soil to maximise the growth of proposed trees, and automatic drip irrigation system shall be provided to all pots as well as to all planting proposed on podium.
- (d) All proposed pergolas shall have climbers growing on top to ameliorate amenity and environment.
- (e) Child Care Centre.
- (f) Playgrounds are completed in accordance with Australian Standards set out in AS/NZS 4422:2016 and a Certificate of Compliance is issued with installations. All playground equipment must be independently certified prior to obtaining an occupation certificate;
- (g) Physical shading devices are to provide sun protection to children and be integrated into the design of the building and the outdoor area. Shading shall be in accordance with Shade for Child Care Services published by the NSW Cancer Council and NSW Health Department.
- (h) Synthetic turf shall be only used in shaded areas to avoid raise of temperatures. Only use synthetic grass that is no carcinogenic and free of lead and heavy metals.
- (i) **Irrigation.** To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas, inclusive of the street tree pits. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
- (j) **Planter boxes will be fully automatic irrigated.** Construction details, sections and external finishes shall be provided. Planter box depths and construction specifications to be in accordance with Apartment Design Guide, NSW Planning and Environment, July 2015.
- (k) **Landscape plan** shall include/display all proposed and retained levels, top of walls and all stormwater relevant information: location of underground stormwater, pits and rainwater tanks, ensuring deep soil availability for landscaping and tree planting is maximised. NOTE: detention tanks not permitted in street setbacks. A planting plan indicating all plant location, groupings and centre/spacings. There is to be a dense, layered planting of canopy trees, medium trees and shrubs of a varying height and feature in all landscaped areas. All landscaped areas adjacent to public domain shall follow CPTED principles. Landscape specifications detailing soil and mulch finishes, root barriers, irrigation, edge treatments and other landscape handworks/materials such as retaining walls and paving. Provide details, sections and materials of fences, privacy screening, pergolas and walls visible from the public domain of both external roads and public open space. Indicate the location of all basement structures relative to the landscape areas on the landscape plan.

30 Prior to the issue of the relevant 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.
- 31 Prior to the release of the relevant 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.
- 32 Prior to the release of the relevant 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.
- 33 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.
- 34 Prior to the issue of the relevant 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.
- 35 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 applicant's expense.

- 36 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 (e.g. Ausgrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - (a) The additional load on the system, and
 - (b) The relocation and/or adjustment of the services affected by the construction.
 - 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 relevant 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.
- 37 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 relevant 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.
- 38 Prior to the issue of the relevant 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.
- 39 Prior to the issue of the relevant 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 Apartment Development.
- 40 a) Prior to the issue of the relevant Construction Certificate, the measures required in the Development Application Acoustic Report No. 20181081.1/0304/RO/TA prepared by Acoustic Logic dated 3 April 2019 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 relevant 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 relevant 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.
- 41 Prior to the issue of the relevant Construction Certificate, the measures required in the Qualitative Wind Assessment, Ref: 610.18233-R01 prepared by SLR dated September 2018 shall be detailed on the relevant Construction Certificate plans.
- 42 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the relevant Construction Certificate. 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 relevant Construction Certificate.
- 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.
- 43 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 the relevant Construction Certificate and its location and specifications endorsed on the construction drawings.
- 44 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 and Civil Drawings and Civil Infrastructure DA Report prepared by AT & I Pty Ltd, Ref No 18-571-R001-01 Coward Street Civil Report, dated 29 September 2018,
 - 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.

45 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.

46 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.

47 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.

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

Car Parking Rates	Required
0.6 space / 1 bed unit 113 units	68 spaces
0.9 space / bed unit 147 units	133 spaces
1.4 space / bed unit 45 units	63 spaces
1 visitor space / 7 dwellings	44 spaces
Child care centre	25 spaces
Retail Spaces	15 spaces
TOTAL REQUIRED	348
TOTAL PROVIDED	350

This requirement shall be reflected on the relevant Construction Certificate plans and any future strata subdivision. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.

49 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 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.

Prior to the issue of the relevant 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.

- 50 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 relevant Construction Certificate.
- 51 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 relevant construction certificate.
- 52 Prior to the issue of the relevant Construction Certificate for the development, an application for Property Address Allocation and associated fee are required to be submitted to Council. All new addresses will be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.
The form is available for download at:
<https://www.bayside.nsw.gov.au/services/developmentconstruction/buildingoralteringproperty/commonlyusedforms>
The general principles of addressing in NSW are described in the NSW Addressing User Manual, Ch.6 Addressing Principles. The manual is available for download at:
http://www.gnb.nsw.gov.au/__data/assets/pdf_file/0007/199411/NSW_AUM_July2018_Final.pdf
- 53 The numbering (sub-addresses) of the individual units in multilevel sites should be consistent with Australian Standards AS/NZS 4819:2011 Rural and Urban Addressing Standard & NSW Addressing User Manual.
Developers of multilevel buildings are required to submit their schedule of addresses to Council for addressing approval prior to registration of the subdivision plan.
Finalised architectural and survey plans of the site, identifying the location and nature of the development have to be submitted to Council.

PRIOR TO COMMENCEMENT OF WORKS

- 54 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.)

- 55 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.
- 56 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 relevant 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.
- 57 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:
 - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - c) Permit for roads and footways occupancy (long term/ short term),
 - d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - e) 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,
 - f) Permit to place skip/waste bin on footpath and/or nature strip,
 - g) Permit to install temporary shoring under Council's road reserve, and
 - h) Permit to use any part of Council's road reserve or other Council lands.
- 58 Erosion and sediment control devices shall be installed and in function prior to the commencement of any 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.

- 59 All telecommunication and utility services are to be placed underground along the Street frontages. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of work.
- 60 A separate Site Audit Statement (SAS) for the park that is to be dedicated to council is required and Council will require that there is no ongoing management of any land that is to be dedicated to Council.
- 61 Prior to any works an acid sulfate soil (ASS) assessment shall be undertaken to determine the presence and extent of any ASS at the site.
- 62 Should any potential acid sulfate soil (PASS) or actual acid sulfate soil (AASS) be identified then the an Acid Sulfate Soils Management Plan shall be prepared which shall include any site specific procedures and mitigation measures required and a site analysis from a NATA registered laboratory. All recommendations of the report shall be implemented prior to the commencement of excavation and building works.
- 63 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.

DURING WORKS

- 64 During construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of 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.
- 65 All remediation work must be carried out in accordance with:
- (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - (b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
 - (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
 - (d) The revised Remedial Action Plan (RAP) required to be submitted prior to the issue of the relevant Construction Certificate.
- 66 For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable

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

- 67 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to Council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 68 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 69 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
 - b) Protection of the Environment Operations Act 1997; and
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
- All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- 70 The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Acid Sulfate Soil Management Plan required to be submitted prior to the relevant construction certificate including:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil; and
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.
- 71 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.
- 72 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).
- 73 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.
- 74 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.
- 75 The approved Waste Management Plan for the site prepared by Elephants Foot Recycling Solutions, Report No. 18038 Revision D, dated 6 September 2018, shall be complied with at all times during demolition works and construction works.

- 76 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.
- 77 All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 78 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.
- 84 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;
- stating that unauthorised entry to the work site is prohibited;
 - 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;
 - the Development Approval number;
 - the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - any such sign is to be removed when the work has been completed.
- 85 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:
- 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;
 - Prior to placement of concrete (kerb and gutter and footpath);
 - Prior to construction and placement of road pavement materials; and
 - 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.
- 86 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.
- 87 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).
- 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 principal contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- Covering excavated areas and stockpiles,
 - 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 During remediation 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.
- 90 Any new information that comes to light during construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
- 91 During construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be 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.
- 92 During construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. 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.
- 93 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.
- 94
- 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 (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
- 95 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.
- 96 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.
- 97 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.
- 98 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.
- 99 Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
- 100 During 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.
- 101
- 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.
- 102 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.
- 103 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 relevant Construction Certificate.
- 104 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.
- 105 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 Interim Construction Noise Guidelines and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under: 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: 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 3:00pm;
 - 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.
- 106 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

- 107 The Council car park stratum lot is to be dedicated to the Council prior to the earlier of the following:
 - (i) the issuing of any Occupation Certificate for the final building for the Development,
 - (ii) the date that is 24 months after the date Development Consent is granted to the Development,
 or as agreed in writing between the Parties.
- 108 A vehicular access easement is to be registered on title at the same time the Council car park is dedicated.
- 109 The Public Access Link is to be completed and the Public Access Easement is to be registered on title prior to the earlier of the following:
 - (i) the issuing of any Occupation Certificate for the final building in the Development,
 - (ii) the date that is 24 months after the date Development Consent is granted to the Development.
- 110 A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works.
Evidence of this appointment shall be provided to council prior to the issue of the relevant construction certificate.
- 111 A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
 - d) NSW Office of Environment and Heritage (OEH) ‘Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites’;
 - e) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
 - f) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.
 The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.
- 112 To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* shall be submitted to Council for clearly demonstrating that the site is

suitable for the proposed development. A separate SAS shall be provided for any land dedication to council, such as parks or roadways and the site audit statement shall not be subject to any ongoing management measures. This shall be provided Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy any Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the release of any applicable Occupation Certificate or applicable dedication of land to Council. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

- 113 Prior to issue of the relevant Occupation Certificate, Landscaping within the property and within the public domain shall be installed in accordance with the approved landscape plans as amended and as approved by Council's Landscape Architect. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
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 Bayside Council prior to the Issue of an Occupation Certificate.
- 114 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, biannual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
- 115
- a) Prior to the issue of the Occupation Certificate, the development is to be constructed to meet the requirements detailed in the Development Application Acoustic Report prepared by Acoustic Logic dated 3 April 2019 (with the exception of the child care centre); and
 - b) All acoustic work including that acoustic work required at Condition No. 39 shall be completed prior to the issue of the Occupation Certificate and validated by a person with appropriate qualifications and experience.
- 116 Plans submitted with the Occupation Certificate shall demonstrate compliance with the following:
- a) The 350 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;
 - b) Allocation of the car parking shall be as follows:
 - i) Each studio/one (1) bedroom unit shall be allocated a total of 68 spaces;
 - ii) Each two (2) bedroom unit shall be allocated a total of 133 spaces;
 - iii) Each three (3) bedroom unit shall be allocated a total of 63 spaces;
 - iv) Forty four (44) 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;
 - v) Twenty-five (25) spaces for the proposed child care centre; and
 - vi) Fifteen (15) spaces for retail uses.
- 117 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.

- 118 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.
- 119 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.
- 120 Prior to the issue of the relevant Occupation Certificate, the following is to be complied with:
- a) Dedicate to Council and at no expense to the Council and generally in accordance with the Ground Floor Plan, Drawing Number DA-10-1000 Rev A by PTW Architects, dated 29 March 2019 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.
- 121 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.
- 122 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.
- 123 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.
- 124 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.
- 125
- 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.
- 126 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.
- 127 Any damage not shown in the dilapidation report required under Condition No. 57 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.
- 128 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.

129 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.

130 Prior to the issue of any Occupation Certificate, a Loading Dock Plan of Management and Operation shall be submitted and approved by the Director of City Future, Bayside Council. The Loading Dock Plan of Management and Operation shall reflect the shared use of the loading dock to ensure that all uses within the development and relevant waste collection services have access to onsite loading and unloading facilities. The Management Plan shall specify delivery management, frequency of use, hours of operation, access, maintenance of the turntable and complaints handling procedures. A complaints register shall be maintained on site at all times. The Loading Dock Operation Management Plan shall be reviewed with lodgement of future applications.

Note: The loading / unloading bay on site is to be made available for use by all retail, commercial and residential uses on site (including removalist vans). All loading and unloading is to occur within the loading / unloading bay on site. The loading / unloading bay shall operate in accordance with the Plan of Management as required by this consent. The hours of operation of the loading dock shall not exceed 7am 9pm.

- 131 Convex mirrors and give-way signs shall be installed at secure sides of the boom-gates to provide increased sight distance for vehicles and giving priority for incoming vehicles.
- 132 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

- 133 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.
- 134 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.

- 135 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 screened 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.
- 136 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.
- 137 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.
- 138 The landscape contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time monthly maintenance is required.
- 139 No roller shutters are to be installed to any of the shopfronts that front Coward Street or the north/south pedestrian link.

- 140 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.
- 141 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) 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.
- 142 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.
- 143
- 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.
- 144 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.
- 145 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.

ADVISORY CONDITIONS

- 1 The following advisory conditions are imposed by the **NSW Police**:
- (a) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. All access areas to the building be covered by such equipment including mail delivery ports. This equipment needs to be checked and maintained on a regular basis.
 - (b) Any proposed landscaping and vegetation should adhere to the following principles:
 - Shrubs, bushes, plants should remain under 900mm in height.
 - Branches of large trees should start at a height of two (2) metres and higher.

This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
 - (c) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
 - (d) Any proposed seating area or grass area should be positioned somewhere which can be viewed easily by the community. Consider whether the area will be used enough to warrant its development. Areas which are isolated, unused and maintained poorly become a breeding ground for anti social behaviour.
 - (e) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external lighting.
 - (f) The configuration of car parking spaces can impact the risk to car thieves. Grid rows increase natural surveillance. Avoid dark spots, corners and isolated car spaces.
 - (g) Public laundries, garbage disposal areas and other communal spaces should not be located in buildings 'leftover space'. Poor supervision of communal facilities can greatly increase the risk of predatory crime, theft and vandalism. Areas that are unused or sporadically used after hours and unsupervised should not be accessible to the public.
 - (h) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.

- (i) 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).
- (j) 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.
- (k) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.
- (l) Clear street number signs should be displayed and appropriately positioned at the front of the buildings to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (currently \$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.
- (m) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
 - Warning, trespassers will be prosecuted
 - Warning, these premises are under electronic surveillance
- (n) CCTV cameras must cover any storage areas in the basement if they are constructed. Solid steel housing and quality key locks should be used to prevent access. All cages to be at least 2.5m in height with adequate roofing, cages below this allow people access over the top.
- (o) Any sliding doors MUST be fitted with lockable bolts in the bottom and top of the door frame.
- (p) The main access to the underground car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering.
- (q) The main entry/egress doors to the development should have an electronically operated lock which require security swipe pass for entry. The lifts operating in the building should have the same security swipe pass technology. When an occupant buzzes in a visitor the lift should recognise the floor the occupant resides and only allow the visitor access to that floor in the lift.
- (r) It is strongly recommended that all letter box and mail delivery ports be built internal of the secure building. No letter box openings to be accessible to street public.