

COUNCIL ASSESSMENT REPORT

Panel Reference	2018ECI008
DA Number	DA14/129/4
LGA	Bayside Council
Proposed Development	Section 4.55 (2) modification application of approved mixed use development including conversion of units 2.09 and 3.09 from studio units to 1 bedroom units, extension of balcony and awning to unit 401, northern façade adjustment to include blade column and increasing the height of the lift overrun by 1 metre.
Street Address	593-595 Gardeners Road, Mascot
Applicant/Owner	APKC Pty Ltd
Date of DA lodgement	28.08.2018
Number of Submissions	Nil
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	Capital Investment Value over \$20,000,000
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment • Environmental Planning & Assessment Regulation 2000, Part 6 -Procedures relating to development applications • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 – Contaminated Land; • State Environmental Planning Policy 2004 (BASIX); • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings • Botany Bay Local Environmental Plan 2013 • Botany Bay Development Control Plan 2013
List all documents submitted with this report for the Panel's consideration	- Planning Assessment Report
Report prepared by	Eric Alessi – Development Assessment Planner
Report date	6 December 2018

Summary of s79C matters

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

Yes / No

Legislative clauses requiring consent authority satisfaction

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

Yes / No / Not Applicable

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

Clause 4.6 Exceptions to development standards

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

Yes / No / Not
Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

Yes / No / Not
Applicable

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 / No

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

Bayside Council Planning Assessment Report

RECOMMENDATION

1. That the Sydney Eastern City Planning Panel resolve pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, to modify Development Consent No. 14/129 for the mixed use development, at 593-595 Gardeners Road, Mascot as indicated within the updated Schedule of Conditions and as follows:
 1. Modify Condition 1 to refer to the amended plans;
 2. Modify Condition 101 to make reference to this modification;
 3. Modify Condition 12 to refer to approved amended height by Sydney Airport;

REASONS FOR THE RECOMMENDATION

1. The amended proposal is substantially the same as the original approved development.
2. The amendments do not result in any material impact on the surroundings.
3. There were no submissions.

EXECUTIVE SUMMARY

Development Application No. DA-2014/129/03 was approved by the Panel on 16 December 2018 for a *Integrated Development proposal for an eight storey mixed use development including the demolition of existing structures and site remediation; 175m² of retail floor space at ground level; 61 residential apartments (7 x studio, 17 x 1 bedroom and 37 x 2 bedroom) and 4 levels of basement car parking to accommodate 112 car spaces and bicycle parking. The modification made the following changes:*

- *Removal of the two intermediate ramps;*
- *Reshuffle of car parking spaces;*
- *Adjustment of basement floor levels;*
- *Additional one car space*

Bayside Council received Development Application No. 2014/129/04 on 28 August 2018 seeking consent to modify the approved development for the conversion of units 2.09 and 3.09 from studio units to 1 bedroom units, extension of balcony and awning to unit 401, northern façade adjustment to include blade column and increasing the height of the lift overrun by 1 metre.

There will be adjustments on the typical second and third floor plan to accommodate the change of studio units to one (1) bedroom units. The lift overrun will be increased in height by 1 metre to accommodate the lift. Revised elevation plans have been provided to include blade columns.

The application does not significantly alter the approved building. The modification is considered to be substantially the same development and is not considered to create any likely impacts to the surrounding development.

The Section 4.55(2) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval.

BACKGROUND

The former Botany Bay Council received Development Application No. 14/129 on the 11 June 2014 seeking consent for the demolition of existing structures and site remediation; construction of an eight storey mixed use development comprising of 272m² of retail floor space fronting Gardeners Road; 65 residential apartments and 4 levels of basement car parking to accommodate 112 spaces.

The development application was required to be referred to the Joint Regional Planning Panel (JRPP) pursuant to Clause 3 of Schedule 4A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as the Capital Investment Value of the proposal was \$28,437,092.20.

The Development is Integrated Development, pursuant to Section 91 of the EP&A Act as the development involves temporary construction dewatering and therefore requires approval from the NSW Office of Water. In a letter dated 11 July 2014, the NSW Office of Water has granted its General Terms of Approval to the proposed development. The development also required the concurrence of the RMS, as the proposal involves the relocation of access driveways on Gardeners Road (a classified road) and requires approval from RMS. Under a letter dated the 15 July 2014, NSW RMS provided conditions for the proposed development.

The application was recommended for a “Deferred Commencement” consent, as Council had considered that the development was not consistent with the development controls of BBDCP 2013, in respect of bulk, scale, height, visitor car parking, unit mix and unit/balcony sizes. The recommended deferred commencement condition would have required the reduction of the gross floor area by 439m² through the deletion of Level 7.

However, the JRPP resolved to approve the application without any requirement for “Deferred Commencement” conditions, but with the following requirement for additional conditions:

- *The three one bedroom units at the rear of the building on levels one, two and three shall be converted to 2 x 2 bedroom units*
- *The four rear units on level three shall be provided with skylights above the living areas to improve solar access.*

The above resulted in changes to the description of the approved development as follows:

Integrated Development proposal for an eight storey mixed use development including the demolition of existing structures and site remediation; 175m² of retail floor space at ground level; 61 residential apartments (7 x studio, 17 x 1 bedroom and 37 x 2 bedroom) and 4 levels of basement car parking to accommodate 112 car spaces and bicycle parking.

The development consent was signed on 16 December 2015.

A subsequent Section 96(1a) application (DA 2014/129/02) seeking to make modifications to the approved development was lodged on 3 November 2017 for the following amendments:

- Modification of Condition 1 pertaining to the amended plans;
- Modification of Condition 3 to delete required changes to the unit mix, and insert changes required due to flooding;
- Modification of Condition 47 to outline the required parking;
- Modification of Condition 101 making reference to the subject modification.

The abovementioned modifications were approved under delegated authority on 29 May 2017.

A section 4.55(1A) application (DA-2014/129/03) seeking to make modifications to the approved development was lodged on the 23 December 2017 for the reconfiguration of the internal layout of the basement parking areas and reduce the depth of excavations. These amendments were approved by the Bayside Planning Panel on the 4 July 2018.

Construction of the development has commenced.

SITE LOCATION AND CONTEXT

The subject site is located in Mascot between O’Riordan Street to the west and Botany Road to the east, with a frontage to Gardeners Road to the north. The site is regular in shape and is known as Lots 9 and 10 in DP 11589, which make up a total site area of 1,195m².

The properties surrounding the site are commercial/warehousing in nature to the immediate north, east and west. Semi-detached residential dwellings adjoin the site to the south, facing Miles Street and immediately to the south is an open hardstand car park in association with 589 Gardeners Road, with access from Miles Street.

DESCRIPTION OF PROPOSED MODIFICATIONS

The Statement of Environmental Effects describes the proposed modifications as follows: “This proposed Section 4.55(2) application seeks to make modifications to the layout of units on levels two (2) & three (3) and minor adjustments to the northern façade. The proposed changes, as highlighted in the proposed Section 4.55(2) plans, include:

- Convert Unit 209 and 309 from a studio to a one (1) bedroom unit;
- Balcony extended and awning provided to Unit 401;
- Northern façade adjustment with inclusion of blade columns;
- Lift overrun extended by 1.0m to the lift serving the communal open space on rooftop.

Revised elevation and floor plans has been provided for the modification. The modification will require the adjustment of the layout of units of the second and third floor to accommodate the conversion of a unit from a studio to a one bedroom.

A complete overview of the amendments are as follows:

First Floor Plan:

- Unit 107 (Unit 108 in approved plans) changed to have an open bedroom and size changed from 35 square metres to 38.95 square metres.

Typical Second and Third Floor Plan:

- Unit 209 changed from studio to one (1) bedroom and size changed from 35 square metres to 51.8 square metres.
- Unit 210 layout changed and size changed from 89 square metres to 77 square metres.

- Layouts of Units 205 & 206 changed.
- Layouts of Units 204, 201 changed.

Typical 4th to 7th floor plans:

- Unit 404 changed to contain an open bedroom and size increased from 35 square metres to 39.8 square metres.
- Unit 401 balcony extended to 35.7 square metres in area.

A seventh floor plan has been provided to replace the Typical 4th to 7th floor plan for the seventh level. The plan differs in the following way:

- Balcony for Unit 701 is 21 square metres in size.
- Unit 404 changed to have an open bedroom and size increased from 35 square metres to 38.82 square metres.

Elevation plans have been changed to accommodate the additional fins on the façade and the increased lift overrun.

ASSESSMENT OF PROPOSED MODIFICATIONS

An assessment of the modifications is discussed as follows:

Modification 1 - Increase the height of the lift overrun

The height of the lift overrun has been increased by 1 metre as the approved lift overrun height has been found to be insufficient to accommodate the lift to the rooftop terrace. Figure 1 shows the location of the lift overrun on the rooftop.

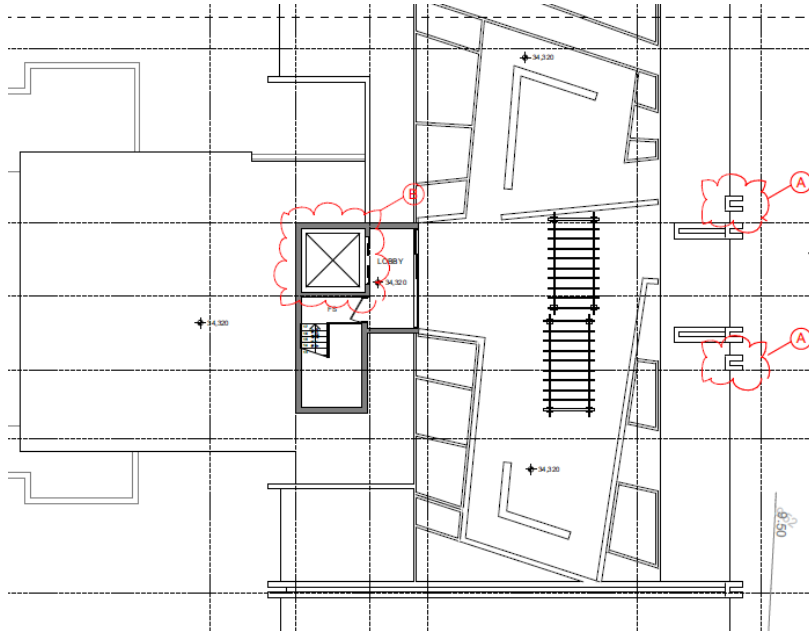


Figure 1. Showing the location of the lift overrun

Potential impacts of increasing the height of the lift overrun have been considered and are discussed below:

Solar Access:

The shadow diagrams for the approved development show that the extent of the shadows cast by the lift overrun are limited to the rooftop of the proposed building and no shadows

are cast onto adjoining properties. It is anticipated that the minor increase in height will not result in any shadows being cast onto adjoining properties.

Visual Impact:

Due to the lift overrun being recessed into the building it will not be seen from street.

Modification 2 – Change two studio units to one bedroom units

The proposal changes the unit mix as follows:

7 x studio, 17 x 1 bedroom and 37 x 2 bedroom

To

5x studio, 19 x 1 bedroom and 37 x 2 bedroom

The change in unit mix is not considered contrary to the requirements of State Environmental Planning Policy 65 as discussed later in this report. It is also not contrary to any requirements for unit mix in the Botany Development Control Plan.

Parking rates for the development were assessed against part 3A.2 Car Parking in the Botany Development Control Plan which requires 1 parking space for either a studio apartment or a one bedroom apartment. Accordingly the change will not change the required parking numbers.

Modification 3 – Inclusion of blade columns on the facade

Four (4) blade columns are to be added to the northern façade. Figure 1 below shows the approved façade and figure 2 shows the proposed façade with the addition of the blade columns.

Part 4C3.3 of the Botany Development Control Plans contains Objectives and Controls for Materials and Finishes for residential flat buildings. The objectives of the section are as follows:

- O1 To ensure that new development reflects the existing and Desired Future Character;*
- O2 To ensure that the choice of external materials, colour schemes and building details on new development reinforces existing development in the locality and enhances the streetscape;*
- O3 To encourage the use of energy efficient building materials;*
- O4 To ensure that the building and the site can be cleaned and maintained easily; and*
- O5 To maximise the life of buildings to reduce energy costs in demolition, reconstruction and recycling.*

The applicable residential flat design code contains controls for a building façade. The addition of the blade columns does not conflict with any of the objectives or controls contained within the Botany Development Control Plan or controls within the flat design code. The blade column will not negatively affect the aesthetics of the building and are acceptable.

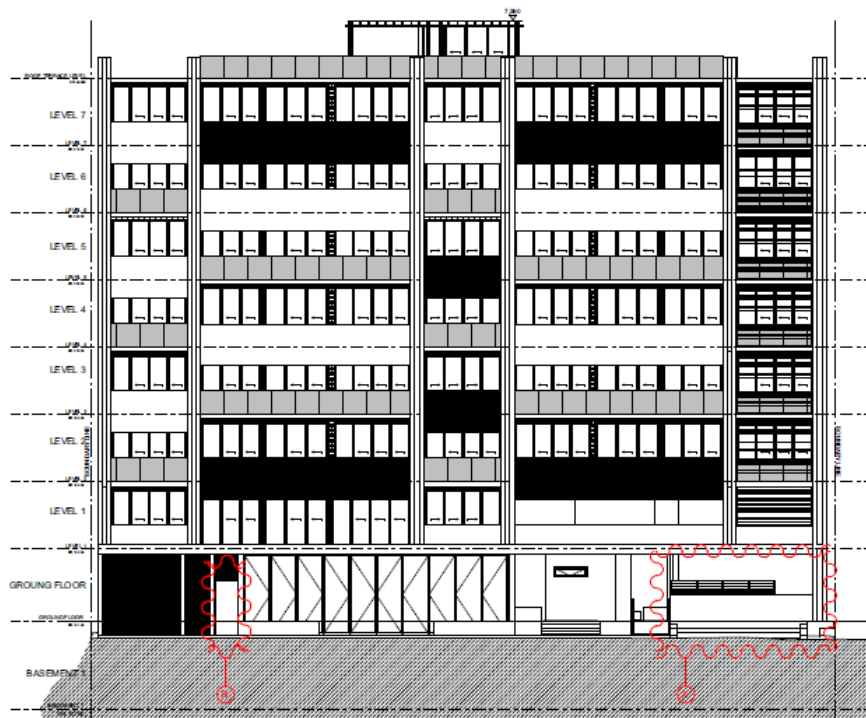


Figure 1. Approved northern façade

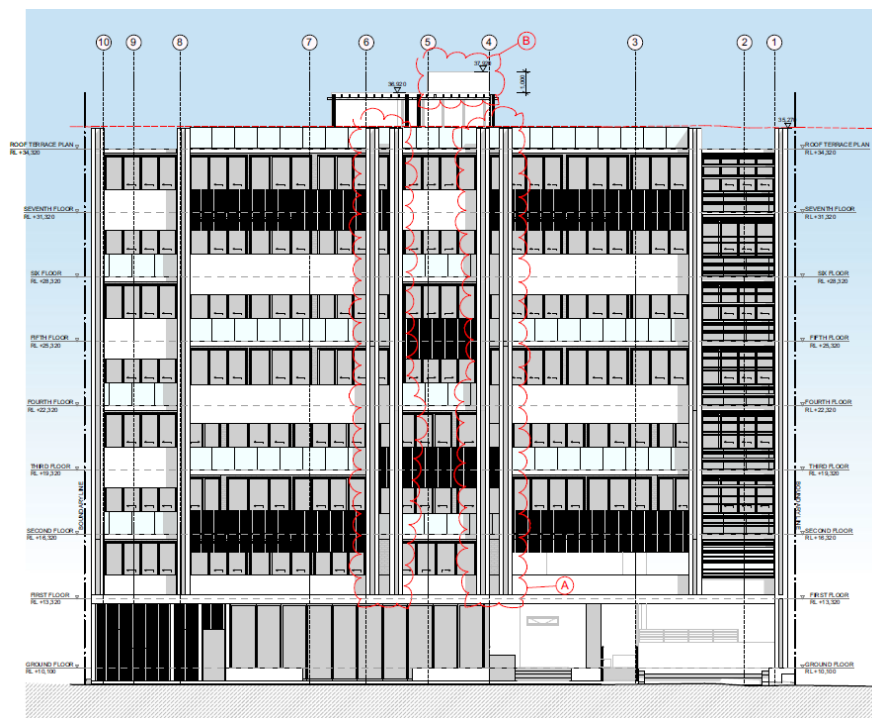


Figure 2. Proposed Modification including blade columns to the facade

The proposed modifications will require two conditions to be modified.

Condition No.1

This condition will be modified to reflect the amended plans and documentation.

Condition No. 101

This condition will be modified to reflect the subject application.

SECTION 4.55(2) CONSIDERATIONS (previously Section 96(2))

Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* states that “A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:”

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

The Section 4.55(1A) modification application does not change the bulk and scale of the building, external alterations of the building are limited to minor aesthetic changes by adding fins. Therefore the modification application is substantially the same development to which consent was originally granted.

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

No objection has been received for the modification.

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

In accordance with Part 2 - Notification & Advertising of the Botany Bay Development Control Plan 2013, the application was notified for a period of 14 days from 10 September 2018 to 24 September 2018.

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

There were no submissions received during the public notification period.

SECTION 4.15 CONSIDERATIONS (previously section 79c)

The relevant matters for consideration pursuant to Section 4.15 are addressed as follows:

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

An assessment of the application has been carried out under the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered as follows:

State Environmental Planning Policy (Building Sustainability Index) 2004

An amended BASIX certificate has been provided for the proposal dated 20 August 2018 numbered 549477M_02.

The commitments made result in the following reduction in energy and water consumption:

Reduction in Energy Consumption	40%
Reduction in Water Consumption	26%
Thermal Comfort	Pass

The revised BASIX is referred to in condition 1 and a condition has been imposed on the consent to ensure the requirements are adhered to.

State Environmental Planning Policy 65

The amended application is accompanied by a design verification statement by a registered architect as required by the Environmental Planning and Assessment Act regulation. The statement addresses the principles contained within the SEPP.

The proposal changes the unit mix by changing one studio apartment to a single bedroom apartment. The Residential Design Principle requires a variety of apartment types but does not contain numerical standards for unit mix. The proposed amendments are consistent with this guide.

An assessment against the relevant principles within the apartment design guide is made below:

Built Form and Scale

The modification does not increase the bulk and scale of the building. External alterations are limited to the incorporation of blade columns.

Density

There are no changes to the density of the building.

Sustainability

None of the changes will result in a reduction in natural light and ventilation, solar access or cross ventilation.

Amenity

The layout of the apartments remains efficient and provides amenity to residents.

Aesthetics

The modification adds three blade fins to the façade. The addition of the blade columns does not have a negative effect on the aesthetics of the building.

Botany Bay Local Environmental Plan 2013

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

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Land use Zone	N/A	The site is zoned B4 Mixed Use under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed modifications are permissible within the zone.
Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Clause 2.5 does not apply to the subject site.
What is the height of the building?	No (Clause 4.6 submitted)	The lift overrun will be increased by 1 metre and will exceed the maximum permissible building height on the site of 26 metres. The lift overrun will exceed the height limit by 2.42 metres. The approved DA approved the lift and stair access above the maximum permissible building height by 1.42 metres (RL 36.92)
What is the proposed FSR? Maximum permissible FSR 2.5:1	Yes	The approved development provided a FSR of 2.5:1. Unit 209 has increased in size, however other units have been reduced in size so there is no overall increase in gross floor area.
Is the land affected by road widening?	N/A	The subject site is not identified as being affected by road widening.
<i>Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?</i>	N/A	<i>The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.</i>
<i>The following provisions in Part 6 of the LEP apply to the development:</i> 6.1 – Acid sulfate soils (ASS) 6.2 – Earthworks 6.3 – Stormwater management 6.8 - Airspace operations 6.9 – Development in areas subject to aircraft noise 6.16 – Design excellence	Yes	<i>The conclusions within DA-2014/129/03 have not changed.</i> Sydney airports were consulted on the proposed increase in height and no objection was received.

The proposed modifications will be consistent with the objectives of the BBLEP 2013 with regard to development in the B4 zone.

S.4.15(1)(a)(ii) - Provisions of any Draft EPI's

There are no current Draft EPIs applicable to this development.

S.4.15(1)(a)(iii) - Provisions of any Development Control Plan

Botany Bay Development Control Plan 2013

DCP Provision	Comment	Compliance
3A Parking and Access		
C1 All required car and bicycle parking must be provided on-site	The same parking rates apply for a studio as a one (1) bedroom apartment. The amendments do not require changes to the parking layout under part 3A of the Botany Development Control Plan 2011.	Yes

S.4.15(1)(a)(iv) - Provisions of regulations

Clause 115 of the regulations requires the following:

(3) In addition, if an application for the modification of a development consent under section 4.55 (2) or section 4.56 (1) of the Act relates to residential apartment development and the development application was required to be accompanied by a design verification from a qualified designer under clause 50 (1A), the application must be accompanied by a statement by a qualified designer.

(3A) The statement by the qualified designer must:

(a) verify that he or she designed, or directed the design of, the modification of the development and, if applicable, the development for which the development consent was granted, and

(b) provide an explanation of how:

(i) the design quality principles are addressed in the development, and

(ii) in terms of the Apartment Design Guide, the objectives of that guide have been achieved in the development, and

(c) verify that the modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was granted.

(3B) If the qualified designer who gives the design verification under subclause (3) for an application for the modification of development consent (other than in relation to State significant development) does not verify that he or she also designed, or directed the design of, the development for which the consent was granted, the consent authority must refer the application to the relevant design review panel (if any) for advice as to whether the modifications diminish or detract from the design quality, or compromise the design intent, of the development for which the consent was granted.

The proposal has been accompanied by a design verification statement confirming the application has been designed in accordance with State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development. The statement is prepared by Nicholas Lucenko architect dated 5 November 2018. A signed letter has been accompanied by the statement which states the designer directed the design of the residential flat building as amended.

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

S.4.15(1)(b) - Likely Impacts of Development

The proposed modifications relate only to amendments to the approved development by reconfiguration of the internal layout of the internal units and increasing the height of the lift overrun, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality. The proposed modifications will have no additional environmental impacts beyond those considered by Council during the assessment and determination of DA-2014/129/03.

S.4.15(1)(c) - Suitability of the site

The suitability of the site was addressed in the original approval of DA-2014/129/03. The proposal does not impact in matters related to the suitability of the site for the proposed development.

S.4.15(1)(d) - Public Submissions

No objections were received.

S.4.15(1)(e) - Public interest

Civil Aviation (Building Control) Regulations 1988

The proposed development is affected by the 15.42 metre Building Height Civil Aviation Regulations. The proposed modification increased the building height by 1 metre. The highest part of the building is 28.42 metres exceeding the maximum 15.42 metre height limit, and therefore the proposal was referred to Sydney Airports for comment. In their referral response Sydney airports raised not objections to the modification.

The proposed amendments will have no significant adverse impact upon the public interest.

CONCLUSION

The Section 4.55(2) Application seeks to modify Development Consent No. 14/129/03 which approved the *Integrated Development proposal for an eight storey mixed use development including the demolition of existing structures and site remediation; 175m² of retail floor space at ground level; 61 residential apartments (7 x studio, 17 x 1 bedroom and 37 x 2 bedroom) and 4 levels of basement car parking to accommodate 112 car spaces and bicycle parking*. The modifications include amendments to the approved development which change the unit mix to (5 x studio, 19 x 1 bedroom and 37 x 2 bedroom). The development, as modified, is substantially the same development as that originally approved. The proposed modification will not alter the built form or character of the development, and will continue to ensure the development is carried out in an orderly manner. Therefore it is recommended that the Panel approve the proposed modifications to the proposal.

Premises: 593 - 595 Gardeners Road, Mascot

DA: 14/129/04

SCHEDULE OF CONSENT 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	Date Received
DA0.01 (Rev D - C) - Drawing List / Development Statistics	A+ Design Group	21 October 2015 10 May 2017
DA2.02 (Rev C)	A+ Design Group	27 March 2015
SEC4.55.03 Issue A - Basement 2 Plan	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
SEC4.55.04 Issue A - Basement 1 Plan	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
SEC4.55.05 Issue A - Ground Floor Plan	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
SEC4.55.06 Issue A - First Floor Plan	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
SEC4.55.07 Issue A - Typical Second to Third Floor Plan	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
SEC4.55.08 Issue A - Typical Fourth to Seventh Floor	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
SEC4.55.09 Issue A - Seventh Floor	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
SEC4.55.10 Issue A - Roof Terrace Plan	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
SEC4.55.11 Issue A - North Elevation	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
SEC4.55.12 Issue A - East Elevation	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
SEC4.55.13 Issue A - South Elevation	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
SEC4.55.14 Issue A - West Elevation	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
SEC4.55.15 Issue A - Section A-A	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
SEC4.55.16.1 Issue A - Section CC	ARKHAUS	Dated: 10.07.2018 Received: 21.10.2018

Drawing No.	Author	Date Received
SEC4.55.16 Issue A – Section B-B	ARKHAUS	Dated: 10.07.2018 Received: 06.09.2018
DA5.01 (Rev D)		21 October 2015
DA7.01 (Rev D)		21 October 2015
DA7.02 (Rev D)		21 October 2015
Landscape Plans, 4121-01 Issue D 4121-02 Issue E	Peter Glass & Associates	27 March 2015
Survey Plan, Reference No. 140105_A	Geosurv	11 June 2014
Stormwater Concept Plans, Job No. 820.14, Drawing Nos.: D1 (Rev D) D2 (Rev E) D3 (Rev E)	LMW Design Group P/L	10 October 2014
Environmental Site & Management Plan, Sheets 1 & 2	LMW Design Group P/L	11 June 2014

Reference Document(s)	Author	Date Received
Statement of Environmental Effects	LJB Urban Planning P/L	11 June 2014
Amended Clause 4.6 Variation	LJB Urban Planning P/L	21 October 2015
SEPP 65 Design Verification Statement	Tony Leung	11 June 2014
BASIX Certificate No. 549477M_02	NSW DoPI	28.08.2018
BASIX Report No. WB903- 02F02 (Rev1)	Windtech	28.08.2018
Preliminary Stage 1/Stage 2 Environmental Site Assessment and Acid Sulfate Soils Assessment, Ref E27426KPrpt	Environmental Investigation Services	11 June 2014
Site Waste Minimisation and	A+ Design Group	11 June 2014

Reference Document(s)	Author	Date Received
Management Plan		
Pedestrian Wind Environment Statement, WB903-01F03 (Rev 1), dated 5 June 2014	Windtech	11 June 2014
Acoustic Assessment No. TG637-01F02 (Rev 1)	Renzo Tonin & Associates	11 June 2014
DA Access Report, dated 5 June 2014	Access Australia	11 June 2014
Geotechnical Investigation, Ref: 27426SBprt, dated 27 May 2014	JK Geotechnics	11 June 2014
Traffic & Parking Assessment Report, Ref 14026, dated 6 June 2014	Varga Traffic Planning Pty Ltd	11 June 2014
Traffic & Parking Addendum dated 16 October 2014	Varga Traffic Planning Pty Ltd	16 October 2014
Flood Impact Assessment, dated 10 October 2014	Brown Consulting (NSW) Pty Ltd	10 October 2014
Shadow Analysis, dated 24 September 2014	A+ Design Group	10 October 2014

Note: The number of parking spaces provided shall be in accordance with the approved plans (or as amended by other conditions of consent).

(Condition modified – DA-14/129/02)

(Condition modified – DA-14/129/03)

(Condition modified – DA-14/129/04)

- 2 This Consent relates to land in Lots 9 and 10 in DP 11589 and as such, building works must not encroach on to adjoining lands or the adjoining public place, except as permitted by this consent.

- 3 The following amendments shall be shown on the plans submitted with the Construction Certificate:
 - (a) ~~The three one bedroom units at the rear of the building on Levels 1, 2 and 3 shall be converted to 2 x 2 bedroom units; and~~
 - (b) ~~The four rear units on Level 3 shall be provided with skylights above the living areas to improve solar access.~~
 - (c) ***The basement driveway shall have a crest of minimum RL 9.80m AHD to protect the basement carpark from flooding as per Section 8(v) of the Botany Bay Development Control Plan 2013 Stormwater Management Technical Guidelines.***

- (d) ***The finish floor level of the commercial unit shall be constructed at minimum RL 9.50m AHD to protect the premises from flooding.***
- (e) ***The finishes of the commercial unit be constructed from flood proof materials to RL 10.00m AHD.***

(Condition modified – DA-14/129/02)

- 4 The consent given does not imply that works can commence until such time that:
 - (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) The consent authority; or
 - (ii) An accredited certifier; and
 - (b) The person having the benefit of the development consent:
 - (i) Has appointed a principal certifying authority; and
 - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 5 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 6
 - (a) All plumbing stacks, vent pipes, stormwater downpipes and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level;
 - (b) 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;
 - (c) The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 “Access for People with Disabilities” and Australian Standard AS1428.1 (2001) - Design for Access and Mobility - Part 1 General Requirements for Access - Buildings. This requirement shall be reflected on the Construction Certificate plans.
- 7 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the each building in the development are fulfilled.
 - (a) Note:

Relevant BASIX Certificate means:

 - (i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is

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

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

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

Potable Water

- (a) The proposed development is located in the Mascot Station Urban Activation Precinct;
- (b) The 150 mm drinking water main in Gardeners Road fronting the proposed development does not comply with the Water Supply Code of Australia (Sydney Water Edition – WSA 03-2002) requirement for minimum sized mains for this scope of development. Therefore, the proponent will be required to amplify the existing system, providing a 200mm water main frontage to service the proposed development;
- (c) Preliminary investigation shows that the preferred option would be to amplify the existing 150mm drinking water main in Gardeners Road to a 200mm water main off the existing 375mm main in Botany Road, to provide full frontage to the proposed development;

Wastewater

- (d) The wastewater main available for connection is the 450mm main traversing the property constructed under DL 1815;
- (e) Where proposed works are in close proximity to a Sydney Water asset, the developer may be required to carry out additional works to facilitate their development and protect the wastewater main. Subject to the scope of development, servicing options may involve adjustment/deviation and or compliance with the Guidelines for building over/adjacent to Sydney Water assets;

Sydney Water Servicing

- (f) Sydney Water will further assess the impact of the developments when the proponent applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of the development and to assess if amplification and/or changes to the system are applicable. Sydney Water requests Council continue to instruct proponents to obtain a Section 73 Certificate from Sydney Water;
- (g) The proponent must fund any adjustments needed to Sydney Water infrastructure as a result of any development. The proponent should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. Details are available from any Sydney Water Customer Centre on 132092 or Sydney Water's website at www.sydneywater.com.au.

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

- (a) All buildings and structures are to be clear of the Gardeners Road, road reservation (unlimited in height or depth);
- (b) The design and construction of the proposed gutter crossing off Gardeners Road shall be in accordance with AS2890.1-2004 and the Roads and Maritime's requirements. Further details of these requirements could be obtained from the Roads and Maritime Project Services Manager, Statewide Delivery Section, Parramatta Ph. 8849 2144;

A certified copy of the design plans shall be submitted to the Roads and Maritime for consideration and approval prior to release of a Construction Certificate and commencement of road works;

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

Any redundant driveways along the sites frontage are to be removed and replaced with kerb and gutter to match existing;

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

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

The report and enquiries should be forwarded to:

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

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

- (e) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of the Construction Certificate;
- (f) The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 1890.1-2004, AS 2890.2 – 2002 for heavy vehicle use and AS 2890.6:2009 for the disabled;
- (g) All vehicles are to enter and exit in a forward direction;
- (h) The post development storm water discharge from the subject site into the RMS drainage system must not exceed the pre-development discharge.

Detailed design plans and hydraulic calculations of any changes to the

stormwater drainage system are to be submitted to the Roads and Maritime for approval, prior to the commencement of any works. Details should be forwarded to Sydney Asset Management at the above address;

- (i) All works and regulatory signposting associated with the development are to be at no cost to RMS or Council.

10 The following conditions form the General Terms of Approval by **the NSW Office of Water** and must be complied with:

General and Administrative Issues

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

Prior to Excavation

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

shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water (tailwater) that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site;

During Excavation

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

Following excavation

- (q) All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.

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

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

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

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

- (a) The property development at 593-595 Gardeners Road, 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 37.92 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.

(Condition modified – DA-14/129/04)

PRIOR TO COMMENCEMENT OF DEMOLITION WORKS

13

- (a) 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. The report shall include records and photographs of the following area that will be impacted by the development:
 - (i) All properties immediately adjoining the site;
 - (ii) Gardeners Road.
 - (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) 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;
 - (d) 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;
- 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).

14

- (a) 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.
- (b) Council's property shall be supported at all times. Where any shoring is to be supporting (or located on) Council's property, certified engineering drawings showing all details including the extent of encroachment, the type of shoring and the method of removal, shall be submitted prior to the issue of the Construction Certificate. If the shoring cannot be removed, it shall be cut to 150mm below footpath level and the gap between the shoring and any buildings shall be filled with a 5Mpa lean concrete mix.

15

- (a) Prior to the commencement of demolition work, a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority.
- (b) The statement must be in compliance with: AS2601-1991 Demolition of Structures, the requirements of WorkCover Authority and conditions of the Development Approval, and must include provisions for:
 - (i) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
 - (ii) Induction training for on-site personnel;
 - (iii) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
 - (iv) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
 - (v) Disconnection of Gas and Electrical Supply;
 - (vi) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
 - (vii) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
 - (viii) Waterproofing of any exposed surfaces of adjoining buildings;
 - (ix) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";
 - (x) Working hours, in accordance with this Development Consent;
 - (xi) Confinement of demolished materials in transit;
 - (xii) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995";
 - (xiii) Sewer – common sewerage system; and
 - (xiv) On site monitoring both during asbestos removal and the remainder of demolition activities.

16 To ensure that utility authorities and Council are advised of any effects to their

infrastructure by the development, the applicant shall:

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

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.

- 17 Prior to demolition of any building constructed before 1970, the person acting on this consent shall ensure compliance with Australian Standard *AS2601-2001, Demolition of Structures* by a person with suitable expertise and experience. This may involve a Work Plan that identifies any hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimize any dust nuisance and the disposal methods for hazardous materials, including:

- (a) Removal, cleaning and disposal of lead-based paint shall conform to the current EPA guidelines. Demolition of materials incorporating lead is to be conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the *AS2601-1991 Demolition of structure*.
- (b) Hazardous dust shall not be allowed to escape from the site. Any existing accumulations of dust (e.g.; ceiling voids and wall cavities) shall be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water shall not be allowed to enter the street and stormwater systems. Demolition is not to be performed during high winds, which may cause dust to spread beyond the site boundaries.
- (c) All contractors and employees directly involved in the removal of hazardous dusts and substances wearing protective equipment conforming to Australian Standard *AS1716 Respiratory Protective Devices* and shall adopt work practices in accordance with the requirements of WorkSafe's *Control of Inorganic Lead At Work* (NOHSC: 102(1994) and NOHSC: 2015(1994).
- (d) All lead-contaminated materials being disposed of in accordance with the Environment Protection Authorities Environmental Guidelines; *Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999)* and *The Protection of the Environment Operations Act 1997 (NSW)*.

- 18 Prior to commencement of any works, the following approvals and permits on Council's property/road reserve under Roads Act 1993 and Local Government Act 1993 shall be made and obtained from Council's Customer Services Counter:

- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
- (b) Permit for roads and footways occupancy (long term/ short term);
- (c) 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;

- (d) Permit to place skip/waste bin on footpath and/or nature strip;
 - (e) Permit to use any part of Council's road reserve or other Council lands;
 - (f) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area;
- (It should be noted that the issue of such permits may involve approval from RMS and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.)
- (g) Permit to establish "Works Zone" on public roads adjacent to the development site, including use of footpath area.
- (Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Traffic Engineer for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s)).
- Copy of the approved permits shall be submitted to the Principal Certifying Authority attesting this condition has been appropriately satisfied.
- 19 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition works upon the site in order to prevent sediment and silt from site works 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.
- 20 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 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.
- 21 A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
- (a) stating that unauthorised entry to the work site is prohibited;
 - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - (c) the Development Approval number;
 - (d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - (e) any such sign is to be removed when the work has been completed.
- 22 A detailed Traffic Management Plan for the pedestrian and traffic management of the site during demolition, excavation and construction shall be prepared and submitted to the relevant road authority (Council or Roads and Traffic Authority) for approval prior

to commencement of any works. The plan shall:

- (a) be prepared by a RMS accredited consultant.
- (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
- (c) if required, implement a public information campaign to inform any road changes well in advance of each change.
- (d) Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.
- (e) During construction, all works and measures shall be implemented in accordance with approved Traffic Management Plan at all times.

23 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.

24 A detailed Construction Management Plan (CMP) shall be submitted to Council and the Principal Certifying Authority for approval prior to the commencement of any works. The plan shall address:

- (a) Excavation and construction vehicles access to and egress from the site;
- (b) Parking for demolition and construction vehicles. All construction-related vehicles shall be parked on-site and no parking of these vehicles shall be allowed on Church Avenue or Haran Street;
- (c) Locations of site office, accommodation and the storage of major materials related to the project;
- (d) Protection of adjoining properties, pedestrians, vehicles and public assets;
- (e) Location and extent of proposed builder's hoarding and Work Zones, if there is any.
- (f) Active measures to control and suppress dust, grit and the like that are associated with construction activity.

- (g) Measures to control the arrival of plant and equipment associated with the construction process and the delivery of such plant and equipment during reasonable hours of the working day;
 - (h) Public Notification where working hours are extended for a particular construction activity;
 - (i) Provision of on-site car parking for employees, contractors and site personnel during the construction phase of the development; and
 - (j) During construction, all works and measures shall be implemented in accordance with approved Construction Management Plan at all times.
- 25 All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
- (a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
 - (b) Prior to placement of concrete (kerb and gutter and footpath);
 - (c) Prior to construction and placement of road pavement materials; and
 - (d) Final inspection.
- Note:** Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.
- 26 During demolition, excavation, remediation (if required) 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 Construction Management Plan.

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

- 27 The applicant must prior to the issue of the Construction Certificate, pay the following:
- (a) Builders Security Deposit: \$50,000.00
 - (b) Development Control Fee: \$11,011.00
 - (c) Section 94 Contributions: **\$1,251,040.00** (See Condition 28)
- 28 The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plan, a contribution of **\$1,251,040.00**.
- The Section 94 Contribution of **\$1,251,040.00** is to be paid to Council prior to the issue of the first Construction Certificate for the erection of the building.

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

- 29 Prior to the issue of the Construction Certificate, the applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant’s expense.
- 30 Prior to the issue of the Construction Certificate, the concept landscape plans submitted by Peter Glass & Associates shall be the subject of **detailed, amended landscape documentation** to be submitted to and approved by the **City of Botany Bay’s Landscape Architect**. The following amendments to the concept plan are to be incorporated in the detailed documentation :
 - (a) All planter beds must be no less than 1 metre in width;
 - (b) The public footpath width and location in the road reserve and its construction shall be in accordance with Council landscape specification only;
 - (c) The street tree species are to be substituted with 400 litre *Corymbia maculata* (Spotted Gum) at maximum 10 metre spacing.
- 31 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - (a) Ensure soil depths in accordance with Council’s DCP Part 3L. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes;
 - (b) A concrete hob or haunch shall be constructed at the internal joint between the sides and base of the planter to contain drainage to within the planter;
 - (c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer’s directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil;
 - (d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns;
 - (e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
- 32 An Acid Sulphate Soils Management Plan (prepared by a suitably qualified and experienced environmental/geotechnical consultant) shall be submitted to the Principal Certifying Authority prior to the issue of the 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 sulphate soils as well as any measures relating to acid generation and acid neutralisation of the soil;

- (b) Management of ASS affected excavated material;
- (c) Measures taken to neutralise the acidity of any ASS affected material; and
- (d) Run-off control measures for the ASS affected soil.

All recommendations of the report shall be implemented prior to the commencement of building works.

- 33 Prior to the issue of the Construction Certificate, a Stage 2 Detailed Site Investigation shall be completed by a suitably qualified and experienced environmental consultant 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;

and shall be provided to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) for approval prior to the issue of the Construction Certificate.

Following completion of the Stage 2 Detailed Site Investigation, if required a Stage 3 Remedial Action Plan shall be prepared. Approvals from appropriate government departments where required shall be obtained and full details of the investigation and site remediation are to be submitted to Botany Bay City Council, in accordance with Section 80(A)2 of the Environmental Planning and Assessment Act 1979 prior to any Construction Certificate being issued for the proposed development.

- 34 To ensure that the Detailed Site Assessment (DSA) has been completed appropriately and any Remedial Action Plan (RAP) proposed for the site will result in the land being made suitable for the proposed use, a Section B Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 shall be submitted to Council clearly demonstrating that the Detailed Site Assessment (DSA) and Remedial Action Plan (RAP) required to be prepared has been completed in accordance with the NSW guidelines and that the land can be made suitable for the proposed use by implementation of any specified Remedial Action Plan (RAP). This shall be provided to Council and the accredited certifier prior to the issue of any construction certificate.

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

- 36 Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

- 37 Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.
- 38 Prior to the issue of the Construction Certificate, the measures required in the Acoustic Assessment No. TG637-01F02 (Rev 1) prepared by Renzo Tonin & Associates dated 3 June 2014 shall be undertaken in accordance with the provisions of *AS2021-2000: Acoustics – Aircraft Noise Intrusion – Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021-2000.
- 39
- (a) Prior to the issue of the Construction Certificate, a compliance report from a suitably qualified acoustic consultant shall be submitted to Council indicating any required noise mitigation measures to the approved dwelling, as detailed in the NSW Road Noise Policy 2011 in accordance with AS 3671-1989 – Acoustic – Road Traffic Intrusion;
 - (b) Prior to the issue of the Construction Certificate details are to be provided on acoustic treatment to the entry and exit roller door to driveway of the development to comply with the Office of Environment & Heritage's Industrial Noise Policy and Noise Control Guidelines.
- 40 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:
- (a) The rooms for the storage of garbage and recyclable materials shall be:
 - (i) fully enclosed;
 - (ii) adequately ventilated;
 - (iii) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
 - (iv) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.
 - (v) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
- 41 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 Principal Certifying Authority prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.

- 42 Prior to the issue of the 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).
- 43 Prior to the issue of the Construction Certificate, detailed construction plans in relation to the development shall be revised and submitted to Council for approval. The plan shall be revised to include the following:
- (a) 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.
- 44
- (a) Prior to the issue of the Construction Certificate, detailed Stormwater Management Plans and specifications shall be prepared by a suitably qualified and experienced civil engineer and the design shall be submitted to Council for approval. These shall be generally in accordance with the Stormwater Concept Plans prepared by LMW Design Group P/L, Job No. 820.14, Drawing Nos. D1 (Rev D), D2 (Rev E) and D3 (Rev E) and received by Council on the 10 October 2014.
 - (b) The following issues to be complied with and shown on the plans:
 - (i) The stormwater drainage system from the roof and balcony of the building to the On-site detention (OSD) system shall be shown on the stormwater management plans. All stormwater runoff from the roof area and balcony shall be directed to the system.
 - (ii) The layout of the basement parking area and OSD system shown on the stormwater management plans shall correspond with the architectural plan. The location of the discharge control pit shall be revised accordingly.
 - (iii) The emergency overflow of OSD systems shall be shown on the plans to ensure any overflow from the OSD system will be conveyed to the public streets via surface overland flow.
 - (iv) Additional access grates shall be provided to each corner of the OSD tank.
 - (v) In order to protect the buildings from stormwater inundation, the OSD tank shall be water-tight.
 - (vi) The outlet pipes of the OSD system and the GPT shall be minimum 300mm diameter.
 - (vii) Rainwater tanks shall be provided with a minimum 5,000 L capacity and shall service any landscape systems.
 - (viii) All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment prior to entering the public stormwater system.
 - (c) The detailed drawings and specifications shall be prepared by a suitably

qualified and experienced civil engineer and to be in accordance with 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.

- 45 Prior to the issue of the Construction Certificate, 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 has been designed in accordance with AS 2890.1, AS2890.2 (for loading area) and AS2890.6.
- 46 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 or PCA approval.
- 47 The development shall make provision for the following car parking allocations:

Car Parking Rates	Required
<i>Residential Parking</i>	<i>49 spaces</i>
1 space per studio/1 bedroom unit	24 spaces
2 spaces per 2 bedroom unit	74 spaces
4 visitor space per 7 dwellings	9 spaces
Commercial spaces	5 spaces
<i>Loading Bay, Accessible Parking, Bicycle Parking</i>	<i>As depicted on approved plans</i>
TOTAL REQUIRED	112

- The parking area shall be reconfigured so as to allow for one commercial parking space to be provided for disabled parking. If required to comply with this requirement, one of the disabled residential spaces shown on the approved plans may be converted to a standard parking space***
- If required to provide minimum commercial parking in accordance with the table above, one visitor parking space may be deleted.***

The requirements of this condition This requirement shall be reflected on the Construction Certificate plans. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.

(Condition modified – DA-14/129/02)

(Condition modified – DA-14/129/03)

DURING WORKS

48

- (a) Any new information that comes to light during demolition, excavation, remediation and or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council;
- (b) Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

49

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.

50

Throughout the demolition and construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.

51

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

52

The Applicant shall conduct all demolition, construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.

53

All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.

54

- (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.

55

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.

- 56 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.
- 57
- (a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion;
 - (b) Concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. 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 enter Council's land;
 - (c) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;
 - (d) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - (e) During construction works the area in front of the premises and for the full width of the site, be maintained at all times and kept clean and tidy.
 - (f) The operations of the site shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
 - (g) All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
- 58 The development is to be constructed to meet the following construction noise requirements:
- (a) Construction Noise
 - (i) Noise from construction activities associated with the development

shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.

- (b) Level Restrictions
 - (i) Construction period of 4 weeks and under:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(A).
 - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- (c) Time Restrictions
 - (i) Monday to Friday 07:00am to 06:00pm;
 - (ii) Saturday 08:00am to 04:00pm;
 - (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.

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

60

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

- 61 If any material containing asbestos is found on site during the demolition process the material is to be removed and disposed of in accordance with WorkCover requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
- 62 Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment and Climate Change and Water and with the provisions of:
- (a) New South Wales Occupational Health and Safety Act, 2000;
 - (b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
 - (c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
 - (d) Protection Of the Environment Operations Act 1997 (NSW); and
 - (e) Department of Environment and Climate Change Waste Classification Guidelines (2008).
- 63 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 A OCCUPATION CERTIFICATE

- 64
- (a) Prior to the issue of the Occupation Certificate, the development is to be constructed to meet the requirements detailed in the Acoustic Assessment No. TG637-01F02 (Rev 1) prepared by Renzo Tonin & Associates dated 3 June 2014, received by Council 11 June 2014; and
 - (b) All acoustic work including that acoustic work required at Condition No. 36 shall be completed prior to the issue of the Occupation Certificate and validated by a person with appropriate qualifications and experience.
- 65 Prior to the issue of the Occupation Certificate, the following is to be complied with:
- (a) Replace all the existing above ground electricity and telecommunication cables to underground cables within the site and from the road reserve area fronting Gardeners Road to the site in accordance with the guidelines and requirements of the relevant utility authorities. The applicant shall bear all the cost of the construction and installation of the cables and any necessary adjustment works. These works and payments shall be completed prior to the

issue of the Occupation Certificate;

- (b) Provide appropriate and suitable street lighting to a suitable standard to both street frontages of the site, so to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements;
- (c) The public domain shall be upgraded with new paving and street tree planting, to be installed by the Applicant at the Applicant's expense in accordance with the approved landscape documentation. All improvements shall be in accordance with Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate;
- (d) New street trees at min. 400 litre pot size specified shall be installed in the Gardeners Road verge in accordance with the approved landscape documentation plans. The trees shall be sourced from a reputable nursery/supplier that grows trees in accordance with the NATSPEC requirements. A Dial-Before-You-Dig enquiry is required prior planting - Council is not liable for any damage to subsurface infrastructure during public domain works. NOTE: Three (3) hold point inspections are required: during construction of tree pits, prior-planting street trees to ensure plant stock is suitable and post-planting to verify final finishes; and
- (e) The public footpath in Gardeners Road shall be re-constructed in accordance with Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specification and the approved landscape documentation. Construction hold points and Council inspections are required at the following minimum points:
 - (i) at the commencement of paving works, and
 - (ii) at final completion.

Council approval of public domain works is required prior issue of the Occupation Certificate. NOTE: Pavers shall be ordered accounting for adequate lead time for manufacture (10-12 weeks). No paver substitutes will be permitted.

- 66 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.
- 67 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 Occupation Certificate.
- 68 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.
- 69 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 Small Rigid Vehicle (SRV) 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.

70 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.

71 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.

72

- (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.

- 73 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.
- 74 Any damage not shown in the dilapidation report required under Condition No. 12 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.
- 75 The Council nature strips shall be suitably replaced in accordance with Council Specification and the approved landscape documentation at the completion of construction work and at the Applicant's expense.
- 76 The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.
- 77 Prior to the issue of the Occupation Certificate, landscaped areas on the property and in the public domain shall be installed and maintained in accordance with the Council approved amended, detailed landscape documentation, the conditions of consent (inclusive of the above landscape amendments required) and Council's DCP at all times.
- 78 An experienced Landscape Contractor shall be engaged to undertake the landscaping work referred to in Condition 79 above and shall be provided with a copy of both the approved amended landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 79 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay.
- 80 New street trees at min. 400 litre pot size specified shall be installed in the Gardeners Road verge in accordance with the approved landscape documentation plans. The trees shall be sourced from a reputable nursery/supplier that grows trees in accordance with the NATSPEC requirements. A Dial-Before-You-Dig enquiry is required prior planting - Council is not liable for any damage to subsurface infrastructure during public domain works. NOTE: Three (3) hold point inspections are required: during construction of tree pits, prior-planting street trees to ensure plant stock is suitable and post-planting to verify final finishes.
- 81 Prior to the issue of the Occupation Certificate, the public footpath in Gardeners Road fronting the site shall be re-constructed in accordance with Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specification and the approved landscape documentation.

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

- (a) at the commencement of paving works, and
- (b) at final completion.

Council approval of public domain works is required prior issue of the Occupation Certificate. NOTE: Pavers shall be ordered accounting for adequate lead time for manufacture (10-12 weeks). No paver substitutes will be permitted.

82 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.

83 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.

84 Prior to the issue of the Occupation Certificate:

- (a) 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.

85 Prior to the issue of the Occupation Certificate, a Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites'; and
- (b) 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 for review and concurrence).

86 To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management*

Act 1997 shall be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This shall be provided prior to the release of the Occupation Certificate.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of the Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

87

- (a) 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.
- (b) Condition Numbers 11 and 64 to 87 of this consent are pre-conditions to the issue of the Occupation Certificate.

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

- 88 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.
- 89 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.
- 90 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 B99 vehicles (5.2m in length, as denoted by the current version of AS/NZS 2890.1) 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.
- 91 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.
- 92 The landscape contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time monthly maintenance is required.
 - 93 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a twelve (12) month period after planting. Maintenance includes watering twice weekly within the first four months then weekly thereafter to sustain adequate growth and health, annual feeding, weed removal within the mulched base and mulch replenishment at three (3) monthly intervals (to 75mm depth). It does not include trimming or pruning of trees under any circumstances.
 - 94 No roller shutters are to be installed to any of the commercial shopfronts that front Gardeners Road.
 - 95 The hours of operation of any future commercial use must be restricted to the hours of 7:00am to 10:00pm Monday to Saturday and 7:00am to 8:00pm Sunday and public holidays.
 - 96 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.
 - 97 Any air conditioning units shall comply with the following requirements:
 - (a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
 - (b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - (i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - (ii) Before 7 am or after 10 pm on any other day.
 - (c) The transmission of vibration to any place of different occupancy above the

requirements of AS2670, Australian Standard AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction. Australian Standard AS2107 2000: Recommended Design Sound levels and Reverberation levels for Building Interiors.

- (d) Any air-conditioning unit shall comply with the City of Botany Bay's General Noise Criteria detailed in Condition 113 above.

98

- (a) The residents of the building are not eligible to participate in a Resident Parking Scheme.
- (b) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building;
- (c) Where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking scheme/s.

99

- (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 adaptable apartments approved under this development consent are to remain unaltered at all times; and
- (c) 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 Condition 10, shall be monitored by CCTV cameras at all times.

100 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.

101 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 14/129 dated as 11 June 2014 **and DA-14/129/02, lodged with Council on 3 November 2016, DA-14/129/03, lodged with Council 23 December 2017, and DA-14/129/04, lodged with Council on 06 September 2018** and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

(Condition modified – DA-14/129/02).

(Condition modified - DA-14/129/03).

(Condition modified – DA-14/129/04).