

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2018ECI016
<b>DA Number</b>	DA-13/271/04
<b>LGA</b>	Bayside Council
<b>Proposed Development</b>	Section 4.56 Application to modify Development Consent No. 13/271 to correct an error on the consent by amending condition 1 to properly acknowledge the materials as approved on all facades.
<b>Street Address</b>	27 Church Ave, Mascot
<b>Applicant/Owner</b>	Church 88 Pty Ltd
<b>Date of DA lodgement</b>	1 November 2018
<b>Number of Submissions</b>	Nil
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	Section 4.56 Application to modify a consent determined by the NSW Land and Environment Court, pursuant to Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011  (The application was originally refused by the former Joint Regional Planning Panel).
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• List all of the relevant environmental planning instruments: s4.15(1)(a)(i) <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;</li> <li>○ Botany Bay Local Environmental Plan 2013.</li> </ul> </li> <li>• List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii); <ul style="list-style-type: none"> <li>○ Nil</li> </ul> </li> <li>• List any relevant development control plan: s4.15(1)(a)(iii); <ul style="list-style-type: none"> <li>○ Botany Bay Development Control Plan 2013.</li> </ul> </li> <li>• List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: s4.15(1)(a)(iv); <ul style="list-style-type: none"> <li>○ Nil</li> </ul> </li> <li>• List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> <li>○ Nil</li> </ul> </li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<b>Elevation Plans</b>
<b>Report prepared by</b>	<b>Lincoln Lawler, Senior Development Assessment Officer</b>
<b>Report date</b>	<b>14 January 2019</b>

**Summary of s4.15 matters**

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

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**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Not Applicable**

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

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**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

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

**Not Applicable**

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**Conditions**

Have draft conditions been provided to the applicant for comment?

*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*

**No**

## Application Details

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<b>Application Number:</b>	DA-13/271/04
<b>Date of Receipt:</b>	1 November 2018
<b>Property:</b>	27 Church Ave, Mascot
<b>Lot &amp; DP/SP No:</b>	Lot B DP 393861
<b>Owner:</b>	Church 88 Pty Ltd
<b>Applicant:</b>	Church 88 Pty Ltd
<b>Proposal:</b>	Section 4.56 Application to modify Development Consent No. 13/271 to correct an error on the consent by amending Condition No. 1 to properly acknowledge the materials as approved for all facades.
<b>Property Location:</b>	Located on the northern side of John street and through to the southern side of Church Ave, with Bourke Street to the west and O’Riordan Street to the east.
<b>Value:</b>	N/A
<b>Zoning:</b>	B2- Local Centre Botany Bay Local Environmental Plan 2013
<b>Author:</b>	Lincoln Lawler, Senior Development Assessment Planner
<b>Date of Report:</b>	30 November 2018
<b>Recommendation:</b>	Approval
<b>Classification of Building:</b>	Class 2 – Residential Flat Building Class 6 – Shop Class 7a - Carpark
<b>Present Use:</b>	Construction Site
<b>No. of submissions:</b>	N/A

The key issue with the application is that two plans were not specifically approved which indicated the colours and materials that were changed under previous modifications. This modification seeks to include all relevant plans in the consent by correcting the error on the consent.

## Recommendation

- 1 Condition 1 be amended which relates to the plans modified as part of the subject application;
- 2 Condition 102 be amended to to reflect the lodgement of the application.

The subject site has dual frontage with the northern frontage to Church Ave and southern frontage to John Street. Further to the west is Bourke Street and Mascot Train Station and further to the east is O’Riordan Street. The site is regular in shape and is long but narrow and is formed by the following three (3) allotments, which make up a total site area of 2913m<sup>2</sup>.

Street Address	Lot and Deposited Plan(DP)	Area(m <sup>2</sup> )
27 Church Ave	Lot 3 DP506923	2,168.5
18A John Street	Lot A DP360353	291.5
22 John Street	Lot 1 DP799325	453

The majority of the site is under construction with remediation and excavation occurring on site at the 27 Church Ave allotment. There is a level change between 27 Church Ave and 18A and 22 John Street of approximately 2.2m with the Church Ave allotment being lower. The properties surrounding the site are a mix of newer mixed use residential/commercial developments as well as some older single storey industrial buildings.



### Figure 1. Locality Plan

# Approved Development

## Application History

The Development Application 13/271 originally sought construction of three residential flat buildings at 27 Church Ave, 18A and 20-22 John Street, Mascot (the Site), in the following manner:

- Demolition of all structures on site;
- Site excavation and remediation;
- Construction of 95 residential apartments contained in three residential flat buildings as follows:
  - Tower A, 13 storeys (Fronting Church Ave) containing 46 units;
  - Tower B, 13 storeys mid-block containing 22 units;
  - Tower C, 8 storeys fronting John Street building containing 27 units;
  - Two commercial units, facing both street frontages;
- Total floor space ratio of 3.2:1 and a maximum building height of 43.8 metres, and
- Four levels of parking comprised of one basement level, one at grade parking level and two podium levels to accommodate 170 vehicles.

This application was refused by the former Joint Regional Planning Panel on 9 July 2015.

The Applicant on 18 September 2015 lodged a Class 1 proceedings in the Land and Environment Court (No: 10821 of 2015) against the refusal of the application. Call-over was 13 October 2015, where the matter was listed for a S34 Conciliation meeting on 9 December 2015 whereby a timeline and expectations were set as to progressing the discussions with the S34 resuming on 9 February 2016.

Delegation from the Chair of the Joint Regional Planning Panel was granted to Council on 2 November 2015 for the proceedings.

Council was in support of the amended design and two tower approach with s34 agreement reached and filed on 17 June 2016. The appeal was upheld.

## APPROVED DEVELOPMENT

The development was approved by the Land and Environment Court. In its approved form, the development is for the:

- Demolition of the existing structures, site excavation, remediation and construction of two residential flat buildings containing 108 residential apartments and 2 commercial units facing both street frontages including 4 levels of parking to accommodate 208 vehicles at 27 Church Ave, 18A and 20-22 John Street, Mascot.

## DESCRIPTION OF PREVIOUS MODIFICATIONS

**Modification Application 13/271/2** - Approved 26 April 2018 – Section 4.56 to modify the approved materials and finishes on the facades, this mainly involves replacing nominated render and paint with high quality pre-cast panels and metallic cladding elements.

This modification required changes to Condition 1 and 102.

**Modification Application 13/271/3** - Approved 26 April 2018 – Section 4.56 to modify the approved plans as follows:

- Modify the Level 1 (John Street Entry) Plan, which involves removal of the proposed substation as it is no longer required to service the development.
- The substation easement (which fronts John Street) on the Ground (Church Avenue) Plan is also redundant and will be replaced by a plant room to

accommodate electrical services. Ausgrid have reviewed the proposal and provided electrical certification for the amended plans, concluding a substation is not required.

- There is a small increase (22.3sqm) in the area of commercial floor space proposed adjacent to John Street. This additional floor area has the effect of improving activation of the street. There is no net increase in parking necessary to service the development.
- A caretaker toilet is proposed on Level 1 to satisfy Building Code of Australia requirements. Resulting in an increase of gross floor area of 11sqm.
- The total gross floor area of the development is increased by 33.8sqm to 9,265.8sqm, with a subsequent increase in the FSR from 3.173:1 to 3.18:1.
- A sprinkler/pump room has also been added on Level 1 Basement.

The above changes required the amendment to Condition 1 being the approved plans and supporting documentation, Condition 36 relating to S94 contributions and Condition 102.

## Description of Proposed Modification

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Council received the subject Section 4.56 application to modify Development Consent No. 13/271/3 to amend Condition No. 1 to amend the approved plans to include reference to the updated east and west façade in regards to the materials and finishes. These plans were not updated in error. Condition 102 will also be updated to reflect the lodgment of this application.

## Statutory Considerations

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### SECTION 4.56 CONSIDERATIONS (previously Section 96AA)

In accordance with Section 4.56, a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:

- a) *it is satisfied that the development to which the consent as modified related is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and;*
- b) *it has notified the application in accordance with:*
  - i. *the regulations, if the regulations so require, and*
  - 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*
- c) *it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*
- d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

The development, as modified, will remain substantially the same development for which Development Consent No. 13/271 was granted by the Court and will have minimal environmental impacts.

#### (a) Substantially the same development

The Section 4.56 Modification Application relates to amendments to include the previously amended materials on all facades.

The proposed scheme as modified will not have any material impacts on the development approved by the Court. The proposed modifications do not seek to alter the description, use and nature of the mixed use proposal.

#### (b) Notification

In accordance to the above, the Section 4.56 application was not required to be notified.

### **Submissions**

There were no submissions as the application was not notified.

## **SECTION 4.15 CONSIDERATIONS (previously section 79c)**

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

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

State Environmental Planning Policy 65- Design Quality of Residential Apartment Development

The modifications have been assessed against SEPP 65 and the ADG. The primary application was lodged prior to the ADG being in force and had been assessed against the RFDC. The modifications do not trigger any non-compliance with the SEPP or the guidelines (other than what was approved by the L&E Court). Given the error no revised design verification which is supported by Council.

Botany Bay Local Environmental Plan 2013

The subject site is zoned B2 Local Centre in accordance with the provisions of the Botany Bay Local Environmental Plan (BBLEP) 2013.

The proposed modifications will be consistent with the objectives of the BBLEP 2013 with regard to development in the B2 zone. There are no changes proposed to the development standards.

Botany Bay Development Control Plan 2013

The proposed modifications will comply to the same extent with the provisions and objectives of the DCP as the original development consent and will not impact significantly upon the visible external appearance of the development when viewed from the public domain areas.

**(b) Likely impacts**

The proposed modifications relate only to amendments to include two additional plans that refer to the updated materials and finishes that were approved under DA-13/271/2, 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 and the Court during the assessment and determination of DA-2013/271/1.

**(c) Suitability of the site**

The suitability of the site was addressed in the original approval of DA-13/271.

**(d) Submissions**

No objections were received, as the application was not notified.

**(e) The public interest.**



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

## CONCLUSION

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The Section 4.56 Application seeks to modify Development Consent No. 13/271 which approved the demolition and construction of a mixed use development. The modification relates to the inclusion of two additional plans that reference the amended materials and finishes.

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 modification.

## Attachment

### Schedule 1- Conditions of Consent

Premises: 27 Church Ave, 18A and 22 John Street, Mascot

DA No: 13/271/04

#### SCHEDULE OF CONSENT CONDITIONS

##### GENERAL CONDITIONS

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

Drawing No.	Author	Dated Received
Project No. 13041 Cover Page DA01 (Rev N) Site Analysis DA02(Rev L) Basement 2 DA03 (Rev M)	Olsson and Associates	20 May 2016
<i>Basement 1 DA 03.1 (Rev M) Rev N</i>	<i>Unknown</i>	<i>23 Nov 2017</i>
<i>Ground (Church Ave) DA04(Rev M) Rev N</i>	<i>Unknown</i>	<i>23 Nov 2017</i>
<i>Level 1 (John St) DA05(Rev M) Rev N</i>	<i>Unknown</i>	<i>23 Nov 2017</i>
Level 2 - DA06 (Rev L) Level 3 to 8 DA07.1 (Rev L) Level 9 to 10 DA07.2 (Rev L) Level 11 to 12 DA07.3 (RevL) Level 13 DA07.4 (Rev L) Roof Plan DA011(Rev M) North and South Elevation DA12 (Rev M)		
<b><i>West Elevation DA13 (Rev M)</i></b>	<b><i>Unknown</i></b>	<b><i>23 Nov 2017</i></b>



Reference Document(s)	Author	Date Received
Preliminary Site Investigation 22 John Street	Aargus	11 November 2014
Traffic & Parking Assessment Report, Ref 12471	Transport And Traffic Planning Associates	2 July 2014
Traffic & Parking Assessment Report, Supplementary report	Transport And Traffic Planning Associates	13 May 2016
Noise Impact Assessment, reference SYD2013-1014-R001B dated 17/06/14	Acouras Consultancy	2 July 2014
Construction Management Plan, Ref No. A-7006	MHN Design Union	27 December 2013
BCA Report, Date: 23 June 2014 Our Re: J130263	Vic Lilli	2 July 2014
Access Compliance Assessment Report, dated 18 December 2013	Vista Access Architects	2 July 2014
Waste Management Plan	Russell Olsson	17 December 2013
View Loss Analysis dated 19 May 2016	Elton Consulting	20 May 2016

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

- 2 The applicant must prior to the issue of the Construction Certificate, pay the following fees:

- |     |                           |  |
|-----|---------------------------|--|
| (a) | Builders Security Deposit | \$63,960.00 based on one street frontage |
| (b) | Development Control       | \$12,900.00;                             |
| (c) | Section 94 Contributions  | \$1,734,038.89                           |

- 3 This Consent relates to the land identified in the table below and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public works required by this consent.

Street Address	Lot and Deposited Plan(DP)
27 Church Ave	Lot 3 DP506923
18A John Street	Lot A DP360656
22 John Street	Lot 1 DP799325

- 4 It is a condition of consent that the applicant shall, at no costs or expense to Council, comply with the following:

- (a) Replace all the existing above ground electricity and telecommunication cables to underground cables within the site and road reserve area fronting Church Ave and John Street 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; and

- (b) Provide appropriate and suitable street lighting in accordance with Council's Specification to the Church Ave and John Street frontage of the site, so as to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements.
- 5 The 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.
- 6 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 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 No 514297M\_04 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:
- Water
- (a) The drinking water main available for connection is the 200mm main on the southern side of Church Avenue.
- Wastewater
- (b) The wastewater main available for connection is the 225mm main constructed under WO 40307.
- (c) 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

- (a) 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.
- (b) 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](http://www.sydneywater.com.au).

- 9 The following General Terms of Approval (and as may be amended by the Department of Primary Industries – Water) have been imposed.

#### General

- (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 levels 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) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
  - (i) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
  - (ii) any elevated water table is more than 10 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
  - (iii) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- (d) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- (e) DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in

activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

- (f) The following shall be included in the initial report:
  - (i) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
  - (ii) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
  - (iii) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
  - (iv) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]
- (g) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
- (h) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
- (i) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
- (j) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
- (k) A copy of a valid consent for the development shall be provided in the initial report.

- (l) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
- (m) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.
- (n) During excavation
- (o) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- (p) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off- site discharge.
- (q) Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
- (r) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, storm water system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/so 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.
- (s) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- (t) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
- (u) Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.
- (v) Following excavation
- (w) Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:
  - (i) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
  - (ii) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
  - (iii) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or

excessive settlement induced in nearby buildings and property and infrastructure.

- (x) The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

10 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;

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

- (a) The Civil Aviation Safety Authority (CASA) will not permit the erection of the building to a height above 50.3 metres above Australian Height Datum (AHD).
- (b) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
- (c) A new application must be submitted should the height exceed 50.3AHD. 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.
- (d) 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.
- (e) 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.
- (f) 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.

#### **PRIOR TO COMMENCEMENT OF DEMOLITION WORKS/REMEDIATION**

- 13 Prior to the commencement of works, updated/supplementary reports to reflect the current design in Condition 1 shall be provided to and approved by Council. The reports shall include Noise/Acoustic report, Access report, BCA report and Wind



Report. The measures outlined in these reports shall be adopted as part of the construction certificate plans unless otherwise stated by Council in its approval of the documents. (Note: all documents shall be provided to Council in one package).

- 14 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:

- (a) All properties immediately adjoining the site;
- (b) Church Ave and John Street; and

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. In addition, the following issues shall also be complied with:

- a. 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;
- b. 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;
- c. It is a condition of consent that should demolition, site clearing and site remediation works cause rise to public safety and/or workplace safety; works shall halt until absolute safety is restored;

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

15

- (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.

- 16 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

- 17 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:

- (a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.

- (b) Protection of the Environment Operations Act 1997;
- (c) Protection of the Environment Operation (Waste) Regulation
- (d) DECC Waste Classification Guidelines 2008.

- 18 Prior to the commencement of demolition work, a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority.

The statement must be in compliance with: AS2601-1991 Demolition of Structures,” the requirements of WorkCover Authority and conditions of the Development Approval, and must include provisions for:

- (a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
- (b) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- (c) 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;
- (d) Disconnection of Gas and Electrical Supply;
- (e) 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;
- (f) No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- (g) Waterproofing of any exposed surfaces of adjoining buildings;
- (h) Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
- (i) Working hours, in accordance with this Development Consent;
- (j) Confinement of demolished materials in transit;
- (k) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”;
- (l) On site monitoring both during asbestos removal and the remainder of demolition activities.

- 19 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.

- 20 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)*.
- 21 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 RTA 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.

- 22 The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.
- 23 Following the completion of the removal of asbestos from the site, an Asbestos Clearance Certificate is to be provided to Council following the final asbestos clearance inspection by a licensed inspector.
- 24
- (a) Demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 Demolition of Structures and the requirements of the NSW WorkCover Authority; and
  - (b) The demolisher shall comply with Australian Standard 2601 - 1993 "*Demolition of Structures*".
- 25 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).
- 26 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.
- 27 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 Maritime Services) 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.

28 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.

29 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 Ave or John 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.

- 30 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.
- 31 In accordance with the SEPP 55, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.
- 32 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 SAS prior to issuing 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.
- 33 Prior to the commencement of work additional investigations be undertaken to determine the contamination status of the section of the site referred to as 18A Church St. The additional investigations should evaluate the contamination status of the soil and groundwater. A report detailing the investigations should be submitted to a NSW EPA accredited auditor.
- 34 Prior to the commencement of work additional assessment of the results of the groundwater investigation is required to determine if the presence of volatile petroleum hydrocarbons may pose a health risk at the redevelopment. Also additional assessment/investigation must be undertaken to delineate the plume and to determine if the contamination has moved off-site. A report detailing the assessments/investigations should be submitted to a NSW EPA accredited Auditor.
- 35 During demolition, excavation, remediation and construction, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:
- (a) Approved Erosion and Sediment Control Plan;
  - (b) Approved Soil and Water Management Plan
  - (c) Approved Traffic Management Plan and;
  - (d) Approved Construction Management Plan.

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

- 36 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 Plans and Mascot Station Development Contributions Plan

## Section 94 Development Contribution Plan 2005-2010

## Residential

Community Facilities:	\$389,110.00,
Administration:	\$11,550.00
Transport:	\$148,904.00
Open Space and Recreation:	\$346,800.00

Commercial

Community Facilities:	\$3,816.00
Administration:	\$486.00
Shopping Centre (City Wide)	\$2,061.00
Drainage	\$44,831.07
Open Space and Recreation:	\$2,790.00

**Section 94 2005/2010 Total** **\$950,348.07**

## Mascot Station Precinct Plan

## Residential –

34 x 1 Bedroom, 65 x 2 Bedroom and 9 x 3 bedroom	\$762,736.52
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## Commercial

based on 198.53sqm \$20,954.30

<b>MSP Total</b>	<b>\$783,690.82</b>
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<b>Grand total</b>	<b>\$1,734,038.89</b>
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The Section 94 Contribution of \$1,734,038.89 indexed to is to be paid to Council prior to the issue of the first Construction Certificate.

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.

- 36A. *Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans listed below a contribution (as indexed) for the additional floor proposed in the modification DA-2013/271/03 of \$2,926.99-is required as follows:*

## Section 94 Development Contribution Plan 2005-2010

## Commercial

<i>Community Facilities:</i>		<i>\$424</i>
<i>Administration:</i>	<i>\$54</i>	
<i>Shopping Centre (City Wide)</i>		<i>\$229</i>
<i>Open Space and Recreation:</i>		<i>\$310</i>
<i>Section 94</i>	<i>Total</i>	<i>\$1017.00</i>

*Mascot Station Precinct Plan*

Additional Commercial based on 22.71sqm-	\$1909.99
MSP Total	\$1909.99

*Grand total* \$2,926.99

*The Section 94 Contribution of \$2,926.99 is to be paid to Council prior to the issue of the Construction Certificate.*

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.

Note: The applicant is to pay the remaining balance of the Section 94 Contributions if a portion of the contributions have been paid to Council.

(Added DA-13/271/03)

- 37 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.
- 38 A landscape plan for the property is required to be submitted and approved by City of Botany Bay Council’s Landscape Architect. The revised plan shall incorporate the following to the Landscape Plan:
- (a) Provide landscaping within the Church Avenue setback. Large scale planters are to be provided with a suitable layered planting scheme to soften the interface between the public footpath and ground floor retail, improve pedestrian comfort and amenity and to improve the public domain.
  - (b) The following are considered unsuitable within a modified landscape of artificial soils in a built up environment with irrigation, limited soil depths and deep shade: *Eucalyptus haemastoma*, *Bauera*, *Correa*, *Epacris*, *Boronia*, *Kunzea*, *Dichondra*, *Grevillea sericea*, *Lobelia*, *Pimelia*.
  - (c) Hardy shade tolerant species (native/exotic) suited to the modified, shaded podium environment are encouraged eg. *Glochidion ferdinandi*, *Cupaniopsis anacardiodes*, *Lillypilly*, *Viburnum*, *Murraya*, *Choisya*, *Strelizia*, *Xanadu*, *Ajuga*, *Acanthus*, *Liriope*, *Gardenia*, *Clivea*.
  - (d) All roof gardens to include barbeques and timber decking entertainment areas and shade cover.
  - (e) The internal communal landscaping to be further developed to incorporate more canopy trees. Appropriate soil depth in planters must be provided, in accordance with SEPP 65 and BBDCP 2013.
  - (f) Incorporate seating in the communal landscape areas to encourage residents to use the spaces.
  - (g) More detail is required to be submitted to Council and approved by Council Landscape Architect, including the following:
    - (i) Indicate pot sizes, planting densities and plant locations
    - (ii) Construction details and sections
    - (iii) Typical drainage to podium planters and planter boxes.
    - (iv) Details and locations of proposed furniture, lighting and fencing
    - (v) All plans to clearly indicate building awnings and basement extents.
- The landscaped areas on the property shall be installed and maintained in accordance with the approved landscape documentation, the conditions of consent and Council’s Landscape DCP at all times.
- (h) Where the planter boxes are constructed over a concrete slab shall be built in accordance with the following requirements:
    - (i) 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;



- (ii) 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;
- (iii) 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;
- (iv) 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;
- (v) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

39 Prior to the issue of the Construction Certificate, a public domain plan is required to be submitted and approved by City of Botany Bay Council's Landscape Architect. The plan shall incorporate the following amendments to the Landscape Plan:

- (a) Feature full width segmental paving in accordance with Council's Draft Public Domain Manual and any other specification is required along John Street. Church Avenue to incorporate grassed nature strip and footpath in accordance with Council's Draft Public Domain Manual and specification.
- (b) Deletion of grassed nature strip. Tree pits in full width paving along John Street to align with the adjoining site interface to the west, and provide consistent streetscape responsive to the proposed commercial tenancy and substation/services access requirements. The building awning along Jong John Street is required to be pulled back so as to be consistent with adjacent awnings to the west and to reduce conflict with proposed street trees.
- (c) Proposed landscaped in-road blister islands (2) along John Street as required as part of the Mascot Town Centre Precinct Masterplan 2012.
- (d) Increased soft landscaping within the Church Avenue setback in front of the building. This will comprise planting on podium due to basement below.
- (e) Street trees in accordance with Council's Street Tree Masterplan. Tree pits and tree guards in accordance with the Draft Public Domain Manual.
- (f) Street furniture in accordance with the Draft Public Domain Manual and Council specification and requirement.
- (g) Resolution of access to fire boosters, recessed within the building fronting Church Avenue.
- (h) The design must consider and incorporate the location of any above ground electrical pillars to be erected by the Energy Provider associated with the undergrounding of power around the site.

40 Prior to the issue of a construction certificate a remedial action plan (RAP) must be prepared for the site in accordance with the NSW EPA Guidelines for Consultants Reporting on Contaminated Sites. The RAP after the additional investigations have been completed. The RAP must include information in regard to at least the following:

- (a) how the USTs will be removed (in line with relevant guidelines)
- (b) how the excavations will be validated (in line with relevant guidelines)
- (c) asbestos handling procedure
- (d) unexpected finds procedure
- (e) additional investigations to be undertaken at 18A Church St during the remediation once the existing building is demolished

The RAP must be submitted to Council and the NSW EPA accredited auditor for approval.

- 41 Any management plans identified in the RAP as required must be prepared in accordance with relevant guidelines and submitted to the Principal Certifying Authority prior to the commencement of any remedial works.

The remedial works outlined in the (RAP) must be undertaken to make the site suitable for the development to the satisfaction of the EPA accredited site auditor.

- 42 Prior to the issue of a construction certificate a validation report must be prepared for the site in accordance with the NSW EPA Guidelines for Consultants Reporting on Contaminated Sites. The validation report should provide details of the remedial works that have been undertaken and the validation sampling that has been undertaken to demonstrate the success of the remedial works. The validation report must be submitted to Council.

- 43 Prior to the issue of a Construction Certificate, the construction drawings shall indicate the following:

- (a) That water will be prevented from penetrating behind fittings/linings and into concealed spaces in laundry, sanitary areas and bathrooms etc;
- (b) That floor to ceiling in laundry and bathroom areas to be tiled, and
- (c) That plumbing to each dwelling will be separated and adequately contained to prevent noise transmission and vibration.

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- (a) All plumbing stacks, vent pipes 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.

- 45 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.

- 46 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.

- 47 Prior to the issue of the Construction Certificate, the measures required in the Noise Impact Assessment Report No. SYD2013-1014-R001B prepared by Acouras Consulting Ltd dated 17/06/14 shall be undertaken in accordance with the provisions of AS2021-2000: Acoustics – Aircraft Noise Intrusion – Building Siting and

*Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021-2000 shall be incorporated into the construction of the building.

- 48 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.
- 49 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.
    - (vi) Accommodate a medium ridge vehicle (MRV) to accommodate a Council garbage truck to remove waste.
- 50 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.
- 51 All balconies shall have a water supply tap and a gas connection where gas is available. These shall be indicated on the plans prior to the issue of the construction certificate.
- 52 Prior to the issue of the Construction Certificate, detailed construction plans in relation to the development shall be revised and submitted to the Principal Certifying Authority for approval. 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.
- 53 Submission for approval of the Principal Certifying Authority detailed stormwater drainage plans for the site together with certification from a chartered civil engineer indicating the plans have been prepared in accordance with the requirement of this condition and Botany Council's Stormwater Management Technical Guidelines (SMTG).
- The detailed stormwater drainage plans be thoroughly checked and amended where required to incorporate but not be limited to the following:
- (a) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully

tanked" structure. The pump-out can only be utilized to dispose any stormwater runoff that may enter the basement carpark from the basement driveway access.

- (b) The OSD shall be designed to ensure it will not be subjected to backwater affect from the 100 year flood level at the site.
- (c) Incorporate a water quality improvement system and Water Sensitive Urban Design (WSUD) strategy, designed to capture and treat at least 85% flows generated from the site in accordance with Section 4 & 16 Botany Council's Stormwater Management Technical Guidelines (SMTG).
- (d) The OSD and water quality improvement system including rainwater tanks are to be relocated in an open publicly accessible area to ensure it can be readily accessed, inspected and maintained, including ensuring any surcharge flows due to the design being exceeded and/or blockage can escape via a physical overland flow path directly to the public road.
- (e) All proposed finished habitable floor levels and basement driveway crests have been provided with a minimum freeboard of 500 & 300mm above the applicable 1:100 year flood level at the site.
- (f) Provision of a Site Emergency Response Plan (SERP) to cater for the safe evacuation of occupants of the site during the Probable Maximum Flood event (PMF).

- 54 A detailed overland flow path assessment shall be prepared to determine the critical flow characteristics of the overland flow path and its impact to and by the development.

The study shall be prepared by a suitably qualified and experienced engineer and shall be in accordance with the current version of Australian Rainfall and Runoff (AR&R), the NSW Floodplain Management Manual and Section 11 of City of Botany Bay DCP SMTG. The flood study shall include but not limited the following:

- (a) Catchment plan highlighting upstream catchment area that generates the overland stormwater flows,
- (b) Cross-section detail taken at the property showing existing ground levels and water levels for a 1% AEP and PMF,
- (c) The flood study must be signed by the engineer declaring that the study has been undertaken in accordance with Australian Rainfall and Runoff and the NSW Floodplain Management Manual, and
- (d) The results of the flood study shall be submitted to the PCA and Council for approval.

- 55 Flood mitigation measures recommended by the flood study shall be incorporated into the design of the development and submitted to the PCA and Council for approval. The design shall also incorporate the following:

- (a) All levels shown on drawings and details shall be to the Australian Height Datum (AHD), and
- (b) The floor levels of the development shall comply with Section 8 of the SMTG.

- 56 The proposed car parking facility (space size, aisle widths, headroom clearance gradients and safe sight distance etc) shall be designed to be entirely located within the property boundary to ensure all vehicles visiting the site can safely enter and leave in a forward direction in accordance with relevant sections of AS 2890. The architectural plans shall be amended where required to incorporate but not be limited to the following requirement and Traffic engineering certification confirming compliance shall be submitted for approval with the Construction Certificate application.

- (a) The design must provide for an internal loading unloading bay & waste collection facility including adequate manoeuvring area and headroom clearance to ensure a Medium Rigid Vehicle (MRV) can enter and leave safely in a forward direction. The design shall be certified by a traffic engineer as compliant with AS 2890.
- (b) The proposed carparking layout and ramps shall be amended where required to allow for adequate manoeuvring area to ensure safe two way access without conflict is available in the carpark, especially entry and exit from the access ramps.
- (c) Longitudinal sections along centreline of all the ramps between each basement parking levels;
- (d) 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).
- (e) in order to maximise visibility in the basement car parks, the ceilings shall be painted white. This requirement shall be reflected on the Construction Certificate plans.
- (f) The car parks shall be mechanically ventilated. This requirement shall be reflected on the Construction Certificate plans.

57 A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:-

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

- (l) The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area. Access across public parks and open space reserves is prohibited. Site access and egress is to be generally obtained from the public roads.
- (m) Obtain Permits required under this consent.
- 58 Submission of an application to Council for the erection of a protective hoarding where required along the street frontage of the property. Applicable fee and charges in accordance with Council's Management Plan are to be fully paid prior to issue of Construction certificate.
- 59 Detailed engineering plans prepared by a chartered civil engineer including certification indicating compliance with the following works are to be submitted to Council for approval prior to the issue of the Construction Certificate for roadworks. Engineering assessment and works inspection fees in accordance with Council's fee and charges are to be fully paid prior to consent being issued. The works shall include:
- (a) The construction of new vertical kerb and gutter and associated footpath paving to Council's satisfaction along the entire frontage of the site to Church & John Street.
- (b) The asphalt sheeting of half road width including reconstruction of any damaged road pavement along the entire frontage of the site to Church & John Street as directed by Council's Engineer.
- 60 Where public utilities are affected by the proposed development works, and adjustment and/or relocation works are required, the cost of these works shall be fully borne by the applicant. Written consent from the relevant public utilities owners are to be submitted to council and all their requirements are to be fully complied with.
- 61 The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council approval.
- 62 Prior to the issue of the construction certificate, the balconies on the western façade of both buildings shall include full height, operable louvre, moveable privacy screens to cover a minimum of two thirds of the balcony length to maintain privacy to the existing developments to the west.
- 63 Prior to the issue the construction certificate, the construction plans shall be amended to show façade detail for the eastern elevation of both buildings and submitted and approved by Council's Planning Officer and shall include a variety of colours, textures and materials to create visual interest to the façade.
- 64 The development shall make provision for the following car parking allocations:

Car Parking Rates	Required
1 space per studio/1 bedroom unit	34 spaces
2 spaces per 2 bedroom unit	130 spaces
2 spaces per 3 bedroom unit	18

1 visitor space per 5 dwellings	22 spaces
Commercial spaces	4
<b>TOTAL REQUIRED</b>	<b>208</b>

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.

## **DURING WORKS**

65 If the work involved in the construction of a building:

- (a)..... likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
- (b)..... involves the enclosure of a public place:
  - a..... a hoarding or fence must be erected between the work site and the public place.
  - b..... If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
  - c..... The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
  - d..... Any such hoarding, fence or awning is to be removed when the work has been completed.
- (c)..... Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.

66

- (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.

67

- (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.

68 The works 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.

69 The Development is to be constructed to meet the following construction noise requirements:

- (a) Construction Noise
  - (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
- (b) Level Restrictions
  - (i) Construction period of 4 weeks and under:
    - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(A).
  - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
    - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- (c) Time Restrictions
  - (i) Monday to Friday 07:00am to 06:00pm;
  - (ii) Saturday 08:00am to 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.



- 70 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.
- 71
- (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).
- 72 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 1mm/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 AN OCCUPATION CERTIFICATE**

- 73 All acoustic work including that acoustic work required at Condition No. 46 shall be completed prior to the issue of the Occupation Certificate and validated by a person with appropriate qualifications and experience.
- 74 Prior to the issue of the Occupation Certificate, The public domain and Council footpath area shall be upgraded with new paving, street furniture and street tree planting, to be installed by the applicant at the applicant's expense. All improvements shall be in accordance with final approved public domain plan and Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate.

- 75 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 and unit numbering shall be submitted to Council for approval prior to the issue of the Occupation Certificate.
- 76 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.
- 77 The following shall be complied with prior to the issue of the Occupation Certificate:
- (a) A new vehicular crossing including layback and/or gutter and any associated road restoration shall be constructed in accordance with Council's requirements. The applicant shall make a separate application to Council's Customer Service Counter for the construction/ reconstruction of vehicular crossing (either by Council or own forces) to the vehicular entry point of the site as shown on the submitted approved plan.
  - (b) The crossing shall be able to accommodate the turning movement of Medium Rigid Vehicle (MRV) entering and leaving the site and at 90° to the kerb and gutter in plain concrete. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant.
  - (c) Any 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.
- 78
- (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.

- 79 Prior to the release of an Occupation Certificate, the following works shall be completed to Council's satisfaction at the applicant's expense to Council's satisfaction:

- (a) The construction of new vertical kerb and gutter and associated footpath paving along the entire frontage of the site to Church Ave and John Street
- (b) The asphalt sheeting of half road width including reconstruction of any damaged road pavement along the entire frontage of the site to Church Ave and John Street
- (c) Construction of access driveway and layback to the subject site.

The Principal Certifying Authority, shall not release ANY occupation certificate until written confirmation from Council has been provided confirming the above works have been completed to Council's satisfaction.

- 80 To ensure satisfactory performance of the completed external works, a maintenance period of six (12) months shall apply to all external engineering works completed in relation to this application. The performance period shall commence from Council's Compliance Certificate issue date.

The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification. A bond in the form of a cash deposit or unconditional Bank Guarantee of fifty thousand dollars (\$50,000) shall be lodged with Council prior to issue of the Construction Certificate to guarantee this requirement will be met. The bond will only be refunded when the works are determined to be satisfactory to Council after the expiry of the six (12) months maintenance period

- 81 Engineering certification shall be submitted to the Principal Certifying Authority confirming the site stormwater drainage system has been constructed in accordance with approved plans and Botany Council's Stormwater Management Technical Guidelines (SMTG).

Additionally, the certification shall also confirm that the following flood related matters have been complied with:

- (a) All proposed finished habitable floor levels and basement driveway crests have been provided with a minimum freeboard of 500 & 300mm above the applicable 1:100 year flood level at the site.
- (b) A Site Emergency Response Plan (SERP) to cater for the safe evacuation of occupants of the site during the Probable Maximum Flood event (PMF).
- (c) Certification indicating all recommendations of the approved flood study has been incorporated into the development.

- 82 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 levels shown upon the approved plans, with relation to drainage, boundary and road reserve levels, have been strictly adhered to.

- 83 Prior to the issue of the Occupation Certificate, at no expense to the Council and generally in accordance with approved plans (refer to Condition 1), dedicate the portion of land to Council for the purpose of widening Church Avenue and John Street. The areas of the land to be dedicated shall be the full length of Church Avenue and John Street frontages of the development site and as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of the Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes.
- 84 Any damage not shown in the dilapidation report required under Condition No. 14 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.
- 85 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.
- 86 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. An experienced Landscape Contractor shall be engaged to undertake the landscaping work 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.
- At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council.
- 87 The Church Avenue and John Street public footpaths shall be re-constructed in accordance with Council specifications and the final, approved public domain plan. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications only. Pavers shall be ordered accounting for adequate lead time for manufacture. Construction hold points and Council inspections are required at the following points:
- (a) after formwork installation and to prior pouring the concrete blinding slab,
  - (b) at the commencement of paving works, and
  - (c) at final completion.
- Council approval of public domain works is required prior issue of an Occupation Certificate.
- 88 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.
- (e) 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;
- (f) 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,
- (g) All lighting shall comply with AS4282-1997 Control of the obtrusive effects.

89 Prior to the issue of the Occupation certificate, the balconies on the western façade of both buildings shall have installed full height, operable louvre, moveable privacy screens to cover a minimum of two thirds of the balcony length to maintain privacy to the existing developments to the west.

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- (a) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
- (b) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building.
- (c) Where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.

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

- 91 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.
- 92 All new street trees and landscaping in the public domain shall be maintained by the Applicant/Owner/Strata for 12 months after final inspection of public domain works by Council's Landscape Architect. Maintenance includes twice weekly watering to sustain adequate growth, annual feeding and weed removal in tree pits but does not include trimming or pruning of the trees under any circumstances

- 93 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 MRV vehicles 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).
- 94 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.
- 95 The landscape contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time monthly maintenance is required.
- 96 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.
- 97 No roller shutters are to be installed to any of the commercial shopfronts that front Church Ave or John Street.
- 98 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 and the units shall be screened.
  - (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 98 above.
- 99 The BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents and shall not be used after 10pm.
- 100 No washing or drying facilities shall be visible on the balconies at any time.

- 101 Unless otherwise provided for in the SEPP Exempt and Complying Development, the first use of the commercial tenancies on John and Church St requires development consent. The allocation for commercial tenancies includes future food and drink premises.
- 102 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. 13/271 dated as 17 December 2013 and Section 4.56 Application 13/271/02 and 13/271/03 dated 23 November 2017 and **Section 4.56 Application 13/271/04 dated 1 November 2018** and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.
- (Added DA-13/271/2 and DA-13/271/3) (Amended DA-13/271/04)

**Advisory Note:**

- (a) 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);
- (b) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis. 4. It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.
- (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.
- (f) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.
- (g) 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).
- (h) 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.
- (i) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.
- (j) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public

transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.

- (k) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (currently \$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.
- (l) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
  - Warning, trespassers will be prosecuted.
  - Warning, these premises are under electronic surveillance
- (m) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
- (n) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.
- (o) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
- (p) Signage needs to be provided to assist occupants to identify fire suppression equipment, eg extinguishers, fire hoses etc.
- (q) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours.
- (r) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.
- (s) It is not advised to install storage cages or similar for the residents in the underground car park. If it is required, consider that they should NOT be constructed in an isolated area. The cages are easy targets when they have little supervision. CCTV cameras must cover this area if they are constructed. Solid steel housing and quality key locks should be used to prevent access.
- (t) The door and door frames to these premises should be of solid construction.
- (u) Doors should be fitted with locks that comply with the Australian Standard — Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are required for residential units.
- (v) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they



provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space.

**Advisory Note:**

- (w) 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);
- (x) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis. 4. It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.
- (y) 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.
- (z) 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;
- (aa) 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.
- (bb) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.
- (cc) 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).
- (dd) 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.
- (ee) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.
- (ff) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.
- (gg) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (currently \$11000) for the corporation. The

- numbers should be in contrasting colours to the building materials and be larger than 120mm.
- (hh) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
    - Warning, trespassers will be prosecuted.
    - Warning, these premises are under electronic surveillance
  - (ii) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
  - (jj) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.
  - (kk) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
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