

## SYDNEY CENTRAL PLANNING PANEL

SCPP No	2018SCL031
DA Number	2018/1045
Local Government Area	Bayside Council
Proposed Development	Construction of commercial/ warehouse building (Building C) comprising light industrial units, associated ancillary offices and; refurbishment of existing commercial buildings A and B to include indoor recreation facilities, child care centre, food and drink premises, light industrial units with ancillary office space, industrial retail outlets and neighbourhood shops; provision of car parking and landscaping
Street Address	11-13 Lord Street, Botany
Applicant	Dexus Projects Pty Ltd
No. of Submissions	First Round: - Seventy Six Amended Application: One
Regional Development Criteria	Development with a CIV of \$85,719,700 Amended Application \$39,703,000 exc gst
List of All Relevant s4.15(1)(a) Matters (previously Section 79C)	<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 (State and Regional Development)2011</li> <li>State Environmental Planning Policy (Vegetation in non rural areas)2017</li> <li>State Environmental Planning Policy No. 55 – Remediation of Land;</li> <li>State Environmental Planning Policy (Infrastructure) 2007</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)(iia); <ul style="list-style-type: none"> <li>Nil</li> </ul> </li> <li>List any coastal zone management plan: s4.15(1)(a)(v) <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</li> </ul>

Documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> <li>• Architectural plans- prepared by Nettleton Tribe Architects</li> <li>• Landscape Plans- prepared by Urbis</li> <li>• Car parking and traffic report- prepared by Traffix</li> <li>• Civil engineering plans and report - prepared by Costin Roe Consulting</li> </ul>
Recommendation	<p>The Sydney Eastern City Planning Panel, as the Determining Authority resolve to:</p> <p>a) <i>Grant approval of Development Application No. 2018/1045 for the construction of a commercial/ warehouse building (Building C) comprising light industrial units, associated ancillary offices; and; refurbishment of existing commercial buildings A and B to include indoor recreation facilities, child care centre, food and drink premises, light industrial units with ancillary office space, industrial retail outlets and neighbourhood shops; provision of car parking and landscaping</i></p>
Report by	Lincoln Lawler – Senior Development Assessment Planner

#### Summary of s4.15 matters

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

**Yes**

#### Legislative clauses requiring consent authority satisfaction

**Yes where relevant**

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

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

#### Clause 4.6 Exceptions to development standards

**Not Applicable**

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?

#### Special Infrastructure Contributions

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

**Not Applicable**

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

#### Conditions

Have draft conditions been provided to the applicant for comment?

**Yes**

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

## **EXECUTIVE SUMMARY**

Council received Development Application No. 2018/1045 on 29 March 2018 for the Integrated Development application involving the construction of a three (3) storey commercial building (Building C) comprising light industrial units, associated ancillary offices and ancillary basement storage; refurbishment of existing commercial buildings A and B to include indoor recreation facilities, child care centre, food and drink premises, light industrial units with ancillary office space, industrial retail outlets and neighbourhood shops; provision of car parking and landscaping. It is noted that the fitout of these premises would be subject to separate approval.

The application was amended to reduce the size and scale of the building to the south, increase the landscape setback, removal of the proposed vehicle connection to Daniel Street. Further amendments include removal of the childcare use

The Development Application is required to be referred to the Sydney Central Planning Panel (SCPP) pursuant to Clause 3 of Schedule 4A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as the Capital Investment Value of the proposal is greater than \$30,000,000.

The development application as amended is no longer Integrated Development under Section 4.46 (formerly Section 91) of the EP&A Act as the development has been amended so there is no aquifer interference activity as no part of the development intercepts or extracts groundwater.

The Development Application was notified to surrounding property owners and advertised in the local newspaper for a period of forty one (41) days from 10 April 2018 to 21 May 2018. A total of 85 submissions were received. Council received an amended application which was notified to surrounding property owners/ submitters for a period of twenty five (25) days from 15 November 2018 to 10 December 2018. One submission was received during the notification process in relation to solar access.

The key issue that was raised in the assessment of the proposal included departures in car parking. The proposed uses results in a total number of 420 car spaces that are required for the site. The applicant has provided 268 car spaces associated with the use. This is a departure of 152 car spaces. A car parking and traffic report has been submitted with the application which includes an assessment and rationale regarding the servicing of the local business park and adjacent residential development and that the demand for the car parking is actually significantly less than the DCP requirements with a specific weighting being applied which only requires 208 car spaces. This approach is concurred with. It was found that the car parking as per the weighted or non-cumulative approach was significantly lower than the BBDCP 2013 requirements and the development has sought to comply with this number which is discussed in more detail in Part 3A of the report below.

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

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

## **RECOMMENDATION:**

The Sydney Eastern City Planning Panel, as the Determining Authority resolve to:

1. *Grant approval of Development Application No. 2018/1045 for the construction of a commercial/ warehouse building (Building C) comprising light industrial units, associated ancillary offices; and; refurbishment of existing commercial buildings A and B to include indoor recreation facilities, child care centre, food and drink premises, light industrial units with ancillary office space, industrial retail outlets and neighbourhood shops; provision of car parking and landscaping*
2. *Advise the objectors of the Panel's decision.*

## **BACKGROUND**

Development Application DA 2018/1045 was lodged with Council on 27 March 2018, and sought development consent for the construction of a three (3) storey commercial building comprising light industrial units, associated ancillary offices and ancillary basement storage, and the refurbishment of two (2) existing commercial buildings to accommodate indoor recreation facilities, a child care centre, food and drink premises, light industrial units with ancillary office space, industrial retail outlets and neighbourhood shops. Consent was also sought for ancillary car parking and landscaping works.

### Amended Application

In response to the Submissions and Councils Letter of 13 July 2018, the applicant amended the application on 30 October 2018. The amendments include the following:

- The proposed light vehicle connection from the site to Daniel Street has been removed;
- The bulk, scale, and height of the proposed Building C have been significantly reduced from 19.6m to 11m;
- The southern landscape setback has been increased to 3m, consistent with the requirements of Section 6.3.11 of the Botany Bay Development Control Plan 2013 (BBDCP 2013).

The proposed refurbishment including the creation of a break in Building A of the two existing commercial buildings (Building A and Building B) to accommodate indoor recreation facilities, a child care centre, food and drink premises, light industrial units with ancillary office space, industrial retail outlets and neighbourhood shops remains unchanged. The proposed remaining landscape works across the site are unchanged.

### Further Amended Application

On 2 April 2019, the applicant amended the application in response to an issue in which the Aircraft noise exposure forecast has changed during the assessment process, the site is located entirely within the 25-30 ANEF. In accordance with the Australian Standard for aircraft noise, Child care centres are an unacceptable land use in that exposure category. Accordingly the applicant amended the application to build the structure for the proposed childcare but remove the use from the application. The use can be considered in a future application as could be the conversion to an office space as the child care centre is a more intense use.

On 26 July 2018, the application was presented to a briefing meeting with the SECPP.

Issues raised included the transition to residential, solar access, vehicle access, landscaping setback and tree removal, privacy. An additional information letter was sent from Council on 13 July 2018 raising issues related residential interface, access to Daniel Street, landscaping, bulk and scale, Traffic and Parking, stormwater, strategic transport, including a pedestrian

movement plan, end of trip facilities, connections to broader passive transport networks and the Urban Design and the design resolution.

The application was presented to the Traffic Advisory Committee on 6 June 2018. Their advice was as follows:

- 1 That the proposed opening of Daniel Street cannot be supported for vehicular access.
- 2 That the required number of parking spaces be provided on site

The application was presented to a Design Review Panel on 19 June 2018. The panel were generally supportive of the application however sought for design issues to be better resolved on Building C and a more cohesive design response to Buildings A and B. The amended scheme was not referred back to the Design Review Panel as it addressed the concerns of the Panel.

The amended plans and additional information are relied upon for the assessment in the report.

## **DESCRIPTION OF SITE AND SURROUNDING LOCALITY**

### The site

The site is located at 11 – 13 Lord Street, Botany and is formally known as Lot: 2 DP: 717692, and is located on the southern side of Lord Street adjacent to Council's Booralee Park on the east and RMS Service NSW to the west. Immediately to the south is medium density residential which fronts Daphne Street. Further afield to the south and east is residential development. To the north are commercial and office spaces known as the Lakes Business Park.

The site's elevation ranges between approximately RL 6.73 in the south east corner of the site to RL 4.045 in the north west. This change in topography presents as generally flat due to the comparative size of the site.

The site is currently owned by Dexu Property Group Pty Ltd. It is rectangular in shape and has a total area of approximately 29,766m<sup>2</sup>.

The site is currently occupied by two two-storey commercial buildings known as "Block A" and "Block B" and hard stand car parking, these are described below.

- Block A is a two storey commercial building with a single level warehouse at the rear that runs parallel to Lord Street.
- Block B is a part two / part three storey commercial building, also with a single level or warehousing at the rear that runs parallel to the site's eastern boundary and the interface with Booralee Park.
- A large hardstand is located in the southern part of the site, which is currently used for parking.

Vehicular access to the site is provided at two points at either end of the Lord Street frontage. The primary access is located toward the north eastern end of the site and leads to the large hardstand parking and loading area at the rear of the two existing buildings. An internal access road also runs around the inside perimeter of the site to car parking in front of each of the existing buildings and a secondary access point is located off this road at the north western corner of the site.

Pedestrian access is shared with the vehicular access points on Lord Street and a pathway at the middle of the site's frontage leads through the landscaped setback from the footpath. A secondary pedestrian access is provided at the rear of the site via Daniel Street, there is currently no vehicular access from Daniel Street.

The site is zoned as B7 Business Park and is in close proximity to two local heritage items (Item I61- Booralee Park and Item 199- 42-54 Daphne Street – group of Terrace houses.

#### Site Surrounds

The site is surrounded by commercial and light industrial uses to the north and west, residential uses to the south, and open space to the east.

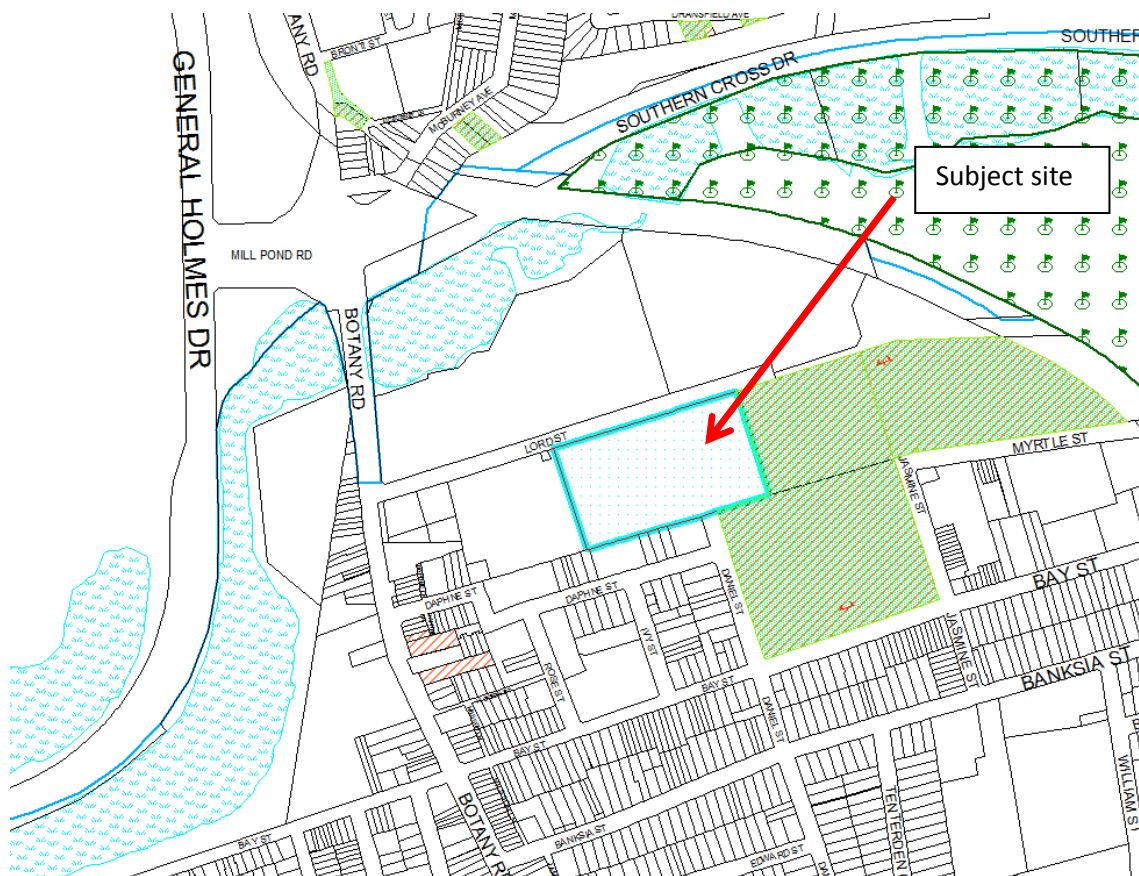
North of the site, on the opposite of Lord Street, is the northern precinct of The Lakes Business Park. This precinct comprises a series of commercial, office and warehouse buildings ranging in height from one to four storeys.

Immediately east of the site is a large area of public open space known as Booralee Park and the Botany Aquatic Centre is located beyond this.

Adjoining the southern boundary of the site is a series of residential properties, including a three-storey apartment building located toward the eastern end of the site and a row of attached two-storey dwellings situated toward the western end. A row of heritage listed terrace dwellings are located in front of the attached dwellings and front Daphne Street. In between the residential buildings are two two-storey commercial premises and a detached residential dwelling.

When the adjoining residential buildings to the south were approved by Council, consent was granted for a significantly reduced building setback in order to create a heritage curtilage for the heritage buildings to the south of these residential sites. The resulting setback of these residential buildings to the site is marginal and non-compliant with the DCP, particularly given the boundary between the R3 Medium Density Residential and B7 Business Park that exists at this point.

West of the site is a Roads and Maritime Services, Service Centre including a vehicle depot and workshop. Further west is St Matthew's Anglican Church and a medium density residential precinct.



**Figure 1. Locality Plan**





**Figure 2. Aerial Map of subject site**

## SITE HISTORY

The site has various change of use approvals. The approvals do not impact on the proposed development.

## DESIGN REVIEW PANEL

The application was presented to the Design review Panel on 19 June 2018. The amended application was not re-referred due to the fact that the amended design addressed the issues raised. As indicated through the officers comment within the table.

Design Principle	Comments
<p><b>Context and Neighbourhood Character</b></p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The Panel generally supports the concept of activating the site with a range of retail food and beverages, small scale light industrial and lifestyle uses that interface with Booralee Park. In particular, the Panel supports the breaking of Building B into two forms to create a food and beverage alley, and the general upgrade of the public domain areas around Building B.</p> <p>The Panel also supports the upgrade of Buildings A and B which retain their intrinsic warehouse forms but have been modernised with new materials and finishes.</p> <p>The Panel supports in principle the creation of a new building in the location of Building C, and with a similar mass and scale, but is concerned that the current design of Building C does not yet provide a cohesive fit with its surrounds including Buildings A, B and nearby residential. The Panel considers that a building in this location whilst having its own character, would be more successful if it responded to, and included design references from Buildings A and B.</p> <p>The Panel is not convinced that the small landscape buffer south of Building C, currently proposed at 1.5 metres, has the same potential to provide effective screening and retaining existing trees as a 3 metre setback buffer, which the Panel notes is required by the DCP. The Panel considers this landscape buffer to be very important in ensuring high levels of residential amenity for the existing dwellings to the south.</p> <p><b>Officer Comment:</b> The landscape setback has been increased to comply with a reduction in the size of the building adjacent to the southern boundary. The scale of the proposed building C is now consistent with the residential scale to which it adjoins to the south.</p>
<p><b>Built Form and Scale</b></p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions,</p>	<p>The Panel supports the Built Form and Scale of Buildings A and B.</p> <p>The Panel generally supports the scale of Building C, but is concerned that the Built Form is overly complicated and not sufficiently in keeping with its surrounds. The Panel notes that the elevational complexity does not appear to arise out of the internal program which is relatively straightforward. The Panel recommends consideration be given to simplifying the elevational composition</p>



Design Principle	Comments
<p>building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><b>Officer Comment:</b> The amended design provides a more consistent built form through a reduction in the scale and the elevation composition has been simplified.</p>
<p><b>Density</b></p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The Panel considers that the density of the proposal is satisfactory, subject to increasing the landscape setback along the southern boundary.</p> <p><b>Officer Comment:</b> The landscape setback has now been increased and the setback controls are complied with.</p>
<p><b>Sustainability</b></p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>The Panel notes that there are significant opportunities for including sustainability initiatives in the design at a significant scale, such as rooftop solar energy generation, rainwater harvesting, use of recycling materials etc. and these should be included in the design.</p>
<p><b>Landscape</b></p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental</p>	<p>The Panel supports the increased passive surveillance opportunities created through a stronger landscape interface to Booralee Park with the removal of the screen planting and the addition of shade trees within parking bay to the north and east of the development. The Panel is also generally supportive of the public domain interface and proposed upgrade works within Booralee Park and the proposed pedestrian connection to the Aquatic Centre so long as this does not affect usability of the playing fields.</p> <p>The Panel is not supportive of the narrow landscape setback to the southern boundary. In order to provide sufficient space for trees and under planting the 3 metre minimum width required by the DCP should be provided. The Panel also recommends retaining and adding to existing established</p>

Design Principle	Comments
<p>performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>trees on the southern boundary, providing both an immediate and long term landscape buffer between the apartment occupants and the light industrial carpark and vehicular way.</p> <p>The Panel notes that greater user amenity could be provided by the addition of more canopy trees in the carpark between Buildings A and C.</p> <p><b>Officer comment:</b> The pedestrian link through the adjacent Park is not part of this application. The landscape setback has been increased with the retention of existing vegetation on the site in the landscape setback as well as additional planting. The detailed landscape plan as required through a condition of consent will specifically address increased landscaping in the car park.</p>
<p><b>Amenity</b></p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>Other than the insufficient landscape buffer to the southern boundary (mentioned above) and insufficient tress in the carpark between Buildings A and B (also mentioned above), the Panel considers that the proposed design positively influences internal and external amenity for site occupants, visitors and neighbours.</p> <p><b>Officer Comment:</b> These have been addressed above.</p>
<p><b>Safety</b></p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The Panel considers that the proposed design provides sufficient passive surveillance of public and communal areas to promote safety. The removal of screen planting between Building B and Booralee Park makes a positive contribution towards surveillance of the park.</p> <p><b>Officer Comment:</b> Agree with the Panels comments</p>
<p><b>Housing Diversity and Social Interaction</b></p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics,</p>	<p>N/A</p>

Design Principle	Comments
<p>living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	
<p><b>Aesthetics</b></p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The Panel supports the aesthetic approach of the design of alterations to Buildings A and B.</p> <p>The Panel considers that the design approach to Building C does not provide good proportions or a balanced composition of elements, reflecting the internal layout and structure of the building. Whilst the proposed design uses a variety of materials, colours and textures, the overall composition is unnecessarily complex and busy, given the relative simplicity of the internal layout and building use.</p> <p>The architectural expression of Building C should respond to the existing or future local context, particularly the rhythms and proportions of the design of buildings A and B.</p> <p><b>Officer Comment:</b> The amended design has provided a building that is of a built form that is more consistent with the scale, bulk, length and height of the residential to which it adjoins.</p>

## DESCRIPTION OF DEVELOPMENT

The proposed development (as amended) seeks consent for the following works:

### Block A and B

Refurbishment of existing commercial buildings (Blocks A and B) for commercial uses, including;

- Light industrial units with ancillary office space;
- Industrial retail outlets;
- Commercial premises;
- Food and drink premises;
- Neighbourhood shops;
- Indoor recreation facilities;
- A child care centre;

### **Block A Detail**

Block A involves the extensive refurbishment of the existing two storey building at the north western section of the site for a mix of industrial retail outlets, commercial tenancies and indoor recreation facilities. The completed building will have a maximum height of 8.5m and a total Gross Floor Area (GFA) of 8,608m<sup>2</sup>. It is setback by at least 12.5m from the primary street frontage of Lord Street and 5m from the western side boundary.

Block A includes industrial retail outlets at ground floor with glazed shop fronts and lift doors along the tenancies fronting Lord Street and roller shutters along the southern internal elevation. The tenancies range in size from 140m<sup>2</sup> up to 397.5m<sup>2</sup>. Two indoor recreation tenancies are also located at the south eastern corner of the ground floor. Fit out and use of these tenancies will be the subject of future development application(s). Mezzanine offices overlooking a large void associated with the rear industrial units and the indoor recreation tenancies are provided at Level 1, and commercial tenancies are located along the northern frontage of the floor.

Block A has three shared entry lobbies accessed on the northern frontage and each ground floor tenancy also includes its own pedestrian door and roller door / lift door for vehicular access and loading. Seven amenity blocks are shared between the various users of the building.

### **Block B**

Block B involves the extensive refurbishment of the existing part two / part three storey commercial building, which runs parallel to the site's eastern boundary, for a mix of industrial units, commercial tenancies, neighbourhood retail tenancies and food and drink beverages.

The one existing building will be converted into two buildings, connected by a bridge at level 1. The completed buildings will have a maximum height of 12.6m and a total GFA of 6,912m<sup>2</sup>. It has a front setback of 10m to Lord Street and 8m to Booralee Park on the eastern side setback.

Block B includes industrial units along the ground floor of its internal frontage and a mix of neighbourhood retail and food and drink tenancies along its eastern frontage, facing Booralee Park. Outdoor dining is proposed in front of these tenancies and a new east-west pedestrian link is provided through the middle of the building which links the park with the centre of the site. It is envisaged that these food and beverage outlets will be patronised by local employees of the surrounding commercial and industrial buildings, and also by users of Booralee Park. On Level 1, mezzanine offices overlook the industrial units below and commercial tenancies are located along the eastern frontage. A link bridge connects the corridors above the ground floor through-link. The northern portion of the building includes a third storey which contains a child care centre with a large outdoor area.

The building has two shared lobbies accessed via the eastern Booralee Park frontage and each ground floor tenancy also includes its own separate entrance, including roller doors for the industrial units. The building includes six amenity blocks shared between the tenancies and a separate amenity block on Level 2 for the child care centre.

### **Block C**

Construction of a new 11m high building (Block C) for light industrial units and associated ancillary office space;

### **Block C Detail**

Block C involves the construction of an 11m high warehouse building with internal mezzanine offices in the south western portion of the site. The building will comprise light industrial/warehouse units and associated ancillary office space to be used for small

businesses requiring associated storage and office space (such as trades and sporting associations). The completed building will have a maximum height of 17.3m and a total GFA of 5280 sqm, (previously 13,845 sqm was proposed). It is setback by 9m from the rear southern boundary, including a 3 metre landscape buffer and a restricted access fire truck access of 6m and approximately 7m from the western side boundary.

### **Car Parking**

- Provision of 268 car spaces across the site;

### **Landscaping**

- Provision of additional landscaping throughout the site; and

### **Other Works**

- Necessary infrastructure upgrades.

### Design Flexibility

The applicant has requested flexibility of use of the units within Building B to accommodate the neighbourhood shops or food and drink premises. This allows a certain flexibility in terms of adaptability in the future. In total ten units are not allocated a specific use, these will be subject to future approvals. It is noted that a neighbourhood shop can only have a maximum floor area of 100 sqm. This will be administered through a maximum cap of floor area per use, which is related back to car parking.

### Hours of Operation of the proposed premises

<b>Tenancy/Component</b>	<b>Hours</b>		
	<b>Monday-Friday</b>	<b>Saturday</b>	<b>Sunday</b>
Industrial retail Outlets	7am-6pm	7am-6pm	9am-4pm
Commercial office	7am-6pm	7am-6pm	9am-4pm
Neighbourhood shops	7am-6pm	7am-6pm	9am-4pm
Food and Drink premises	7am-10pm	7am-10pm	8am-3pm
Indoor Recreation Facilities	7am-10pm	7am-10pm	8am-6pm
Warehouse/distribution/light industry	7am-6pm	7am-6pm	9am-4pm
All Loading	7am-6pm	7am-6pm	7am-6pm

## **SECTION 4.15 CONSIDERATIONS (formerly S.79C)**

In considering the Development Application, the matters listed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* have been taken into consideration in the preparation of this report and are as follows:

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

State and Regional Development

Reasons for SECPP referral Pursuant to Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, the proposal is regionally significant as the development that has a capital investment value of more than \$30 million (clause 2). This proposal is therefore referred to the Sydney Eastern City Planning Panel for determination.

State Environmental Planning Policy (Infrastructure) 2007

The site is located in proximity to a classified road, Botany Road and will have access off a street which is connected to a classified road, Lord Street. Additionally, under Schedule 3- Traffic generating development to be referred to RMS, the development exceeds 4,000sqm in commercial/industrial area therefore triggers a referral to RMS. The application is accompanied by a Traffic Impact Assessment Report prepared by Traffix Pty Ltd, dated March and October 2018. RMS provided conditions to Council on 25 June 2018 and had no objection to the proposal subject to appropriate conditions imposed in the Schedule of consent.

The Amended application is considered to be a less intense use of the site and as such has not been referred back to RMS in light of the above.

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

The provisions of SEPP No. 55 have been considered in the original assessment of the development application, as the proposed development involved excavation for basement storage. Clause 7 of State Environmental Planning Policy 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The applicant provided a 'Detailed Site Investigation – 11-13 Lord Street, Botany, NSW' dated 20 March 2018 by KPMG.

Council's Environmental scientist has provided a response to the referral on 29 May 2018 stating (Based on the previous scheme that involved basement level)

*"The new building basement will extend to 4.5m bgl. Groundwater will be encountered and temporary dewatering required during the excavation and construction of the basement. The basement will be required to be tanked. Acid sulfate soil will also be encountered and an Acid Sulfate Soil Management Plan has been provided. The DSI has addressed potential risks of redevelopment of the site, including the childcare centre, and has concluded the site is suitable for all facets of the proposed development."*

Given the amended application only includes excavation proposed is for footings, the above is considered acceptable and Clause 7 of SEPP 55 is still met. Appropriate conditions of consent are recommended.

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

As part of the application, 25 trees are to be removed from the site to accommodate the proposed development. The removal of these trees has been documented within the submitted arborist report and the findings of that report have generally been agreed to by Council's Tree Management Officer. It should be noted that the first design amendment sought a more significant tree removal. Three trees of significance on Council's Land are protected through a bond requirement and other trees through standard tree protection measures. Additional tree planting is proposed with a detailed landscape plan required through conditions of consent. It is considered that given the disturbed nature of the site, there are no fauna impacts anticipated.

Botany Bay Local Environmental Plan 2013 (BBLEP)


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

<b>Principal Provisions of BBLEP 2013</b>	<b>Complies Yes/No</b>	<b>Comment</b>
Land use Zone	-	The site is zoned B7 Business Park under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed premises which includes light industrial units, indoor recreation, childcare centre, food and drink, industrial retail outlets and neighbourhood shops are permissible with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	<p>The proposed development is consistent with the following objectives of the B7 zone:</p> <ul style="list-style-type: none"><li>• <i>To provide a range of office and light industrial uses.</i></li><li>• <i>To encourage employment opportunities.</i></li><li>• <i>To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.</i></li><li>• <i>To encourage uses in the arts, technology, production and design sectors.</i></li></ul> <p>The proposed development provides a range of floor plate options for various office and light industrial uses complemented by other facilities and</p>



Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
		services to complement the development including food and drink premises and childcare facilities. Accordingly the proposed development is aligned to the objectives of the zone.
Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Clause 2.5 does not apply to the subject site.
What is the height of the building?	Yes	The maximum height allowed on the site is 22 metres.  The proposed heights are as follows:  Block A - 12.792 metres  Block B - 12.039 metres  Block C - 12.87 metres
What is the proposed FSR?	Yes	The maximum FSR allowed on the site is 1:1 (29,766sqm).  The overall FSR is 0.7:1 (20,800sqm) which complies.
Is the site within land marked “Area 3” on the FSR Map	N/A	The subject site is not identified as being within “Area 3” on the FSR map.
Is the land affected by road widening?	N/A	The site is not identified as being subject to road widening
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	Yes	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area. However the site is located in close proximity to two heritage items. It is considered that the proposed development does not impact on the heritage items being Booralee Park or The terrace houses on Daphne Street as identified in the report earlier.
The following provisions in Part 6 of the LEP apply to the development:		

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
6.1 – Acid sulfate soils (ASS)	Yes	The site is identified as being affected by Class 4 ASS. Development overlying these soils requires development consent where the works are required 2m below the natural ground. Substantial excavation is no longer proposed, however footings are at an unidentified depth. The applicant has provided an acid sulfate soils management plan which is considered appropriate.
6.2 – Earthworks	Yes	The development is considered to be consistent with Clause 6.2 of BBLEP 2013. The proposed excavation is now limited to footings. Appropriate conditions have been imposed within the consent.
6.3 – Stormwater management	Yes	The application was referred to Council's Development Engineer who had originally required additional information relating to stormwater management. The development proposes a new building over existing paved area with increased landscaping (permeable). A significant stormwater detention basin is located at the front of the site. Overall it is considered that the proposed works are suitable in relation to stormwater.
6.8 - Airspace operations	Yes	The subject site lies within an area defined in the schedules of the Civil Aviation (Buildings Control) Regulations that limit the height of structures to 15 feet (7.62 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The application proposes buildings over this maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration. SACL raised no objections to the proposed maximum height of 26.7 metres AHD, subject to conditions to be imposed on any consent.

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
6.9 – Development in areas subject to aircraft noise	Yes	<p>The subject site is transected by an ANEF contour of 25-30.</p> <p> <span style="color: blue;">■</span> 20 to 25  <span style="color: brown;">■</span> 25 to 30 </p>  <p>An Acoustic Report, prepared by Floth Sustainable Building Consultant on 20 March 2018, has been submitted with the development application, which indicates that the development has been designed to comply with the requirements of AS2021-2000. The development is considered to be consistent with Clause 6.9 of BBLEP 2013. It is noted that the applicant originally sought a childcare use, but given the contour above has since amended the application to remove the use and may lodge a further application in the future for this purpose.</p>

The objectives and provisions of BBLEP 2013 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the BBLEP 2013.

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

The most relevant and applicable clauses of the BBDCP 2013 are considered in the assessment of this development proposal and are provided below.

#### *Part 3A – Parking and Access*

Based on the above DCP rates, the required car parking is as indicated in the table below:

Type	Number/area	DCP Rate	Spaces required
Block A			
General Industry	2185.1sqm	1/80sqm	28
Ancillary Office	1,257.3sqm	1/40sqm	32
Office premises	1302.5sqm	1/40sqm	33
Industrial retail outlet	2049.8sqm	1/40sqm	52
Indoor recreation	823.8sqm	No set rate	21 based on 1/40sqm
Sub-total			166
Block B			
General Industry	2387.1sqm	1/80sqm	30
Ancillary Office	828sqm	1/40sqm	21
Office premises	988.6sqm	1/40sqm	22
Child care centre	35 Children	1 space per 2 employees 1 space per 5 children 1 pick up and set down space per 20 children	13
	8 employees		
Restaurants and cafe	723.3sqm	1 space per2 employees; plus 1 space /3 seats or 1 space /10sqm of gfa, which is greater	87
	29 employees		
Shops	350.6sqm	1 space per 25sqm	15
Sub-total			179
Block C			
Warehouse	4,403.8sqm	1 space per 300sqm plus 1 space per 40sqm of ancillary office	55
Ancillary office	800.2sqm		20
Sub-total			75
Total			420

However, each of the proposed separate uses will inherently have different peak times.

Peak periods for all destination customer generating tenancies are generally expected to be on weekends (and weeknights).

Accordingly, reduction factors have been applied by the applicant to commercial, industrial and childcare uses during these times. The reduction factors for industry,

warehousing and office premises are also based on site surveys of existing industrial and commercial development on site.

The table below shows the required car parking when reduction factors and utilisation rates based on existing and similar operations

Type	Number	Minimum Rate	Spaces Required <sup>1</sup>
Block A			
General Industry <sup>2</sup>	2,185.1m <sup>2</sup>	1 space per 73m <sup>2</sup> GFA	3 (10%)
Ancillary Office <sup>2</sup>	1,257.3m <sup>2</sup>		2 (10%)
Office Premises <sup>2</sup>	1,302.5m <sup>2</sup>		2 (10%)
Industrial Retail Outlet	2,049.8m <sup>2</sup>	1 space per 40m <sup>2</sup> GFA	52
Indoor Recreation <sup>3</sup>	823.8m <sup>2</sup>	1 space per 40m <sup>2</sup> GFA	21
Sub-Total			80
Block B			
General Industry <sup>2</sup>	2,387.1m <sup>2</sup>	1 space per 73m <sup>2</sup> GFA	4 (10%)
Ancillary Office <sup>2</sup>	828.0m <sup>2</sup>		2 (10%)
Office Premises <sup>2</sup>	988.6m <sup>2</sup>		2 (10%)
Child Care Centre	35 children	1 space per 2 employees; plus 1 space per 5 children; plus 1 pick-up and set-down space per 20 children	13
	8 employees		
Restaurants and Café <sup>4,5</sup>	723.3m <sup>2</sup>	1 space per 2 employees; plus 1 space / 3 seats (internal and external); or 1 space / 10m <sup>2</sup> GFA, whichever is greater	87
	29 employees		
Shops	350.6m <sup>2</sup>	1 space per 25m <sup>2</sup> GFA	15
Sub-Total			123
Block C			
Warehouse	4,403.8m <sup>2</sup>	1 space per 300m <sup>2</sup> GFA plus 1 space per 40m <sup>2</sup> GFA for ancillary office space	2 (10%)
Ancillary Office	800.2m <sup>2</sup>		3 (10%)
Sub-Total			5
Total			208

<sup>1</sup> Parking spaces rounded up to the nearest whole number for each land use within each block.

<sup>2</sup> Site specific parking rate adopted from surveys of existing industrial and commercial development on-site.

<sup>3</sup> Parking Assessment based on similar developments is required.

<sup>4</sup> Rate adopted for developments with a gross floor area of greater than 100m<sup>2</sup>.

<sup>5</sup> Number of employees determined at a rate of 4 staff per 100m<sup>2</sup>.

The applicant's traffic consultant has advised in regards to the above

*When adjusting the demands associated with tenancies that are not expected to operate or will operate at minimal levels on weekends or weekday evenings (industrial, office and child care), the resulting parking requirement under the DCP is for 208 parking spaces. This is less than the total of 268 spaces provided on-site for the proposed development and it may be concluded that weekend demands can be readily accommodated.*

The development is in a local industrial pocket, meaning that particularly the uses, such as childcare, food and drink and shops will cater to the demand associated with the surrounding business park. These surrounding uses will utilise pedestrian access to the services and goods offered at the site. Further, the car parking demand generated outside of the weekday period is likely to generate a slightly higher parking demand but this will generally not coincide with the business uses at the site allowing a suitable parking supply to be afforded to the development.

*The applicant's food and beverage consultant, Urbis, predicts that 60% of trade for retail and food & beverage establishments will be from walk-in customers, having regard for market research undertaken for the Lakes Business Park. Accordingly, reduction factors have been applied to industrial retail outlet, indoor recreation, food and beverage retail and child care uses during these times which equates to a total demand of 208 spaces.*

*The proposed development has a multitude of uses and has therefore been assessed non cumulatively to account for days of differing peak demands. The provision of 268 parking spaces will accommodate the expected weekend demand of 208 spaces and expected weekday demand of 236 parking spaces, whilst also affording some spare capacity.*

This is a technical shortfall from the required development in accordance with Council's DCP rates.

Given a large number of site users are likely to be immediate local residents and workers from within the area, and that there is a recognised number of the workforce that will utilise public transport and or walk to work and that peak times for other persons is on weekends when surrounding sites are not at peak operations or used at all. As such, consideration can be given to the shortfall in parking in this instance. The site is suitably located and serviced by local bus services to and from Mascot, Randwick and Eastgardens. It is recommended that a condition be imposed to require a Workplace Travel Plan be utilised for the commercial office tenancies that further encourages car pooling and promotes the use of public transport.

### *Part 3B – Heritage*

The site is not a heritage item or is located within a heritage conservation area however is in close proximity to two heritage items being Booralee Park and a row of terraces at 42-54 Daphne Street, Botany.

The application was not accompanied by a heritage statement or a heritage report however has been briefly addressed within the SEE. The applicant has provided the following in regards to heritage:

*“The site is not a heritage item, however it is located adjacent to a row of terrace houses at 42-54 Daphne Street which are identified as having local heritage significance, being identified as I100 within Schedule 5 of the Botany Bay Local Environment Plan 2013 (BBLEP). Although the mapped reference to this item extends to the site boundary, the buildings that are located south of the lot boundary with the site are not heritage-listed and therefore act as barrier between the heritage-listed structures at 42 – 54 Daphne Street and the proposed development. No impact on these adjoining heritage buildings (or any other heritage asset) is anticipated as a result of the proposed development.”*

The proposed building setback and the material choice is appropriate for the heritage items as the terraces are physically separated by a modern townhouse development at the adjacent site and Boralee park will maintain its landscape and use character. Part 3B.7 of the BBDCP 2013 have general requirements relating to bulk and scale of proposed developments when considering the neighbouring buildings that are heritage items. Therefore the controls within this section of the BBDCP 2013 are not relevant in the assessment of the application.

### *Part 3C – Access and Mobility*

The applicant provided a Statement in regards to Access for disabled persons in accordance with the relevant provisions of the Building Code of Australia.

Table 1 of Part 3C- Access, Mobility and Adaptability of the BBDCP 2013 indicates the following requirements

Type		Source	Parking Requirement	Accessible Rate	Spaces Required
Industry	Class 7b	BCA	78	1 space for every 100 car parking spaces or part thereof	1
Commercial	Class 5		69		1
Retail (inc food & beverage and industrial retail outlet)		DCP	154	5% of the car parking requirement	8
Child Care Centre		DCP	13	In a vehicle parking area containing 6-49 vehicle spaces, one accessible space designed in accordance with relevant Australian Standards will be provided.	1
Indoor Recreation	Class 9b	BCA	21	1 space for every 50 car parking spaces or part thereof	1
<b>Total</b>					<b>12</b>

The applicant proposed to provide 9 spaces in accordance with AS2890.06 and is to provide accessible facilities within the premises proposed. The development has provided these facilities. Therefore access and mobility has been addressed in the development.

### *Part 3D – Signage*

No signage is proposed and would be subject to future assessment under separate applications.



### *Part 3G – Stormwater Management*

The development application was accompanied by Stormwater Management and Civil Engineering Plans that were prepared by Costin Roe. The development proposes an additional building over an existing paved surface and generally sees an increase in permeable surfaces at the site through increased landscaping. The existing stormwater flows are directed to the existing detention basin located at the front of the site. Given there is no increase in impermeable surface resulting in increased stormwater flows from the site, the existing solution for stormwater is considered acceptable in this instance.

### *Part 3H – Sustainable Design*

The applicant has stated that the self-storage buildings proposed in this DA are very low energy and water users (especially in respect to their floor area). The building design incorporates natural ventilation, timer light switches to turn off lights to manage energy use and insulation in the small office area. This allows for goods to be stored in low energy settings (i.e. without mechanical heating and cooling systems). The proposal incorporates the use of glazing along the north-western building alignment. Apart from encouraging a sense of security and passive surveillance (see below), these windows will provide for a degree of solar heating for building users. The building would need to comply with Part J Energy Efficiency within the BCA. It is noted that 2x15kL rainwater tanks are proposed to capture roof runoff from each of the buildings. Therefore the buildings have been designed to address sustainable design.

### *Part 3I – Crime Prevention, Safety and Security*

The applicant has indicated that the development will have its own access control and security and night-lighting arrangements to meet territorial reinforcement and space management principles. Night-lighting throughout and the intended window treatments at the pedestrian level along the eastern façade will assist with perceived public surveillance over the park.

### *Part 3K – Contamination*

Refer to the discussion above in State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land section of the report addressing contamination.

### *Part 3L – Landscaping and Tree Management*

The development application was accompanied by landscape plans that were prepared by Urbis Pty Ltd which demonstrates significant retention of existing landscaping and enhancement. An improved visual buffer is proposed on the southern (rear) boundary adjacent to the existing residential development.

There is minimal significant vegetation on the site that is to be removed. Considering the size and the car parking and vehicle manoeuvring on the site, the amount of landscaped area proposed is adequate.

### *Part 3N – Waste Minimisation and Management*

Two Waste Minimisation Management Plan (WMMP) were submitted with the application. One for demolition and construction and one for the operational aspects of the development.

The waste management plan indicates a well thought out response to the management of waste from the development including regular reporting and education programs. The DCP requires commercial and industrial developments to provide on-site waste collection. This is achieved.

### *Part 6 – Employment Zones*

The site is located within the **Lord Street Business Park Precinct** which is bound by Botany Wetlands to the north and Booralee Park to the east. Relevant controls relating to the precinct and general employment zone are assessed below.

<b>Part 6 – Employment Zone</b>		
<b>Control</b>	<b>Proposed</b>	<b>Complies</b>
<b>6.2.6 Lord Street Business Park Precinct</b>		
<b>C1</b> Development, including alterations and additions, shall be of a high standard and shall maintain the Business Park/High technology appearance of the Precinct.	The proposed development will be of a high standard, with a range of appropriate materials with a mixture of glazing and concrete render.  The proposed development will be consistent with the height bulk and scale of other buildings in the business park.	Acceptable
<b>C3</b> Developments are to ensure a high level of on-site stormwater management, with stormwater retention and treatment to maximise the passage of fauna around the wetlands and to minimise impact of runoff on the riparian system.	The proposed development includes a thorough landscaping design response to maintain most landscaping on site and enhance the existing appearance. The existing stormwater detention basin is considered appropriate and integrates well to the landscape frontage of the site. This is appropriate given that there is no increase in impermeable surface proposed as part of the application.	Yes
<b>C4</b> Development is not to impact adversely on the surrounding residential areas, in terms of height,	Amended plans have been received to address this. The development is now significantly more sensitive to the surrounding residential areas and does not impact of the heritage significance	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
scale and building bulk and heritage significance.	of those nearby items as discussed earlier in the report.	
<b>C5</b> Development including alterations and additions, is to comply with Sydney Airport's regulations in regard to safety, lighting and height of buildings.	Sydney Airport have assessed the application and have provided their approval in their letter dated 24 April 2018	Yes
6.3 – General Provisions		
<b>C7</b> Development shall be designed and constructed in accordance with Australian Standard AS 2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction).	An acoustic report has been provided with the application and appropriate recommendations have been imposed in the consent.	Yes
<b>C8</b> The introduction of noise abatement measure to achieve compliance with current AS 2021 must be done in a manner that does not compromise the architectural design of a building or impact on the character of an existing streetscape.	Noise abatement measures have been included in the acoustic report as referenced above.	Yes
<b>C9</b> All development that is in, or immediately adjacent to, the rail corridor or a busy road must be designed in accordance with NSW Department of Planning 'Development Near Rail Corridors and Busy Roads - Interim Guidelines, December 2008'.	The acoustic report states that the type of development that is proposed is not identified as development that requires an assessment of road traffic noise exposure.  The rail corridor is at least 175 metres away from the corner of the subject site. The buildings are further setback than the above.	N/A
<b>6.3.1 Amalgamation and Subdivision</b>		
<b>C3</b> Where development or use of a number of existing lots is proposed, the lots	The site is currently two sites and will be amalgamated into one site.	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
shall be consolidated into one parcel, and the plan of consolidation lodged with the Land and Property Information NSW Office prior to release of the Construction Certificate. Written notification as to the registration of the Consolidation Plan at the Land Titles Office is to be received by Council prior to the occupation of the premises or use of the site.		
<b>6.3.2 Building and Site Layout</b>		
<p><b>C1</b> A site analysis plan is to be lodged with the Development Application in accordance with the Council's <b>Development Application Guide</b>.</p> <p><b>C2</b> Through careful site arrangements new building works must :            (i) Address the street and highlight any non-industrial aspects (ie office section) of the development;            (ii) Avoid long blank walls of warehouse units facing the street and long continuous roof lines; and            (iii) Provide regular modulation to the façade or division of massing.</p> <p><b>C3</b> Floor space is to be distributed on the site to ensure the scale of the building reinforces the role of the street and buildings are arranged and aligned to create a pleasant working environment.</p>	<p>A site analysis plan has been provided with the development application.</p> <p>All elevations of the buildings front Lord Street of the internal road network. No long blank walls are proposed that front the street</p> <p>Modulation is achieved on Building C to the internal road and the eastern end of the building. Along the southern boundary the new landscaping will aid in screening the mass of the building.</p> <p>FSR has been distributed between the buildings on site and the proposed building</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Part 6 – Employment Zone		
Control	Proposed	Complies
<p><b>C4</b> Setbacks are to be deep soil zones (refer to <b>Part 3L - Landscaping</b> for Definition). No part of the building or structure (including basement car parks, driveways, or OSD/infiltration system are to encroach into the setbacks.</p>	<p>There is a landscaped buffer 3 metres wide that runs along the entire southern side of the site that will be deep soil.</p>	Yes
<p><b>C5</b> Setbacks are to maximise the retention of existing trees and their root systems and may need to be variable to achieve this (includes trees on adjoining properties).</p>	<p>The significant vegetation on the site is being retained and enhanced.</p>	N/A
<p><b>C6</b> Internal spaces are to be designed to satisfy the operational requirements of the particular land use whilst proving a safe and convenient work environment.</p>	<p>The internal corridors within the buildings are 1.5 metres wide which is industry standard.</p>	No, but acceptable
<p><b>C7</b> Each industrial building must provide for basic amenities including a designated staff room or area that is:</p> <ul style="list-style-type: none"> <li>(i) Of a reasonable area depending on the size, nature and staffing level of the proposed industry;</li> <li>(ii) Adequately furnished for staff; and</li> <li>(iii) Provided with attached kitchen/kitchenette with a fridge, microwave, sink and tea/coffee making facilities.</li> </ul>	<p>The floor plates proposed and supported with a unit size report are capable of accommodating facilities as indicated on the plans. Additional facilities can be added through any use or fitout applications if desired.</p>	Yes-acceptable
<p><b>C9</b> Adequate waste removal handling and minimisation facilities are to be provided</p>	<p>Waste holding rooms proposed as indicated on the waste report which allow waste to be collected on site.</p>	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
on site for all development to ensure these facilities are not utilising car parking areas.	Refer to Part 3N of the BBDCP 2013 section above.	
<b>C11</b> For Multi Unit Industrial Development car parking and loading/unloading facilities is not to be provided within the front setback to the street. Car parking and loading/unloading facilities can be provided from a central courtyard within the site.	The development does not propose to change the existing arrangement of buildings and parking that currently fronts the street.	Yes
<b>C13</b> For sites in excess of 1,000m <sup>2</sup> , an outdoor staff recreation area is to be provided.	No outdoor communal area has been provided due to the uses proposed and the number of employees on the site. The proposed development coupled with its location, adjacent to Booralee Park, staff recreation areas are not considered necessary.	N/A
<b>C15</b> Building entrances are to be clearly defined and located so that visitors can readily distinguish the public entrance to each building. Access to each entrance is to be provided by a safe direct route, avoiding potential conflict with vehicles manoeuvring on site.	Building entrances are clearly defined throughout the development. Appropriate directional signage is to be installed within the site.	No, but acceptable
<b>C16</b> Site planning is to allow for the retention of significant trees and vegetation, particularly near the street frontage.	The site planning has been developed to retain the majority of the existing site trees with the amended scheme reducing the number of trees removed to 25. The buildings have been sited to include additional landscaping to improve to overall landscape amenity of the site.	Yes
<b>C17</b> Industrial buildings must have an adequate number of openings at each	There are some openings within the buildings which allow natural light from the windows and ventilation.	Yes

Part 6 – Employment Zone		
Control	Proposed	Complies
<p>level to allow natural light and ventilation.</p> <p><b>C18</b> Each industrial unit within an industrial complex must have a reasonable size window at each level to allow natural light and ventilation.</p>	<p>Each level has appropriate number of windows.</p>	<p>Yes</p>
<b>6.3.4 Building Design and Appearance</b>		
<p><b>C4</b> The maximum height of a building must be consistent with the height of other buildings in the immediate vicinity.</p> <p><b>C7</b> All development applications involving external building works must be accompanied by a schedule of finishes and a detailed colour scheme for all external walls.</p> <p><b>C8</b> External finishes must be robust and graffiti resistant. An anti-graffiti coating may be required where buildings adjoins a public place or accessible from an open area that is not secured by fences.</p> <p><b>C10</b> Walls of new development must make use of non reflective colours and materials to avoid glare. The maximum reflectivity of any glazing is not to exceed 20% to avoid nuisance in the form of glare to occupants of nearby buildings, pedestrians and motorists.</p> <p><b>C11</b> All elevations of a building fronting a public place, or visible from a rail line, public place or proposed road, must be</p>	<p>The development of Block C will present as 3 storeys in height. The design will be sympathetic to adjoining uses and will comply with the maximum “height of buildings” development standard within the BBELP.</p> <p>Material and colour finishes demonstrated on elevation plans.</p> <p>Conditioned</p> <p>Materials used are not reflective.</p> <p>Windows are proposed along the external and internal road network.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>



Part 6 – Employment Zone																				
Control	Proposed	Complies																		
<p>constructed of face brickwork or other decorative facade treatment to Council's satisfaction. Consideration must be given to installing windows or false windows in the facade to enable surveillance of the adjoining area or to engender a feeling that it is being overlooked.</p> <p><b>C14</b> Building height, mass, and scale should complement and be in keeping with the character of surrounding and adjacent development.</p>	<p>The built form is reasonable in the immediate context. The site does allow a maximum height of 22 metres therefore the height and mass is less than what could be reasonably anticipated on the site within the requirement under the BBLEP 2013.</p>	Yes																		
<b>6.3.5 Setbacks</b>																				
<p><b>C1</b> Setbacks are to be in accordance with the following <b>Table 1</b>.</p>	<p>The setbacks proposed are consistent with Table 1.</p>	Yes																		
<p style="text-align: center;"><b>Table 1 - Setbacks</b></p> <table border="1"> <thead> <tr> <th>Boundary</th><th>Landscaping Setback (Refer to Note 4)</th><th>Building Setback (Refer to Note 1)</th></tr> </thead> <tbody> <tr> <td>Front - to a non-classified road (Refer to Note 2)</td><td>3 metres</td><td>9 metres (Refer to Note 5) (Refer to Note 6 for corner sites)</td></tr> <tr> <td>Front - to a classified road (Refer to Note 2)</td><td>4 metres</td><td>9 metres (Refer to Note 5) (Refer to Note 6 for corner sites)</td></tr> <tr> <td>Side - adjoining a non-residential use/zone Including lanes</td><td>2 metres</td><td>2 metres (Refer to Note 6 for corner sites)</td></tr> <tr> <td>Side - adjoining a residential use/zone or in the Council's opinion the building impacts on the streetscape</td><td>3 metres</td><td>3 metres (Refer to Note 6 for corner sites)</td></tr> <tr> <td>Rear (Refer to Note 3)</td><td>Nil to 3 metres</td><td>Nil to 3 metres</td></tr> </tbody> </table>			Boundary	Landscaping Setback (Refer to Note 4)	Building Setback (Refer to Note 1)	Front - to a non-classified road (Refer to Note 2)	3 metres	9 metres (Refer to Note 5) (Refer to Note 6 for corner sites)	Front - to a classified road (Refer to Note 2)	4 metres	9 metres (Refer to Note 5) (Refer to Note 6 for corner sites)	Side - adjoining a non-residential use/zone Including lanes	2 metres	2 metres (Refer to Note 6 for corner sites)	Side - adjoining a residential use/zone or in the Council's opinion the building impacts on the streetscape	3 metres	3 metres (Refer to Note 6 for corner sites)	Rear (Refer to Note 3)	Nil to 3 metres	Nil to 3 metres
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Side - adjoining a non-residential use/zone Including lanes	2 metres	2 metres (Refer to Note 6 for corner sites)																		
Side - adjoining a residential use/zone or in the Council's opinion the building impacts on the streetscape	3 metres	3 metres (Refer to Note 6 for corner sites)																		
Rear (Refer to Note 3)	Nil to 3 metres	Nil to 3 metres																		
<b>6.3.6 Parking and Vehicular Access</b>																				
<p><b>C5</b> All internal circulation roads, turning areas, parking aisles, parking bays, service areas and service bays are required to be sealed with hard standing all weather materials. Any alternative</p>	<p>Turning paths have been provided with the application and amended Traffic Report and reviewed by Council's Development Engineer who had no objections.</p>	Yes																		

Part 6 – Employment Zone		
Control	Proposed	Complies
<p>materials require Council approval.</p> <p><b>C6</b> Separation of service areas (loading/unloading) and parking areas is required.</p> <p><b>C7</b> All loading and unloading operations shall only be carried out wholly within the dedicated service bays at all times and shall not be made direct from public places, public streets or any road related areas.</p>	<p>As above, refer to Part 3N of BBDCP 2013.</p> <p>Loading areas within the buildings are proposed.</p>	<p>Yes</p> <p>Yes</p>
<b>6.3.7 Signage</b>		
<b>C1</b> Signage shall comply with Part 3D - Signage.	No signage is proposed	Yes
<b>6.3.8 Site Facilities</b>		
<b>C1</b> New site facilities such as mail boxes and electricity sub-stations shall be designed and/or sited so that they enhance the development.	<p>No mailboxes are demonstrated on plans.</p> <p>The existing substation will remain insitu.</p>	<p>Subject to condition.</p> <p>Yes</p>
<b>6.3.9 Landscape</b>		
<b>C9</b> Not less than 10% of the development site shall be landscaped. On sites over 2000m <sup>2</sup> the front landscaped setbacks are additional to the 10% requirement. The majority of landscaping shall front the street/s to which the development has frontage and include side and rear landscaped areas.	<p>The development will provide at least 6.8% or 2043sqm of landscaped area (including landscape buffer) for a total site area of 29,766sqm.</p> <p>The proposed landscaping seeks to increase the overall landscaping to the site, with a focus on edge landscaping to protect residential amenity. The site maintains a landscape appearance from Lord Street.</p>	<p>No – however acceptable.</p>
<b>6.3.10 Fences</b>		

Part 6 – Employment Zone		
Control	Proposed	Complies
<b>C1</b> Fences are to be located behind the street frontage landscaped area or incorporated within the landscapes setback. All fencing along the street frontage is required to be permeable metal palisade or picket powdercoated in a suitable colour, dark colours are preferable. Maximum height is 1.8 metres on street frontages.	Fencing proposed is a maximum of 1.8m along the southern boundary.  A condition has been imposed that all the fencing is to have a maximum height of 1.8 metres	Condition
<b>6.3.11</b> Industrial Development Adjoining a Residential Use		
<b>C2</b> A minimum 3 metre side or rear building setback is required for any building abutting a residential property. This setback is to be increased by one metre for every additional metre in height for the proposed development, above 5 metres in building height.	The proposed building at the rear is setback 9 metres, inclusive of a 3 metre landscape setback. At 9 metres, the height is 11 metres. This matches the control.	Yes
<b>C3</b> The setback area adjoining a residential property is to be densely landscaped with evergreen trees and shrubs, which at maturity will screen the development from the residence. Details of the proposed planting are to be provided on a landscape plan to be submitted with the Development Application	A 3 metre landscape buffer is proposed for the southern boundary. This is an increase from the existing situation. The landscape plan has been assessed by Council's landscape architect who has provided conditions of consent	Yes
<b>C4</b> For any proposed development that adjoins a residential property, the hours of operation are to be restricted to between 7.00am and 6.00pm Mondays to Fridays, 7.00am to 1.00pm Saturday and no work on Sundays or public holidays.	The applicant proposes the following hours. Largely these are aligned to the requirements of the control. Given the proposed layout of the buildings, the development will act as a barrier to noise and any amenity impacts	No – Considered acceptable

Part 6 – Employment Zone																																							
Control	Proposed			Complies																																			
	The light industrial/ warehouse and distribution units are proposed to follow the hours of industrial retail outlets as outlined in the table.																																						
<table><tr><th rowspan="2">Tenancy/Component</th><th colspan="3">Hours</th></tr><tr><th>Monday-Friday</th><th>Saturday</th><th>Sunday</th></tr><tr><td>Industrial retail Outlets</td><td>7am-6pm</td><td>7am-6pm</td><td>9am-4pm</td></tr><tr><td>Commercial office</td><td>7am-6pm</td><td>7am-6pm</td><td>9am-4pm</td></tr><tr><td>Neighbourhood shops</td><td>7am-6pm</td><td>7am-6pm</td><td>9am-4pm</td></tr><tr><td>Food and Drink premises</td><td>7am-10pm</td><td>7am-10pm</td><td>8am-3pm</td></tr><tr><td>Indoor Recreation Facilities</td><td>7am-10pm</td><td>7am-10pm</td><td>8am-6pm</td></tr><tr><td>Warehouse/distribution/light industry</td><td>7am-6pm</td><td>7am-6pm</td><td>9am-4pm</td></tr><tr><td>All Loading</td><td>7am-6pm</td><td>7am-6pm</td><td>7am-6pm</td></tr></table>					Tenancy/Component	Hours			Monday-Friday	Saturday	Sunday	Industrial retail Outlets	7am-6pm	7am-6pm	9am-4pm	Commercial office	7am-6pm	7am-6pm	9am-4pm	Neighbourhood shops	7am-6pm	7am-6pm	9am-4pm	Food and Drink premises	7am-10pm	7am-10pm	8am-3pm	Indoor Recreation Facilities	7am-10pm	7am-10pm	8am-6pm	Warehouse/distribution/light industry	7am-6pm	7am-6pm	9am-4pm	All Loading	7am-6pm	7am-6pm	7am-6pm
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All Loading	7am-6pm	7am-6pm	7am-6pm																																				
<b>C6</b> An industrial development should be designed to locate sources of noise such as garbage collection, loading/unloading areas, air conditioning plant/other machinery, and parking areas away from adjoining residential properties.	The development only proposes a fire truck access along the residential interface. All noise related activities are located away from the residential receivers or shielded by the development.			Yes																																			
<b>C7</b> A Plan of Management (POM) will be required when an industrial or business park activity is proposed in proximity of a residential land use. The Plan of Management (POM) is a written report which describes how the ongoing operation of industrial premises will be managed to reduce its impact upon the amenity of surrounding properties.	Given the fitout and actual uses are subject to future applications. A plan of management will be required prior to the issue of the occupation certificate to Council's satisfaction.			Yes - Conditions																																			
<b>C18</b> Where the windows of habitable rooms and the private open space of adjoining dwellings already receive sunlight, they shall receive a minimum of 2 hours of sunlight between	The proposed development does not alter the existing overshadowing to the private open space of 42-54 Daphne Street. All other adjacent living rooms and private open space maintain at			Yes- See Note 1																																			

Part 6 – Employment Zone		
Control	Proposed	Complies
9.00a.m. and 3.00 p.m. during 21st June.	least 2 hours of solar access in mid winter.	
<b>6.3.12 Noise and Hours of Operation</b>		
<p><b>C1</b> Noise control measures are to take into account all noise generating sources.</p> <p><b>C4</b> All applications for noise generating uses are to be accompanied by documentation from a qualified acoustic engineer certifying that the acoustic standards can be met.</p> <p><b>C9</b> Hours of operation for the use of a site are to be restricted by Council if it is at all likely that the use will cause an impact on any adjoining or adjacent residential development. Uses that operate outside of normal hours of operation (ie Monday to Friday 8am to 5pm and Saturdays 8am to 4pm) are required to submit a Plan of Management (POM).</p>	<p>An acoustic report was submitted with the development application.</p> <p>The development proposes additional hours adjacent to those listed. However the application has demonstrated that any amenity impacts associated with the development can be avoided, remedied or mitigated. The site is not in close proximity to residential development. An operational management plan will be required through a condition of consent.</p>	<p>Yes</p> <p>Yes Conditioned .</p>

#### Note 1: Solar access

In accordance with Clause **6.3.11** of the BBDCP 2013, living rooms and private open space for adjoining residential development that already receive sunlight, they shall receive a minimum of 2 hours of direct sunlight between 9am and 3pm on 21 June. The following solar access assessment has relied on the views of the sun analysis and solar assessment undertaken by Steve King in his report dated 13 October 2018 and the plan solar analysis undertaken by Nettleton Tribe in their plans dated 28 October 2018.

This detailed assessment is provided against the Land and Environment Court planning principle on the impact on solar access of neighbours (Parsonage V Ku-ring-gai (2004) NSWLEC 347) and (The Benevolent Society V Waverley Council (2010) NSWLEC 1082) as follows:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at*

*low densities there are sites and buildings that are highly vulnerable to being overshadowed). At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: The subject site is located in B7 – Business Park and the site boundary is also the zone boundary for the transition to the medium density residential zone – R3 immediately to the south. It is noted that the development control plan includes a setback control that varies in relation to increases in height. The proposed development complies with this control.

The view from the sun diagrams submitted indicate that the adjacent dwellings to the south will receive at least 2 hours of solar access.

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

Comment: As mentioned, the proposed development complies with the height and floor space controls for the site and the proportional height to setbacks controls which were included in the DCP to protect the amenity of the residential development to the south. The development is considered a suitable design with solar access being maintained to be compliant with the control, to the residential to the south.

- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*

Comment: The properties to the south have elevated habitable floor levels which assists in maintaining solar access. The solar diagrams indicate that the properties to the south achieve the following solar access:

42-54 Daphne Street – To living dining kitchen solar access is achieved from 9am until at least 1pm. This is in excess of the DCP requirement of 2 hours.

56-58 Daphne Street – Currently Commercial Industrial.

60 Daphne Street – there is an industrial/commercial building to the common boundary and a dwelling that fronts Daphne Street. There will be no change to the amount of solar access achieved for the dwelling.

2 Daniel Street – all windows existing balconies on the northern façade achieve appropriate solar access from 9am until 2pm. At 2pm, the lowest floor closest to the common boundary starts to move to approximately half of the opening area achieving solar access.

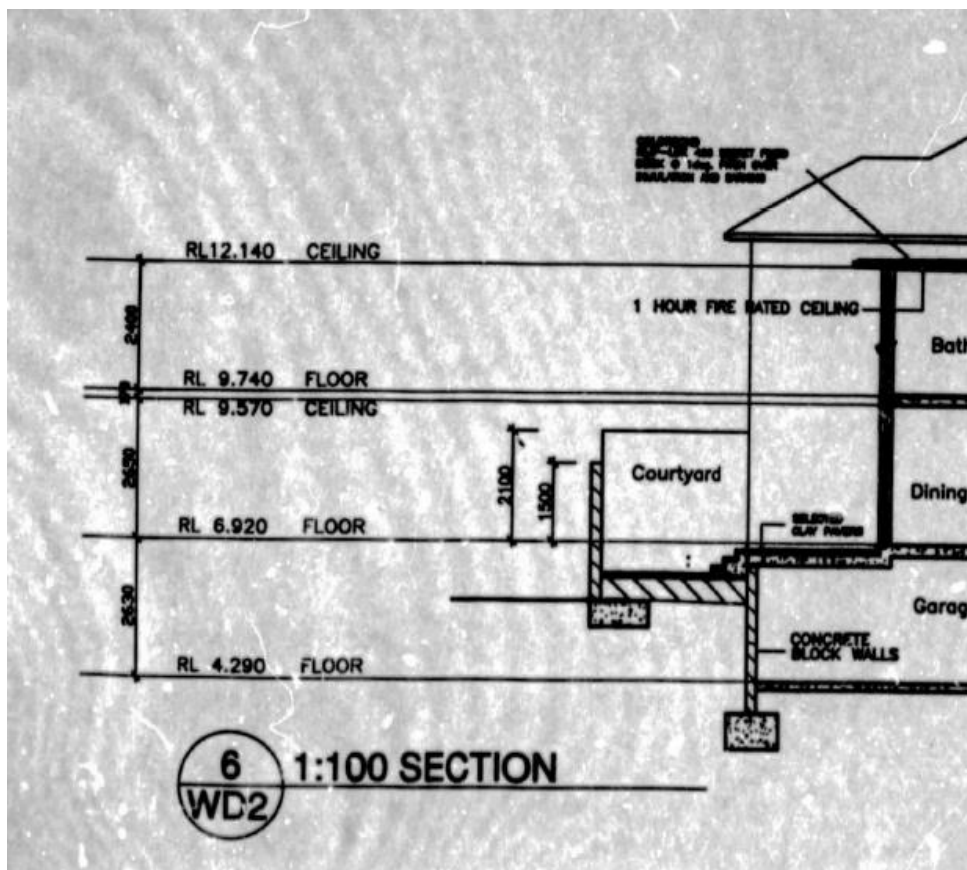
- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A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

Comment: This has been calculated in accordance with the planning principle.

The courtyards are adjacent to the living level of 42-54 Daphne Street, with an RL of 6.92. From this level, the approved plans indicate that an additional 1.5m fence. Putting the top of the fence at 8.42RL.



An example of the adjacent courtyard with vegetation.



Cross section of courtyard and abutting development to south of 42-54 Daphne Street.

Given the height of the fence, relative depth of the courtyard and that the existing fence is 1.5metres above the floor level then it is taken that the courtyards are unlikely to receive any solar access. The solar diagrams provided indicate that the bottom of the ranch sliders to the living/dining room maintain solar access from 9am to at least 1pm. It is noted that the private open space of 2 Daniel Street are elevated and maintain the same solar access.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation*

*may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comment: Overshadowing by fences and changes in level have been considered in the assessment of the application. It is noted that the residential development at 42-54 Daphne Street have elevated living room floors approximately 0.7 metres above the existing ground. They do have north facing courtyards, which are screened by existing fencing and vegetation on the subject site. This fencing and vegetation overshadow the courtyards in winter and the courtyards are disjointed from the living level.

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

Comment: The land to the south has been redeveloped and as indicated throughout this assessment it has been determined that adequate solar access has been maintained and can be achieved if further sites seek to redevelop in the future.

Overall, the proposed development maintains adequate solar access of 2 hours to the residential development to the south noting that the adjacent courtyards of 42-54 Daphne Street overshadow themselves. On balance the overshadowing is considered acceptable.

#### *Part 7B Outdoor Dining*

This part of the DCP does not apply as no outdoor dining is proposed on Council Land.

#### *Part 7G Licensed Premises and Late Night Trading.*

This licensed premises part does not apply as the applicant has not requested the sale of liquor and an appropriate condition will ensure that there is no sale of liquor.

Late night trading is associated with food and drink premises Monday to Saturday until 10pm. The location of the food and drink premises is such that it is not located adjacent to residential as such the opportunity for amenity issues is limited. The surrounding uses are mainly commercial. A plan of management for all uses on the site will be required through a condition of consent to ensure satisfactory protection of the neighbourhood. Further as the sale of liquor does not form part of the application, any impacts around the liquor consumption during these hours will be assessed as part of future applications. As such the proposed development meets the controls of Part 7G.

#### *Part 7H Neighbourhood shops*

The proposed neighbourhood shops are located in a business zone and close to public transport along Botany Road. The design is part of the cohesive redevelopment of the site and waste is directed to appropriate areas through the proposed waste management plan. The whole development site including neighbourhood shops will be managed through the plan of management for the site. As such the proposed neighbourhood shops meet the controls of Part 7H.

#### *Part 8 – Character Precincts*

The proposed development will enhance the public domain and streetscapes within the Precinct and seeks to encourage and enhance connections of public domain and open space areas with recreational facilities through the active development on the park edge. The proposed development facilitates the expansion of commercial activity potential in a business park setting north of the Botany Local Centre (Lord Street Business Park Precinct) as required by the Development Control plan.



The proposed development promotes neighbourhood amenity and enhances pedestrian comfort; the site layout and building styles and designs promote commonality and a visual relationship with the surrounding built form and dwelling styles particularly through the height relationship. The landscape concept and detailed design will encourage a strong landscape and vegetation theme within both the public and private domain.

As such the proposed development is consistent with the desired future character in particular the achievement of commercial activity within the Lord Street Business Park precinct.

#### **Clause 92-94 of the Regulations**

The application has been supported by the comprehensive BCA/NCC report.

The proposal also includes a partial fire upgrade of all existing buildings to accommodate the proposed change of uses which has been assessed by Council's Building Surveyor.

The proposed demolition will comply with Australian Standard AS 2601—1991: The Demolition of Structures.

As such it is considered that the requirements of the regulations are met.

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

The proposed development will have no significant adverse environmental, social or economic impacts on the locality. Impacts have been considered in the assessment of the policies.

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

The site is affected by aircraft noise. This has been addressed in the body of the report under Part 3G and 3J of the BBDCP 2013.

Any contamination and remediation required as part of the development has been addressed within SEPP No. 55 in the report above.

It is anticipated with the use proposed that the traffic impact will not be significant.

Therefore based on these issues being addressed, it is concluded that the site is suitable for the proposed uses subject to the imposition of appropriate conditions of consent.

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

In accordance with Part 2 Notification & Advertising of the BBDCP 2013, the proposed development was notified to surrounding property owners and advertised in the local newspaper for a period of forty one (41) days from 10 April 2018 to 21 May 2018.

85 submissions were received during the notification process. The main issues raised are as follows:

- Overshadowing
- Loss of privacy, direct line of sight into bedrooms and back yards
- Close to existing boundary plus removal of trees, exacerbates privacy loss
- Value of property impacts
- Link to Daniel street – safety conflict with children's playground, heavy vehicles through residential streets car parking, rat run, conflict with park

- Traffic levels in and out of Botany area and traffic light timing adjusted to allow for increased traffic flows.
- Noise impact to nearby residential from existing operation and cars
- Nearby car parking reduced for parents
- Size of development not in proportion to existing and existing residential
- Dust/ environmental pollution
- Truck car access to rear near residential - noise
- Removal of trees / views - to car park and trees will be lost - green wall or additional landscaping suggested
- Approval of 2 Daniel Street - Council required construction and maintenance of car park
- Hours of operation has been 24./7
- Noise from opening Daniel Street
- Too close to back fence
- Privacy
- Previous meetings of concerns with former council
- Noise
- Council to require a public meeting
- No business hub
- Safety of footpaths and parks
- Safety and noise issues
- Health and safety
- School uses Park for PE

The applicant was advised of the issues raised in the submission along with Council's concerns. Council formally wrote to the applicant on 13 July 2018.

Council received an amended application on 30 October 2018 which sought to address the issues above.

#### Notification of Amendment Plans

The proposed development was notified to surrounding property owners for a period of twenty five (25) days from 15 November 2018 to 10 December 2018. One submission was received during the notification process.

- *The submission raised overshadowing to the residential development to the south as being unsatisfactory.*

Comment: Council has undertaken a solar assessment of the solar diagrams provided and has noted compliance with the relevant control and the planning principle for solar access.

#### **(e) The public interest.**

It is considered that the proposed development is in the public interest. The amended design has sought to address the main issues raised in the original notification. The proposed uses will contribute to the economic vitality of the area and will foster additional employment. The issues raised in the submission in relation to the amended application have been addressed through the report and on balance the proposed development is considered to be in the public interest.

## OTHER MATTERS

### Section 7.12 Contributions

As the proposal lies outside of the Mascot Station Precinct, no contributions are payable for commercial development under the City of Botany Bay Section 94 Development Contributions Plan 2016 (Amendment 1). Contributions for commercial development in this location are calculated under the Section 94A Development Contributions Plan 2016. In accordance with the Table 1.2 development with a proposed cost greater than \$200,000.00 the maximum percentage of the S94A levy will be at 1%. Therefore, in accordance with the S94A plan the following payment is required prior to the issue of the Construction Certificate.

- \$39,703,000 X 1% = \$397,030.00

## CONCLUSION

In accordance with Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act, the Application is referred to the the Sydney Eastern Central Planning Panel (SECPP) for determination.

The non-compliances relating to the car parking has been appropriately addressed in the report. The applicant has carried out a comparison of other developments and rationalised the car parking provision. In addition, given the unique location within the business park where the development will seek to service the existing worker and resident population reducing the requirement for car parking.

The final amended plans submitted to the Panel for determination are considered to address the issues raised throughout the assessment process as outlined in the body of the report.

The proposal has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposal is permissible within the B7 – Business Park zone and is considered to result in a development which is suitable in the context. This is further emphasized as the proposal received one objection in relation to the amended scheme compared to significant objection of the original scheme. Therefore, the proposal is recommended for approval subject to the conditions of consent in the attached Schedule.

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**11-13 Lord Street, Botany**

## 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.

Plans	Author	Dated / Received by Council

DA010- Site Plan Issue D	Nettleton Tribe	Received 30 October 2018 Dated 28 October 2018
DA012- Ground Floor Plan Issue D		Received 30 October 2018 Dated 28 October 2018
DA013- Mezzanine/Level 1 Plan Issue D		Received 30 October 2018 Dated 28 October 2018
DA014- Roof/Level 2 Plan- Issue D		Received 30 October 2018 Dated 28 October 2018
DA020 Street Elevation Issue B		Received 30 October 2018 Dated 28 October 2018
DA023- Block C Elevations Sheet 1 Issue C		Received 30 October 2018 Dated 28 October 2018
DA024- Block C Elevations Sheet 2 Issue C		Received 30 October 2018 Dated 28 October 2018
DA031- Sections Sheet 1 Issue D	Nettleton Tribe	Received 30 October 2018 Dated 28 October 2018
DA032- Sections Sheet 2 Issue D		Received 30 October 2018 Dated 28 October 2018
DA050- Shadow Diagrams Issue C		Received 30 October 2018 Dated 28 October 2018
DA070 Area Plans – Issue C		Received 30 October 2018 Dated 28 October 2018
DA131- Building C Ground Floor Plans Issue C		Received 30 October 2018 Dated 28 October 2018
DA 132 Building C Mezzanine Level Plan Issue D		Received 30 October 2018 Dated 28 October 2018
DA 134 – Building C – Roof Plan Issue D		Received 30 October 2018 Dated 28 October 2018
DA 111 – Building A Ground Floor Plan Issue A		Dated 22 March 2018, Received 28 March 2018
DA 112 – Building A First Floor Plan Issue A		Dated 22 March 2018, Received 28 March 2018
DA113 Building Roof Plan Issue A		Dated 22 March 2018, Received 28 March 2018

DA 121 Building B Ground Floor Plan Issue A		Dated 22 March 2018, Received 28 March 2018
DA 122 Building B Level 1 Plan		Dated 22 March 2018, Received 28 March 2018
DA 123 Building B Level 2 Plan		Dated 22 March 2018, Received 28 March 2018
DA 124 Building B Roof Level Issue A		Dated 22 March 2018, Received 28 March 2018
Co9759.02 - da10 drawing list and general notes issue c	Costin Roe Consulting	Dated 23 March 2018, Received 28 March 2018
Co9759.02 - da20 erosion & sediment control plan Issue c		Dated 23 March 2018, Received 28 March 2018
Co9759.02 - da25 erosion & sediment control details Issue b		Dated 23 March 2018, Received 28 March 2018
Co9759.02 - da40 stormwater drainage plan a b c c		Dated 23 March 2018, Received 28 March 2018
Co9759.02 - da45 stormwater drainage details - sheet 1 Issue b		Dated 23 March 2018, Received 28 March 2018
Co9759.02 - da46 stormwater drainage details - sheet 2 Issue b		Dated 23 March 2018, Received 28 March 2018
Co9759.02 - da46 detention basin plan Issue a		Dated 23 March 2018, Received 28 March 2018

Co9759.02 - da50 finished levels plan Issue c		Dated 23 March 2018, Received 28 March 2018
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Reference Document(s)	Author	Dated / Received by Council
Response To Additional Information	Ethos Urban	Received 30 October 2018 Dated 30 October 2018
Overshadowing Analysis	Steve King	Received 30 October 2018 Dated 13 October 2018
Traffic and Parking Assessment Report	Traffix	Received 30 October 2018 Dated October 2018
BCA Report Rev 6 and Rev 5	Mckenzie Group	Received 30 October 2018 Dated 24 October 2018
Landscape Package – titled Lakes Business Park 11-13 Lord Street, Botany, Development Application	Urbis	Received 30 October 2018 Dated 24 October 2018
Infrastructure Services Report	Floth Sustainable Building Consultants	Received 28 March 2018 Dated 22 March 2018
Geotechnical Report	Pells Sullivan Meynink	Received 28 March 2018 Dated 8 February 2018
Food and Beverage Report	Urbis	Received 28 March 2018 Dated February 2018
ESD Report	Floth Sustainable Building Consultants	Received 28 March 2018 Dated 7 March 2018
Arborist Report	Naturally Trees	Dated 20 March 2018, Received 28 March 2018
Acoustic Report – Rev B	Floth Sustainable Building Consultants	Dated 20 March 2018, Received 28 March 2018
Acid Sulfate Soil Management Plan	KPMG	Dated 20 March 2018, Received 28 March 2018
Detailed Site Investigation	KPMG	Dated 20 March 2018, Received 28 March 2018
Waste Management Plan – Operational	Waste Audit and Consulting	Dated March 2018, Received 28 March 2018
Demolition and Construction Waste Management Plan	Waste Audit and Consulting	Dated March 2018, Received 28 March 2018
Wind Shear Report	Windtech	10 October 2018

		Received 30 October 2018
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No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

- 2 This Consent relates to land in Lots 2 DP 717692 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 3 The consent given does not imply that works can commence until such time that:
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
    - (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.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 5 The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:
  - a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
  - b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

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

Where relevant, the following external authority conditions apply:

The following conditions are imposed by **Roads and Maritime Services**:

- 6 A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.

Further comment will be provided upon receipt of the Construction Traffic Management Plan.

The following conditions are imposed by **Sydney Water**:

- 7 A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water prior to development commencement. It is recommended that the Council includes this term as a Condition of the DA approval.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing> Developing> Land development or telephone 13 20 92.

- 8 The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in™ online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

- 9 If this development is going to generate trade wastewater, the property owner must submit an application requesting permission to discharge trade wastewater to Sydney Water's sewerage system. You must wait for approval of the permit before any business activities can commence. The permit application should be emailed to Sydney Waters Business Customer Services at [businesscustomers@sydneywater.com.au](mailto:businesscustomers@sydneywater.com.au)

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

A boundary trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment.

- 10 Before installing a backflow prevention device – get a hydraulic consultant or plumber to check whether the available water pressure versus the property's required pressure and flow requirements.
- 11 Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300 889 099.

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

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

### **Advice**

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



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

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

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

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

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

Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority.

Have you thought about a contingency plan for your business? Your Business Customer Representative will help you to develop a plan that is tailored to your business and minimises productivity losses in the event of a water service disruption.

For further information please visit the Sydney Water website at:

<http://www.sydneywater.com.au/OurSystemsandOperations/TradeWaste/> or contact Business Customer Services on 1300985227 or [businesscustomers@sydneywater.com.au](mailto:businesscustomers@sydneywater.com.au).

The following conditions are imposed by **Sydney Airport Corporation Limited (SACL)**:

- 12 This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 7.62 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

The application sought approval for the PROPERTY DEVELOPMENT to a height of 26.7 metres Australian Height Datum (AHD).

In the capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, the Airfield Manager has no objection to the erection of this development to a maximum height of 26.7 metres AHD.

The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.

Should you wish to exceed this height a new application must be submitted.

Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

"Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)).

The height of the prescribed airspace at this location is 51 metres above AHD.

#### Planning for Aircraft Noise and Public Safety Zones

- 13 Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF).
- 14 Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

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

- 15 The following conditions relate to Crime Prevention Through Environmental Design
  - 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;

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

- 16 A Hazardous Building Material Assessment (HBMA) shall be carried out and a report provided to council to ensure that any hazardous materials that may have been used within the structural components of buildings and infrastructure are adequately addressed to protect site personnel and the public from the risk of exposure. This shall be undertaken by an appropriately qualified consultant and shall be submitted to the

Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the demolition of any building or structure.

Should any hazardous materials be identified a Work Management Plan completed in accordance with AS2601 – Demolition of Buildings shall be submitted to the Principal Certifying Authority prior to the demolition of any building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.

17

- a) The following trees, as numbered in the arborist report prepared by Naturally Trees are able to be removed - Tree no's 6, 7, 8, 9, 10, 11, 12, 79, 80, 81, 88, 89, 96, 97, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112.
- b) All other trees/shrubs; prior to demolition and tree removal works these tree/s are to be placed within a Tree Protection Zone with protective fencing and maintained and retained until the completion of all building works. Protective fencing is to be installed as shown in Tree Protection Plan.

The Protective fencing where required may delineate the Tree Protection Zone (TPZ) and should be situated as determined by the project arborist in accordance with AS4970 Protection of trees on development sites, Section 4, 4.3.

“Fencing should be erected before any machinery or materials are brought onto the site and before the commencement of works including demolition. Once erected, protective fencing must not be removed or altered without approval by the project arborist. The TPZ must be secured to restrict access. AS 4687 Temporary fencing and hoardings specifies applicable fencing requirements. Shade cloth or similar should be attached to reduce the transport of dust, other particulate matter and liquids into the protected area. Fence posts and supports should have a diameter greater than 20 mm and be located clear of roots. Existing perimeter fencing and other structures may be suitable as part of the protective fencing” or similar.

Tree Protection signage is to be attached to each TPZ and displayed from within the development site in accordance with AS 4970 2009 Protection of trees on development sites.

The area of the Tree Protection Zone to be mulched to a depth of 100 mm with organic material being 75% leaf litter and 25% wood, and this being composted material preferably from the same genus and species of tree as that to where the mulch is to be applied, i.e. species-specific mulch. The depth of mulch and type as indicated, to be maintained for the duration of the project. Where deep excavation will expose the soil profile to drying out the root plate is to be protected by pegging jute matting across the ground surface 2 m back from the edge of the profile and 2 m down the face of the profile and is to be in one continuous sheet or layers up to 5 mm thick and overlapped 300 mm and pegged. Pegs are to be a minimum length of 200 mm and spaced at 500 mm increments in a grid pattern. Once installed mulch is to be placed on top of the jute matting previously described.

There is to be no storage of materials, rubbish, soil, equipment, structures or goods of any type to be kept or placed within 5 metres from the trunk or within

the dripline of any tree for the duration of the development. This will ensure protection of the tree/s to be retained on or adjacent to site.

Project/Site arborist is to inspect/assess all retained specimens prior to demolition to inspect tree protection measures to monitor that they have been carried out as per the approved D/A conditions for the site. Documentation is to be submitted to the consenting authority after each inspection.

- c) Prior to the Commencement of Demolition/Issue of Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of \$20,000.00 to ensure protection of the three (3) Fig trees (*Ficus rubiginosa*) Trees 99,100,101 from damage during construction. The duration of the Bond shall be limited to a period of 24 months after issue of the Occupation Certificate. It is noted that trees 93,94, and 95 are on Council Land.
- d) Where Tree Protection Zone fences are to be moved or relocated this must be undertaken in consultation with the Consultant Arboriculturist for the project to ensure that tree protection is maintained. If the fences are relocated areas are to be mulched to a depth of 100mm to reduce compaction to the root system of the retained specimens.
- e) To minimise damage to retained crowns, all Tree Protection Zones are to be adhered to. This must be undertaken in consultation with the Consultant Arboriculturist for the project to ensure that tree protection is maintained. Minor pruning may be required if damage occurs, work to undertaken.
- f) Project/Site arborist is to inspect/assess all retained specimens prior to Demolition and Tree Removal, Post Demolition, Prior to Construction during Construction and on completion in relation to trees protected and the protection measures have been carried out as per the approved D/A conditions for the site. Documentation is to be submitted to the consenting authority after each inspection.
- g) Any work to be undertaken within Tree Protection Zones is to be undertaken in accordance to AS 4970. 2009 protection of trees on development sites
- h) There is to be no storage of materials, rubbish, soil, equipment, structures or goods of any type to be kept or placed within 5 metres from the trunk or within the dripline of any tree for the duration of the development. This will ensure protection of the tree/s to be retained on or adjacent to site.

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

- 18 The Project/Site arborist is to inspect/assess all retained specimens prior to construction in relation to tree protection measures to monitor that they have been carried out as per the approved D/A conditions for the site. Documentation is to be submitted to the consenting authority after each inspection.

Any utility services to be situated underground within the TPZ are to be undertaken utilising excavation techniques that prevent or minimise damage to structural roots (roots greater than >20 mm diameter). To prevent soil compaction and root damage these works should be conducted with non-motorised hand tools, air knife or directional drilling. Placement of relocatable buildings; consideration should be given to tree sensitivity such as the buildings being placed on pier and beam or skids

construction as they are to be positioned now on the eastern side of their driplines within the Tree Protection Zone (TPZ). The area of the Tree Protection Zone under the buildings is to be mulched to a depth of 200 mm (if installed on skids) with organic material to further reduce compaction. The mulch is to be composted material, i.e. species-specific mulch. Alternatively, if installed on a pier & beam construction, piers are to be undertaken manually by using non-motorised hand tools to determine the location of first order and lower order structural roots with a diameter of 20 mm (structural woody roots) or greater, without damaging them.

- 19 The proposed development shall comply with the following:
- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - (i) Stating that unauthorised entry to the work site is prohibited;
    - (ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
    - (iii) The Development Approval number; and
    - (iv) The name of the Principal Certifying Authority including an afterhours contact telephone number.
  - (b) Any such sign is to be removed when the work has been completed.
- 20 If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
- 21 Prior to the commencement of any demolition, excavation or remediation works, the applicant must inform Council, in writing, of:
- (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
  - (b) The name and permit number of the owner-builder who intends to do the work;
  - (c) The Council also must be informed if: -
    - (i) A contract is entered into for the work to be done by a different licensee; or
    - (ii) Arrangements for the doing of the work are otherwise changed.
- 22 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
  - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
  - c) Permit to install temporary ground anchors in public land,
  - d) Permit to discharge ground water to Council's stormwater drainage system,
  - e) Permit for roads and footways occupancy (long term/ short term),
  - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
  - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
  - h) Permit to place skip/waste bin on footpath and/or nature strip, and
  - i) Permit to use any part of Council's road reserve or other Council lands.
- 23 If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
  - b) If necessary, underpin and support such building in an approved manner;
  - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
  - d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
  - e) If the soil conditions required it:
    - i. Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-
    - ii. Adequate provision must be made for drainage.
- 24 Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

The controls are to be designed and installed in accordance with the Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Regional Organisation of Council. Copies of the guidelines are available from Council.

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

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

- a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- h) Waterproofing of any exposed surfaces of adjoining buildings;
- i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
- j) Working hours, in accordance with this Development Consent;
- k) Confinement of demolished materials in transit;
- l) Proposed truck routes, in accordance with this Development Consent;
- m) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
- n) Sewer – common sewerage system ad08.

- 26 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.

- 27 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
  - b) Each toilet provided:
    - (i) must be standard flushing toilet; and,
    - (ii) must be connected:
      - to a public sewer; or
      - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
      - if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
  - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 28 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 29 Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 30 An Erosion and Sediment Control Plan (ESCP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). All management measures recommended and contained within the Erosion and Sediment Control Plan (ESCP) shall be implemented in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.
- 31 For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.
- All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report.
- Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 32 Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The



sign shall be erected prior to commencement of works and shall be displayed throughout construction.

- 33 Prior to the commencement of any building works, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
- 34 Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practicing engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principal Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
- 35 Prior to commencement of any works, the Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with 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.

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

- 36 The applicant must prior to the issue of any Construction Certificate, pay the following fees:
- |     |   |                          |
|-----|---|--------------------------|
| (a) | Development Control                         | \$3,081.00               |
| (b) | Footpath Crossing Deposit                   | \$98,022.12 (See below)  |
| (c) | Section 94 Contributions                    | \$397,030.00 (See below) |
| (d) | Tree preservation bond (refer Condition 27) | \$20,000.00              |
- 37 Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of **\$98,022.12** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
- Note: If a bank Guarantee is used rather than a cash deposit, a \$256.00 bank guarantee fee is also required.
- 38 Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans, a contribution of **\$397,030.00** is payable as calculated below:

The total Section 94 Contribution of **\$397,030.00** is to be paid to Council prior to the issue of any Construction Certificate.

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

- 39 Prior to the issue of a construction certificate, a workplace travel management plan is required. Through the plan the Development is to encourage a higher public transport (including walking and cycling) use and include strategies to encourage and promote car sharing and car pooling strategies.
- 40 Fire Safety Upgrade  
Under clause 94 of the Environmental Planning & Assessment Regulation 2000, the existing buildings (identified as Buildings A & B) are to be brought into conformity with Sections C, D & E the Building Code of Australia/National Construction Code – Volume 1.  
Details demonstrating compliance are to be submitted to the certifying authority for approval prior to the issue of any Construction Certificate.
- 41 Prior to the issue of the construction certificate, the applicant shall demonstrate on amended plans to the satisfaction of Council's Director, City Futures, that end of trip facilities are provided for the staff who will occupy the site.
- 42 Prior to the issue of the Construction Certificate, a dilapidation survey shall be undertaken of all adjacent properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.
- 43 A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92.
- i) Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design. The Section 73 Notice of Requirements must be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.
- 44 Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence

of the development and associated construction works shall be restored or repaired at the applicant's expense.

- 45 Prior to the release of the relevant Construction Certificate, the plans and relevant information demonstrating compliance with the requirements below are to be submitted to and approved by the Principal Certifying Authority:
- a) All driveways/access ramps/vehicular crossings/aisles shall conform with Australian Standards AS 2890.1, AS2890.2 and Council requirements,
  - b) All service vehicles shall enter the property front in front out,
  - c) Demonstrate safe headroom clearance of 4.5m is achieved along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV),
  - d) Swept path analysis shall be provided for manoeuvring of MRV commercial vehicles along the travel path, depicting a forward entry and forward exit manoeuvre from the site,
  - e) A longitudinal section plotting headroom clearance is to be provided for assessment, and
  - f) At least nine (9) accessible car parking spaces shall be provided and designed as specified in Australian Standard 2890.6.
  - g) Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
- 46 The site is affected by AAANEF 25-30 and the building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the certifying authority prior to the issue of the relevant Construction Certificate and the building plans endorsed with the required acoustical measures.
- 47 A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of any Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
  - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
  - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
  - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,

- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- i) Proposed protection for Council and adjoining properties, and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
- k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- l) Obtain Permits required under this consent.

48 Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:

- a) be prepared by a RMS accredited consultant,
- b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police,
- c) during construction, if access from **Lord Street** is required, the applicant is to submit documentary evidence to the Principal Certifying Authority that the required Section 138 Consent under the Roads Act, 1993 has been issued by the New South Wales Roads and Maritime Services, and
- d) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

*Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.*

49 Prior to the issue of the relevant Construction Certificate, The landscape areas shown on the Landscape Plan prepared by Urbis, dated 24th October 2018 shall be the subject of detailed landscape construction documentation (plans and specifications) that are to be submitted to and approved by Bayside Council's Landscape Architect. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP. The detailed (construction level) plan shall include the following information and amendments:

- a) Considering the proximity of this site to Biodiversity Corridor and supporting area and habitat the selection of species for the site is being assessed considering environmental aspects. Some species included in plant schedule on page 23 of landscape package may be invasive in surrounding areas and shall be removed or replaced by a more adequate species. These species are: *Corymbia citriodora* (Lemon scented gum), *Metrosideros collina* (NZ Christmas Bush), *Rhaphiolepis umbellata* (Indian Hawthorn), *Trachelospermum jasminoides* (Chinese Star Jasmine shall be replaced with *Hardenbergia violacea* or *Hibbertia scandens*). *Lagerstroemia indica* (Crepe Myrtle) shall not be proposed close to any natural area, if a deciduous tree is required replace with *Brachychiton acerifolius*.
- b) *Harepulia pendula* proposed between parking spaces will grow maximum 7 meters tall in this location and shall be replaced or complemented by a native tree with open canopy and capable of reaching a minimum mature height of 12 meters in local conditions to provide appropriate canopy cover and screening to scale of the proposed built form from the Park. Recommended species are: *Angophora costata*, *Eucalyptus robusta*, *Corymbia gummifera*, *Cupaniopsis anacardioides*.
- c) Residential buffer planting along southern boundary shall be landscaped with a three tier planting addressing sun access to adjacent courtyards where required.
- d) The existing bio-retention tank located along western portion of northern boundary, adjacent Lord Street, shall be subject of detailed landscape improvements including but not limited to the following: weeding, add native vegetation for bio retention tanks to improve filtration of nutrients and pollutants, signage to highlight the Stormwater Treatment Measures.
- e) Border of parking area shall be treated with canopy trees and low shrubs and groundcovers, considering CPTED principles. Seating can be provided on the Southern area, close to the circulation link, and playground area.
- f) All existing trees to be retained or removed shall be shown in landscape plans. Trees to be retained shall show TPZ and natural ground level in the TPZ.
- g) All landscape areas, including planters on slab shall be automatic irrigated and linked to the stormwater drainage system as a WSUD principle.
- h) The landscape proposal shall maximise the use of native indigenous plant species, and deciduous species shall be included where sun access is required. (Control 8 Part4B.2.8). Landscape proposal shall include between 70 to 80% of local indigenous or native species as per BBDCP. (DCP 5.5)
- i) Landscape proposed shall balance this loss by providing a generous quantity of advanced native trees in the proposal. Trees proposed along pedestrian – vehicular shared zone and interface with Public Park shall be supplied and installed at a minimum pot size of 200Litres. All other tree supplied shall be minimum 100 litres, unless approved differently by Bayside Council landscape architect.
- j) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape handworks such as retaining walls, steps, planter walls,

- feature walls, skateboard restrictions, tree pits, tree grates, tree guards, tree pit treatment.
- k) Details of all hardscape landscape elements such as pergolas, street furniture, pedestrian amenity lighting, bins, and bollards. Location to be clearly identified on plan. Provide sectional construction details and elevations if necessary to demonstrate functionality.
  - l) Maintenance schedule for a minimum of 12 months should be provided as part of the landscape documentation to comply with Cond 6, Part 3L .1.2 of BBDCP. This Schedule must include frequency of each task: weeding, watering, fertilising, replacement of dead or stolen plants, irrigation system maintenance works, mulch replacement, pruning, maintenance of furniture, adjustment of stakes, and any particular works related to the site. Maintenance schedule shall also include maintenance of bio-retention system, which shall include inspection of inlet points, removal of litter, build up and blockages around pit, removal of sediment if required, re-profiling and re-vegetating, removal of invasive weeds, litter and dead plants and brunches.
  - m) Areas with interface with public Spaces shall be designed and demonstrate functionality. Spaces of public use shall include outdoor furniture, bicycle racks, safety bollards, and pavement treatments. Share zone of car access area shall be differentiated with pavement treatments and the inclusion of soft landscape treatment shall be considered in all occasions where possible.
  - n) Car Park Landscape Treatment. Landscape treatment shall provide generous size planter beds with canopy trees and under planting integrated to car park to provide shade for vehicles, to reduce the heat island effect of large paved surfaces, to improve the amenity and screen car park from the public domain. Allow a canopy tree for every 5 carpark spaces to comply with Part 3L.6 Landscaping in Car parks, Control 1 of BBDCP 2013. The intention is that 50% of carpark area shall be covered with canopy trees. The present proposal provides some canopy tree planting, extra canopy shall be provided for shade in parking areas and for amenity to mitigate built form.
  - o) Bio-retention swales along car park zone adjacent to Booralee Park can be included as a WSUD approach.
  - p) Interface with Booralee Park. The proposal is not complying with the minimum setback with public parks. The footpath between eastern boundary and driveway shall be removed, and only deep soil with soft landscape treatment shall be supplied along this interface maximising the use of canopy trees.
  - q) Lighting and signage shall be detailed and integrated in the design. Lighting must be provided to the external entry path, driveway and staff area to building using vandal resistant, high mounted light fixtures.
  - r) A Landscape Maintenance Schedule shall be submitted that covers a 12 month period to provide a guide to the landowner or occupier on how to best maintain the constructed landscaped areas; and include the following information: shrub pruning/trimming (frequency, plant requirements); Fertilising and pest control (soil testing, types, rate, frequency); Mulching, weeding and soil improvement (frequency, materials); Irrigation (checks, adjustments); tree maintenance (fertilising, mulching, tree stakes adjustments, special tree requirements); Maintenance of hard landscape elements (paving, edges, walls, pergolas, seats, and planter box walls); and planter boxes/roof gardens/green wall (specialised maintenance requirements).
  - s) Northern Area removal of some trees and shrubs along northern area will improve passive surveillance. New plant species to be included in northern area and all areas adjacent or within public use shall comply with CPTED principles, therefore only trees with canopy and small shrubs and groundcovers below 900mm high shall be present in the landscape proposal.

- t) Three (3) existing *Ficus macrocarpa* var. *Hillii* to be retained (trees No. 93, 94 and 95) located within Booralee park Oval border with shared zone on East of the site shall be retained and protected. Levels within TPZ shall be retained to ensure survival and health of trees.
- u) Three (3) existing *Ficus rubiginosa* (Port Jackson Fig) trees with reference nomenclature in Arborist Report 99, 100, and 101, categorised as AA1, shall be retained and protected. A tree preservation bond will be imposed on these significant fig trees located in public ownership land. (Contact Carl Briscoe for this condition)
- v) Lighting and signage shall be detailed and integrated in the design. Lighting must be provided to the external entry path, driveway and staff area to building using vandal resistant, high mounted light fixtures.
- w) Provide a staff recreation area with seats and shade in summer months. Ensure minimum size is 16sqm, with a minimum dimension of 3 meters to comply with Cond. 13 of Part 6.3.2 BBDCP 2013. Furniture, table and seats shall be integrated in the landscape design.

- 50 Prior to the issue of the final Construction certificate, the applicant shall submit a Frontage Works Application. Public domain landscape improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan.

The application for Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre. A civil design plan must be prepared by a suitably qualified engineer for all frontage works that are required to be constructed within the public domain and be submitted as part of the frontage works application. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.

- 51 Prior to the issue of any Construction Certificate, detail drainage design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Accredited Certifier for assessment and approval. Design certification and drainage design calculations are to be submitted with the plans. Botany DCP Part 10 Stormwater Management Technical guidelines sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the site, including the final discharge/end connection point, must comply with Botany DCP Part 10 Stormwater Management Technical Guidelines and AS3500.3. The detailed plans shall incorporate the provisions made in the Civil Engineering Report and Civil Engineering drawings prepared by Costin Roe Consulting, Project No. Co9759.02, Revision B, dated 22 March 2018 with the following revisions:

- a) Revisions to be made to ensure the civil engineering drawings are updated to correspond to the approved architectural design.

- b) In order to contribute to environmental sustainability and apply Water Sensitive Urban Design principles, a rainwater tank(s) system shall be provided with a minimum capacity of 10000L. The rainwater tank(s) shall have a catchment of at least 50% of the roof area of the new building. The rainwater tank(s) shall service the toilets, clothes washers, external taps and any landscape irrigation for the development. First flush device shall also be incorporated into the tank systems. Overflow from the rainwater tank shall connect to the proposed site drainage system.
  - c) A WSUD Strategy and MUSIC model must be prepared and submitted for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011.
- 52 Prior to the issue of the Construction Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer, shall be provided for the development at 11-13 Lord Street. The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The flood management plan must make provision for the following:
- a) An assessment of the proposed sprinkler tank and pump rooms which may require protection from flood inundation,
  - b) Recommendations on all precautions to minimise risk to personal safety of employees, visitors and the risk of property damage for the total development,
  - c) Flood warning signs/depth indicators for areas that will be inundated,
  - d) A flood evacuation strategy (Note: there is no vehicular access via Daniel Street proposed and Lord Street is subject to high hazard flooding),
  - e) A flood awareness strategy.
- 53 Prior to the issue of the construction certificate, a suitably qualified engineer is to certify that the proposed sprinkler tank and pump room structures adjacent to the existing stormwater basin can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of the construction certificate.
- 54 Prior to the issue of any Construction Certificate, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
  - b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:



- (i) The additional load on the system, and
  - (ii) The relocation and/or adjustment of the services affected by the construction.
- c) The Ausgrid lighting poles along on Lord Street, will need to be decommissioned and new lighting poles shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider, this requirement must indicate the new locations must be demonstrated to Council; and
- d) All above ground utilities on Lord Street shall be indicated as relocated underground in accordance with Ausgrid and any other affected and relevant service provider on the plan to be submitted to Council,
- e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed on a plan and indicate compliance with the relevant requirements with Council prior to the issue of the Construction Certificate.

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

- 55 All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. The applicant shall confer with Ausgrid to determine Ausgrid requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

## **DURING WORKS**

- 56 Project/Site arborist is to inspect/assess all retained specimens during construction in relation to tree protection measures to monitor that they have been carried out as per the approved D/A conditions for the site. Documentation is to be submitted to the consenting authority after each inspection.

Where any structural roots (roots with a diameter of greater than >20 mm) encountered by excavation are to be pruned and it is to be undertaken with clean sharp pruning tools, with a final cut to undamaged wood to prevent infestation by pathogens and assist continued root growth and undertaken in consultation with the Consulting Arboriculturist. Tree Protection Zone fences are to be maintained during these works. Ground protection in accordance with AS 4970 section 4, 4.5.3 may require steel plates to protect the ground surface from compaction to protect roots between the stages of demolition and construction of the new pavement.

- 57 All Tree Protection Zones of retained trees are to be monitored for the duration of the construction phase of the development. The three main areas requiring monitoring are;

mulching - mulch must be maintained to a depth of 50–100 mm using material that complies with AS 4454.

- 58 Where the existing landscape within the TPZ is to remain unaltered (e.g. garden beds or turf) mulch may not be required, watering - soil moisture levels should be regularly monitored by the project arborist. Temporary irrigation or watering may be required within the TPZ. An above-ground irrigation system could be installed and maintained by a competent individual and weeding - weeds should be removed by hand without disturbing soil or should be controlled with a suitable herbicide.
- 59 Trees to be removed are to be replaced with advanced specimens being mindful of the space limitations of the new use of the site. The advanced trees should be situated in areas along the boundaries of the site. The planting in these locations will provide the maximum benefit to the surrounding properties by screening views to and from the site and the plantings included in the proposed landscape plan. The replacement trees will be situated in positions where they may grow to maturity unhindered and will not conflict with built structures or utility services and in greater numbers than the trees removed should provide a net increase in the local amenity.
- 60 All contractors shall comply with the following during all stages of demolition and construction:
- a) A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - b) A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - c) A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - d) A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - e) A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
- 61
- a) Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil,

- sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- b) The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
  - c) Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
  - d) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
  - e) Builders and demolishers are required to confine access to building and demolition sites to no more than two 3m driveways, and provide a footpath protection pad over Council's footpath at these points (see attached detail). Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

In addition builders / demolishers are required to erect a 1.5m high fence along the whole of the street alignment other than at the two openings. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifying Authority, prior to the demolition of the existing structures and commencement of building operations.

- f) Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.

**Note:** The Applicant may be liable to prosecution under the Environmental Planning and Assessment Act 1979 for a breach of an approval condition, or under the Protection of the Environment Operations Act 1997, if its employees, agents or sub-contractors allow sediment, including soil, excavated material, building materials, or other materials to be pumped, drained or allowed to flow to the street, stormwater pipes or waterways. The Applicant shall ensure that its employees, agents or sub-contractors understand and maintain sediment control measures.

- g) Construction related activities must not take place on the roadway without Council approval. Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit. Activities involving

occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Construction Zone signs by the RTA. Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

- 62 There shall be no encroachment of paths, fencing or other improvements onto the drainage easements without Council approval.
- 63 All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council on 9562 1670. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
- 64 All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.
- 65 Stormwater management requirements for the development site, including the final discharge / end connection point, must comply with Botany DCP Part 10 – Stormwater Management.
- 66 Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain.
- 67 During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
- 68 During excavation and construction works, the applicant / builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
- 69 An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 70 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.

- 71 All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
- 72 Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
- 73 The following shall be complied with during construction and demolition:
- (a) Construction Noise
    - (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
  - (b) Level Restrictions
    - (i) Construction period of 4 weeks and under:
      - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
    - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
      - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
  - (c) Time Restrictions
    - (i) Monday to Friday 07:00am to 06:00pm
    - (ii) Saturday 08:00am to 04:00pm
    - (iii) No demolition or construction to take place on Sundays or Public Holidays.
  - (d) Silencing
    - (i) All possible steps should be taken to silence construction site equipment.
- 74 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 75 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
  - b) Protection of the Environment Operations Act 1997; and

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

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

- 76 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
  - a) The Soil and Water Management Plan;
  - b) “Managing Urban Stormwater - Soils and Construction” (2004) Landcom (‘The Blue Book’); and
  - c) Protection of the Environment Operations Act 1997.
- 77 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 78 The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the ‘Acid Sulfate Soil Management Plan – 11-13 Lord Street, Botany, NSW’ dated 20 March 2018 by KPMG.
- 79 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
  - a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.
  - b) Protection of the Environment Operations Act 1997.
  - c) Protection of the Environment Operations (Waste) Regulation 2014.
  - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 80 During Demolition, Excavation and Construction, care must be taken to protect Council’s infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council’s infrastructure and surrounding development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council’s specification and AUS-SPEC at no cost to Council.
- 81 During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council’s lands, public roads and road-related areas.

Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.

- 82 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE RELEVANT OCCUPATION CERTIFICATE AS INDICATED**

- 83 Prior to the issue of any occupation certificate and any additional occupation certificate a plan of management is required to be prepared and submitted to Council. The plan of management must provide all details relevant to the operation of the premises.

As a minimum the following must be included:

- a) Title;
- b) Objectives;
- c) Operational details;
- d) Hours of operation;
- e) Staffing and organisation overview;
- f) Any Liquor Licences and/or entertainment approvals;
- g) Identification of the likely common pedestrian routes;
- h) Deliveries and loading/unloading;
- i) Managing customers or patrons;
- j) Security details;
- k) Noise and Vibration Impact Assessment;
- l) Shadow Analysis;
- m) A schedule of proposed entertainment times (ie live bands) for each day of the week;
- n) The traffic movements, hours of deliveries, use of parking areas and garbage collection must be managed through the POM where industrial and/or business park sites are close to residential premises
- o) Where loading and unloading movements are likely to affect residential areas or residentially zoned land, schedules of vehicle movements and their routes must be provided in the POM
- p) Site lighting for building security and staff safety must be directed so as to not cause annoyance to neighbours or glare to passing motorists.
- q) Complaint recording and handling process; and
- r) The review process to continuously improve the POM.
- s) Car parking register – Allocations for the uses are to occur as per the traffic report referred to in Condition 1 of this consent. The register must be updated for each new use and/or change of use within the site.

- a) This consent grants approval for the following uses of the buildings:
  - (i) Warehouse and distribution
  - (ii) Light industry (as defined by BBLEP 2013)
  - (iii) Ancillary office (associated with i and ii above)
  - (iv) Food and drink premises (excluding small bar /pub)
  - (v) Indoor recreation facilities
  - (vi) Office premises
  - (vii) Neighbourhood shops
- b) Prior to the issue of the occupation certificate to each specific use, relevant documentation specific to the following uses is required to be submitted to the Principal Certifying Authority.

Warehouse and Distribution – Light industry including ancillary office

- (i) Updated plan of management to reflect the use (see Condition 83)
- (ii) Detail on car parking allocation
- (iii) Number of staff
- (iv) Maximum size of trucks to ensure appropriate manoeuvrability and appropriate loading and unloading facilities.

Food and drink premises

- (v) Updated plan of management to reflect the use (see Condition 83)
- (vi) Number of staff and maximum number of patrons
- (vii) Adequate provision must be made for the treatment of waste water from the premises to include provision for a Sydney Water approved grease trap.
- (viii) The grease trap installation must service all commercial sections of the development and be designed, constructed and operated in accordance with: Australian Standard AS 3500 and National Plumbing & Drainage Code. Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.
- (ix) Details of the construction and fit out of food premises must be submitted to the Principal Certifier prior to issue of the Construction Certificate. The plans and specifications must demonstrate compliance with:
  - a. *Food Act 2003*
  - b. *NSW Standards for Construction and Hygienic Operation of Retail Meat Premises (as amended) – [Delete if not relevant].*
  - c. *Food Regulation 2015*
  - d. *Australia and New Zealand Food Standards Code*
  - e. *Australian Standard AS 4674-2004: Construction and fit out of food premises*



*f. Standard 3.2.3 – Food Premises and Equipment*

*g. Ventilation in accordance with AS1628*

- (x) The premises must operate in accordance of the above at all times.
- (xi) For the Commercial portion of the building appropriate waste and recycling containers and facilities will need to be provided for all specific end use businesses in accordance with the following waste generation rates:
  - a. *Retail Trading – shops, to 100 square metres - 0.1-0.2 cubic metres per 100 square metres of floor area per day;*
  - b. *Restaurants and Food Shops – 0.3-0.6 square metres per 100 meals, plus up to 0.15 cubic metres of beverage containers per 100 meals; and,*
  - c. *Office – 0.01-0.03 cubic metres per 100 square metres of floor area per day.*
- (xii) Prior to issue of an Occupation Certificate for the use, the food and drink premises must be registered with Council's Environmental Health Section in accordance with the following relevant legislation:
  - a. *Food Shop - Food Act 2003*

Indoor Recreation Facilities

- (i) Updated plan of management to reflect the use (see Condition 83)
- (ii) The number of staff
- (iii) Maximum number of patrons
- (iv) Cleaning and maintenance schedule.
- (v) Handling of peak times and car parking allocation/use.
- (vi) Handling of waste to appropriate locations

Neighbourhood shops

- (vii) Updated plan of management to reflect the use (see Condition 83)
- (viii) Maximum floor area of any one shop is limited to 100sqm;
- (ix) Maximum number of staff
- (x) For the Commercial portion of the building appropriate waste and recycling containers and facilities will need to be provided for all specific end use businesses in accordance with the following waste generation rates:
  - a. *Retail Trading – shops, to 100 square metres - 0.1-0.2 cubic metres per 100 square metres of floor area per day;*

Industrial Retail Outlet

- (xi) Updated plan of management to reflect the use (see Condition 83)
- (xii) Maximum number of staff

- (xiii) For the Commercial portion of the building appropriate waste and recycling containers and facilities will need to be provided for all specific end use businesses in accordance with the following waste generation rates:
    - b. Retail Trading – shops, to 100 square metres - 0.1-0.2 cubic metres per 100 square metres of floor area per day;
- 85 At completion of all construction work the Site/Project Arborist should carry out an assessment of all trees retained &/or affected by works. This assessment is to document any required on-going remedial care needed to ensure viable retention of trees affected. Documentation is to be submitted to the consenting authority.
- 86 All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
- 87 The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
- 88 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to any use or occupation of the premises. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 89 Prior to release of the any Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 90 Prior to the issue of any relevant Occupation Certificate, 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. Additional addresses or unit numbers may require an address application to Council. Any additional numbers shall be in accordance with the NSW Addressing Policy.
- 91 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the Bayside Council prior to the issue of the relevant Occupation Certificate.
- 92 Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
- 93 Prior to the issue of the relevant Occupation Certificate, a total of 268 off-street car spaces shall be provided in accordance with the submitted plans. Such spaces shall be paved, linemarked and made freely available at all times during business hours of the site for staff and visitors.

- 94 Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
- 95 Prior to the issue of the Occupation Certificate for the final building, the underground placement of all low voltage street electrical mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.
- 96 Prior to the issue of the any relevant Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
- 97 Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved construction plans, AS/NZS 2890.1, AS2890.2 and AS/NZS 2890.6, line marked and all signage relating to car parking erected. Certification must be provided by a suitably qualified engineer certifying the design of the completed works. The car parking area is to be clearly and appropriately line marked and signposted indicating all vehicular movements on the site. The internal road network, pedestrian facilities and parking facilities (including parking for persons with disabilities) shall be clearly designated, sign posted and line marked prior to the issuing of an Occupation Certificate. Signage and line marking shall comply with Australian Standards AS1742 series and NSW Road Transport (Safety and Traffic Management) Regulations 1999.
- 98 The new eastern vehicular entry adjacent to Booralee Park is to be clearly marked and signposted ("entry") from the street and ("no-exit") internally.
- 99 Prior to the issue of any Occupation Certificate(s), a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved construction stormwater plans, the requirements of Botany Bay DCP Part 10 – Stormwater Management Technical Guidelines and AS 3500.3. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
- 100 The location of the stormwater basin system shall be marked by the permanent fixing of a marker plate of minimum size 200 mm by 150 mm to the nearest permanent surface. The plate shall be non-corrosive metal, or 4 mm thick laminated plastic that contains the following wording:  
  
"This onsite stormwater basin will pond after heavy rain. The outlets must be cleared of debris regularly."
- 101 Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system has been installed, inspected, commissioned, tested and performs in accordance with Australian Standard 1668, Parts 1 & 2.

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

- 102 The operation of the development and movements of vehicles shall comply with the following requirements:
- a) All vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction;
  - b) Loading and unloading activities associated with the delivery shall take place wholly within the dedicated loading areas;
  - c) All garbage collection activities shall take place and be wholly undertaken within the site in the dedicated garbage collection area;
  - d) All manoeuvring of vehicles shall be carried out wholly within the site and vehicle manoeuvring areas shall be kept clear at all times;
  - e) The maximum size of vehicle accessing the loading docks shall be limited to 8.8m long Medium Rigid Vehicle (MRV) (as denoted in AS2890.2).
  - f) No garbage collection associated with the uses on site are permitted between 10pm and 7am the following day.
- 103 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
- 104 Ongoing maintenance of the road verges and footpaths and nature strips in Lord Street shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
- 105 The use of the premises shall not give rise to any of the following when measured or assessed at “sensitive” positions within any other property. These “sensitive” positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

- (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
  - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
  - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 106 All parking bays shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.
- 107 New street trees as detailed in the required public domain landscape plan, shall be maintained by the Applicant/Owner/Strata Corporation for a 12 month defects period after final Council approval of planting. Maintenance includes twice weekly watering to sustain adequate growth, bi-annual fertilising, mulch replenishment every 3 months minimum and weekly weed removal around the base but does not include trimming or pruning the trees under any circumstances.
- 108 Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or like vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.
- 109 The hours of operation of the uses shall be as follows:

Tenancy/Component	Hours		
	Monday-Friday	Saturday	Sunday
Industrial retail Outlets	7am-6pm	7am-6pm	9am-4pm
Commercial office	7am-6pm	7am-6pm	9am-4pm
Neighbourhood shops	7am-6pm	7am-6pm	9am-4pm
Food and Drink premises	7am-10pm	7am-10pm	8am-3pm
Indoor Recreation Facilities	7am-10pm	7am-10pm	8am-6pm
Warehouse/distribution/light industry	7am-6pm	7am-6pm	9am-4pm
All Loading	7am-6pm	7am-6pm	7am-6pm

- 110 No signage has been approved, any proposed signage will be subject to a future development application unless permitted by exempt or complying development/
- 111 No childcare centre use is approved as part of this development application. Any use of the space will require a future development application.
- 112 There shall be no sale of liquor at the site.
- 113 The maximum floor area of each of the uses in each building is as follows:

Type	Number/area
<b>Block A</b>	
General Industry	2185.1sqm
Ancillary Office	1,257.3sqm
Office premises	1302.5sqm
Industrial retail outlet	2049.8sqm
Indoor recreation	823.8sqm
<b>Block B</b>	
General Industry	2387.1sqm
Ancillary Office	828sqm
Office premises	988.6sqm
Restaurants and cafe	723.3sqm
	29 employees
Neighbourhood Shops	350.6sqm
<b>Block C</b>	
Warehouse	4,403.8sqm
Ancillary office	800.2sqm

- 114 No Strata Subdivision is approved
- 115 Car parking is to be allocated as per the approved traffic report and as detailed in Condition 83 (s)