COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSEC-111
DA Number	DA-2020/468
LGA	Bayside Council
Proposed Development	Integrated development for the demolition of existing structures and construction of an eleven (11) storey commercial office development with rooftop terrace and above ground parking
Street Address	32-34 Ricketty Street Mascot
Applicant/Owner	Linkcity Pty Ltd/ Elegant Capital Pty Ltd
Date of DA lodgement	22 December 2020
Total number of Submissions Number of Unique Objections	Nil
Recommendation	**Approval**
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Development with a CIV of $81,015,000
List of all relevant s4.15(1)(a) matters	• Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 7 of the SEPP- State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils • Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications • Integrated development- Water Management Act 2000 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Vegetation in non-rural areas) 2017 • Botany Bay Local Environmental Plan 2013 • Botany Development Control Plan 2013
List all documents submitted with this report for the Panel's consideration	• Architectural Plans- Scott Carver • Clause 4.6 variation- Willowtree Planning Pty Ltd • Landscape Plans- Geoscapes Landscape Architects
Clause 4.6 requests	• Clause 4.4 of the BBLEP 2013 relating to FSR
Summary of key submissions	• FSR • Car Parking
Report prepared by	Angela Lazaridis – Senior Development Assessment Planner
Report date	17 June 2021

Summary of s4.15 matters

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

Legislative clauses requiring consent authority satisfaction

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

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

Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	**Yes**
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? *Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*	**Not applicable**
Conditions Have draft conditions been provided to the applicant for comment? *Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*	**Yes**

SYDNEY EASTERN CITY PLANNING PANEL
PANEL DETERMINATION MEETING

SECPP No	PPSSEC-111
DA Number	DA-2020/468
Local Government Area	Bayside Council
Proposed Development	Integrated development for the demolition of existing structures and construction of an eleven (11) storey commercial office development with rooftop terrace and above ground parking.
Street Address	32-34 Ricketty Street Mascot
Applicant	Linkcity Pty Ltd
Owner	Elegant Capital Pty Ltd
Number of Submissions	Nil
Regional Development Criteria (Schedule 7 of the SEPP)	Development with a CIV of $81,015,000
List of All Relevant s4.15(1)(a) Matters	• Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 7 of the SEPP-State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils • Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications • Integrated development- Water Management Act 2000 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Vegetation in non-rural areas) 2017 • Botany Bay Local Environmental Plan 2013 • Botany Development Control Plan 2013
List all documents submitted with this report for the panel's consideration	• Architectural Plans- Scott Carver • Clause 4.6 variation- Willowtree Planning Pty Ltd • Landscape Plans- Geoscapes Landscape Architects
Report by	Angela Lazaridis – Senior Development Assessment Planner

RECOMMENDATION

In view of the below comments, it is RECOMMENDED that the Sydney Eastern City Planning Panel (SECPP), as the Consent Authority, resolve to:

a) Grant consent to the Clause 4.6 variation request to vary Clause 4.4 of the Botany Bay Local Environmental Plan 2013 to permit a maximum FSR of 3.9:1 (17,980sqm) for the development, as it is satisfied that the applicants' request has adequately addressed the matters required to be demonstrated by cl4.6, and the proposed development would be in the public interest because it is consistent with the objectives within the zone; and

b) Grant approval of Development Application No. 2020/468 for the integrated development for the demolition of existing structures and construction of an eleven (11) storey commercial office development with rooftop terrace and above ground parking at 32-34 Ricketty Street, Mascot, subject to the conditions of consent in the attached Schedule.

The reasons for approval are as follows:

a) The proposal is consistent and conforms with the objectives of the B7 Business Park zone and conforms with the desired future character of the precinct;

b) The proposal will provide for an increase employment density on the site within the Mascot (West) Business Park Precinct; and

c) The proposal provides a considered built form response that will deliver a positive urban design outcome.

EXECUTIVE SUMMARY

Council received Development Application No. 2020/468 on 22 December 2020 for the integrated development for the demolition of existing structures and construction of an eleven (11) storey commercial office development with rooftop terrace and above ground parking at 32-34 Ricketty Street, Mascot.

The Development Application is required to be referred to the Sydney Eastern City Planning Panel (SECPP) pursuant to Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 as the Capital Investment Value of the proposal is greater than $30,000,000.00.

The Development Application was advertised for a period of thirty (30) days between 13 January to 15 February 2021. No submissions were received.

The development application is Integrated Development under Section 90(2) of the EP&A Act as the development is deemed to be an aquifer interference activity as part of the development intercepts or extracts groundwater.

The key issues in the assessment of the development application include FSR and car parking. The proposal seeks a variation to the FSR control of 3:1. The applicant proposes a GFA of 17,980sqm which equates to 3.9:1 and is a variation of 29.9%. The applicant has submitted a Clause 4.6 variation with the development application and has been assessed. Council is of the opinion that the Clause 4.6 variation demonstrates that the proposal is not unreasonable or unnecessary in this instance and should be supported. Further discussion relating to the FSR is provided in the report below.

The development has a car parking and loading bay departure. Under the BBDCP 2013, the proposed development generates a total of 450 car spaces and eight (8) loading spaces. The development provides 245 car spaces and three (3) loading bays. This is a departure of 205 spaces. The departure in car parking is acceptable in that the proposal is located within 800 metres from the station, encourages different methods of public transport and will result in less traffic generation within the area. This was encourage and supported by Council's Development Engineer.

In summary, the proposed development application has been assessed against the relevant controls, and on balance, Council is generally supportive of the proposal. It is recommended that the application be issued with an approval, subject to the conditions of consent in the attached Schedule.

SITE DESCRIPTION

The site is legally identified as Lot 1 and 2 in DP 220569 and is identified as 32-34 Ricketty Street. The site is located on the southern side of Ricketty Street between Alexandra Canal to the west and Kent Road to the east. The site has a dual street frontage with the rear boundary fronting Ossary Street. The site is irregular in shape and has a total site area of 4,613.8sqm with a street frontage length along Ricketty Street of 58.525 metres, a street frontage length along Ossary Street of 66.75 metres, an eastern boundary width of 70.27 metres and a western boundary length of 77.526 metres. The site is generally level.

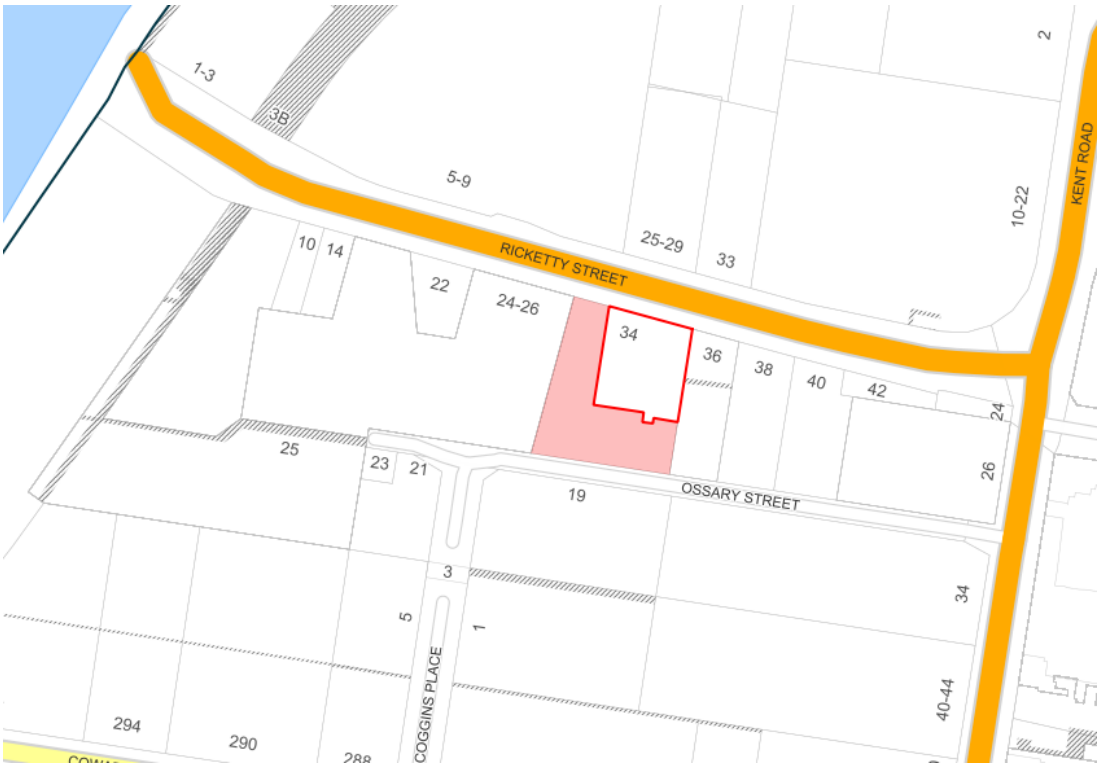


Figure 1. Cadastre Map of subject site

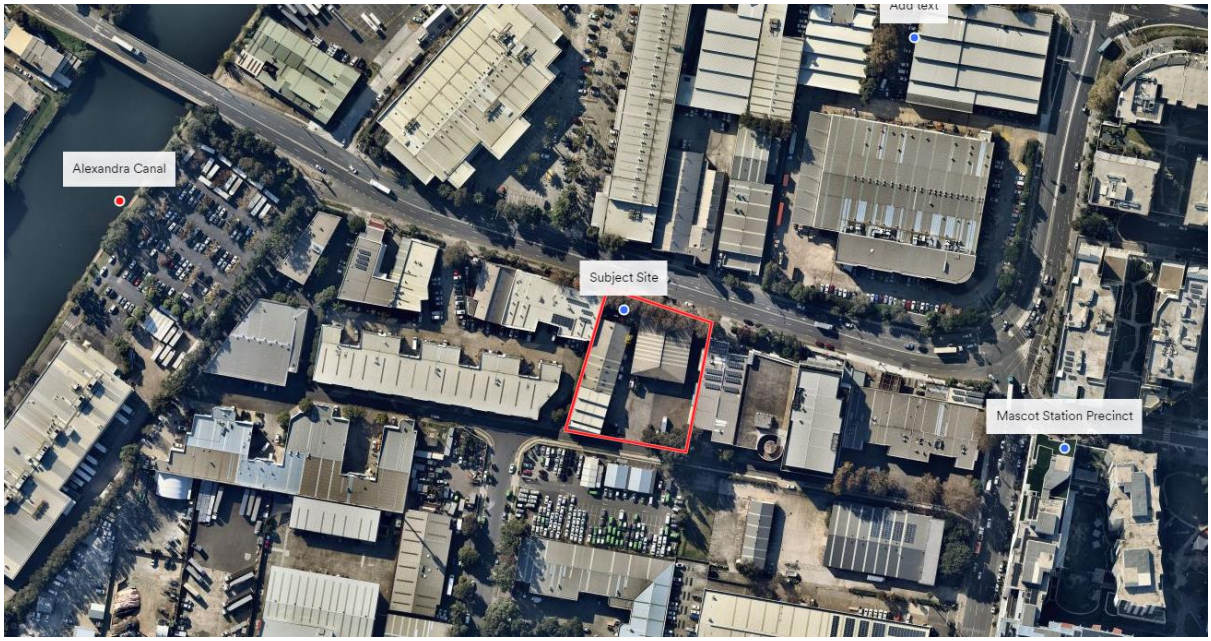


Figure 2. Aerial Map of Subject Site

The site currently contains two buildings with the building located on 34 Ricketty Street is a part single, part two storey brick warehouse located on the western/southern boundary with access from Ossary Street while at 32 Ricketty Street, there consists a two storey industrial building. Most of the site contains hard paving utilized as an at grade car park. There is some vegetation located on the south eastern corner of the site as well as within the front setback on Ricketty Street. There are several street trees along Ricketty Street which are proposed to be removed. Along Ossary Street there is no footpath along the northern side. The site contains a number of stormwater pipes and easements that traverse throughout the site.

Figure 3. Subject site (viewed) from Ossary Street

Figure 4. Subject site (viewed) from Ricketty Street

SURROUNDING LOCALITY

The development to the east at 36 Ricketty Street is a two storey brick industrial building with the building cantilevered over ground car parking spaces. The building is used by 'Video Intercom/Gourmet Group'. Directly to the east at 10 Ossary Street is a two-storey brick industrial building with hard paved area for car parking and vehicle access which is used by 'live productions'. The development to the west at 24-26 Ricketty Street is a large development site which currently contains a two-storey industrial building fronting Ricketty Street which is temporarily used as a food premises while the rear of the site along Ossary Street contains multi-industrial units. Directly opposite the site on the northern side of Ricketty Street, contains single and two storey industrial and office buildings including a furniture showroom. The site to the south at 19 Ossary Street currently is used for the storage of vehicles.

The site is located in close proximity to the Qantas catering area contained in buildings directly adjoining Sydney Airport. The site is located within 800 metres of Mascot Station and therefore is located within the Mascot Station Precinct key area for assessment of Design Excellence. The site is located within the 25-30 ANEF Contour.

Figure 5. Neighbouring site at 36 Ricketty Street (viewed from Ricketty Street)

Figure 6. Neighbouring site at 24-26 Ricketty Street (viewed from Ricketty Street)

Figure 7. Neighbouring site at 5-9 Ricketty Street- adjacent to the site

Figure 8. Neighbouring site at 25-29 Ricketty Street- adjacent to the site

Figure 9. Neighbouring site at 33 Ricketty Street- adjacent to the site

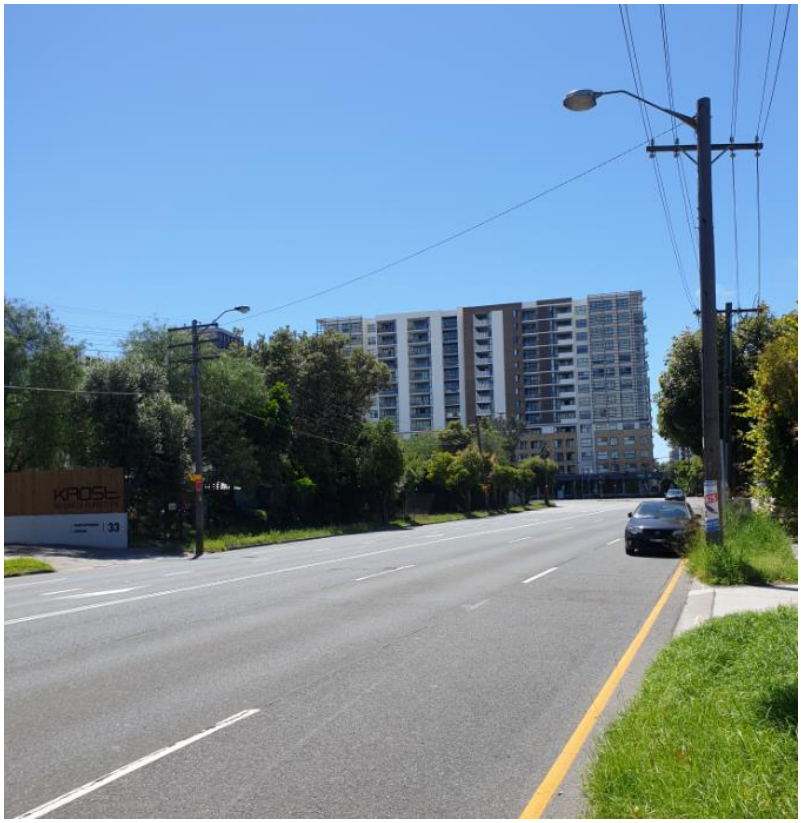


Figure 10. View from in front of the site looking east towards Mascot Station Precinct

Figure 11. Rear elevation of the neighbouring site- 24-26 Ricketty Street

Figure 12. Rear elevation of the neighbouring site- 36 Ricketty Street

Figure 13. Adjacent site at 34 Kent Road- viewed along Ossary Street

BACKGROUND/SITE HISTORY

Site History

- **DA-2004/10211**- Change of use application to move into the existing warehouse for air cargo packaging and handling was approved under delegation on 31 March 2004.

- **DA-2004/1021**- Change of use of an existing industrial building to be a mechanical engineering workshop was approved under delegated authority on 7 April 2004.

- **PDA-2020/23**- Construction for a ten (10) storey office building including ground floor amenities and three (3) levels of parking. The letter was issued to the applicant on 14 July 2020.

- **PDA-2020/42**- Construction of an eleven (11) storey office building. The letter was issued to the applicant on 25 November 2020.

- On 3 December 2020, the pre-DA application was subject to a Design Review Panel meeting. The minutes of the meeting were issued on 11 December 2020 where the Panel requested that the Development Application would be subject to an assessment by the DRP during Development Application.

Development Application History

- 22 December 2020- The Development Application was lodged with Council.

- 13 January to 15 February 2021- The Development Application was placed on public notification for a period of thirty (30) days. No submissions were received.

- 17 February 2021- The Application was presented to the Bayside Traffic Advisory Committee for comment. Recommendations were provided following the meeting.

- 18 March 2021- The Application was presented at a briefing meeting with the Sydney Eastern City Planning Panel. Minutes from the meeting were provided later that day.

- 7 April 2021- The Application was presented to a Design Review Panel for an assessment of Design Excellence where further information was to be provided to Council for assessment. The minutes were issued to the applicant on 14 April 2021.

- 27 May 2021- The Applicant provided additional information including a revised set of architectural plans, landscape plans and reports, flood assessment and Clause 4.6 variation for assessment.

DESCRIPTION OF PROPOSED DEVELOPMENT

The proposed development, as amended, is for the integrated development for the demolition of existing structures and construction of an eleven (11) storey office development with rooftop terrace and above ground parking.

The proposal is further broken down as follows:

Ground Floor and Mezzanine:

- The ground floor plane provides a strong address to Ricketty Street and Ossary Street.
- The primary building entry fronts Ricketty Street via an articulated double height lobby space. The lobby contains a cafe with outdoor spill out, opportunities for internal 'third' space and a twin lift lobby arrangement for safe tenant distancing as they arrive to access the upper levels. Adjacent to the lobby is the gym, bike store and end of trip facilities.
- A double-height, 8.8m wide ground level setback has been introduced along the eastern edge to create a public through-site link connecting Ossary St to Ricketty St. This and creates additional frontages for commercial offices, and brings a human scale to the ground plane, providing sufficient overhead protection.
- The colonnade runs parallel to the 4m building side setback that allows for a continuous vista through the Site and brings natural light into the link. Landscape pods pop into this space, providing users with the ability to sit among the landscaped edge.
- All vehicle access is provided on Ossary Street with both the loading dock and car park driveways consolidated into a single location that is positioned away from primary pedestrian movement.

Levels 1-3:

- Levels 1-3 are car parking levels containing 81 car parking spaces on both Level 1 and 2, and 83 car parking spaces on Level 3.
- The application is committed to provide 5% of car spaces to have electric vehicle charging at commencement, with another 10% of spaces (15% in total) to have the future capacity for car charging as demand increases.

Levels 4-9:

- Levels 4-9 present six (6) levels of office space exhibiting a **2,598m2** floor plate on each level around a central lift core.
- The floor plate is divided by a central core arrangement that creates for two large 'wings' approximately 19m in width. The uninterrupted wing configurations provide flexibility for the plates to be divided into 2, 4 or 6 tenancy arrangements, and will allow for maximum adaptability. Amenities are located on each floor.

Rooftop Level (Level 10):

- The proposal incorporates a range of rooftop spaces which contribute positively to the buildings performance and provides additional activity spaces for tenant health and well-being, including:
    - Basketball half-court;
    - Covered Terrace; and
    - Photovoltaic and green roof.

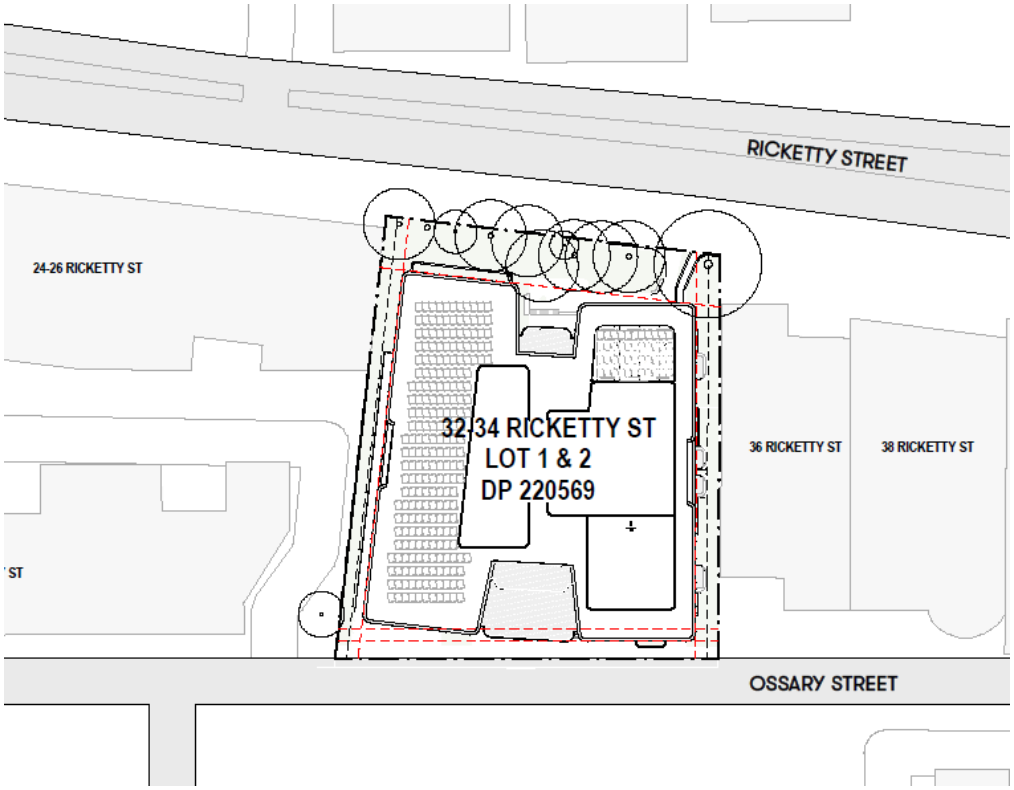


Figure 14. Proposed Site Plan

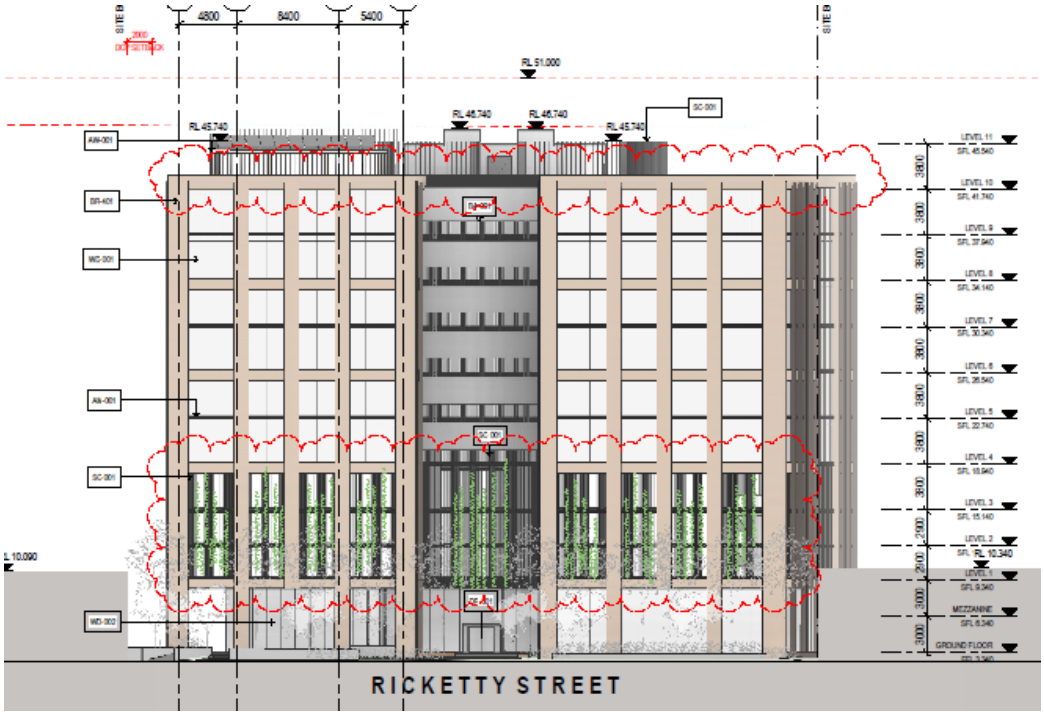


Figure 15. Proposed Northern (Front) Elevation

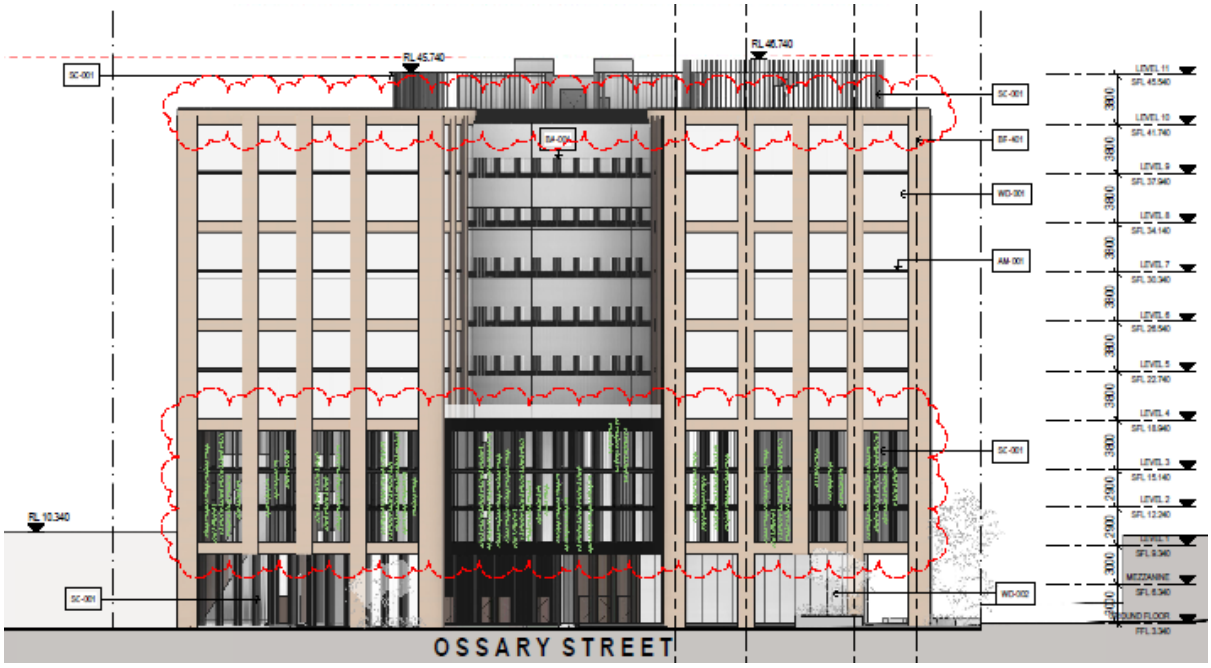


Figure 16. Proposed Southern (Rear) Elevation

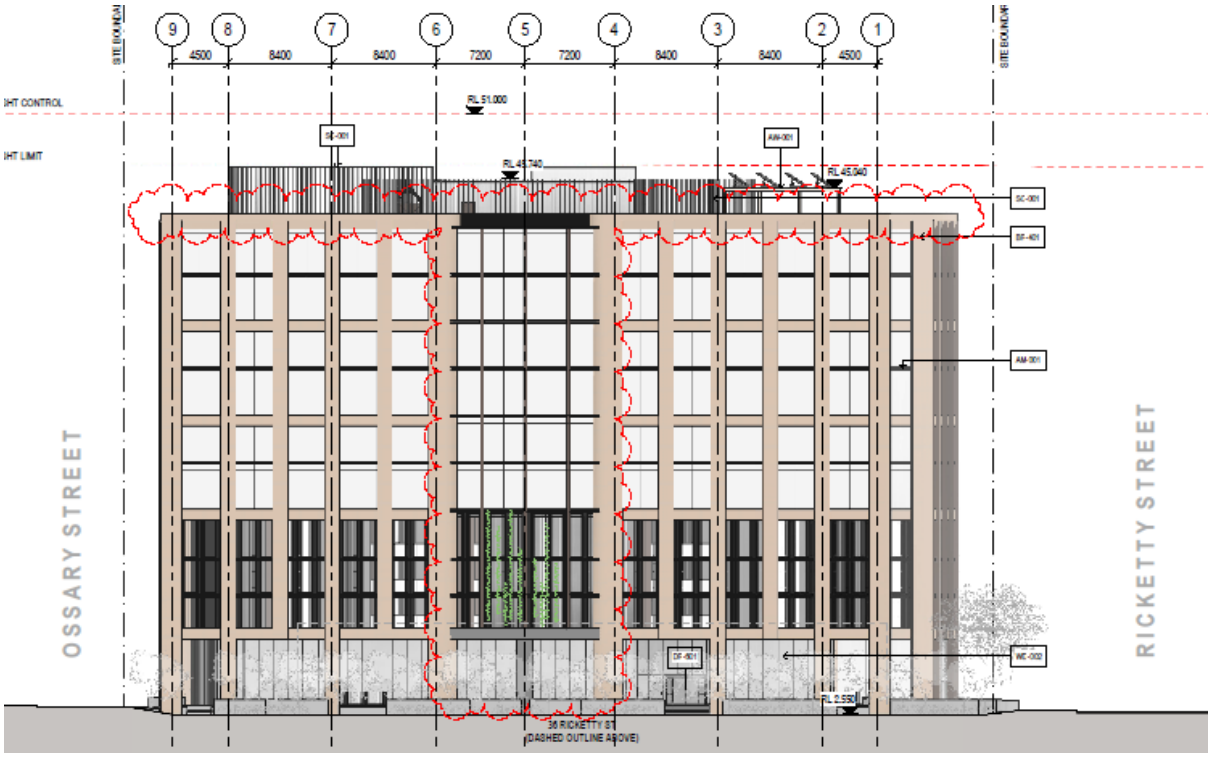


Figure 17. Proposed Eastern (Side) Elevation

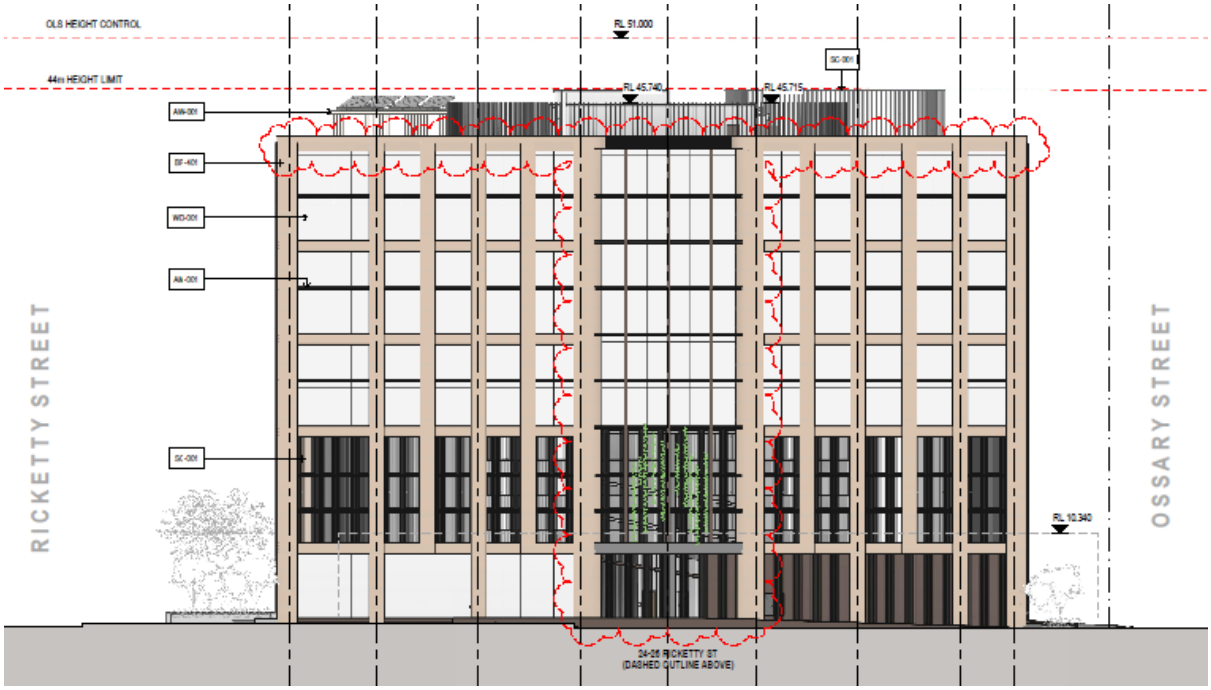


Figure 18. Proposed Western (Side) Elevation

Figure 19. Proposed Photomontage (viewed from Ricketty Street)

Figure 20. Proposed Photomontage (viewed from Ossary Street)

Environmental Planning and Assessment Act, 1979

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

Division 4.8 of the EP&A Act 1979 and Part 6, Division 3 of the EP&A Regulation 2000- Development that is Integrated Development

The relevant requirements under Division 4.8 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the development applications.

The development application is Integrated Development in accordance with the *Water Management Act 2000* as the development involves a temporary construction dewatering activity.

In this regard, the development application was referred to Water NSW. In a letter dated 31 March 2021, Water NSW provided its General Terms of Approval (GTA) for the proposed development. This development application has been recommended for approval subject to GTAs from Water NSW.

Section 4.15 Considerations- Matters for Consideration

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:

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

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (State and Regional Development) 2011

Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 triggers the development to be assessed by the Sydney Eastern City Planning Panel as the capital investment value (CIV) of the proposal is greater than $30,000, 000.00. The overall CIV proposed is $81,015,000.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP 2007) was gazetted on 21 December 2007. The aim of the SEPP is to facilitate the effective delivery of infrastructure across the State by identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, such as classified roads, and providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing. An assessment against the relevant clauses of the Infrastructure SEPP has been carried out below:

Clause 45 – Development likely to affect an electricity transmission or distribution network

Clause 45 which relates to development likely to affect an electricity transmission or distribution applies to the development application. The development provides for a substation which is located at ground level fronting Ossary Street. The site also is in close proximity to overhead powerlines which after consideration by Council's Development Engineer, will be required to be removed and replaced underground. The application was referred to Ausgrid for comment and a response was received on 19 January 2021 relating to overhead powerlines and underground powerlines. These conditions have been imposed in the consent within the attached Schedule.

Clause 101 – Development with Frontage to a Classified Road

The site has one of its frontages to Ricketty Street which is a classified road. The proposal has been designed so that Ossary Street is the sole vehicular access to the site. The proposal provides half the amount of car parking required for the development generated therefore regarding traffic generation and impact on the traffic and road network, the proposal will not significantly impact Ricketty Street. The applicant has provided a traffic report which addresses traffic generation and operations of the street. The application was referred to Transport for NSW (TfNSW) who had no objections to the proposal subject to the imposition of conditions

Clause 104 – Traffic Generating Development

The proposal is identified as a traffic generating development under Schedule 3 – Traffic generating development due to the size and floor space proposed for the office premise. The

application was referred to TfNSW and a response was received on 28 January 2021. TfNSW has no objections with the proposal, as amended, and have provided conditions which have been inserted within the consent in the attached Schedule.

State Environmental Planning Policy No. 55- Remediation of Land

The provisions of SEPP No. 55 have been considered in the assessment of the development application. Clause 7 of 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.

Preliminary and detailed site investigation reports as well as an Acid Sulfate Soils Management Plan and Remediation Action Plan prepared by Douglas Partners was provided with the development application. Councils' Environmental Scientist reviewed the below reports in their assessment of contamination and geotechnical measures:

"The site is located within the Botany groundwater management area (Zone 2) and groundwater was noted to be approximately 1.1 m below ground level. Fill materials are present in the top 1.3 to 2.1m, with natural soil beneath.

The former site uses include market gardening and commercial/industrial uses (including automotive industry, storage of petroleum and oil products, storage of explosives, paint, ethanol, caustic and corrosive liquids. Aboveground storage tanks (ASTs) were formerly located on the site.

A DSI has been completed for the site, which confirmed the presence of asbestos in fill located on the site. One exceedance of the health investigation level of lead was reported in soil. Other exceedances in soil related to benzo(a)pyrene, copper and zinc that exceeded ecological investigation levels. Former underground storage tanks (USTs) were located on the site and require removal and remediation as part of the proposed remediation works.

Potential acid sulfate soil was identified, that would require management during construction. An ASSMP has been provided to address these materials.

The Hazardous Building Survey identified the presence of asbestos in an external wall (fibrous cement sheeting), wall cladding on toilets and vermiculite. The Survey includes management measures for the removal and disposal of this material.

Remedial works proposed include removal of the USTs, classification and off-site disposal of excavated fill, installation of a physical barrier system. A minimum of 15 cm clean fill is required above a geotextile marker. For landscape areas the depth of clean fil is noted to be a minimum of 30cm.

An environmental Management Plan (EMP) would be required to manage the site."

On this basis, as Council's Environmental Scientist has no objection to the proposal and appropriate conditions have been imposed in the attached Schedule, the site could be made suitable for the proposed commercial development. Therefore the objectives and relevant clauses of SEPP No. 55 has been satisfied.

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

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) regulates the clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent and applies to the Sydney and Newcastle metropolitan areas. The aims of the policy are (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The applicant has submitted an arborist report prepared by Ezigrow which outlines which trees are to be retained or removed. In the report, the applicant seeks to remove 24 trees from within the site and on the street verge. Most of the trees to be removed are *casuarina cunninghamiana*.

The arborist report and landscape plans have been reviewed by Council's Tree Management Officer who has assessed the existing trees and has granted approval for the removal of Trees 1, 2, 6, 7, 9, 11, 12, 13, 17, 19, 21-40 and retention of Tree 20 on the neighbouring site and Trees 3, 4, 5, 8, 10, 14, 15, 16 and 18. Councils arborist has agreed to remove more insignificant trees which were subject to remain within the arborist report. The total amount of trees to be removed is thirty (30).

The compensate for the loss of trees, the applicant is proposing to plant many trees within the side and front setbacks. This is demonstrated on the landscape plan.

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

Botany Bay Local Environmental Plan 2013 (BBLEP)

An assessment against the relevant clauses of the BBLEP 2013 are provided below:

Land Use Zone

The subject site is zoned B7 Business Park under the provisions of Botany Bay Local Environmental Plan 2013 (BBLEP 2013). The proposal is defined as a commercial office premise with ancillary café and gym, and car parking which constitutes a permissible development only with development consent.

The objectives of the zone are:

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To encourage uses in the arts, technology, production and design sectors.

The proposed development is consistent with the objectives of the zone. The development includes ground floor activated commercial tenancies, as demonstrated on the plans. Retail premises are prohibited within the zone however food and drink premises are permissible. The applicant has nominated these areas as food and drink premises, and this has further been conditioned within the consent so that the uses relate to this or any other permissible use.

Clause 2.7 – Demolition which requires consent

The proposed development seeks consent for the demolition of the existing industrial warehouses and other structures on the site and hence satisfies the provisions of this clause. The proposal involves the removal of thirty (30) trees which are located within the site and on the street verge along Ricketty Street. The vehicular crossing along Ricketty Street is also to be removed in accordance with TfNSWs' requirements for all vehicular access to occur from Ossary Street.

Clause 4.3 – Height of Building

A maximum height limit of 44 metres applies to the site under Clause 4.3 of the BBLEP 2013.

The proposal has a maximum height of 43.4 metres (RL 46.74m AHD) which complies with the provisions of this clause.

Clause 4.4 – Floor Space Ratio

A maximum floor space ratio of 3:1 (13,841.4sqm) limit applies to the site under Clause 4.4 of the BBLEP 2013.

The proposal has a maximum floor space ratio of 3.9:1 which equates to a GFA of 17,980sqm. This does not comply with the provisions of this clause. This is a gross floor area exceedance of 4,138.6sqm which is a variation of 29.9%. A discussion regarding the variation to the FSR is provided below.

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 allows a variation to a development standard subject to a written request by the applicant justifying the variation. The applicant is seeking to vary the floor space ratio development standard by 4,138.6sqm which equates to 29.9% variation. A Clause 4.6 variation to justify the non-compliance has been prepared by Willowtree Planning Pty Ltd and is summarised and assessed below. The relevant sections of Clause 4.6 of the BBLEP 2013 that have been used in this assessment are provided below:

(1) The objectives of this clause are as follows—
(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

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

(4) Development consent must not be granted for development that contravenes a development standard unless—
(a) the consent authority is satisfied that—
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,

The assessment of Clause 4.6 below has been undertaken in accordance with the principles established by the Chief Judge in ***Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*** where it was observed that:

- in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and

- there is no basis in Clause 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development.

The applicant has provided a Clause 4.6 variation which argues that there are sufficient environmental planning grounds to support the non-compliant FSR. The variation is templated to address at least one of the five tests as well as whether the variation is unreasonable or unnecessary and provides environmental planning grounds to argue their case. The applicant has chosen the first test for their assessment. These components are summarised below with Councils response provided:

Clause 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,

Applicants Comment:

"In Wehbe v Pittwater Council [2007] NSWLEC 827, Preston CJ set out the five ways of establishing that compliance with a development standard is unreasonable or unnecessary in support of justifying a variation:

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

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

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

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

5. *Establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary".*

In applying the tests of Wehbe v Pittwater Council [2007] NSWLEC 827, only one of the above rationales is required to be established. Notwithstanding the proposed variation, the development is consistent with the underlying objectives of the standard for Floor Space Ratio and the relevant Zoning prescribed under BBLEP 2013.

In view of the particular circumstances of this case, strict compliance with Clause 4.4 of BBLEP 2013 is considered to be both unnecessary and unreasonable. The proposed development does not conflict with the intent of Clause 4.4 as demonstrated above and satisfies the objectives, notwithstanding the proposed numeric variation.

The proposed development is justified on the following environmental outcomes:

- *It represents logical and co-ordinated development of the Site for the purpose of a commercial office development;*
- *It will result in improvements to the functionality and operations of the Site through a carefully designed built form that is responsive to the Site context and its desired character;*
- *The architectural design provides a superior built form outcome for the Site and is functional for the proposed outcomes;*
- *Development will be compatible with the desired and future character of the immediate locality;*
- *The proposed variation to the FSR will not give rise to any environmental or amenity impacts to surrounding development in relation to views, overshadowing, solar access, noise and visual privacy, compared to a compliant scheme;*
- *Compliance may be achieved by reducing the scale of the development, but this would undermine both the visual quality and functionality of the design and in turn would reduce the opportunity for the delivery of additional floor space;*
- *The proposed development establishes valuable characteristics on how Council envisage the Site and neighbouring properties to be developed; and*
- *Reducing the FSR to achieve a compliant FSR would not deliver any measurable environmental or amenity benefits.*

A different Site configuration would have likely resulted in a less efficient use of the Site given the site-specific constraints present. Use of a different Site would have meant that suitably zoned, under-developed commercial land would remain under-utilised and therefore not developed to its full planning potential. In addition, compliance with Clause 4.4 is further considered unreasonable given that this would:

- *Effectively sterilise a significant portion of the site from being able to be redeveloped for commercial employment generating and other purposes;*
- *A compliant scheme would result in smaller floorplates which would subsequently compromise the built form;*
- *Not provide sufficient room to achieve the ground floor activation and through-site link;*
- *All alternative site configuration would have detrimental impacts on the floor plate design and the ability for smaller tenancies to accommodate a portion of the floor plate; and*
- *Reduce the feasible building floorplate achievable for the proposed commercial office development, which would not be efficient to deliver from a cost-benefit*

perspective and therefore threaten the financial viability of the proposed development.

In light of the above, the abovementioned justifications are considered valid and, in this instance, the proposed Clause 4.6 Variation is considered to be acceptable. The proposed development represents a more efficient use of the Site when compared to a compliant floor space ratio scenario. The objectives of Clause 4.4 as well as the B7 Business Park Zone would be upheld as a result of the proposed development. Therefore, the application of the floor space ratio development standard is therefore unreasonable and unnecessary in response to the proposed development.

Officers Comment:

The applicant has satisfied at least one of the tests outlined within *Wehbe v Pittwater Council* in that it is considered that the non-compliance has achieved the objectives of the standard therefore compliance is unnecessary.

The argument that the proposal will provide for improvements to the functionality and operations of the Site through a carefully designed built form that is responsive to the Site context and its desired character is a valid particularly as the objective of the zone requires any future development to provide a range of office uses, encourage employment opportunities, and provides a facility or service that will meet the day to day needs of workers in the area.

It is considered that both the LEP and DCP controls set the standard building envelope for the site. The proposal requires a maximum building height of 44 metres and setbacks of 9 metres for the front setback, 2 metres for the side setbacks and a nil to 3 metre setback at the rear. The proposal is compliant with the building height requirement, provides greater side and rear setbacks and compliant front setback. It is key to note the FSR control does not speak to the remaining controls with regard to the building form and general modelling of building envelopes for a site with an area greater than 1,000sqm. To develop to its full potential results in a higher FSR and yield provided than if the site required setbacks greater than 6 metres and a lower height. This is evident by the height proposed. The proposal has three levels of car parking above ground. Should these be located below ground, the development, with the current FSR proposed, would be eight storeys in height. This is almost two thirds of the maximum number of stories allowed within the maximum building height of 44 metres of 12-13 storeys.

Clause 4.6(3)(b)- Are there sufficient environmental planning grounds to justify contravening the development standard?

Applicants Comment:

"The justification for the proposal variation to the development standard for Floor space is considered to be well founded and this report demonstrates sufficient environmental planning grounds for support as, notwithstanding the proposed departure from the development standard, the feature of the development that contravenes the development standard (Floor Space Ratio):

- *Does not give rise to any measurable or unreasonable visual impacts from the public domain. As aforementioned, where the contravention occurs, is not visible from the public domain and the bulk and scale of the built form does not dominate the streetscape when viewed from surrounding sites or the public domain. Further, the resulting built form would not result in any visual amenity impacts greater than that of a fully compliant building envelope. This is justified through the introduction of a*

compliant building height and generous setbacks. In the absence of any identifiable visual impacts associated with the proposed contravention, the proposal is considered to represent a development outcome which is compatible with the desired future character of the area.

- *Does not result in any environmental or amenity impacts to the surrounding or adjoining properties. In this respect, the proposal is commensurate to the context of the Site and the available outlook from surrounding sites to the development does not provide opportunity for any unreasonable or unwarranted visual impacts.*

- *A considered site analysis and spatial arrangement of built form and landscape elements has been demonstrated to justify the variation to the maximum floor space ratio.*

The variation to the development standard for Floor Space Ratio is considered well founded because, notwithstanding the proposed non-compliance with the standard:

- *The proposed development is consistent with the underlying objective or purpose of the standard as demonstrated;*
- *The scale of the proposal is appropriate for the Site and the proposed use;*
- *The proposed building envelope would provide a scale of development that is more commensurate of the area and streetscape;*
- *The proposal provides a design outcome that responds to the Site constraints and considers the context as well as the existing and anticipated built form;*
- *The proposed development represents a superior ESD outcome for the site with reduced basement car parking rates and encouraging reliance on public and active modes of transport;*
- *The proposed development would not create a significant visual or overshadowing impact for surrounding land users;*
- *The proposed development will not give rise any unreasonable amenity impacts to adjoining properties;*
- *Strict compliance with the building controls would unreasonably restrict the potential to develop the Site to its full potential;*
- *The proposed development is consistent with the desired and future character of the Site and will not result in any measurable or unreasonable environmental or amenity impacts; and*
- *Reducing the FSR to achieve a compliant FSR would not deliver any measurable environmental or amenity benefits. Rather, the proposed development is considered to improve the amenity of the surrounding locality."*

Officers Comment:

The applicant has also demonstrated that there are sufficient environmental grounds to support varying the standard. It is acknowledged that strict compliance with the floor space ratio control would likely lead to a less satisfactory outcome as it would result in smaller commercial floor plates and would result in an inferior built form. Sustainability measures have been incorporated within the development which demonstrates initiative in providing sustainable options available to future workers of the building, particularly with the proposed EOT facilities and bicycle parking as well as solar panels located on the rooftop. In addition to the points raised by the applicant, the proposal does incorporate a through-site link between Ricketty Street and Ossary Street along the eastern side of the site. While this is considered access to the occupants of the building, this could also be utilized by the general public and therefore a condition for a public pedestrian easement has been included in the consent.

The site is ideal to accommodate large floor plates for commercial offices which is characterised within the Mascot Business Park and Mascot Business Development Precinct. Compliance with the FSR would unnecessarily reduce employment opportunities on an ideally located site, to the detriment of achieving the vision for the Mascot Business Park Precinct. The subject site is a continuation of developments within the immediate vicinity which have been approved by the Sydney Eastern City Planning Panel for commercial/office premise. These developments have been approved with similar gross floor areas, density and setbacks. As such, the current proposal establishes valuable characteristics on how Council would envisage the site and neighbouring sites to be redeveloped.

Clause 4.6(4)(a)(i)- Consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3)

Officers Comment:

An assessment of Clause 4.6(3) as outlined above has been undertaken. The justification provided by the applicant is satisfactory in addressing each point relating to planning grounds and unreasonableness.

Clause 4.6(4)(a)(ii)- Consent authority that the proposal is in the public interest because it is consistent with the zone and development standard objectives

The objectives of the B7 zone are as follows:

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To encourage uses in the arts, technology, production and design sectors.

The objectives of the Floor Space Ratio standard are as follows:

- to establish standards for the maximum development density and intensity of land use,
- to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,
- to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,
- to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,
- to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
- to provide an appropriate correlation between the size of a site and the extent of any development on that site,
- to facilitate development that contributes to the economic growth of Botany Bay.

Applicants Comment:

"The public advantages of the proposed development are as follows:

- *Contributes to the urban renewal and transformation of the Site;*

- *The proposed architectural design significantly improves the streetscape interface with the public domain, activating streetscapes along Ricketty Street and Ossary Street;*
- *Stimulating employment and resolving existing CPTED issues within the locality;*
- *Contributes to pedestrian and residential amenity, including the provision of the through-site link;*
- *Driving increased commercial interest in renting or purchasing Office Premises Floorspace within the Mascot Strategic Centre, thereby meeting some of the new demand for Office Premises floorspace as identified by the Greater Sydney Commission;*
- *Creating employment supporting floorspace near to where a range of residential development is located, thereby supporting the Greater Sydney's Commission's ideal of the 30-Minute City;*
- *The proposed development will result in a significant improvement to the development across the Site, commensurate to the surrounding locality;*
- *The proposed built form will make a positive contribution to the ongoing operation of the Site;*
- *Provide a development outcome that is compatible with the existing and emerging commercial/industrial that is a permissible land use and consistent with the land use zone objectives and substantially increases the landscape provisions across the Site compared to what is currently available; and*
- *Substantially improve the access for Council to their stormwater asset through the provision of three (3) access points.*

There are no significant public disadvantages which would result from the proposed development. Accordingly, the public advantages of the proposed development is therefore considered to far outweigh the public disadvantages.

The proposed development is therefore considered to be justified on public interest grounds."

Officers Comment:

It is supported that the proposal will successfully achieve the objectives of the clause and zone and provide a considered built form response that will deliver a positive urban design outcome. The site is located within the B7 zone where the objective is 'to provide a range of office and light industrial uses, to encourage employment opportunities and to enable other land uses that provide facilities or services to meet the day to day needs of workers in the areas". The site is located within 800 metres of Mascot Train Station and is directly north of the airport precinct. The proposal provides large floor plates which is consistent with the objective of the zone. It is likely that the offices will be tenanted to correlate with a surrounding use. The site location and proposal is in the public interest as it provides greater employment opportunities within the area. The application was subject to notification and no submissions were provided. As discussed above, the proposal is consistent with the objectives of the development standard clause and the variation is supported in this instance.

Clause 6.1 – Acid Sulfate Soils

The site is identified as being affected by Class 2 Acid Sulfate Soils (ASS). Development Consent is required as the proposed works is within 500 metres of adjacent Class 1, 2, 3 or 4 that is below 5 AHD and the works may lower the watertable beyond 1m of adjacent Class 1, 2, 3 or 4 land.

An Acid Sulfate Soils Assessment prepared by Douglas Partners dated 2 December 2020 was prepared with the development application. The report detailed how previous investigations identified potential acid sulfate soils (PASS) in natural soils located beneath the measured groundwater table. The report provides management methods and procedures to minimise environmental impacts resulting from the disturbance of this PASS during development earthworks.

The report contains proposed management strategies including water and groundwater management and emergency incident response plan strategy.

As discussed above, the development application was reviewed by Councils Environmental Scientist who had no objections to the proposal subject to the imposition of conditions of consent.

Clause 6.2 – Earthworks

Earthworks are limited to facilitate the proposed tower foundations. There is no basement parking level proposed as part of this application. The main reason for the limitation in excavation across the site relates to the Council stormwater pipes that run through the centre of the site. Regardless, the applicant has submitted a geotechnical report prepared by Douglas Partners where an investigation encountered groundwater approximately 1.1 metres below natural ground level. As the foundations will have a greater depth, the application triggers integrated development and a referral to Water NSW was sent. A response was received including the GTAs and these have been included in the consent.

The objectives and requirements of Clause 6.2 of BBLEP 2013 have been considered in the assessment of this application. It is considered that the proposed earthworks and excavation will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. Notwithstanding this, relevant conditions are included to ensure that the environmental amenity of surrounding land is maintained, and soil erosion, sedimentation, and drainage impacts are minimised.

Clause 6.3 – Stormwater Management

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and
c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

Council systems indicate there is stormwater infrastructure (assumed 1050 in size) that traverses the site. This pipe is a significantly important pipe that assists in providing drainage to the Alexandra Canal from the Central Mascot Station Precinct. There are also two pipes traversing within the Ossary Street and Ricketty Street road reserve. Furthermore, there is an existing pipe and easement traversing through 24-26 Ricketty Street Mascot (SP 72964) directly adjacent to the development site which needs to be located to determine the proximity of the pipe from the development sites property boundary.

The proposed development is not considered to impede access to Councils assets as the proposal has been designed so that the ground level provides appropriate head clearances to allow for machinery to enter the site in the instance when the assets require maintenance.

Additionally, the development does not propose an on-site detention system (OSD). In lieu of an OSD, the development proposes a combination of 300m^3 of flood storage and a 50m^3 rainwater tank. The application was reviewed by Councils Development Engineer who has imposed appropriate conditions within the consent.

Clause 6.8 – Airspace Operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at RL51.0m AHD. The building height 43.4 metres (RL 46.74m AHD) and therefore will (will not) penetrate the OLS. However, the proposal does protrude RL 15.24m AHD therefore the application was referred to Sydney Airports for comment. Sydney Airports approved the proposal subject to the imposition of conditions on 19 January 2021. The recommended conditions have been included in the draft consent.

Clause 6.9 – Development in Areas Subject to Aircraft Noise

(1) The objectives of this clause are as follows—

(a) to prevent certain noise sensitive developments from being located near the Sydney (Kingsford Smith) Airport and its flight paths,

(b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,

(c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.

(3) Before determining a development application for development to which this clause applies, the consent authority—

(a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and

(b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and

(c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.

The provisions of Australian Standard AS2021-2000 have been considered in the assessment of the development application, as the subject site is located within the 25-30 ANEF contour. Commercial and office development in these areas is considered acceptable under Table 2.1 of Australian Standard AS2021-2000 unless an acoustic report is submitted to Council, which demonstrates that the proposed dwelling can achieve the requirements under Table 3.3 of AS2021-2000.

An acoustic report prepared by Pulse Acoustic Consultancy dated 14 December 2020 has been prepared to accompany the development application.

The report demonstrates that the proposed development (when complete) will conform with the relevant requirements of AS2021-2000 provided the recommendations contained in the acoustic report are undertaken.

The standard requires that the external environment to the building be considered for aircraft noise impacts. This process has taken the following into account:

1. There are existing industrial warehouse/commercial buildings on site and the development proposes commercial/office development on the site;

2. The degree the land is affected by aircraft noise is related to the use and operation of the airport as it affects the subject commercial/office development;

3. Development in the immediate surrounding environment is commercial and industrial development; and

4. The outdoor environment, given the curfew and current operating patterns, are such that in daylight hours there will be sufficient opportunity to utilise the common terrace without the presence of aircraft noise.

The development consent will be conditioned to comply with the recommendations outlined in the acoustic report and the requirements of AS2021-2000.

Clause 6.16 – Design Excellence

Clause 6.16 of the BBLEP 2013 relates to design excellence and the objective of this clause is to deliver the highest standard of sustainable architectural and urban design on the site. The provisions of the clause applies to Mascot Station and applies to the construction of new buildings or external alterations to existing buildings in which this clause applies.

The site is located within the Mascot Station Precinct as identified within the Key Areas Map within the BBLEP 2013. Therefore, the site is subject to design excellence. The proposal was presented to two design excellence review panel meetings, with the first one lodged prior to the lodgement of the development application on 3 December 2020 and the second meeting was held during the assessment of the development application on 7 April 2021.

The below comments are provided by the Panel following the second meeting, the applicants response and Councils comments are provided below. The discussion relates to how they have redesigned certain elements of the development to achieve design excellence:

Context and Neighbourhood Character

Panels Comments:

The current and future context was discussed at length at the last design review panel meeting. The Panel noted the applicants' response to the physical context, such as site size and location, evolving nature of the context, traffic impacts, local influences and the retention of existing trees. In principle, the Panel supported the provision of high quality office space, associated retail and welcomed the retention of the large trees along Ricketty Street and through site link – which appears to align with desire lines to Mascot Station.
However, the Panel was concerned about the proposal's bulk and scale, which although generally compliant with the LEP's 44m height requirements, appeared not to align with its relatively low 3:1 density. The Panel's concerns generally related to:

- the adequacy of 4m side setbacks at such a height and length in the provision of light, air and outlook to internal spaces
- the likely open space quality, landscape character and pedestrian amenity of the through site link and/
- the likely spatial quality and urban character of a future context populated with buildings of a similar mass and scale

In regards the future context, the Panel questioned whether the proposal was consistent with the "intentions" of the LEP controls, whose relatively low density could imply that smaller footprint buildings with much larger open landscaped spaces were intended. However, the Panel must concur with the Applicant that the intentions of the LEP controls are far from clear; we do not know for example if the low density anticipated the provision of above grade parking within the envelope; in this area, above grade parking appears to be necessitated by poor ground conditions and largely supported by Council in the local area.

While the proposal remains largely the same as first proposed, it now includes some reference to future building envelopes, as requested by the Panel. Although the depictions of future built form context would appear to align with LEP controls – thereby meeting the Panel's requirements to demonstrate how the proposal would appear in a future context - the resultant urban design quality and external amenity of the long side setback spaces remain of concern.

Applicants Comments:

Per the DRP request, future context plans have been shown in Figure 1 below, with indicative building outlines indicating the same enhanced 4m side setbacks to adjoining properties as 32 Ricketty street (in excess of the 2m DCP controls). The proposed side boundary setbacks will allow for an 8m landscaping corridor between buildings, and a 12.8m separation at the double-height colonnade through-link positioned along the eastern edge.

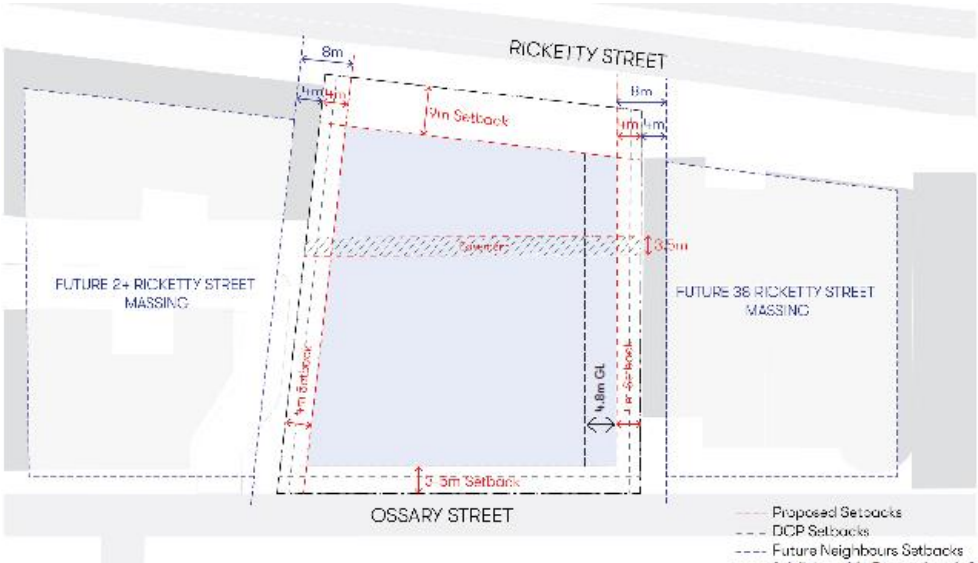


Figure 1: Enhanced building setbacks & future massing

As shown in Figure 1 the proposal has been design to proactively respond to the existing and future context of the area. We believe enhanced setbacks adopted in the 32 Ricketty St proposal establishes a good benchmark for any future built form/character to pursue similar setbacks. Additionally, the design of the side elevations have been revised to include additional articulation in response to DRP comments, as outlined later in this response table.

Additionally as demonstrated in Table 1 below, the proposal has aimed to meet or exceed setbacks of comparable, recently approved Development Applications, putting forward a best-in-class design response for the area.

Table 1: Comparison of setbacks against relevant, recently approved DA's for commercial buildings

Site	32 Ricketty St	50 Kent Rd	253 Coward St	1-5 Chalmers	2 Chalmers
Main Setback	**9m**	7.85m (Kent - Short Frontage)	6.1m	4.9m	3m
Secondary / Side Setback	**4m (sides)**	5.2m (Coward - Long Frontage)	4.7m (Chalmers) 6.8m (Coward)	3m (sides)	0m
Rear Setback	**3-5m**	3.25m	0m	0m	0m

Built Form and Scale

Panels Comments:

The Panel acknowledges that the "intentions" of the generous 44m height allowance and relatively modest 3:1 density controls cannot be determined; they may for example have been conceived to allow for above grade parking, which would explain how the proposal massing is reconciled with planning controls for the site.

It is noted that many approved development proposals in the area include above grade parking, without contributing to GFA calculations. Given the extent of Council support for this practice, the Panel cannot insist on relocating parking to basement levels (which is best practice), especially when a drainage easement would further impact on the efficiency of parking layouts. The Panel supports the breaking of the built form into two expressed built forms, with further refinement of the screening and framing of windows having increased the apparent design quality since the last presentation.

The Panel is concerned however that the top of the built form appears rather abrupt and in need of further consideration. It may be better for example to follow some cues from large wool stores, mansard forms or even the American architect's Sullivan's brick buildings, all examples which manage to elegantly terminate built form in a sensitive and enrichening manner.

With the amended roof level, the proposal appears to comply with the LEP's height requirements for the site. Front and rear setbacks appear to comply with the DCP's requirements and allow for the retention of the large existing trees to the Ricketty Street frontage.

The proposed 4m side setbacks appear to comply with the 2m minimum side setbacks required. However, there is no guarantee that similarly dimensioned setbacks will be proposed on adjoining sites; therefore the building separation proposed could conceivably be 6m wide – as opposed to the 8m suggested in the DA package. At 60m long, these side spaces remain of concern to the Panel. Not only will light levels be severely constrained, especially at ground level, it is not clear how this would impact on the outlook and internal amenity of commercial spaces or how amenable landscaped spaces could thrive.

Therefore the panel strongly recommends that side setback spaces are significantly increased in width (at least in in part) and that the length of continuously aligned built form is significantly reduced. Either by creating indentations similar to those proposed at the frontages or stepping of the built form, a much higher landscape and urban design quality must be demonstrated, with better outlook, large trees and adequate light penetration.

In addition, it may be better to consider the role of each side setback when considering the actual dimension of each side setback; surely the pedestrian quality required from a publicly accessible cross site link would warrant greater spatial amenity than a landscape buffer for example.

As discussed at the meeting, increasing traffic impacts along Ricketty Street could suggest that a formal entry from Ossary Street would be warranted. An entry from Ossary Street could recognize the pedestrian desire lines from Mascot Station and address the Panel's concerns regarding the amenity and urban design quality of the cross site link. While the Applicants suggested that the cross site link would adequately link the existing entry from Ossary Street, best practice would recommend facing entries directly to the public domain.

Mention was also made of façade planters, whose plan allocations appear not to be fully considered. It was suggested too that perhaps the green wall treatments of the front and rear facades could be opened up more (for parking level cross ventilation) and be extended similarly along side elevations.

Applicants Comments:

Above Ground Car parking

We agree with DRP and council's position regarding the appropriateness of above ground car parking.

Above ground parking is a necessary component of commercial development in Mascot. The ground conditions are extremely poor, with very deep natural rock, very poor soil rigidity, extremely shallow water table and contamination as a result of its industrial heritage. As demonstrated in by many recent buildings both complete and approved including;

- *1-5 Chalmers St*
- *253 Coward St*
- *50 Kent Street*
- *185-191 O'Riordan St*

It is not viable to build car parking underground.

- *The constraints presented on site for an underground car park are;*
- *Council Storm water Easement which dissects the site*
- *Provision for deep soil landscaping*
- *Requirement for an OSD Tank*
- *Poor ground conditions & High water table*
- *Future adaptability of aboveground car parking levels*

With all these constraints considered, the design would require a basement of 6 levels as shown in Figure 2. The resulting basement would also be significantly less efficient and cost prohibitive.

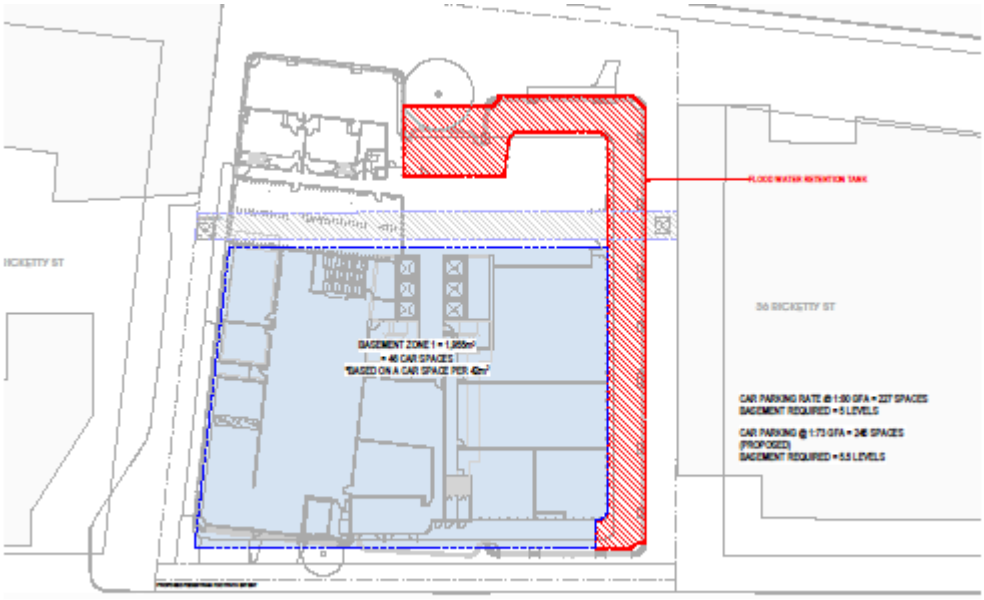


Figure 2: Impact of site constraints on potential basement parking footprint & resultant levels.

Parking Rate

The Botany Bay DCP 2013 specifies a parking rate of 1:40 sqm GFA for Commercial office development. Following the advice from the Pre-DA meeting with council, the proposed application applies a parking rate of 1:73sqm GFA, reducing the number of car parking spaces as required by the DCP, and reflecting the rates applied to similar approved developments in the area.

Built Form and Scale

The current proposal at 32 Ricketty Street is compliant with the prescribed maximum building height comes as a result of applying setbacks greater than the prescribed DCP setbacks.

- *Ricketty Street = 9m (as required)*
- *Side Setbacks = 4m (increased from 2m DCP)*
- *Ossary Street = 3-5m (increased from 0-3m DCP)*

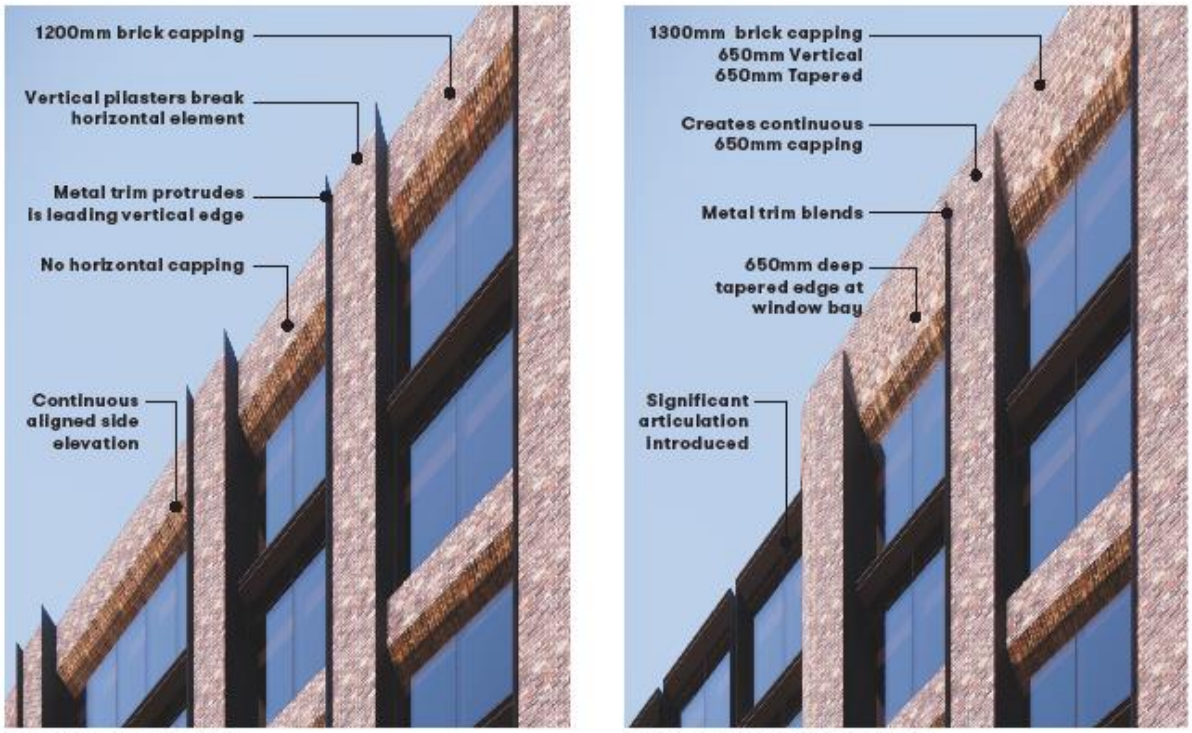
In addition to this, the development is offering;

- *20.06% Ground Level Landscape Area (39.8% Total Landscape Area)*
- *18.86% deep soil zone*
- *A public through site link (in the form of an additional 4.8m setback on ground)*

Top of Built Form / Capping Detail

In response to the DRP comments, the design has refined its approach to the top of the built form and building capping by increasing the proportion of the top parapet with both flat and tapered sections to elegantly terminate the top of the built form as shown in Figure 3. The amended approach addresses the panels concerns in a considered manner, whilst retaining the essence of vertical expression the original design intent of vertical expression.

Figure 3: Revised Building Top / Capping Detail (refer to images further down in report for additional imagery)



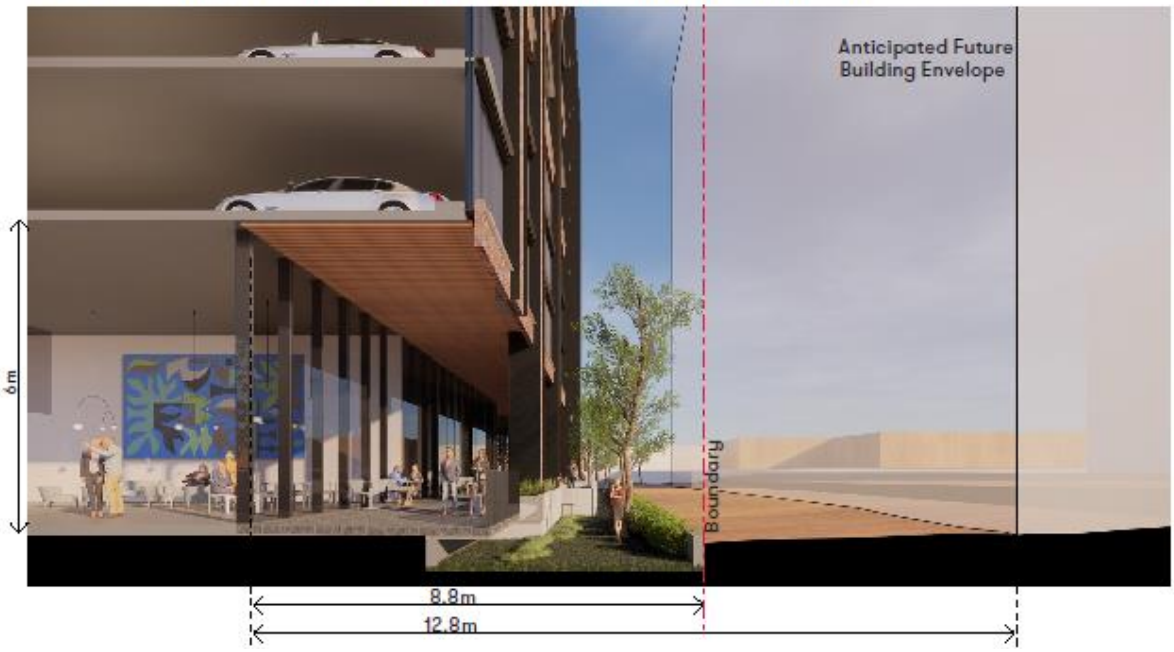
DA Capping Detail **Revised Capping Detail**

Setbacks

As shown in Figure 4 below and in the context & neighborhood section above, the design doubles the minimum building setback at tower levels, and over 4 times the minimum setback at the double height ground plane along the western colonnade, achieving a positive outcome for the development.

Figure 4: Relationship eastern colonnade to boundary and future built form envelope.

Figure 4: Relationship eastern colonnade to boundary and future built form envelope.



Landscape Zone

The proposal allows for substantial landscape areas (925.7sqm = 20.06% of site). Our deep soil ratio of 18.86% of site area far exceed the ratio of recently approved buildings. Additionally, the through site link provides a substantial under croft public spaces for enjoyment in all weather conditions. This space offers outdoor seating and protection to tenants and pedestrians.

The ground floor plane incorporates numerous seating pods located along the eastern colonnade that protrude into the embellished and substantial eastern landscaping zone. These pods are not included in the landscape area calculation, but offer the building tenants and general public an opportunity to immerse themselves in the landscaping whilst enjoying lunch, a morning coffee or an afternoon tea.

Tree species proposed for the laneway link have an expected mature height of up to 10m and a spread of 5m. Soil volumes are more than adequate with a deep soil width of up to 4m and total length of approximately 68m, this will create a green canopy between the proposed and the adjacent building. Species are able to cope with the lower light conditions of the laneway and have been selected to grow with the additional constraint of the existing wall on the eastern boundary.

As demonstrated in the below table, the proposal is providing a 21.47% uplift in landscape area than what is required by council, well exceeding comparable recently approved developments in the area.

Site	Deep Soil %	Ground Landscape %	Total Landscape Area %	Landscape Control (20%) Variance
1-5 Chalmers Cr	12%	12%	26%	+6%
50 Kent Rd	14.49%	14.49%	19.63%	-0.37%
253 Coward St	14.88%	14.88%	31.13%	+11.13%
2 Chalmers Cr	4.8%	4.8%	21%	+1%
32 Ricketty	**18.87%**	**20.06%**	**41.47%**	**+21.47%**

Built Form

Several other floor plate and building form shapes were considered on this site before the design team settled on an "H" shape. The H shape allows for significant natural light penetration into the building whilst allowing the floor to be subdivided easily into 4 or 6 tenancies. This large floor plate can be occupied by multi floor tenants down to 100-200sqm tenancies, allowing small businesses to access high quality office accommodation, a highly sustainable building and all of the end of trip and staff amenity benefits that a large business can access.

Side Elevation Articulation

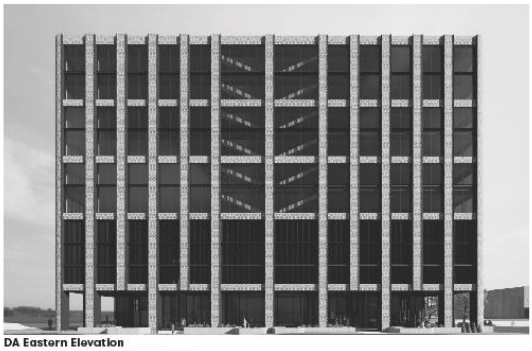
The design has been revised to integrate significant articulation in the side facades by introducing a break in the brick treatment that defines two slender forms, broken by a central glazed junction. The introduction of planters to the central articulated zone on the parking levels also further emphasises this central architectural feature.

Introducing significant notches to the side elevations would result in a severely compromised commercial floor plate reducing functionality, flexibility, leasability, efficiency and longevity from a sustainability perspective. Recently approved developments in the area demonstrate the need for good flexible commercial floorspace at a similar scale to the proposal. We believe the plate design reflects best practice agile large-format commercial floor plates, optimised for occupant desirability, this is demonstrated by the daylight and ESD analysis outlined within the DA submission and the design report.

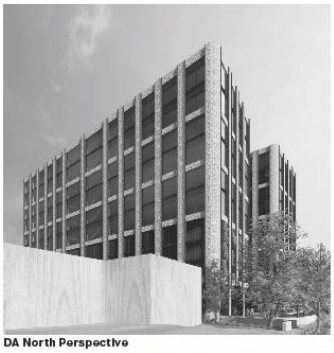
DA Eastern & Western Elevation

Revised Eastern & Western Elevation

Stepping of built form on side elevations & elegant termination of form / capping, the design has been revised to introduce additional articulation along the side elevations.



DA Eastern Elevation



DA North Perspective

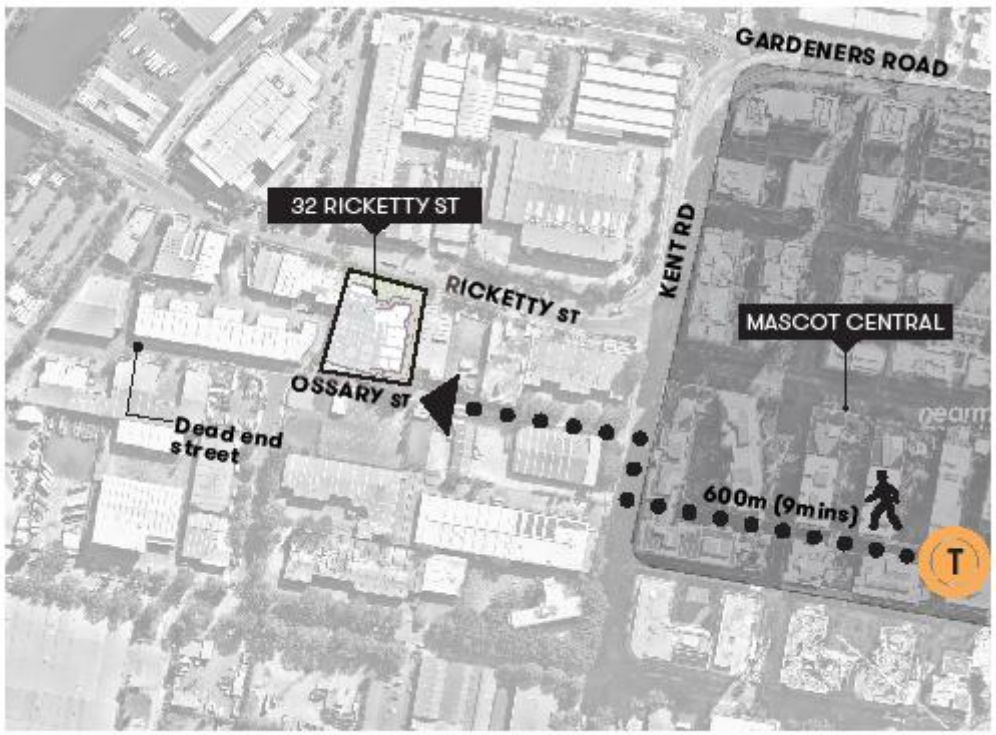
DA South Perspective

Revised Eastern Elevation

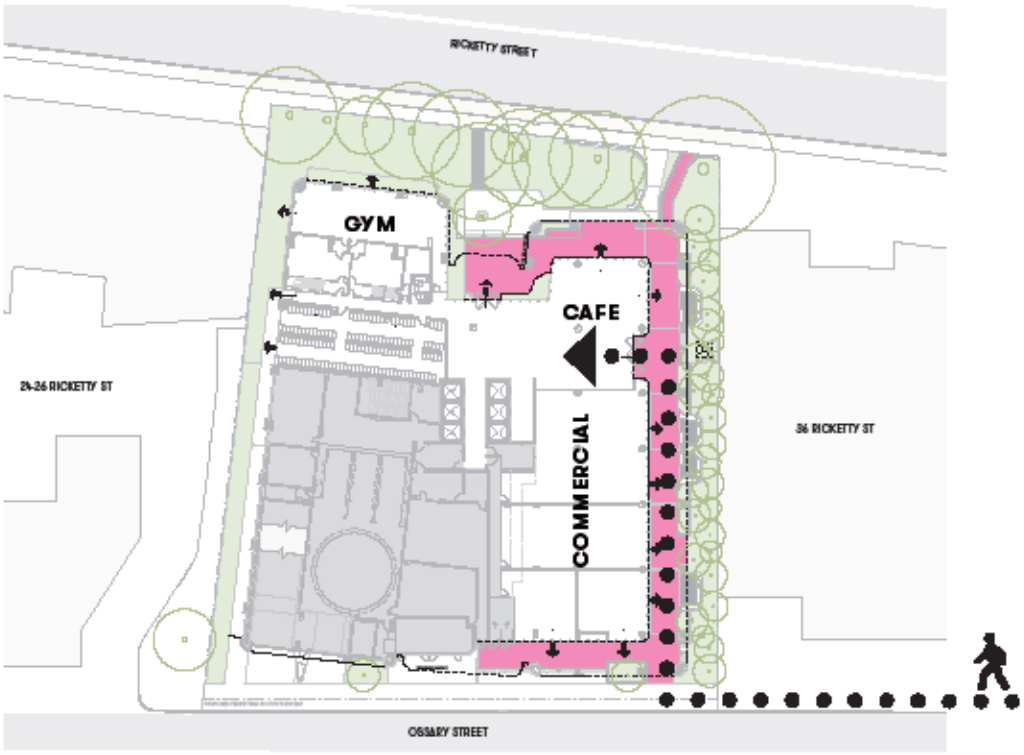
Revised North Perspective

Revised South Perspective

The proposed design responds to the primary pedestrian movements allowing for entry to the building from both Ricketty Street and Ossary Street via the eastern colonnade. This provides an intuitive and efficient connection to the core via activated landscaped spaces from both addresses of the building.



Primary pedestrian approach along Ossary Street



Through link and lobby entrance designed to respond to primary pedestrian movements, curated arrival experience and activated commercial edges.

The design has been revised to increase the extent of planting to car park screening along the eastern & western elevations. Facade planting has been placed strategically in line with the building core to ensure sufficient cross ventilation is maintained to car parking levels, in-line with technical engineering.

Green Wall Locations (Car park Levels)

South View - Revised Side Elevation Design

Density

Panels Comments:

While marginally reduced since the last iteration, the density proposed exceeds the LEP's density controls. Similar to above grade parking however, it is noted by the Applicants that numerous proposals in close proximity to the subject site with similar breaches of density have been recently approved. This would suggest that the density proposed is consistent with the density requirements of the area.

Applicants Comments:

We agree with the panel comments that the design is consistent with the density requirements of the area.

Sustainability

Panels Comments:

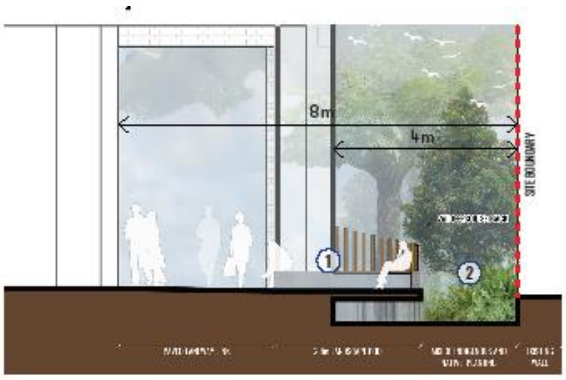
The Panel supports the sustainability initiatives discussed at the meeting, including the 5 star green rating, the 6 star green star aspirations, the use of timber composite structure, the retention of the large Plane trees to the northern frontage, use of solar panels and water collection and re use. However, the Panel remains concerned that the proposal's bulk and scale impacts significantly on adjoining properties and the public domain, limiting the site's landscape potential and reducing solar access along the proposal's tight side setbacks.

To alleviate the impacts of the proposed bulk on scale on its adjacent built and open space context, it is recommended that side setback spaces are significantly increased in width (at least in in part) and that the length of continuously aligned built form is significantly reduced - either by creating indentations similar to those proposed at the frontages or stepping of the built form along its length.

Applicants Comments:

The design team appreciate the panel's comments in support of the sustainability initiatives that the proposed development is seeking to achieve. Linkcity, as part of the global industrial Bouygues group pushes to be at the forefront of sustainable construction and development. Our favoured construction methodology that we are considering will be an Australian first hybrid timber structure, drawing from the applicant's global expertise. This reflects the innovative nature of the development, whilst providing additional benefits relating to both user wellbeing and positive environmental impacts. As previously discussed, the design team are of the opinion the proposed building setbacks, in excess of the controls and in excess of recent similar approvals, will provide opportunity for substantial green spaces.

The 4m wide landscape area along the eastern laneway link of the Ricketty Street development takes its inspiration from Etherden Walk (precedent in landscape report) by utilising a very similar planting palette. This will create a lush green backdrop with tree cover and is expected to establish as successfully as seen within the Etherden laneway which will double the green corridor from 4 to 8 meters. [Refer to landscape design report for more information]



Section Through Eastern Laneway

(1) Activate the eastern laneway by creating unique 'Seating Pods' using off form concrete, timber and natural stone.

(2) Utilise shade tolerant native plant palette to create a green lush oasis.

The design responds to both existing and future context by providing enhanced setbacks, in excess of DCP controls. Further analysis of comparable recently approved developments shows that the proposed setbacks significantly exceed these developments. The proposal establishes a good precedent for future development along Ricketty Street to follow suit.

Landscape

Panel's Comments:

While the cross-site is supported, extra width to this setback – at least in part – would allow for appropriately scaled canopy trees to create a more meaningful ecosystem, using the proposed planting by the landscape architect and contribute to urban canopy requirements. To this area there are developed seating and gathering areas, however to the rest of the site, particularly to the Ricketty Street frontage this remains undeveloped and does not take advantage of the shade of the existing trees and northerly aspect.

See notes above regarding the distribution of green walls along the side elevations.

Applicants Comments:

We appreciate the Panel's agreement with our overall tree strategy. We the importance of the Plane Trees to the character of Ricketty Street and have incorporated them into the overall design. We also appreciate the agreement on our strategy with the Allocasurina trees, we believe we can achieve a far better outcome with them replaced as proposed in our landscape master plan.

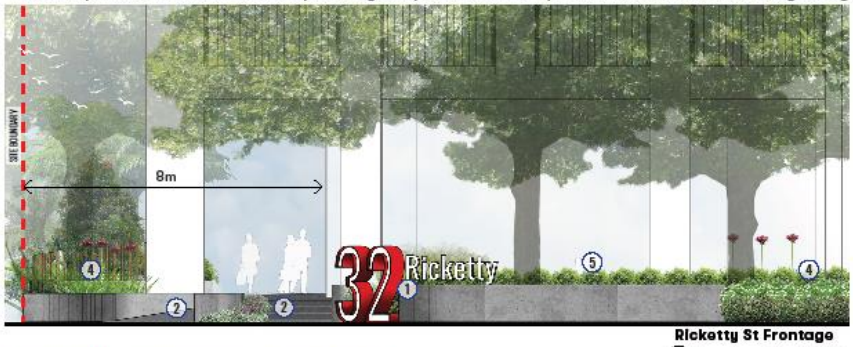
We appreciate the comments around the seating we have incorporated within our eastern landscape, we have also further improved the outdoor seating provisions within the 9m front setback. We have included a small artificial turf strip in front of the gym for improved outdoor activity space, for people to be active within the landscape area, potentially doing some yoga,

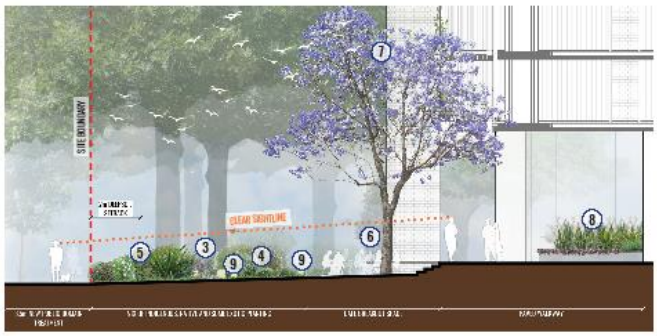
stretching or mild exercises, and taking advantage of the north facing orientation with filtered shading from the retention of the existing plane trees.

In reducing the building by one level we have brought the PV and Green Roof down to the same level as the rooftop terrace, this will allow a fantastic vista from the rooftop terrace over a landscaped solar farm with bird-life and insects buzzing. We have also provided an awning rooftop terrace to allow for a shaded enjoyable space. The basketball half court will allow for a high energy active space to be enjoyed by all the tenants.

This along with our substantial outdoor terrace on level 4 and double landscaped terraces on all building levels provide for 16 outdoor gathering spaces, plus the indoor gym, plus a generous lobby with indoor seating for quiet meetings.

Landscape Plans and the Landscape Design Report has been updated to include the seating along Ricketty Street





Ricketty St Frontage

1. Create an identifiable entry using big and bold signage.
2. Provide equitable access to negotiate level changes through the use of a ramp and stairs to Ricketty Street.
3. Create break out spaces within the front setback including lawn areas and seating for passive recreation.
4. Utilise a predominately native plant palette to strengthen the Australian identity providing a sustainable low water use landscape.
5. Meet CPTED requirements by only planting species under 1.5m in height as per DCP requirements for passive surveillance.
6. Provide an outdoor extension to the proposed Gym and Cafe using synthetic turf for exercise space and permeable paving for the outdoor cafe seating.
7. Provide a feature Jacaranda tree as a focal point.
8. Soften the lobby approach and bleed the landscaped edge by extending planting to meet the building.
9. LED Ball Lights to provide ambient lighting at night.

Amenity

Panels Comments:

At the last meeting, a number of amenity issues were raised by the Panel. While the proposal remains very similar to what was discussed that last meeting, recent discussions have confirmed the following:

While it is best practice to house parking at basement levels, it is acknowledged by the Panel that apart from the impracticality of insisting on this measure (due to the site's poor ground quality and cross site easement), above grade parking has been approved on numerous nearby sites and would appear to be supported by Council. Therefore, the Panel can support above grade parking not being counted as GFA in this case.

While passive surveillance is reduced by above grade parking at lower levels, it is noted that this measure parking lifts the commercial levels considerably, thereby improving their access to natural light. The Panel still strongly recommends increasing the floor to floor heights of ALL parking levels (not just one, as proposed), so as to allow for adaption to commercial uses at a

later stage. The Panel is now satisfied that the structural grid has been well conceived and is largely the result of the composite timber structural system proposed.

The Panel remains concerned about the constrained width of the side setback spaces and has recommended amendments to proposed built form (see above) so as to improve open space quality, provision of large trees and solar access, while lowering adverse impacts on adjoining properties and public domain.

The panel recommends that the rooftop basketball court and covered terrace be located on the same north end of the building. This will improve their activation and safety. The spaces should also be provided with shared kitchenette and toilets. The provision of a shower may also support the use of the basketball court.

Applicants Comments:

We appreciate the support of the panel for high quality office accommodation within Mascot.

Whilst Food and Beverage Premises are permitted under the current LEP we concur that Retail Premises are not. The ground floor commercial spaces will have 5.8m ceiling heights and be very flexible and able to adapt to the changing population, market needs and potential planning controls over time.

We believe the design provides substantial passive surveillance with the activated commercial spaces, café, gym and bike storage which will all be activated as late in the day as any commercial use on this premises, most probably for longer hours. These active areas have been shown below demonstrating circa 300 degrees of the building's ground plane will be active and provide passive surveillance through the double height facade. Unlike residential properties which may have active balcony use well towards midnight, the nature of an office building is that it will have very little utilisation after 6pm. Although our Gym will encourage ground plane activity and use from 6-8pm. In response to this we have designed a building with very few notches or spaces that might bring heightened security risk, and we will have a substantial building security system to support safety.

As previously discussed, we have reduced the bulk of the building by removing one office level from the top floor. We have also increased the side setbacks and landscape areas which we believe are best in class for Mascot.

As outlined in our Built Form & Scale response above, we agree with DRP and council's position in relation to above ground car parking and exclusion from GFA count (which is in accordance with LEP definitions).

We agree that the elevation of the commercial levels improves access to natural daylight.

We believe that the 3.8m floor to floor provided at L3 for future adaption is appropriate, and is in-line recently approved 50 Kent Rd which adopts a similar floor to floor height strategy for parking levels.

We agree with the panel comments regarding the timber structural grid.

Please refer to comments made above in the previous sections regarding side elevation design modifications, appropriateness of setbacks and landscaping provisions.

Covered Terrace & Amenities

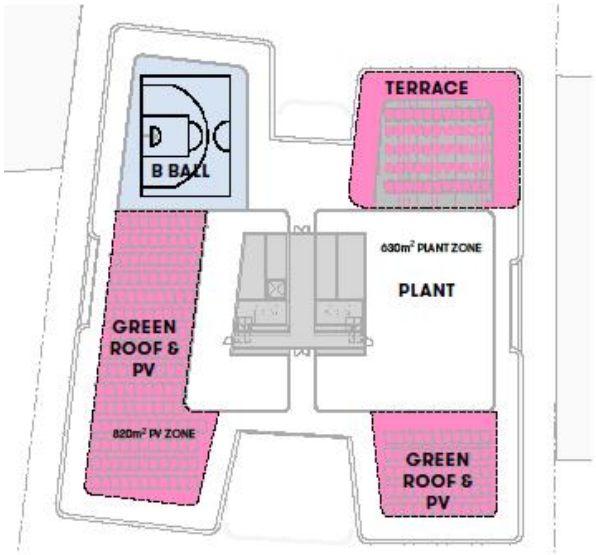
The design has been amended to accommodate shared kitchenette's and a DDA toilet / shower facility.

Basketball Court Position

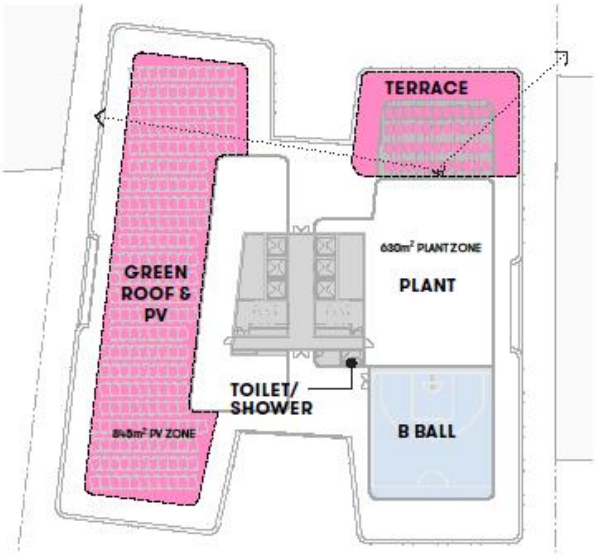
The design team has undertaken a spatial testing exercise in response to the DRP comments related to the basketball court location (indicated on the below diagrams).

Whilst locating the court to the northern side is spatially possible, we believe that the original southern position is optimal outcome for the design and its users, for the following reasons:

- *The southern location provides shade, visual and noise protection of the court and its users.*
- *Shifting the court to the north-western wing significantly impacts the solar panel and green roof design, due to overshadowing of the PV panels and inefficiency in design/layout resulting in a fragmented allocation of PV.*
- *Separating the two functions ensures that activities can take place concurrently without (i.e. a tenant function being held at the northern terrace is not disrupted by loud use of the court at the same time).*
- *Retaining the green roof & solar panels provides an eye level vista for the terrace users, connecting people to nature and sustainable building technology, whilst providing un-interrupted views to the north.*



Level 10 - Panel suggested changes



Level 10 - Proposed layout

Green Roof & PV Indicative Design Intent

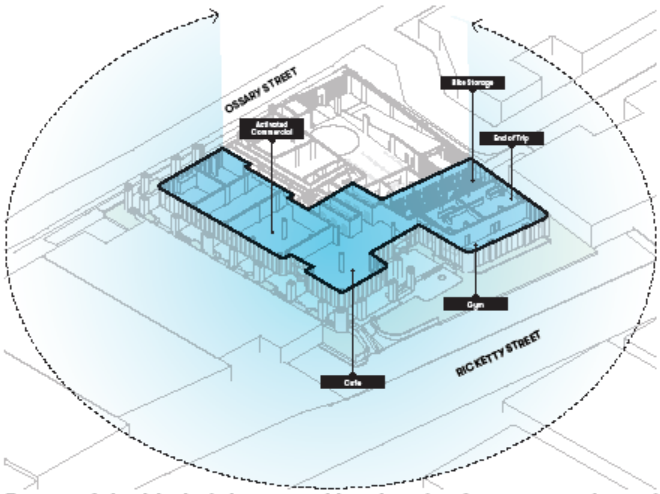
Safety

Panels Comments:

With additional arcade width and continuous activation provided by commercial tenancies, the Panel is satisfied that perceived and physical safety can be maintained generally. See notes above in Built Form and Scale.

Applicants Comments:

We agree with the panel's comments that the design provides appropriate passive surveillance, as demonstrated in the diagram below.



Extent of double-height ground level active frontage and passive surveillance

Housing Diversity and Social Interaction

Panels Comments:

While apartments are not being proposed for the site, social interaction is rightfully proposed as a positive outcome for the locality.

Applicants Comments:

The ground level provides high level of activated frontages, which promotes good social interactions between the occupants and locality.

Aesthetics

Panels Comments:

See notes above in Built Form and Scale regarding "DCP intentions", amendments to side setbacks spaces to alleviate apparent visual bulk and increased landscape measures.

See notes above regarding refinement of screening and distribution of green walls to further improve articulation of built form.

The height of the building has been modified to remove the additional story. Also see notes above in Built Form and Scale regarding improving the termination of the building in a more considered manner.

Applicants Comments:

As outlined in sections above, and per the below image, the design has been revised to include a more refined treatment to the termination of the top of the building. This is achieved through the introduction of additional parapet height to improve proportions, articulation of both flat and tapered brickwork providing a cap to the expressed vertical pilasters.

Revised Building Capping / Termination Design

Officers Comments:

The applicant has provided a compliant building height and double the side setbacks allowable in the DCP. The applicant has further amended their plans to articulate the side elevations by providing a materiality change rather than being indented from the building edge and setback from the boundary. The ground floor plane along the eastern elevation has allowed for appropriate landscaping and seating area along the through site link. While at this stage, deep soil planting for large canopy trees is not appropriate for this space, should the neighbouring site to the east be redeveloped with the same building separation, this does allow for an 8-metre building separation which allows for a comprehensive landscaped setting. This was further elaborated on the applicants plans by the building envelope of future developments on these sites. Applying a 4 metre side setback from the boundary has been a consistent approach to developments approved in the area considering that 2 metres is not an appropriate building separation in the context of the area and the street, particularly with the LEP height and FSR allowed on the site. The LEP and DCP controls do not talk to each other which further results in non-compliances with some of the controls. The applicant has proposed to break up the side elevations by imposing vertical landscaping along the aluminium screening at the parking levels. Following a review of the amendments provided following the second Panel meeting, the proposal has satisfactorily addressed the key issues as feasible.

As discussed by the Panel, they support the breaking of the built form into two expressed built forms, with further refinement of the screening and framing of windows having increased the apparent design quality since the original architectural package.

The proposal has successfully incorporated activated street frontage along Ricketty Street as well as incorporated commercial tenancies for the purposes of food premises along the

eastern side of the ground floor, directly adjacent to the through site link which will provide active and passive surveillance of the through site link and of the street. The terraces on each level adds an element of surveillance to both street frontages.

The Panel has made comments regarding consolidating the two separate recreation areas on the rooftop terrace. While in theory, combining the two areas would provide a secure and activated area, the applicant's intention that the northern section be used for passive recreation while the southern side is used for active recreation is supported by Council as it allows noise generating sources to be located away from the seating area. Additionally, incorporating BBQ and kitchen facilities on the rooftop will contribute to additional bulk and greater FSR. It is not considered that a shower facilities on this level is required particularly as this has been provided in the development at ground level within the end of trip facility area.

In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:

a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

   The built form is consistent with the DCP and height controls applicable for the site and within the Business Park Precinct.

b) *whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*

   The proposal improves the existing public domain by providing a successful landscaped setting, materials that are reflective with the existing streetscape and the previous industrial nature of the area, as well as providing a high quality contemporary built form that is appropriate for the street.

c) *whether the development detrimentally impacts on view corridors,*

   There are no significant views that are impacted by the proposed development as the built form complies with the height controls and is greater than the setback controls which dictate the building scale.

d) *the achievement of the principles of ecologically sustainable development.*

   The proposal achieves the principles of ESD by having a 6-star building incorporating elements of thermal comfort, solar panels, rainwater tanks and end of trip facilities.

Therefore, considering the discussion and arguments presented above, the development achieves design excellence in accordance with Clause 6.16 of the BBLEP 2013.

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

The following draft EPIs are of relevance:

<u>Draft Bayside Local Environmental Plan 2021</u>

The Bayside draft LEP 2021 was on public exhibition from 8 April to 1 June 2020 and applies to the subject site.

The draft LEP reviews the current planning controls under three existing LEPs into one consolidated LEP.

The draft LEP generally harmonises and updates planning controls for the Bayside Local Government Area. The proposal is generally consistent with the objectives and requirements of the draft LEP.

The draft LEP does not impact the site.

S4.15(1)(a)(iii) - Provisions of any Development Control Plan

Botany Bay Development Control Plan (BBDCP) 2013

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

Part 3A- Parking and Access

The proposal generates a total of approximately 450 spaces based on a car parking rate of 1 space per 40sqm. This is the provision as outlined in Table 1 of Control C2 of Part 3A.2. Considering the overall GFA within the development is associated with the office premise, the total GFA equates to 17,980sqm. The applicant has provided a total of 245 spaces which is a departure of 205 spaces or 46% from the requirement. The DCP also requires developments that do not provide concurrent parking spaces to provide a workplace travel plan to accompany the DA to further justify the variation.

There was a discussion during the pre-DA meeting where Council found acceptable that the proposal incorporates a rate of 1 space per 80sqm which is the rate for commercial offices within the Mascot Town Centre Precinct Transport Management Accessibility Plan. Based on the calculations provided, the development has broken down the car parking rate to 1 space per 73sqm.

The applicant has provided a traffic report prepared by Ason Group which discusses the shortfall in car parking, traffic impacts and loading and unloading arrangements. In addition to the traffic report, the applicant has provided a green travel plan which demonstrates that bicycle parking and end of trip facilities have been incorporated on the ground floor as well as the proximity to Mascot Train Station.

The proposal provides bicycle parking at the ground level with a total of 142 bicycles. This is located directly adjoining to the end of trip facilities which are provided with lockers, bathrooms, and showers. There are also 6 motorbike spaces proposed.

The application was referred to Councils Development Engineer for review who had no objection to the proposal subject to conditions imposed in the consent.

Regarding loading and unloading, Table 2 of Part 3A requires office premises with a GFA between 15,000sqm to 19,999sqm to have a total of 10 loading spaces including 5 courier van spaces, 2 SRV spaces and 3 MRV spaces. The development contains three loading bays, which includes one SRV space and two MRV spaces therefore there is a departure of seven (7) spaces. These spaces are located at ground level with access off Ossary Street. The ground floor includes a turntable so that manoeuverability could occur within the development and allow forward entry and exit from the site. The amount of service vehicles proposed is acceptable and consistent with the amount of service vehicles approved in the neighbouring development. Based on the information provided above as well as in the traffic report, the departure in car parking spaces and the development holistically is supported.

Part 3C – Access and Mobility

The applicant has provided an access report prepared by Accessible Building Solutions dated 17 December 2020. The plans demonstrate that the site is generally flat however there is a ramp proposed at the front setback from the street footpath to the main external area leading to the lobby. The proposal provides six lifts with access to all floors of the building therefore there is accessibility within the development. Each floor has one separate disabled bathroom located near the remaining sanitary facilities. The applicant has also provided three disabled spaces on Level 1 car parking. The number of spaces has been reviewed by Councils Development Engineer who has no objections to the number of spaces proposed. Appropriate access within the building is satisfactory and this is supported through the Access report and BCA report.

Part 3G – Stormwater Management

An assessment against stormwater management has been discussed in Clause 6.3 of the BBLEP 2013 above.

In addition to the previous discussion, the applicant has provided a design to facilitate the stormwater pipe and easement which traverses the site. The plans have demonstrated that all walls and fixtures positioned over the easement are to be removable construction for access in the event of major maintenance. Access hatches are provided at either end of the easement within the landscape setbacks, and direct vehicular access via the loading dock. In the event of major maintenance, the lobby has been designed with two entry points (north and east) ensuring safe access can be maintained to the building core.

Part 3H – Sustainable Design

The applicant has provided an ecologically sustainable development report provided by Integral Group which demonstrates that the building has been designed to include the following considerations:

- NCC Compliance requirements- Section J
- ESD objectives and controls outlined in the Mascot Development Control Plan
- Resource efficiency:
    - Energy
    - Water
    - Materials, and
    - Waste
- Green Star Benchmarking
    - Governance
    - Health and Wellbeing
    - Biodiversity, and
    - Infrastructure.

The applicant has stated that *the project has ambitious sustainability aspirations including 6-star GreenStar, net zero carbon, and WELL Platinum stretch targets*. The proposal has included solar panels located on the rooftop on the western side of the building. The report has made recommendations relating to thermal comfort, green star rating and energy generation. The application was assessed by the Design Review Panel who have endorsed the sustainable measures proposed by the applicant. The ESD proposed is supported.

Part 3I – Crime Prevention, Safety and Security

The proposed development provides opportunities for natural surveillance to Ricketty Street and Ossary Street. The applicant has provided double-height commercial frontages at the ground level, combined with the colonnade through-site link and additional setbacks. The applicant has stated that by carrying out this design, this results in approximately 300 degrees (80%) of activated frontage offering significant opportunity for both active and passive surveillance. The proposal will also provide 24 hour CCTV security system. The commercial tenancies at ground level will also add active and passive surveillance within the site. The proposal will have their entries to the development be appropriately lit at night to enhance safety, visibility and legibility. Considering the measures imposed by the applicant, the proposal satisfies this part of the DCP.

Part 3J – Aircraft Noise and OLS

An assessment against aircraft noise and OLS has been discussed in Clause 6.8 and 6.9 of the BBLEP 2013 above.

Part 3K – Contamination

An assessment against contamination, acid sulfate soils and groundwater has been discussed in SEPP No. 55 above.

Part 3L – Landscaping and Tree Management

The Development Application is accompanied by a Landscape Plan and report prepared by Geoscapes Landscape Architects. Landscaping has been discussed in detail below under the provisions of Part 6 of the report as there are specified requirements in that section which relate to landscaped areas and setbacks. Tree removal and retention has been discussed in detail in the Vegetation SEPP section of the report above. Both landscaping and tree retention/removal have been reviewed by Councils Landscape Architect and Tree Management Officer who have provided conditions to include within the draft Notice of Determination.

Part 3N – Waste Minimisation and Management

The proposal provides a waste room located at the ground floor directly adjoining the loading dock. The size of the waste room is 31sqm. A waste management plan prepared by SLR dated December 2020 which states that garbage will be collected by a private certifier and will provide the following breakdown of bins:

- General Waste: 4 x 1,100L, collected 3 times per week;
- Recycling Paper and Cardboard: 3 x 1,100L, collected 3 times per week.

The proposed waste arrangement and report was reviewed by Councils waste officer who had no objections to the proposal.

Part 6 – Employment Zones

The site is located within the Mascot (West) Business Park Precinct which is bound by Coward Street to the south, Alexandra Canal to the west, Kent Road to the east and Gardeners Road to the north.

C1 *Development is to encourage a higher public transport (including walking and cycling) use and include strategies to encourage and promote car sharing and car polling strategies. In this respect a Workplace Travel Plan is to be lodged with the development application. The Workplace Travel Plan is to establish measurable targets to achieve the mode share targets*

stated in the Mascot Town Centre Precinct TMAP – maximum car mode share: 65% by 2021 and 57% by 2031.

The site is located 450 metres from Mascot Train Station therefore is in close proximity to public transport. The proposal provides less car parking spaces due to its location to the station which has been reviewed and endorsed by Councils Development Engineer. The applicant has provided a Green Travel Plan with the development application which is satisfactory and appropriately conditioned within the consent.

C2 *Developments, including alterations and additions must:*

(i) Improve the appearance of buildings, particularly along the roads which serve a gateway function to Sydney Airport and the Sydney CBD; and

(ii) Comply with Sydney Airport's regulations in regard to safety, lighting and height of buildings

Ricketty Street is considered to be a road that serves a gateway function to the CBD and the airport. The design of the building has incorporated predominately brick form which is characteristic of the existing industrial streetscape in the area while continuing to provide a contemporary and high quality building amongst the street. The site has a dual street frointage with all vehicular access being off Ossary Street which is a secondary street. The application is beneath the maximum building height and has been referred to SACL for comments. Appropriate conditions have been included in the consent.

C3 *Developments within the precinct shall submit a detailed Flood Study/Assessment for 1 in 100 year average recurrence interval (ARI) design storm events and probable maximum flood (PMF).*

The Flood Study/Assessment is to be prepared by a suitably qualified and experienced civil engineer. The Flood Study/Assessment is required to:

(i) Be in accordance with the current version of Australian Rainfall and Runoff (ARR) and the NSW Floodplain Development Manual; and
(ii) Consider the impacts from Climate Change and Sea Level Rise.

The applicant has provided an updated flood impact assessment prepared by Northrop. The flood impacts of the development are considered acceptable given the loss of 235m^3 of flood storage is being compensated by the provision of 300m^3 of flood storage. The kerb inlet pits are to be increased to be a minimum of 3.4m wide (lintel length) in Ossary Street to help improve the slight flooding increase that is demonstrated in Ossary Street post development. Appropriate conditions of consent have been included for consideration.

C4 *Development shall: (i) Have finished floor levels of a minimum 500mm above the 1 in 100 year flood level habitable areas and 300mm for industrial areas and garages; and (ii) Not impede the passage of floodwater to cause a rise (afflux) in the flood level upstream and/or increase the downstream velocities of flow.*

The floor levels are proposed at RL 3.34m AHD for the whole site. This provides acceptable freeboard from the 1% AEP flood level at the eastern corners of the site. However, the western corners of the site the levels do not comply with the minimum 500mm freeboard required. This would require a minimum habitable/commercial floor level of RL 3.36m AHD at the north eastern corner of the site and, a minimum habitable/commercial floor level of RL 3.61m AHD at the south eastern corner of the site. The proposed levels set at RL 3.34m AHD are 0.02m below the minimum level at the north eastern corner of the site and 0.27m below the required

level at the south eastern corner of the site. Raising the floor levels would have impacts at the south eastern corner mainly to comply.

Nevertheless, it is noted that the PMF flood levels from the existing scenario are below the 1% AEP + 500mm freeboard levels at the eastern corners of the site, being 220mm and 180mm above the 1% AEP flood levels at the north eastern corner and south easter corner of the site respectively. After discussing internally with Councils floodplain engineer, its considered that providing a 100mm freeboard above the existing known PMF flood level will be acceptable and that full compliance with the 1% AEP flood level + 500mm freeboard is not necessary in this instance. The level at RL 3.34m AHD complies with this requirement at the north eastern corner of the site (PMF flood level + 100mm freeboard is only RL 3.18m AHD and proposed floor level if RL 3.34m AHD) however the south eastern corner still does not comply with this requirement (PMF + 100mm freeboard is RL 3.52m AHD and proposed floor level if RL 3.34m AHD), hence the south eastern corner levels needs to be raised primarily for the activated commercial tenancies. The colonnade can remain at the level of RL 3.34m AHD as it is a non-habitable area and is still set above the 1% AEP flood level.

C5 *Development within the precinct shall require submission of a Risk Management Plan to address potential risks related to coastal sea levels (projected to increase above Australian Height Datum by 40cm by 2050 and by 90cm by 2100). The Risk Management Plan shall be prepared by a qualified consultant and in accordance with the following policies and documents: (i) Any current policy of Council relating to projected future sea level rises and related inundation mapping; (ii) NSW Coastal Planning Guidelines: Adapting to Sea Level Rise; (iii) Flood Risk Management Guide: Incorporation Sea Level Rise Benchmarks in Flood Risk Assessment; and (iv) NSW Flood Plain Development Manual. In addition, the Risk Management Plan shall minimise the exposure of development to coastal risk and provide management responses and adaptation strategies to identify and manage risk and coastal hazards associated with the following: (i) The safety of future workers and occupants on-site; (ii) The safety of the public off-site; (iii) The safety of adjoining properties; (iv) The safe evacuation route during storm and flood events; and (v) The freeboard above the flood planning levels.*

A condition has been drafted by Councils Development Engineer which requires a flood risk management plan, prepared by a qualified practicing Civil Engineer to be provided prior to the issue of the Construction Certificate.

C6 *Development along Alexandra Canal must comply with the following: (i) No buildings, structures, car parking, storage or vehicle manoeuvring areas are permitted within a minimum 10 metre wide area adjoining the Canal and 6 metres along the tributaries; (ii) The maximum wall height at the edge of a building fronting the Canal at the line of the 10 metre setback is 9 metres. If the building is higher than 9 metres the additional height must be setback by 3 metres from the line of the 9 metres height; (iii) The setback is to be landscaped and planted with appropriate species, as detailed in the Alexandra Canal Masterplan, such landscaping not to include plants with invasive root systems and that have the potential to damage the canal wall or it surrounding infrastructure; (iv) The façade of buildings facing the setback should be enlivened by windows, staff amenities and provide passive surveillance of the setback area; (v) A right of carriageway shall be created along the Canal and at the end of Coward Street to provide public pedestrian access to Alexandra Canal foreshore for the purpose of permanent pedestrian or cycle access, stormwater easement requirements and/or access for essential maintenance; and (vi) Two access points are to be provided to Alexandra Canal - at Ricketty Street and at Coward Street.*

The proposal is not located adjoining Alexandra Canal and therefore does not require any further setbacks.

C7 *Development shall be designed and constructed in accordance with Australian Standard AS 2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction).*

The site is located within the 25-30 ANEF Contour. An acoustic report has been provided with the application and appropriate recommendations have been imposed in the consent.

C8 *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 within the noise assessment report.

C9 *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 site is located on Ricketty Street which is a classified road. Appropriate noise and traffic movements have been considered within the development design.

Part 6.3 – General Provisions

An assessment against the general provisions of the employment zone has been summarised below:

- **Subdivision and Amalgamation**

  The site consists of two separate allotments which are proposed to be consolidated into one lot. This is consistent with Control 3 of Part 6.3.1 Amalgamation and Subdivision which requires development which are located on multiple lots to consider consolidation.

- **Building Layout, Design and Form**

  An assessment on the building layout has been carried out in the design excellence section of the report above. The controls within the DCP coincide with the LEP clause and has resulted in a high quality designed building that utilises a range of materials and articulation.

- **Setbacks**

  The setback requirements for this precinct are as follows:

  - Front (Ricketty Street): 9 metres
  - Side: 4 metres
  - Rear (Ossary Street): 3-5 metres

  The proposal is consistent with the setback controls stipulated within Part 6 of the DCP which is 9 metre front setback, 2 metre side setback and nil to 3 metre rear setback. While Ossary Street is considered the rear setback, it is a secondary street and has provided a greater setback than the control. The setback proposed is similar to other buildings found to the east of the site with frontage to Ossary Street which have 3 metres or less of a setback. The side setbacks proposed are two metres greater which allows appropriate ventilation and landscaping to be provided, particularly along the eastern side of the site. Discussion regarding the setbacks by the Design Review Panel and the applicant have been provided in the report above.

The setbacks proposed are consistent with the setbacks provided in other approved development in the B7 and B5 Business Development and Park zones and will allow for appropriate building separation and sunlight to the office levels. The setbacks are appropriate.

- **Site Facilities**

The amended plans have carefully considered the location of services on the site. The latest revision has demonstrated that the substation, plant rooms and other services are located at the ground floor towards the rear of the site. The fire hydrant booster has been incorporated within the building at the Ossary Street frontage.

The proposal provides a sign which is the number '32' which identifies the street address. While this is not technically a sign, the location of this feature is easily distinguishable from the Ricketty Street streetscape and does not detract from the development.

There are existing powerlines located along Ricketty Street and Ossary Street. In accordance with Control 3 of Part 6.3.8, the developer is required to underground all powerlines and cables. Appropriate conditions have been imposed within the draft Notice of Determination.

- **Landscaping and Fencing**

The amended plans demonstrate a total of 1,913.30sqm of landscaping across the site. This equates to 41.5% of the overall site area and includes ground level planting at the front setback and along the side elevations, the planters and vertical green walls at the car parking levels between Level 1 and 3 and the planters located on the office level terraces. The proposal has further broken down the deep soil area which is at 871.44sqm and equates to 18.89% which is significantly greater than the landscaping/deep soil control.

The proposal does incorporate tree removal, particularly along the south-eastern corner of the site off Ossary Street as well as along Ricketty Street. This has been discussed under the Vegetation SEPP above and appropriate conditions of consent have been included. There is no fence proposed along the Ossary Street frontage and Ricketty Street however there is a small retaining wall along Ricketty Street proposed.

The landscape plans have been provided by Geoscapes Landscape Architect who have provided an improved through site link planting along the eastern side of the site which provides a visually aesthetic outlook for pedestrians traversing the site. The landscape plan demonstrates a range of species and specific landscape details which have been reviewed by Councils Landscape Architect who has no objection to the proposal subject to conditions of consent.

- **Noise and Hours of Operation**

The development is for an office premises which is not considered a noise generating development. The location of the site is away from the busy Ricketty Street with a front setback of 9 metres from the front boundary, therefore road noise is not onerous. Ossary Street is a secondary street which does not generate a large amount of traffic. Aircraft noise has been considered as part of the application and the applicant has provided an acoustic report to address noise mitigation measures within the building. With regard to internal and external noise generated from the development, the site is currently

surrounded by industrial warehouses which would trigger greater noise pollution than the site however this is temporary as the majority of these sites have been approved as office premises. The proposal does include a rooftop terrace with a basketball court however this is not considered to generate a significant amount of noise particularly due to the nature of the building and surrounding uses.

- **Business Premises and Office Premises in the B5 Business Development and B7 Business Park Zones**

This section of the DCP primarily relates to developments within the B7 zone. The building design and form has been discussed already above in the report. There is minimal signage proposed as part of this development application. The vehicle movement and circulation has been appropriately designed and stormwater management has been achieved. With regard to landscaping, this section requires new developments to provide a minimum of 10% landscaping. The proposal provides 41.5% which is in excess of the minimum amount.

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

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

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

As outlined in the assessment above, the proposed development will not have significant adverse environmental, social or economic impacts in the locality.

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

The site is affected by aircraft noise being situated within a 25-30 ANEF Contour. The proposal was accompanied by acoustic report which has been reviewed and is acceptable subject to conditions imposed in the consent for the development to comply.

The existing stormwater assets that traverse through the site have been considered within the proposal with regard to appropriate head clearances and access for future maintenance of these assets as well as the flooding across the site has been assessed in the report above.

Adequate information has been submitted to demonstrate that the site can be made suitable for the proposed development. Further discussion relating to this issue has been carried out within the SEPP No. 55 section of the report above. Appropriate conditions have been recommended in the attached Schedule.

Regarding the traffic generated from the development, the departure in car parking is acceptable as the development is within close proximity to Mascot Train Station. Additionally the development encourages the use of public transport or cycling to the site. Traffic impacts have been considered and are satisfactory. TfNSW raised no objection to the proposal and has not requested any additional information.

The plans do not surpass the overall height to comply with the OLS limit of 51m AHD. SACL have raised no objection to the height of the proposed development.

The proposed use as commercial offices and car park is permissible within the B7 - Business Park zone as identified within the BBLEP 2013 and achieves the objectives and controls of

both the BBLEP and BBDCP 2013. It is considered that the development is suitable for the site.

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

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application was placed on public exhibition for a thirty (30) day period from 13 January to 15 February 2021. No submissions were received.

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

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity. The proposed building is a high quality building that will add architectural value to the existing streetscape. Furthermore, the proposal does not create unreasonable impacts on surrounding properties. This is further emphasised by no submissions being received. As such it is considered that the development application is in the public interest

Section 7.11 Contributions

It is considered that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 7.11 Contribution Plan 2016. The site is located within the Mascot Station Precinct Area therefore contributions are based on the number of workers generated by the use.

The total amount of contributions that is generated by the development is **$4,764,125.44.** This is indexed to July 2021.

The contributions are broken down as follows:

Community Facilities – $389,981.87

Recreation and Open Space – $4,023,502.59

Transport Facilities – $315,952.47

Administration - $34,688.51

Conclusion

In accordance with Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011, the Application is referred to the Sydney Eastern City Planning Panel (SECPP) for determination.

The non-compliance in the floor space ratio has been considered as part of the Clause 4.6 variation submitted by the applicant. Council is of the opinion that the Clause 4.6 variation demonstrates that the proposal is not unreasonable or unnecessary in this instance and should be supported. The departure in the car parking numbers is supported as the developments' proximity to Mascot Train Station lends itself to the opportunity for less traffic

generation onto the surrounding road network as well as encourages the use of public transport.

The property's presentation in a dual streetscape context will be enhanced as a consequence of the proposed development given its high-quality form. The development has been designed to allow the built form to provide an articulated and contemporary form which also reflects existing building elements found within the industrial and business premises in the area.

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. Therefore, the proposal is recommended for approval subject to the conditions of consent in the attached Schedule.

Attachment

Schedule 1 – Conditions of Consent

Premises: 32-34 Ricketty Street, Mascot **Da No.: DA-2020/468**

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

1. **Limited Consent Period**

   Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, the period during which development may be carried out in accordance with this consent is limited to a period of five (5) years from the date of the Notice of Determination.

2. **Approved Plans and Documentation**

   The development must be implemented in accordance with the approved plans, specifications and supporting documentation listed below which have been endorsed by Council's approved stamp, except where amended by conditions of this consent:

Plan Title	Reference No	Revision	Prepared by	Date
Cover Sheet	AD-DA000	2		Dated 20 May 2021; Received 28 May 2021
Site Plan	AD-DA001	2		Dated 20 May 2021; Received 28 May 2021
Demolition Plan	AD-DA002	2		Dated 20 May 2021; Received 28 May 2021
Ground Floor Plan	AD-DA100	2		Dated 20 May 2021; Received 28 May 2021
Mezzanine Floor Plan	AD-DA101	2		Dated 20 May 2021; Received 28 May 2021

Level 1 Floor Plan	AD-DA102	2	Scott Carver	Dated 20 May 2021; Received 28 May 2021
Level 2 Floor Plan	AD-DA103	2		Dated 20 May 2021; Received 28 May 2021
Level 3 Floor Plan	AD-DA104	2		Dated 20 May 2021; Received 28 May 2021
Level 4 Floor Plan	AD-DA105	2		Dated 20 May 2021; Received 28 May 2021
Level 5-9 Floor Plan	AD-DA106	2		Dated 20 May 2021; Received 28 May 2021
Level 10 Floor Plan	AD-DA110	2		Dated 20 May 2021; Received 28 May 2021
Roof Plan	AD-DA111	2		Dated 20 May 2021; Received 28 May 2021
Elevations- North	AD-DA200	2		Dated 20 May 2021; Received 28 May 2021
Elevations- East	AD-DA201	2		Dated 20 May 2021; Received 28 May 2021
Elevations- South	AD-DA202	2		Dated 20 May 2021; Received 28 May 2021
Elevations- West	AD-DA203	2		Dated 20 May 2021; Received 28 May 2021
Overall Sections- NS	AD-DA204	2		Dated 20 May 2021; Received 28 May 2021
Overall Section EW	AD-DA205	2		Dated 20 May 2021; Received 28 May 2021
GFA Plans	AD-DA600	2		Dated 20 May 2021; Received 28 May 2021
Materials Schedule	AD-DA601	2		Dated 20 May 2021; Received 28 May 2021
Landscape Cover Sheet	LDA-000	C	Geoscapes Landscape Architects	Dated 27 May 2021; Received 28 May 2021
Public Domain Plan	LDA-101	C		Dated 27 May 2021; Received 28 May 2021
Ground Floor Layout	LDA-102	C		Dated 27 May 2021; Received 28 May 2021
Ground Floor North- Detail Plan	LDA-103	C		Dated 27 May 2021; Received 28 May 2021
Ground Floor South- Detail Plan	LDA-104	C		Dated 27 May 2021; Received 28 May 2021
Tpical Levels 1-3 and Level 4 Terrace- Detail Plan and Details	LDA-105	C		Dated 27 May 2021; Received 28 May 2021
Typical Levels 5-9 Detail Plan and Details	LDA-106	C		Dated 27 May 2021; Received 28 May 2021
Level 10 Green Roof- Detail Plan and Details	LDA-107	C		Dated 27 May 2021; Received 28 May 2021
Level 10 Communal	LDA-108	C		Dated 27 May 2021; Received 28 May 2021

Open Space-Detail Plan and Details				
Landscape Details Sheet 1	LDA-109	C		Dated 27 May 2021; Received 28 May 2021
Landscape Details Sheet 2	LDA-110	C		Dated 27 May 2021; Received 28 May 2021
Landscape Maintenance Plan and Specification Notes	LDA-111	C		Dated 27 May 2021; Received 28 May 2021
Planting Schedules and Hard Soft Material Palette	LDA-112	C		Dated 27 May 2021; Received 28 May 2021

Document Title	**Reference No**	**Prepared by**	**Date**
Architectural DA Design Report	Revision 2	Scott Carver	Dated 27 May 2021; Received 28 May 2021
Flood Impact Assessment	SY202280-Rev C	Northrop	Dated 20 May 2021; Received 28 May 2021
Landscape Design Report	Revision C	Geoscapes Landscape Architects	Dated 27 May 2021; Received 28 May 2021
Clause 4.6 variation	WTJ20-435	Willowtree Planning	Dated 27 May 2021; Received 28 May 2021
Planning Addendum	-	Willowtree Planning	Dated 27 May 2021; Received 28 May 2021
Transport Assessment	1409r02v2	Ason Group	Dated 17 December 2020; Received 22 December 2020
Preliminary Site Investigation (Contamination)	99707.01	Douglas Partners	Dated 19 June 2020; Received 22 December 2020
Detailed Site Investigation (Contamination)	99707.03	Douglas Partners	Dated 2 December 2020; Received 22 December 2020
Geotechnical Investigation	99707.02	Douglas Partners	Dated 2 December 2020; Received 22 December 2020
Acid Sulfate Soil Management Plan	99707.03	Douglas Partners	Dated 2 December 2020; Received 22 December 2020
Remedial Action Plan	99707.03	Douglas Partners	Dated 18 December 2020; Received 22 December 2020
Hazardous Materials Survey	51543	Airsafe	Dated 10 June 2020; Received 22 December 2020
Internal Works Civil Engineering Package	202280	Northrop	Dated 16 December 2020; Received 22 December 2020
Public Domain Civil Engineering Package	202280	Northrop	Dated 16 December 2020; Received 22 December 2020

Noise Impact Assessment	20183	Pulse Acoustic Consultancy	Dated 14 December 2020; Received 22 December 2020
Pedestrian Wind Environment Statement	WF765-01F02 (Rev 1)	Windtech	Dated 16 December 2020; Received 22 December 2020
Solar Light Reflectivity	WF765-02F01 (Rev 1)	Windtech	Dated 15 December 2020; Received 22 December 2020
Arboricultural Impact Appraisal and Method Statement	-	Ezigrow	Dated 10 December 2020; Received 22 December 2020
Construction and Site Management Plan	Revision A	AW Edwards	Dated 8 December 2020; Received 22 December 2020
Ecological Sustainable Development Report	-	Integral Group	Dated 15 December 2020; Received 22 December 2020
Site Waste Minimisation and Management Plan	610.30233-R01	SLR	Dated 15 December 2020; Received 22 December 2020
Regulatory Compliance Report	Revision 2	McKenzie Group	Dated 17 December 2020; Received 22 December 2020
Fire Engineering Statement	141152.00-version B	Holmes Fire	Received 22 December 2020
Statement of Compliance- Access for People with a Disability	220248	Accessible Building Solutions	Dated 17 December 2020; Received 22 December 2020

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to above, the conditions prevail.

3. **Construction Certificate Required**

A Construction Certificate must be obtained from Council or a Principal Certifier prior to any building work commencing.

4. **Compliance with the Building Code of Australia (BCA)**

All building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

5. **Certification of External Wall Cladding**

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 Principal Certifier 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 process include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

6. **Amendments Require Modification Application**

Further alterations and/or additions to the subject building, including the relocation of the fire booster valves and/or provision of an electricity substation, the fitting of any form of doors and/or walls, shall not be undertaken without first obtaining approval from Council under Section 4.55 of the EP&A Act. This includes the fitting of any form of doors and/or walls

7. **Earthworks Not Shown on Plans**

No further excavation, backfilling or retaining walls can be carried out or constructed other than those identified on the approved drawings which form part of this consent unless it is otherwise permitted as exempt or complying development

8. **Approved Materials and Finishes**

The finishes, materials and colour scheme and façade details approved under Condition No. 2 and any other relevant condition(s) of this consent must not be altered or amended at the construction certificate stage without a separate Section 4.55 approval.

9. **Separate Approval for Signage**

A separate consent must be obtained for any proposed signage, in addition to signage specifically approved under this consent / prior to the erection of any additional signage, (other than exempt and complying development).

Advisory Note: 'signage' is defined as follows:

‘signage’ means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

a) an advertising structure, and

b) building identification sign, and

c) business identification sign.

10. **Carrying out of Works Wholly Within the Site**

All approved works shall be carried out inside the confines of the building and not in adjacent forecourts, yards, access ways, car parking areas, or on Council’s footpath.

11. **Design Architect Involvement**

a) In order to ensure the design excellence of the development is retained:

i. Scott Carver (design architect) is to have direct involvement in the design documentation, contract documentation and construction stages of the

project, and

ii. The Design Architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project, and

iii. Evidence of the Design Architect's commission is to be provided to the Council prior to release of the Construction Certificate.

b) The Design Architect of the project is not to be changed without prior notice and approval of the Council.

12. **Planter Boxes**

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

a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.

b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.

c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.

d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.

e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

f) All planter boxes shall be irrigated, and shall have the required depth to sustain the proposed planting, as detail:

i) Trees over 8 meters: Minimum soil depth 1.3 metre
ii) Medium trees (8 metre canopy diameter at maturity): Minimum soil depth 1 metre
iii) Small trees (4 metre canopy diameter at maturity): Minimum soil depth 800mm
iv) Shrubs: Minimum soil depths 500-600mm
v) Groundcover: Minimum soil depths 300-450mm

g) Any subsurface drainage requirements are in addition to the minimum soil depths quoted above.

13. **Irrigation**

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

14. **Landscape Maintenance**

a) All soft landscape areas are to be maintained for a minimum period of twelve (12) months in accordance with the approved Maintenance Schedule provided as part of the landscape documentation. This schedule must include weeding, watering, fertilising, replacement of dead or stolen plants, mulch replacement, and so. Any requirements specific to the site must be included.

b) Landscaped areas, including all planting above slab, and green roof proposed is to be well maintained at all times, and shall follow approved maintenance schedule tasks.

15. **Public Domain Landscape Maintenance Bond**

The applicant is to submit payment of a **Public Domain Landscape Maintenance Bond** of $15,000.00. The duration of the Bond shall be limited to a period of twelve (12) months after finalising all landscape works in public domain and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of landscape works by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.

a) The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.

b) The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of $618.- (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

16. **Tree Removal and Retention**

Consent is granted for the following:

a) Remove the following street trees: Tree 1, 2, 6, 7, 11, 12, 17

b) Remove the following Exempt tree on site: Tree 13.

c) Remove the following trees on site: Tree 9, 19, 21- 40.

d) Retain and protect the following neighbour's tree: Tree 20.

e) Tree removal work shall be carried out by an experienced tree surgeon in accordance with Safe Work Australia Guide for Managing Risks of Tree Trimming and Removal (2016).

f) The following trees are to be Retained and Protected with a Tree Protection Zone (TPZ). Tree 3, 4, 5, 8, 10, 14, 15, 16, 18, & the neighbours tree 20.

Tree protection measures shall be a temporary fence of chain wire panels 1.8 metres in height (or equivalent), supported by steel stakes or concrete blocks as required and fastened together and supported to prevent sideways movement. A sign is to be erected on the tree protection fences of the trees to be retained that the trees are covered by Council's tree preservation orders and that "No Access" is permitted into the tree protection zone;

Or alternatively due to limited space or restrictive pedestrian access:
Fencing shall be erected to ensure that the public footway is unobstructed. If there is insufficient space to erect fencing, then the trees are to be physically protected by wrapping the trunk with hessian or carpet underlay to a height of 2.5 meters or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).

REQUIREMENTS OF CONCURRENCE, INTEGRATED AND OTHER AUTHORITIES

17. The following conditions are imposed by **Water NSW**:

a) Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.

b) Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.

c) A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain

water sources may be exempted from this requirement - see paragraph17A, Schedule 4 of the Water Management (General) Regulation 2018.

d) If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waternsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.

e) All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.

f) The design and construction of the building must prevent: (a)any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b)obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c)any elevated water table from rising to within 1.0 m below the natural ground surface.

g) Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.

h) Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited

laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)

i) (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/water-licensing/dewatering.

j) The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual.

k) Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

l) This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

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

a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. 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 > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

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

Agents as of 30 November 2015. The Tap in™ service provides 24/7 access to a range of services, including:

i. building plan approvals
ii. connection and disconnection approvals
iii. diagrams
iv. trade waste approvals
v. pressure information
vi. water meter installations
vii. pressure boosting and pump approvals
viii. changes to an existing service or asset, e.g. relocating or moving an asset.

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

19. **The following conditions are imposed by Transport for NSW:**

a) All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited height or depth), along the Ricketty Street boundary.

b) The design and reconstruction of the kerb and associated works on Ricketty Street shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email to developerworks.sydney@transport.nsw.gov.au.

Detailed design plans of the proposed works are to be submitted to TfNSW for approval prior to the issue of a construction certificate and commencement of any road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

The developer is required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

c) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@transport.nsw.gov.au.

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

d) All vehicles shall enter and exit the site in a forward direction.

e) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018. Parking Restrictions may be required to maintain the required sight distances at the driveway.

f) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

g) Bicycle Parking should be provided in accordance with AS2890.3.

h) The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

i) 'No Stopping signage' shall be installed along all the Ricketty Street frontage of the development, at no cost to TfNSW.

j) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.

k) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Ricketty Street during construction activities. A ROL can be obtained through https://myrta.com/oplinc2/pages/security/oplincLogin.jsf.

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

a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

b) The application sought approval for the PROPERTY DEVELOPMENT to a height of 47 metres Australian Height Datum (AHD).

c) In my capacity as Manager, Airfield Spatial & Technical Planning and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, I have no objection to the erection of this development to a maximum height of 47 metres AHD.

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

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

f) 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.

g) **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.**

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

i) Information required by Sydney Airport prior to any approval is set out in Attachment A.

j) "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)).

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

l) **Planning for Aircraft Noise and Public Safety Zones:**

m) 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).

n) 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.

21. **The following conditions are imposed by Ausgrid:**

a) **Overhead Powerlines**

Safe work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the
minimum safety separation requirements between these mains/poles to structures within the
development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, www.ausgrid.com.au

It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

"Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."

b) **Underground Cables**

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables. Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

22. **The following advisory conditions are imposed by NSW Police:**

a) Mailbox area to be internal of building, with swipe access only and CCTV positioned covering this area.

b) Information placed in foyer entrance area, covering delivery of packages policy for employees (South Sydney Police can provide information flyer).

c) CCTV should be installed and operational at entry / exit points to entrance of commercial businesses, carpark and internal mail room. Further CCTV should be positioned in lift and or stairs leading to businesses and corridors.

d) Adequate lighting should be positioned covering premise and surrounding areas of building to create visibility at night and to reduce opportunity for hidden areas.

e) Secure entry and exit point for carpark using secure rolling door with swipe access only.

f) Clear signage of Building number and building name be clearly displayed, with light shining on signs at night to allow clear visibility for Police.

g) Warning signs "CCTV in use at all times, do not leave valuables in your vehicle, trespassers will be prosecuted" to be clearly displayed.

h) All shrubs to be no higher than 1 metre, so visibility and clear sight lines can be maintained onto the premise.

PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

23. **Fees, Securities, Deposits and Bonds to be paid**

The following fees and bonds shall be paid to Bayside Council prior to the issue of any Construction Certificate or the commencement of any works on site, whichever occurs first. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Bayside Council's adopted fees and charges.

a) Environmental Enforcement Fee of 0.26% of the cost of the works (with estimated cost of works capped at $10 million).

b) Soil and Water Management Sign - $21.00.

c) Section 7.11 Contributions - $4,764,125.44.

d) Builders Damage Deposit Bond - $74,613.00.

24. **Long Service Levy Fee**

For work costing $25,000 or more, a Long Service Levy shall be paid to the Long Service Corporation or Council, with evidence of payment submitted to the Principal Certifier prior to the issue of any Construction Certificate.

25. **Development Contributions (Section 7.11)**

A Section 7.11 contribution of **$4,764,125.44** shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges.

The contribution is to be paid prior to the issue of Construction Certificate for works above the floor level of the ground floor. The contribution is calculated from the relevant Plan listed below in the following manner:

a) Former City of Botany Bay Section 7.11 Contributions Plan 2016 – Amendment:

i.	Community Facilities:	$389,981.87
ii.	Recreation and Open Space:	$4,023,502.59
iii.	Transport:	$315,952.47
iv.	Administration:	$34,688.51

Note: The s7.11 contributions stated above are subject to periodic review. If the contributions are not paid within the quarter in which the consent is granted, the contributions payable will be indexed between the date of the consent and the date of payment based on movements in the Consumer Price Index.

26. **Securities, Deposits and Bonds – Major**

Prior to the issue of any Construction Certificate, the person acting on the consent must provide security to Bayside Council against any damage that may be caused to any council property assets and/or the environment during the course of the building works as a consequence of the implementation of the development consent. This security shall be in the form of the following Deposits and Bonds that must be paid to Bayside Council:

a) Builders Damage Deposit - $74,613.00.

A Builder's Damage Deposit of $74,613.00 (GST Exempt) shall be lodged by the applicant by way of cash deposit or unconditional bank guarantee (any proposed bank guarantee must not have an expiry date) in favour of Bayside Council as security for

repairing any damage to the public domain and councils assets in the vicinity of the site, including defective public domain works. This includes construction, removal, or repair as required to all aspects of the public domain and council owned land such as: kerb and guttering, driveways, paved areas and footpaths, road pavement, stormwater infrastructure, signage, landscaping etc.

This security will be retained in full until the Final Occupation Certificate has been issued and all works relating to the development consent, such as Public Domain works and rectification of damage to the public domain, are completed to Bayside Council inspection and approval.

A request for refund of securities/deposits/bonds can be made once the above requirements are satisfied through Bayside Councils "Request for Refund" Application Form. A non-refundable inspection/administration fee in included in the bond value.

27. **Materials and Finishes**

The building shall be constructed of a masonry or brick wall construction with select coloured finishes as per the approved schedule of finishes. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

28. **Sydney Water Tap-in**

Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM 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 inTM online service is available at: https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm

29. **Safer by Design Requirements**

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifier prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas, and

b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels, and

c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners, and

d) Graffiti resistant materials shall be used to ground level external surfaces, and

e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development, and

f) The front window of the ground floor tenancy must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy, and

30. **Encroachment of Structures not Permitted**

No part of any structure, including gutters and eaves and front fences (including footings), may encroach or overhang any property boundary and/or public footway.

31. **Energy Efficiency (commercial / industrial)**

The development shall be constructed in accordance with the Energy Performance Report prepared by Integral Group dated 15 December 2020. Details are to be provided on the Construction Certificate plans.

32. **Accessibility for Commercial Premises**

The design and fitout of the commercial / retail areas must be in accordance with the current version of Australian Standard 1428.1 and the relevant Council Development Control Plan.

Note**:** Compliance with the relevant Council Development Control Plan and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Commonwealth Disability (Access to Premises – Buildings) Standards 2010 (the Premises Standard).

It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

33. **Lighting**

All existing and proposed lights shall comply with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting. In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.

34. **Services in Garbage Room**

Hot and cold water supply shall be provided to the garbage room.

Services or utility systems shall not be located within the garbage room.

Details demonstrating compliance shall be provided to the satisfaction of the Principal Certifier, prior to the issue of the relevant Construction Certificate.

35. **Aircraft Noise – Compliance with Submitted Report**

Prior to issue of the relevant Construction Certificate, the measures required in the acoustical assessment report prepared by Pulse Acoustic Consultancy dated 14 December 2020 shall be included in the construction drawings and in accordance with

the provisions of *AS 2021 – 2015: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction*.

The work detailed in the report includes:

a) Appropriate acoustic glazing to stated windows and doors, and

b) Detailed roof and ceiling construction, and

c) Wall and ceiling corner details, and

d) External door specification.

e) Acoustically treated mechanical ventilation

36. **Hazardous Material Audit and Work Plan**

Prior to the commencement of demolition of buildings, Hazardous Materials Audit (HMA) shall be carried out 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 Council and the Principal Certifier.

Should any hazardous materials be identified a Work Management Plan shall be submitted to Council in accordance with *AS2601-2001 – Demolition of Buildings*. The report shall contain details regarding the type and location of hazardous material and the proposed methods of containment and disposal.

37. **Submission of Waste Management Plan**

A Waste Management Plan prepared in accordance with Botany Bay Development Control Plan 2013 shall be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate. The Waste Management Plan shall include but not be limited to, the size and storage of bins, the collection point for the waste contractor recycling contractor, maintenance of the bins and the provision of recycling and composting facilities.

38. **Property Address Allocation**

Prior to the issue of a Construction Certificate for the development an application for Property Address Allocation and associated fee are required to be submitted to Council. All new addresses will be allocated in accordance with *AS/NZS 4819:2011 Rural and Urban Addressing Standard* and Section 5.2 of the NSW Address Policy.

The form is available for download at:

https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms

Derivation and production of address data components is governed by the NSW Addressing User Manual to ensure consistency of application.

http://www.gnb.nsw.gov.au/__data/assets/pdf_file/0007/199411/NSW_Addressing_User_Manual.pdf

39. **Waste Storage Containers – Commercial / Industrial**

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:

Commercial Waste

a) Retail Trading - shops, to 100 square metres - 0.1-0.2 cubic metres per 100 square metres of floor area per day, and

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.

40. **Appointment of Site Auditor**

A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed, a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works.

Evidence of this appointment shall be provided to council prior to the issue of any construction certificate.

41. **Interim Site Audit Advice**

To ensure that the soil and groundwater investigations and any remedial action plan (RAP) proposed for the site are sufficient to enable the land to be made suitable for the proposed uses of a commercial office development, an Interim Site Audit Advice shall be completed by the accredited site auditor under the Contaminated Land Management Act 1997 and shall be submitted to Council clearly demonstrating that the land can be made suitable for the proposed use. All measures to be undertaken to enable this shall be outlined. This shall be provided prior to the issue of any construction certificate.

42. **Contamination Remaining Onsite – RAP & LTEMP**

The Remedial Action Plan (RAP) shall avoid the use containment and contaminants should be treated onsite or removed from the site whenever possible. Any remediation that utilises a containment strategy for contaminants must be accompanied by a Long-term Environmental Management Plan (LTEMP). This LTEMP must be added to the title of the site.

43. **Landscape Plan**

The Final Landscape Plans shall be generally in accordance with the approved Landscape Plan (Refer to Condition 1) and comprise detailed landscape construction documentation (plans and specifications) to be submitted to, and approved by: Director City Futures of Bayside Council prior to the issue of the relevant Construction Certificate. The landscape documentation shall include, but not be limited to:

a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas. The following amendments shall be reflected in the landscape plan:

i) Landscape Setback area along western boundary is to include a 900mm wide v shape dish drain, preferably made of permeable pavers. The 900mm wide dish drain shall be attached to pedestrian link. The area between the dish drain and the boundary wall is to include suitable grasses and some small to medium trees with small diameter trunk at maturity where space is available. Is recommended for this setback to include 6 to 9 *Waterhousea floribunda*. No mulch shall be included instead a permeable weed matt and/or large pebbles (100mm diameter or greater) appropriate to the present overflow.

ii) Southern corners of the site, both western and eastern, are to include native canopy trees to be Angophora costata or Corymbia citriodora.

iii) Southern frontage setback planting (to Ossary Street) is to include larger trees where soil is available, replace proposed *Elaeocarpus reticulatus* with *Corymbia maculata.*

b) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large trees.

c) 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 treat. Areas of paving, schedule of materials, edge treatments, tactile and sectional construction details.

44. **Landscape Maintenance Schedule**

A Landscape Maintenance Schedule to cover 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:

a) All deep soil areas maintenance, 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); Irrigation system tests and maintenance tasks,

b) Green Roof and above slab planter boxes maintenance schedule, to include all planting maintenance tasks required for each season, including replacement of plants, when required, application of fertiliser, check irrigation system and replace timer batteries, verify non waterproofing has been damaged.

45. **Telecommunications and utility services**

All telecommunication and utility services (including all high and low voltage power lines) are to be placed underground along the entire development site frontages as part of the development. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site.

46. **Substation**

Where any electricity substation is required for the approved development, this must be housed within the building structure. These items reduce the visual amenity of the development, public spaces and the public domain. Above-ground utilities including fire boosters must be appropriately encompassed within the building. Details of the proposed structure shall be submitted to and approved by Bayside Council's Landscape Architect prior to the issue of the Construction Certificate.

47. **Frontage Works Application**

Prior to the issue of any Construction certificate, the applicant shall submit a Frontage Works Application. Prior to the commencement of the public domain works, a Public domain landscape improvements plan shall be submitted for assessment and 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 following landscape conditions apply to the public domain;

a) Street tree planting will be maximised, and will include only advanced tree, minimum pot size to be 200 litres, unless otherwise approved by Bayside Council Landscape architect.

b) New street trees shall be supplemented with the installation of structural support (Stratavault or equivalent). The extent of the structural support shall target to achieve an area of 35m² around the nominated tree pit or as specified by Council.

c) If new Street Tree pits required the installation of porous resin treatment, this treatment is to be installed at least 6 months after planting new street trees, and before Public Domain landscape Maintenance Bond is release for refund pending an inspection of landscape works by Council.

d) The Applicant is required to obtain Council inspections at the following hold points:

   i. Prior to planting to approve the tree stock is satisfactory,
   ii. Completion of planting to approve work has been undertaken satisfactorily and indicating the commencement of the maintenance period.
   iii. After 12 months maintenance period and before refund of Frontage Works Bond.

48. **Required Design Changes**

Prior the issue of any Construction Certificate, the following changes are required to be made and shown on the Construction Certificate plans to the satisfaction of Bayside Council:

a) The proposed floor levels for all activated commercial tenancies are to be revised to be set at RL 3.52m AHD to comply with the flooding requirements for the site. The colonnade level does not need to be raised.

49. **Requirements for Building Over Bayside Councils Stormwater Infrastructure**

Prior to the issue of any Construction Certificate, the design of the development shall comply with the following requirements to the satisfaction of Bayside Council:

a) The design of the development with regards to the construction over Bayside Council Stormwater infrastructure is to be as per Rockdale Technical Specification Stormwater Management Clause 8.8.3 d (or better) including other relevant sections of clause 8 of Rockdale Technical Specification Stormwater Management and Bayside Council Requirements.

b) The minimum 3.5m wide easement extent shall be confirmed to be located directly over the centreline of the pipe, evenly spread out across either side of the pipe.

c) All permanent footings, foundations and/or piers, shall be located outside the easement. Footings and piers including all foundations for buildings, walls, retaining walls, fill, and the underside of slabs located adjacent to Councils Stormwater infrastructure traversing the site, shall be designed so that no load is applied onto the stormwater infrastructure and the footing support for the development is not compromised by reconstruction of the stormwater pipe.

d) Beginning 500 mm (minimum) below the invert of the pipeline at the easement boundary and continuing upwards to the surface at the angle of repose of the soil, this area above the angle of repose is generally considered as the zone of influence. Below are some general guidelines for footing design and construction:

   i. If footings are proposed within the zone of influence these are to be supported fully on piers that extend below the zone of influence to a depth of at least 500mm below the invert of the pipe.

   ii. At the time of footing inspection, the edge of the easement (including nominal easement) is to be pegged and the pipe exposed adjacent to each end of the proposed construction and at any change of grade, or direction.

   iii. The standard angle of repose detailed above is based on dry soil conditions. Where the water table is located higher than 500 mm below the pipe invert generally the angle of repose will decrease, adopt V = 1 and H = 4 for sand unless more specialised technical advice is obtained. The use of the flatter zone of influence is still required for the design of footings even where dewatering techniques (including spearpoints) are used to assist construction.

   iv. All building elements within, and above, the zone of influence of the pipe are to be designed structurally to ensure that no part of the building is compromised by reconstruction of the stormwater pipe.

   v. The design of footings and structural elements for the building within the proximity of the Council pipe need to be thoroughly investigated giving consideration for high groundwater levels, sandy soils and the potential for extensive excavation in the pipes location within the zone of influence of the development.

e) All structures/building elements located within the easement are to be designed to be “temporary structures” that are designed to be easily removable, this includes the building façade and all internal walls, doors, bicycle parking, and floors etc. within the easement, and are to be designed as such that removal of these elements will not damage other sections of the building, damage the stormwater culvert, or compromise the structural stability of the building. The design of such elements is to be provided to Bayside Council for review.

f) The design of the wall between the loading dock and the bicycle parking/storage area is to be designed in such a way that it can be easily relocated, if council needs to access the pipe through the building, without compromising the structural stability of the building or damaging the building.

g) No structural elements/load bearing walls/floors etc. are permitted to be located

within the easement extent up until the 1st floor level of the building within the easement.

h) The design of the access hatches to the stormwater infrastructure is to be to the satisfaction of Bayside Council. Any existing damaged/dilapidated sections of the existing Bayside Council stormwater infrastructure are to be repaired to Bayside Council satisfaction as part of the development.

i) An inspection schedule and certification requirements for works associated with the council pipe are to be prepared in consultation with Bayside Council.

j) All designs and engineering certification for the design of the development over the Bayside Council owned stormwater pipe are to be provided for review and acceptance by Bayside Council. The design of the building over the Council stormwater pipe is to be in accordance with any other requirements specified by Bayside Council which may vary the abovementioned requirements.

The design of the development is to be certified by a structural engineer registered with the National Engineering Register (NER) as being in accordance with the above-mentioned requirements and certified as being satisfactory from a structural perspective with respect to the design of the structure over the stormwater infrastructure to the satisfaction of Bayside Council. Bayside Council's Director of City Futures (or delegate) must advise in writing that this condition has been satisfied prior to the issue of any Construction Certificate.

50. **Detailed Design Stormwater Management Plan**

Prior to the issue of any Construction Certificate, detailed drainage design plans prepared by a civil engineer registered with the National Engineering Register (NER) for the management of stormwater and floodwater are to 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 Bay 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 Bay DCP Part 10 - Stormwater Management Technical Guidelines.

The detailed drainage design plans shall incorporate the provisions generally made in the stormwater concept plans prepared by NORTHROP, JOB NUMBER 202280, Revision No. 1 and dated 18.12.20 along with the revisions/documentation/measures detailed below:

a) A minimum capacity of 50m^3 (50000L) of rainwater tank(s) shall be provided for the site. Only roof water shall be directed to the rainwater tank(s). Overflow from the rainwater tank(s) shall be directed to the site drainage system. The rainwater tank(s) must be connected to all landscape irrigation and all ground floor toilets within the development for non-potable stormwater re-use. Safe emergency overflow shall be provided for within the stormwater system design, and

b) A minimum capacity of 300m3 of flood storage tanks (flood chamber) are to be provided as part of the development and be designed as per the flood impact assessment prepared by NORTHROP, project Ref: SY202280, Revision C, dated 20/05/2021. The design of the flood storage tanks is to be as such that the flood storage tanks can freely drain out (via gravity discharge) and empty after the flooding event passes, and

c) All surface runoff from the parking facility shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted, and

d) The stormwater system shall incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG. The water quality improvement system shall be designed to capture and treat at least 85% flows generated from the site, and

e) A 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 shall 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, and

f) Any subsurface structures shall be designed with a waterproof retention system with adequate provision for future fluctuation of the groundwater water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. If subsoil drainage is permitted to be provided around the subsurface structure, the subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure but must not be connected to the internal drainage system. No pump-out is permitted to be used to drain and discharge groundwater seepage from the subsurface structures and no groundwater is permitted to enter the subsurface structures, and

g) The existing two kerb inlet pits in Ossary Street adjacent to the site are to be demolished and new kerb inlet pits are to be constructed with an increased size (minimum lintel length of 3.4m). A new 1.8m wide kerb inlet pit is to be constructed in Ricketty Street adjacent to the site as part of the development.

51. **Structural Certification for Flood Prone Land**

Prior to the issue of the relevant Construction Certificate, an engineer registered with the National Engineering Register (NER) is to certify that the structure 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 event, 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 level.

52. **Flow Through Fencing**

Prior to the issue of the relevant Construction Certificate, flow through open form fencing is required for all new boundary fencing (except for the western boundary which is to have a landscape wall to RL 2.85m AHD) and all new internal fences and gates up to the 1% AEP flood level. This requirement shall be reflected on the Construction Certificate plans and supporting documentation. Details of approved types of fencing can be obtained from Council.

53. **Detailed Flood Risk Management Plan**

Prior to the issue of the relevant Construction Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer registered with the National Engineering Register (NER), must be provided for the development. The flood impacts on the site shall be assessed for the 1% AEP and PMF storm events. The management plan must make provision for, but not be limited to, the following:

a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development, and

b) Flood warning signs / depth indicators for areas that may be inundated, and

c) A flood evacuation strategy, and

d) A flood awareness strategy, and

e) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.

54. **Flooding Requirements**

Details are to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate demonstrating compliance with the following:

a) Storage of Materials Damaged by Flood: Materials which may be damaged by flood waters shall be stored, or able to be stored, at or above 500mm above the 1% Annual Exceedance Probability (AEP) Flood Level.

b) Design of Development is to be in accordance with Flood Report: The design of the development is to be certified as being in accordance with the approved flood report prepared by NORTHROP, project Ref: SY202280, Revision C, dated 20/05/2021 except for the floor levels for the activated commercial tenancies (which need to be raised to RL 3.52m AHD). A minimum capacity of 300m^3 of flood storage tanks (flood chamber) are to be provided as part of the development. Engineering certification is to be provided prior to the issue of the Construction Certificate.

55. **Detailed Traffic and Parking Design Requirements and Certification**

Prior to the issue of the relevant Construction Certificate, the construction certificate plans and supporting documentation shall demonstrate compliance with the following:

a) Compliance with AS2890 Car, Bicycle and Motorcycle Parking:

i. The longitudinal profile(s) of the access driveway and any ramps within the parking facilities must comply with the Ground Clearance, Gradient (%) and Length requirements of the 2890 Australian Standards Series, and

ii. The provision of accessible car parking spaces shall be in accordance with the relevant disability legislation. The design and construction of accessible car parking spaces shall be in accordance with the Australian Standard 2890.6: Parking facilities – Off-street parking for people with disabilities, and

iii. The gate for the parking facility shall be located in order to permit the queuing of one (1) vehicle within the property when waiting to enter the parking facility. Details shall be provided prior to the issue of the Construction Certificate, and

iv. Parking facilities (including parking spaces, ramps, aisles, vehicular crossings etc.) must comply in full with AS/NZS 2890.1, and

v. Sightlines are to comply with AS2890.1 and convex mirrors shall be provided at blind corners within, and leading to, the car parking levels to provide increased sight distance for vehicles, and

vi. All vehicles are to enter and exit the site in a forward direction, and

vii. A minimum of 142 bicycle parking spaces must be provided as part of the development and designed in accordance with AS2890.3:2015. The end of

trip facilities must include toilets, showers, change rooms and lockers, and

viii. The 245 car parking spaces shall be allocated as per the below:

- 8 spaces allocated to the activated commercial tenancies and cafe component of the development.
- 237 spaces allocated to the office component of the development.

ix. One (1) car parking space shall operate as a car share bay by a commercial car share operator, and

x. At least thirteen (13) car parking spaces are to be equipped electric vehicle (EV) charging facilities at occupation of the development (5% of parking spaces with carpark), with another twenty-four (24) spaces to be designed with the future capacity for the installation of EV charging facilities for a total of 37 spaces (15%) either equipped, or able to be equipped with, EV charging facilities at the completion of the development. At least one (1) of these spaces is to be a fast-charging system/destination charger.

b) Compliance with AS2890.2 Commercial (Service) Vehicle Parking:

i. Loading and unloading within the site shall be designed and be restricted to commercial vehicles not exceeding the size and mass description of the MRV from AS2890.2:2018. Commercial vehicles greater in size and mass than the MRV are not permitted to enter the site, and

ii. All driveways/access ramps/vehicular crossings/sight distances shall conform with Australian Standards AS2890.2:2018 along the travel path of the service vehicles, and

iii. All service vehicles shall enter the property front in front out, and

iv. Swept path analysis shall be provided for manoeuvring of MRV and SRV commercial vehicles, depicting a forward entry and forward exit manoeuvre to/from the loading dock proposed within the development, and

v. A longitudinal section plotting headroom clearance along the travel path is to be provided for assessment, and

vi. It shall be demonstrated that a safe headroom clearance of 4.5m is achieved along the along the entire travel path, parking, and manoeuvring areas of the Medium Rigid Vehicle (MRV) within the development, and

vii. It shall be demonstrated that a safe headroom clearance of 3.5m is achieved along the along the entire travel path, parking, and manoeuvring areas of the Small Rigid Vehicle (SRV) within the development, and

viii. Waste collection must be undertaken within the development. No bins are to be presented to the street, and

The design of the entire car parking facility is to be certified by a civil engineer registered with the National Engineering Register (NER) as being strictly in accordance with the abovementioned requirements and the Australian Standard 2890 parking facilities series.

56. **Mechanical Parking Facility System – Detailed Design**

Prior to the issue of the relevant Construction Certificate, the design of the mechanical parking facility system(s) proposed (turntable) must address the following criteria:

a) Ensure operating noise and vibration levels are limited to acceptable levels in accordance with appropriate standards and any plant equipment is housed in noise attenuating housing as required/appropriate;
b) Provide detailed design and manufacturer specifications for the mechanical turntable;
c) Provide operational details/management plan of the entire facility; demonstrating safe and functional access for all users, including details of safety protection systems for users and non-users;
d) The mechanical turntable must be designed to accommodate a Medium Rigid Vehicle (MRV) as denoted by AS2890.2:2018.

The design must be certified by an engineer registered with the National Engineering Register (NER).

57. **Geotechnical Certification**

Prior to the issue of any Construction Certificate, a Geotechnical Engineer registered with the National Engineering Register (NER) must:

a) Review and ensure the construction methodology, parameters, and recommendations in the report prepared by Douglas Partners, Project No. 99707.02, dated 2 December 2020, have been implemented and relied upon during the preparation of the Construction Certificate plans and documentation, and

b) Provide detailed recommendations to allow the satisfactory implementation of the works, and

c) Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure, and

d) Certify that the construction certificate plans and supporting documentation are satisfactory from a geotechnical perspective, and

e) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer and be outlined in an inspection schedule.

The professional recommendations of the report shall be implemented in full during the relevant stages of excavation and construction.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

58. **Public Domain Frontage Design**

Prior to the issue of any Construction Certificate, an application for Frontage Works (Public Domain Construction – Frontage / Civil Works Application) shall be made to Bayside Council's Customer Service Centre. A fee is payable to Bayside Council in accordance with Council's adopted fees and charges.

Prior to the commencement of the public domain works, a Public Domain Frontage Design package must be prepared by suitably qualified professionals for all frontage

works that are required to be constructed within the public domain and, are subject to assessment and approval pursuant to Section 138 of the Roads Act 1993. Public domain frontage works shall include, but not be limited to, civil, drainage, landscaping, undergrounding of services, lighting, traffic signage, line marking, parking, and traffic devices to address and satisfy relevant development consent conditions. All frontage works shall be designed in accordance with Bayside Council technical manuals, specifications, master plans, town centre plans, Australian standards, AUSTROADS, AUS-SPEC and standard design drawings.

A public domain performance bond is to be provided to Bayside Council prior to the release of the approved public domain plans and commencement of the public domain frontage works. The performance bond is based upon the cost of the public domain works and will be calculated by Bayside Council. The performance bond will be kept for a period of 12 months after the completion of all external works and the issuing of a Final Occupation Certificate (defects liability/street tree maintenance period). The bond may be applied by Bayside Council to rectify defective/non-conforming public domain works and to the establishment and maintenance of the landscaping and street trees. Bayside Council will be entitled to recover any monies expended more than the bond amount in undertaking such works.

Note: Preliminary consultation with Council's Public Domain and Development Referrals team is recommended.

59. **Undergrounding of All Overhead Services**

All above ground utilities and services (i.e., all overhead high and low voltage electricity reticulation cables plus any telecommunication cables) along the entire length of all frontages of the development site must be relocated underground as part of the development. The redundant Ausgrid lighting and power poles will need to be decommissioned and new underground supplied lighting poles shall be constructed along the entire frontage of the development site satisfying the relevant lighting requirements. The works must be completed and Ausgrid's approval for the works must be met to the satisfaction of Bayside Council prior to the issue of any Occupation Certificate. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Bayside Council. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.

Where the road reserve along the frontage(s) of the site is congested with underground utility services and/or street trees, the person acting on the consent must design the undergrounding works around the congestion to the requirements of Ausgrid and Bayside Councils landscape architect/arborist.

If further undergrounding of utilities is required beyond the frontages of the development site (e.g., across a road) to support the required undergrounding along the site frontage(s), these works must also be carried out at no cost or expense to Bayside Council.

If any existing street trees are lost because of trenching related to undergrounding works, suitable replacements must be planted in keeping with Bayside Council's street tree masterplan and landscape architect requirements.

60. **Sustainability**

Prior to the issue of the relevant Construction Certificate, the applicant is to demonstrate the use of the following sustainability measures within the development:

a) Provision of photovoltaic cell systems on the rooftop. Detailed design for the photovoltaic cells systems is to be provided, the provision of photovoltaic cells is to be at a rate that maximises the use of available non-trafficable space on the roof.

b) Sensor controlled and zoned internal lighting and air conditioning.
c) Provision of non-potable stormwater re-use for landscape irrigation and all toilet flushing on the ground floor.
d) Provision of Electric Vehicle (EV) charging car parking spaces. A minimum 5% of car spaces are to be equipped with electric vehicle charging facilities at commencement (13 spaces), with another 10% of spaces (15% in total) to have the future capacity for car charging as demand increases (additional 24 spaces).
e) Provision of a car share space operated by a commercial car share provider within the development.

The above measures shall be implemented on the site prior to the issue of the Final Occupation Certificate.

PRIOR TO THE COMMENCEMENT OF ANY WORK (INCLUDING DEMOLITION AND EXCAVATION)

61. **Dilapidation Report – Private Land**

A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all adjoining premises, a photographic survey, and including buildings, foundations, and structures likely to be affected by the excavation as determined by the consulting engineer. This shall include, but not be limited to, the following properties:

a) 24-26 Ricketty Street MASCOT, and

b) 36 Ricketty Street MASCOT,

The report shall be prepared at the expense of the applicant and a copy of the Dilapidation Survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifier prior to commencement of any works. The insurance cover shall be a minimum of $10 million.

A copy of the Pre-Construction Dilapidation Report is to be provided to the adjoining properties (subject of the Dilapidation Report), a minimum of five (5) working days prior to the commencement of work. Evidence confirming that a copy of the Dilapidation Report was delivered to the adjoining properties must be provided to the PCA. Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00 am and 6.00 pm.

62. **Dilapidation Report – Public Domain - Major**

A professional engineer specialising in civil, structural, or geotechnical engineering shall prepare a Dilapidation Report detailing the current condition of Bayside Council's infrastructure adjoining and within 50m of the development site, including the condition of the road reserve (including footpath, nature strip, landscaping, trees, kerb and gutter, pits, pipes, traffic devices, signs, and road pavement) and other adjacent Bayside Council properties prior to commencement of any work. The report must include, but not be limited to, the following:

a) Photographs showing the condition of the road pavement fronting the site, and
b) Photographs showing the condition of the kerb and gutter fronting the site, and
c) Photographs showing the condition of the footway including footpath pavement fronting the site, and
d) Photographs showing the condition of retaining walls within the footway or road, and

e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
f) The full name, accreditation, professional registration, and signature of the professional engineer.
g) Road carriageway assessment

The reports are to be supplied in electronic format in Word. Photographs are to be in colour, digital and date stamped.

The liability for any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition, will be borne by the applicant. The applicant shall bear the cost of all restoration works to Council's property damaged during the course of construction of this development.

63. **Video CCTV for Council Stormwater Pipe**

Prior to the commencement of any works on site, a qualified practitioner shall undertake a closed-circuit television (CCTV) inspection and then report on the existing condition of Bayside Council's drainage infrastructure, adjacent to, and traversing the site. The camera and its operation shall comply with the following:

a) The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner, and
b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints, and
c) Distance from the drainage pit shall be accurately measured, and
d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to the satisfaction of Bayside Council prior to the commencement of any works. A written acknowledgment shall be obtained from Bayside Council attesting to this condition being appropriately satisfied and submitted to the Principal Certifier. If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the applicant's expense.

64. **Construction Environment Management Plan**

Prior to commencement of any works, the applicant must prepare and submit a Construction Environment Management Plan (CEMP). The CEMP must include, but not be limited to, the following:

a) A plan view of the entire development site and frontage roadways along with a construction management report addressing the following:

    i. The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area. Access across public parks and open space reserves is prohibited. All loading and unloading associated with construction activity must be accommodated on site, and
    ii. Details of: hours of work; 24-hour contact details of site manager; management of dust and odour to protect the amenity of the neighbourhood; stormwater control and discharge; measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site; groundwater management plan including measures to prevent groundwater contamination;

external lighting in compliance with AS 4282-2019 Control of the obtrusive effects of outdoor lighting; community consultation and complaints, and

iii. The proposed phases of construction work on the site and the expected duration of each construction phase, and

iv. The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, plant/machinery, formwork, and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site. The storage location on the property during construction shall also be shown, and

v. The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period, and

vi. 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, and

vii. 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, and

viii. Proposed protection for Council and adjoining properties, and

ix. Proposed protection for the Bayside Council owned Stormwater Infrastructure traversing the site during demolition and construction. Including methodology to avoid activities that can damage the pipe.

x. The location and operation of any on site crane including a copy of Sydney Airport approval (if required), and

xi. The location of any Work Zone (if required) approved by Council's Traffic Engineering Section, including a copy of that approval.

b) A Construction Traffic and Pedestrian Management Plan for pedestrian and traffic management of the site during construction prepared by a TfNSW accredited consultant in accordance with the '*Traffic Control at Worksites Manual'*. The plan shall include construction vehicle routes, anticipated number of trucks per day, hours of construction, access arrangements and proposed traffic measures to minimise impacts of construction vehicles. The plan shall detail the measures that are to be implemented to ensure road safety and network efficiency during construction in consideration of potential impacts on general traffic, cyclists and pedestrians, bus services and detail heavy vehicle routes, access, and parking arrangements.

c) A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004) to provide adequate erosion and sediment control measures during demolition, excavation, and construction on the site. A sufficient area shall be provided onsite (Soil Stockpile Area) to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site.

d) A Noise and Vibration Management Plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction works. The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards and Assessing Vibration: A technical guideline (available www.environment.nsw.gov.au). The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

e) A Construction Worker Transportation Strategy for the construction stages to the satisfaction of the Certifier. The Strategy must detail the provision of sufficient parking facilities or other travel arrangements for construction workers to minimise

demand for parking in nearby public and residential streets or public parking facilities.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority. A copy of the approved documents is to be submitted to Bayside Council.

65. **Erosion and Sediment Control Measures**

Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

66. **Excavation adjacent to already constructed building.**

If an excavation associated with the proposal extends below the level of the base of the footings of a building and/or structure and/or road 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, piering, 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.

67. **Soil Stockpile Area**

A sufficient area shall be provided onsite to enable separate stockpiling and treatment of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to commencement of works.

This plan shall incorporate and reference the construction environmental management plan (CEMP) and address site limitations.

68. **Asbestos Removal Control Plan**

To ensure that all asbestos materials identified are managed appropriately an Asbestos Removal Control Plan (ARCP) shall be prepared and implemented during works onsite. The ARCP shall be prepared in accordance with:

a) SafeWork NSW Codes of Practices; and

b) SafeWork Australia *Model Code of Practice - How to Safely Remove Asbestos* 2011; and

c) Work Health and Safety Act and Regulations 2011; and

d) *Australia Standard (AS) 2601-2001 The Demolition of Structures*.

The report shall contain details regarding the proposed methods of containment and disposal of asbestos containing material and shall be submitted to the Principal Certifying Authority prior to the demolition of any building or structure.

69. **Dewatering – Water Quality Requirements**

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.

70. **Dewatering – Permit to Discharge to Stormwater**

To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.

71. **Tree Offset**

To offset the canopy loss of the trees located in the Public Domain the applicant shall undertake the replanting of six (6) native replacement trees, all six (6) replacement trees shall be of a minimum 100L root ball and have the propensity to grow to a minimum mature height of eight (8) meters. The species is to be either *Waterhousea floribunda* (Weeping Lilly Pilli) or *Syzygium australe* (Lilli Pilli).

DURING ANY WORKS (INCLUDING EXCAVATION AND CONSTRUCTION)

72. **Approved Plans Kept on Site**

A copy of the Construction Certificate, the Development Consent and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.

73. **Construction Hours and Noise**

The following shall be complied with during construction and demolition:

a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guidelines and the Protection of the Environment Operations Act 1997.

b) Level Restrictions

(i) Construction period of four (4) weeks and under:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A), and

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

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

c) Time Restrictions

(i) Monday to Friday 7:00am to 6:00pm

(ii) Saturday 7:00am to 3:00pm

(iii) No Construction to take place on Sundays or Public Holidays.

d) Silencing

All possible steps should be taken to silence construction site equipment

74. **Support of Adjoining Structures**

Where the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

a) protect and support the building, structure or work from possible damage from the excavation, and

b) where necessary, underpin the building, structure or work to prevent any such damage.

75. **Site Management - Principal Certifier Inspections**

Upon inspection of each stage of construction, the Principal Certifier (or other suitably qualified person on behalf of the Principal Certifier) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:

a) Sediment control measures, and

b) Provision of perimeter fences or hoardings for public safety and restricted access to building sites, and

c) Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.

76. **Registered Surveyor Certificate**

A Registered Surveyor's Check Survey Certificate or Compliance Certificate shall be forwarded to the Principal Certifier detailing compliance with Council's approval at the following stage/s of construction:

a) After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks, and

b) Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level, and

c) On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels, and

d) On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.

77. **Implementation of Soil and Water Management Plan**

All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of the project, where necessary. The plan is to be available to Council officers, on request.

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.

78. **Toilet facilities**

a) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

b) Each toilet must:

(i) be a standard flushing toilet connected to a public sewer, or

(ii) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or

(iii) be a temporary chemical closet approved under the *Local Government Act 1993*.

79. **Construction Activities – Minimise Pollution**

The following conditions are necessary to ensure minimal impacts during construction:

a) Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Council's stormwater pollution control requirements. 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, and

b) Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area, and

c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls, and

d) Building and demolition operations such as brick cutting, 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, and

e) 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, and

f) Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:

(i) spraying water in dry windy weather, and

(ii) cover stockpiles, and

(iii) fabric fences

g) All vehicles transporting soil, sand or similar materials and demolition material to or from the site shall cover their loads at all times, and

h) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site, and

i) During the construction works, the Council nature strip shall be maintained in a clean and tidy state at all times and shall be suitably repaired and/or replaced in accordance with Council Specifications at the completion of construction works, and

j) Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of two metres to remove mud from the tyres of construction vehicles, and

k) An All-Weather Drive System or 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.

80. **Site Fencing**

The site shall be secured by an 1800mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifier, prior to the demolition of the existing structures and commencement of building operations.

81. **Site Fencing and Hoarding**

A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:

a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or

b) building involves the enclosure of a public place.

Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.

Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:

a) the vertical height above footpath level of the structure being demolished is less than 4m, or

b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary, and

b) have a clear height above the footpath of not less than 2.1m, and

c) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and

d) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The Principal Contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

82. **Demolition Requirements During Works**

Demolition is to be carried out in the accordance with the following:

a) The approved Safe Work Method Statement required by this consent, and

b) Demolition is to be carried out in accordance with Australian Standard 2601:2001: Demolition of structures, Work Health & Safety Act 2011 (NSW), Work Health & Safety Regulation 2011 (NSW) and the requirements of the NSW WorkCover Authority, and

c) The hours of demolition work are limited to between 7:00am and 6.00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays, and

d) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority, and

e) Dust control - dust emission must be minimised for the full height of the building. Compressed air must not be used to blow dust from the building site, and

f) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal, and

g) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition, and

h) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site, and

i) The burning of any demolished material on site is not permitted and offenders will be prosecuted. The demolition by induced collapse and the use of explosives is not permitted, and

j) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial Before You Dig website: www.1100.com.au should be contacted prior to works commencing, and

k) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times, and

l) Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with WorkCover NSW requirements. *Protection of the Environment Operations Act 1997*, *Protection of the Environment Operation (Waste) Regulation* and '*Waste Classification Guidelines 2014*' prepared by the NSW Office of Environment and Heritage. Following completion, an Asbestos Clearance Certificate is to be provided to Council following the final asbestos clearance inspection.

83. **Demolition Requirements**

All demolition work shall be carried out in accordance with AS2601 – 2001. The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.

84. **Implementation of the Waste Management Plan**

The approved Waste Management Plan for the site shall be complied with at all times during demolition works and construction works.

85. **Disposal of Waste - Waste Management Facility**

All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management / Recycling Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifier.

86. **Additional information – Contamination – Cease work addition (with SAS**

auditor)

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, the appointed Site Auditor (Contaminated Land) 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 and reviewed and approved by the Site Auditor (Contaminated Land).

87. **Remediation Works – Specific RAP/Plan**

All remediation work must be carried out in accordance with:

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

b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;

c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and

d) the Remediation Action Plan, Proposed Commercial Development, 32-34 Ricketty Street, Mascot, prepared by Douglas Partners, dated December 2020

88. **Acid Sulfate Soil Management – Specific Plan**

The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within Acid Sulfate Soil Management Plan, Proposed Commercial Development, 32-34 Ricketty Street, Mascot, prepared by Douglas Partners dated December 2020.

89. **Dewatering – Permit to Discharge to Stormwater**

To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.

90. **Waste Classification – Excavated Materials**

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. Appropriate records must be retained to support this.

91. **Importation of Fill (General)**

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.

92. **Monitoring**

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.

93. **Vibration Monitoring**

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event. Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional Engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land, the Engineer registered with the National Engineering Register (NER), Principal Contractor and any Sub-Contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the Engineer registered with the National Engineering Register (NER) to prevent any further damage and restore support to the supported land.

94. **Vibration During Demolition Works**

Vibration levels induced by the demolition activities must not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on structures Table 12-7*.

The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.

Prior to commencement a specific vibration monitor must be set up to monitor and record the vibration levels affecting surrounding buildings.

95. **Approval and Permits under Roads Act and Local Government Act for Work Activities on Public Land**

During all stages of demolition and construction, application(s) shall be made to Bayside Council (upon payment of a fee in accordance with Bayside Council's adopted fees and charges) to obtain the necessary approvals and permits for any and all works/activities on Bayside Council land or road reserve pursuant to the Roads Act 1993 and Local Government Act 1993. All applications associated with works and activities on Bayside Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Bayside Council. Refer to Bayside Council "Work Activities on Council Sites Application Form" and "Road Opening Application" to obtain permits/approvals for the following:

- Road, Footpath and Road Related Area Closure – To temporarily close any part of the road, footpath or car park to vehicle or pedestrian traffic. This permit is required to allow the applicant to close a road or part of, footpath or car park to vehicle or pedestrian traffic.
- Stand and Operate Registered Vehicle or Plant – To occupy any part of the road, footpath, or car park to work from a vehicle parked on the street. This permit is required when construction activities involve working from a vehicle parked on the street including mobile crane, concrete truck, concrete pump, or other similar vehicles.
- Occupy Road with Unregistered Item – To place a waste container or other item within the roadway which is not a registered vehicle. This permit is required to allow the applicant to place unregistered items within the roadway including waste containers and skip bins.
- Erection of a Works Zone – To implement a statutory Work Zone for activities adjacent to the development site. These applications are assessed by Bayside Council officers and are referred to the Traffic Committee for approval.
- Placement of Scaffolding, Hoarding and Fencing – To erect a temporary structure in a public place to enclose a work area. This permit is required for all temporary structures to enclose a work area within the public domain. These include site fencing, types A & B hoarding, type A & B hoarding with scaffolding and type B hoarding plus site sheds.
- Temporary Shoring/Support using Ground Anchors in Council Land – To install temporary ground anchors in public road to support excavation below the existing road surface level. This permit is required to allow the applicant to install temporary support system in or under a public road to support excavation below the existing road surface level. The support systems include ground anchors and shoring.
- Tower Crane – To swing or hoist over and across council property (including roadway). This permit is required when tower crane(s) are used inside the work site and will swing, slew or hoist over Council property or asset.
- Public Land Access – To access through or occupy Council land. This permit is required by applicants in order to access over or occupy Council land.

- Road Opening Application - Permit to open road reserve area including roads, footpaths or nature strip for any purpose whatsoever, such as relocation / re-adjustments of utility services. This does not apply to public domain works that are approved through Bayside Council's permit for Driveway Works (Public Domain Construction – Vehicle Entrance / Driveway Application) / Frontage Works (Public Domain Construction – Frontage / Civil Works Application) under section 138 of the Roads Act.

A valid permit/approval to occupy Bayside Council land or road reserve to carry out any works or activities within the public domain must be obtained, and permit conditions complied with, during all stages of demolition and construction. Fines apply if an activity commences without a valid permit being issued. It shall be noted that any works/activities shown within Bayside Council land or road on the DA consent plans are indicative only and no approval of this is given until this condition is satisfied.

96. **Temporary Dewatering Permit - Water Quality Requirements**

To ensure that relevant engineering and water quality provisions are met during the period of temporary dewatering for construction, a permit must be obtained from Council to permit discharge to the stormwater system. Temporary dewatering shall not commence until this permit is issued by Council. The permit must be current and valid at all times during dewatering operations.

The water quality 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.

97. **Construction Operations**

a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.

b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.

c) Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.

d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.

98. **Protection of Council's Property**

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 always be made safe for pedestrian and vehicular traffic. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

99. **Erosion Controls - Access to Site and Transportation of Materials**

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.

100. **Implementation of Traffic Management Plan and Construction Management Plan**

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.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

101. **Occupation Certificate**

An Occupation Certificate must be obtained prior to any use or occupation of the building/development. The Principal Certifier must ensure that all works are completed in accordance with this consent, including all conditions.

102. **Anti-Graffiti Coating**

Prior to issue of the Occupation Certificate, ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement.

103. **Intruder Alarm Timer**

All intruder alarms must be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2008, and AS 2201 – Parts 1 and 2 – Intruder Alarm Systems.

104. **Contaminated Land – Site Validation Report**

A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

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

b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and

c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority, and the Council if the Council is not the Principal Certifying Authority. The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

105. **Site Audit Statement – Site Suitability (no park dedication to Council)**

To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* shall be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This shall be provided prior to the release of any Occupation Certificate.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 4.55 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

106. **Contamination – Validation of deep planting areas**

A Validation Report shall be prepared by a suitably qualified contaminated land consultant. This shall provide details of the:

a) testing of soil in the deep planting areas; and

b) removal and/or treatment of any soil above the EIL/ESL or HIL/HSL.

All sampling and analysis shall be undertaken in accordance with NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997.

The report shall be submitted to the Principal Certifying Authority, and the Council if the Council is not the Principal Certifying Authority. The report is to be submitted after completion of analysis and remediation works and prior to the issue of any occupation certificate.

107. **Asbestos – Clearance Certification**

Following the installation of the marker and capping layers in the asbestos works area a clearance inspection must be completed by a licensed asbestos assessor to confirm the appropriate encapsulation of the underlying asbestos impacted soils. A clearance certificate shall be prepared following the successful completion of the clearance inspection detailing the completed works.

The report shall be submitted to the Principal Certifying Authority, and the Council if the Council is not the Principal Certifying Authority, after completion of works and prior to the issue of any occupation certificate.

108. **Landscape Completion / Certification**

Prior to issue of the final Occupation Certificate, the following must be complied with:

a) All landscape works are to be carried out in accordance with the approved landscape plans (refer to Condition 2) for the approved development. The landscaping is to be maintained to the approved standard at all times.

b) A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifier) stating that the landscape works have been carried out in accordance with the approved plans and documentation.

109. **Bayside Council's Reserve Damaged During Construction**

Where Bayside Council's land / road reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Bayside Council or the applicant, at the applicant's expense. Any damage not shown in the photographic survey submitted to Bayside 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 Bayside Council's satisfaction, prior to occupancy of the development and release of the damage deposit.

Bayside Council's Director of City Futures (or delegate) must advise in writing that the works have been completed to their satisfaction, prior to the issue of the final Occupation Certificate. Further, Bayside Council will use this report to determine whether or not to refund the Damage Deposit.

110. **Building over Council Pipe Certification**

Prior to the issue of any Occupation Certificate, an Engineer registered with the National Engineering Register (NER) shall certify that the construction works have been constructed in approved construction certificate drawings/specifications and Bayside Council requirements in relation the design of the building over Bayside Councils stormwater infrastructure.

111. **Geotechnical Certification**

Prior to the issue of any Occupation Certificate, a Geotechnical Engineer registered with the National Engineering Register (NER) shall certify that the construction works have been constructed in accordance with the approved construction geotechnical report/recommendations and include an evaluation of the completed works.

112. **Rainwater Tank - Plumbing Certification**

Prior to the issue of any Occupation Certificate, a registered plumber's certification that the Rainwater Tank Re-use system(s) has been connected for non-potable stormwater re-uses including all ground floor toilet flushing and all landscape irrigations must be provided.

113. **Certification of New Stormwater System**

Prior to the issue of any Occupation Certificate, a civil engineer registered with the National Engineering Register (NER) must certify that both the stormwater system and flood storage chamber/tanks system have been constructed in accordance with the approved plans and as required by Botany Bay DCP Part 10 – Stormwater Management Technical Guidelines. The constructed stormwater drainage system shall be inspected, evaluated, and certified. The certification shall demonstrate compliance with the approved plans, relevant Australian Standards, Codes and Council Specifications. A works-as-executed (WAE) drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. The WAE plan must clearly illustrate dimensions and details of all site drainage including aspects such as the On-Site Detention System, Infiltration System, Overland Flow Path, Flow through Fence, Rainwater Tank, Stormwater Quality Improvement Device, flood storage/chamber

system etc. The certification and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority and Bayside Council.

114. **Positive Covenant Application**

Prior to the issue of the final Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) pursuant to the Conveyancing Act 1919 are to be registered on the title of the lots on which the following systems are present:

a) Restriction on use of land and positive covenant for compensatory flood storage and overland flow path (BBDCP part 10 SMTG appendix D).
b) Restriction on use of land and positive covenant for Stormwater Quality Improvement Device (BBDCP part 10 SMTG appendix E).
c) Positive covenant for the maintenance of the mechanical turntable system.
d) Positive covenant in favour of Bayside Council permitting unrestricted access through the building and site (including its engaged officers/vehicles/machinery etc.) to the Bayside Council owned stormwater infrastructure traversing the site for maintenance/replacement works.

The terms of the instruments to be in favour of Bayside Council and are to be submitted to Bayside Council for review and approval. All instrument wording is to be to the satisfaction of Bayside Council. An application must be lodged with, and approved by, Bayside Council prior to issue of the Occupation Certificate. Bayside Council must be provided with the relevant fees and all supporting information required (such as works-as-executed drainage plans and certification) prior to Bayside Council endorsing the Instrument. Bayside Council and the Principal Certifying Authority are to be provided with proof of registration of the covenants prior to occupation.

115. **Provision of Right of Footway**

The provision of a 2.0 metre wide Right of Footway, in favour of Bayside Council, along the boundary with Ossary Street is to be provided and, a right of footway over the through site link along the eastern side of the building (connecting Ricketty street and Ossary Street) in favour of Bayside Council is to be provided. The Right of Footways are to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council. Bayside Council requires proof of lodgement and registration of the signed Subdivision / Strata Certificate and 88B Instrument with the Land Titles Office. A written acknowledgment shall be obtained from Bayside Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifier.

The right of footway traversing north south through the site (along the eastern side of the building connecting Ricketty street and Ossary Street) is to be closed during times that are outside of the approved hours of operation of the ground floor uses. This can be addressed via positive covenant or via the terms of this easement.

116. **Easement Over Bayside Council Stormwater Pipe**

Prior to the issue of the final Occupation Certificate, a minimum width 3.5m wide easement to drain water shall be created over the Bayside Council stormwater infrastructure that traverses the site to the benefit of Bayside Council. The terms of the easement shall be in accordance with the Conveyancing Act 1919. The easement shall be legally registered with the relevant authority. The location and width of the easement shall be to the satisfaction of Bayside Council. The easement to drain water is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council. Bayside Council requires proof of lodgement and

registration of the easement prior to the issue of any Occupation Certificate. A written acknowledgment shall be obtained from Bayside Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

117. **Parking Facility Certification**

Prior to the issue of any Occupation Certificate, documentation from an Engineer registered with the National Engineering Register (NER) must be submitted to the Principal Accredited Certifier certifying 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, AS2890.3 and AS/NZS 2890.6, line marked, all signage relating to car parking erected and that the car parking area is clearly and appropriately marked/signposted indicating all the vehicular movements on the site. The internal road network, pedestrian facilities and parking facilities (including visitor parking and parking for persons with disabilities) shall be clearly designated, sign posted and line marked prior to the issuing of an Occupation Certificate. Wheel stops shall be installed in all car parking spaces adjoining high obstructions and garden beds in accordance with AS/NZS 2890.1:2004. Bollards shall be erected for all accessible parking spaces in accordance with AS/NZS 2890.6. Suitable vehicular bollards shall be provided outside the exit doors and lifts that adjoin the vehicle circulation area, or other exit door(s) that may be blocked by parked vehicles. Convex mirrors are to be installed throughout the parking facility to provide increased sight distance for vehicles.

118. **Car Share Space**

The car share car parking space must be operated by a recognised commercial car share operator within the site. A contract for the operation of a car share space by the commercial car share provider must be entered into prior to issue of the Occupation Certificate and the maximum size of the car share vehicle shall be equal to, or smaller than, a B99 vehicle (as denoted by AS/NZS2890.1:2004). The car share space must be made available to car share operators without a fee or charge. The car share space must be appropriately line marked and signposted to indicate its usage to be exclusively as a car share space. The car share space must be adequately illuminated and be publicly accessible. The car share space is to be fully operational and the chosen car share scheme operator is to confirm its operation to the Principal Certifying Authority and Bayside Council prior to the issue of the Occupation Certificate.

119. **EV Certification**

The electric vehicle (EV) charging systems, including all associated electrical and control systems, shall be tested, and inspected by a suitably qualified and experienced person. A certificate shall be provided certifying the installation and operation of the EV charging systems prior to the issue of the Occupation Certificate. At least thirteen (13) car parking spaces are to be equipped electric vehicle (EV) charging facilities at occupation of the development (5% of parking spaces with carpark), with another twenty-four (24) spaces to be designed with the future capacity for the installation of EV charging facilities for a total of 37 spaces (15%) either equipped, or able to be equipped with, EV charging facilities at the completion of the development. At least one (1) of these spaces is to be a fast-charging system/destination charger.

120. **Forward Entry and Exit**

Prior to the issue of the Occupation Certificate, the following signage shall be erected:

a) A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to a prominent place near the primary vehicular entrance to the site and the loading dock, approved by the principal certifier, stating the following: “All vehicles shall enter and exit the site in a forward direction at all times”. The owners shall preserve the plaque(s) in a good condition and keep it visible.

121. **Private Waste Collection**

Waste and recycling must be collected by a private waste contractor within the site. A contract for waste and recycling collection must be entered into prior to issue of the Occupation Certificate and the maximum size of the waste collection vehicle shall be equal to or smaller than a MRV vehicle (as denoted by AS2890.2:2018). The company engaged must ensure that all recycling is collected separately from waste. Council must be advised in writing within seven (7) days of a private contractor being engaged for waste collection services.

122. **Green Travel Plan**

Prior to the issue of the Occupation Certificate, the approved Green Travel Plan and Transport Access Guides (TAGs) are to be updated by the traffic consultant and must be prominently displayed within the communal areas within the development. Details & evidence are to be provided to the satisfaction of the principal certifier prior to the issue of any Occupation Certificate.

123. **Mechanical/Electronic Parking Systems – Operations and Installation Certification**

Prior to the issue of the Occupation Certificate, the Principal Certifier must ensure that an Operation and Management Plan has been prepared and implemented for the mechanical/electronic parking systems [mechanical turntable].

The Plan must set out the following, at a minimum:

a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners, and

b) The proposed method of management of the facility, including procedures, directions to users, safety protection systems, emergency response plan in the event of mechanical failure, etc., and

c) Any person required to operate the parking system must be trained to do so, and

d) Provide signage that shall be erected prominently alongside the mechanical turntable stipulating the maximum height/width/length/weight of vehicle that can utilise the facility.

The Plan must be prepared by a suitably qualified professional and provided to the Principal Certifier prior to the issue of an Occupation Certificate. Furthermore, an Engineer registered with the National Engineering Register (NER) is to certify the installation of the Mechanical turntable within the completed development. This certification is to include testing and inspections of the system in operation.

124. **Loading Dock Management Plan**

Prior to the issue of the Occupation Certificate, the applicant shall prepare a detailed loading and servicing management plan for the development which includes, but shall not be limited to, operation hours, use of off-peak deliveries, methods to avoid congestion of service vehicles, how the vicinity will be shared and general mitigation measures to prevent amenity impacts to neighbouring properties. The plan shall be

prepared by a suitably qualified professional and submitted to the Principal Accredited Certifier. The management plan is to be implemented for the lifetime of the use of the development.

125. **Undergrounding of Overhead Services and Installation of Lighting**

Prior to the issue of any Occupation Certificate, all above ground overhead utilities along the entire length of all frontages of the development site must be relocated underground to the specifications of the asset owner and any other affected utility provider. These utilities include all overhead high and low voltage electricity reticulation cables along with any other telecommunication cables and associated services. All redundant Ausgrid poles shall be removed and replaced with underground supplied street lighting columns along the frontages of the development site, all street lighting shall comply with relevant electricity authority guidelines and Bayside Council/TfNSW requirements. All works shall be carried out at the applicant's expense, to the satisfaction of the asset owner and Bayside Council. In the event that further works are required beyond the frontages of the development site (e.g. across a road) to support the required works, these works must also be carried out at no cost or expense to Bayside Council. Bayside Council's Director of City Futures (or delegate) must advise in writing that the works have been completed to their satisfaction, prior to the issue of any Occupation Certificate.

126. **Roads Act / Public Domain Works – S138 - Major Development**

Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:

a) On Ricketty Street and Ossary Street, adjacent to development, remove any redundant driveway crossovers and provide required landscape tree planting and public domain improvements as specified by Bayside Council in accordance with Bayside Council's Engineer, Landscape Architect, Masterplans, and Infrastructure Specifications, and
b) On Ricketty Street and Ossary Street, adjacent to development, demolish existing footpath and construct new full width footpath as per Bayside Council's Landscape Architect, Public Domain Plan, and Infrastructure Specifications, and
c) On Ricketty Street and Ossary Street, adjacent to development, demolish existing kerb and gutter and construct new kerb & gutter for the full length of the property in accordance with Bayside Council Infrastructure Specifications, and
d) On Ricketty Street, adjacent to development, construct 1.8m wide kerb inlet pit connecting to existing stormwater infrastructure in Ricketty Street to TfNSW specifications, and
e) On Ossary Street, adjacent to development, construct the required driveway crossover to Council specifications, and
f) On Ossary Street, adjacent to development, demolish the existing two (2) kerb inlet pits and construct two (2) new kerb inlet pits with an increased size (minimum lintel length of 3.4m) in accordance with Bayside Council infrastructure specifications, and
g) On Ossary Street, adjacent to development, mill and resheet the road pavement (including reconstruction of any damaged road pavement as necessary) in accordance with Bayside Council's infrastructure specifications.

The public footpaths shall be constructed in accordance with the approved Public Domain Plan and Bayside Council specifications. The footpath dimensions, location, pavement type and construction methods shall be in accordance with these specifications. If pavers are necessary, they shall be ordered allowing for adequate lead time for manufacture (10-12 weeks). All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed to the satisfaction of Bayside Council at the applicant's expense. Inspection reports for the

works on the road reserve shall be obtained from Bayside Council's authorised officer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied prior to the issue of any Occupation Certificate.

127. **Regulatory Signage in Ossary Street**

Prior to the issue of any Occupation Certificate, approval must be obtained from the Bayside Council Local Traffic Committee, and subsequently endorsed at Bayside Council Meeting, to convert the regulatory parking signage from "no parking" to "no stopping" on both sides of Ossary Street, adjacent to the development site, for a minimum distance of 20m from both sides of the driveways proposed. After obtaining approval, the regulatory no stopping signage is to be installed on both sides of Ossary Street, adjacent to the development site, for a minimum distance of 20m from both sides of the constructed driveways. The signage installation is to be in accordance with Australian standards and certified accordingly by an appropriately qualified traffic consultant to the satisfaction of Bayside Council prior to the issue of any Occupation Certificate.

128. **Dilapidation Report of Public Land - Major**

Prior to issue of the final Occupation Certificate, a post-construction Dilapidation Report must be prepared on Council infrastructure impacted on by the development. The Dilapidation Report must be prepared by a qualified Structural Engineer. The report must be provided to the Principal Certifier and a copy provided to the Council. The report must include the following:

a) Photographs showing the condition of the road pavement fronting the site, and
b) Photographs showing the condition of the kerb and gutter fronting the site, and
c) Photographs showing the condition of the footway including footpath pavement fronting the site, and
d) Photographs showing the condition of retaining walls within the footway or road, and
e) Closed circuit television/video inspection of any public stormwater drainage systems fronting, adjoining or within the site, and
f) The full name and signature of the professional engineer.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped. Bayside Council must advise, in writing, that the works have been completed to their satisfaction, prior to the issue of the final Occupation Certificate. Further, Bayside Council will use this report to determine whether or not to refund the damage deposit.

129. **Contributed Assets Management – Major Development**

On completion of the development construction and prior to the issue of the Occupation Certificate, a report(s) shall be submitted to the satisfaction of Bayside Council in accordance with Bayside Council's Contributed Asset Procedure for all constructed assets in the ownership of Bayside Council. Works-As-Executed (WAE) plans and design certification shall be submitted to the satisfaction of Bayside Council. WAE plans shall be prepared by a registered surveyor.

130. **Video CCTV for Council Stormwater Pipe after Construction**

Prior to the issue of any Occupation Certificate, a qualified practitioner shall undertake a closed-circuit television (CCTV) inspection, and then report on the post construction condition of Bayside Council drainage infrastructure, adjacent to, and traversing the site. The camera and its operation shall comply with the following:

a) The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner, and
b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle, to view the conduit joints, and
c) Distance from the manholes shall be accurately measured, and
d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline, shall be submitted to Bayside Council for review. Any damage to the culvert / pipeline since the commencement of demolition and construction on the site, shall be repaired in full to the satisfaction of Bayside Council. The pipeline traversing the site shall be entirely cleared of debris prior to the issue of the Occupation Certificate. A written acknowledgment shall be obtained from Bayside Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifier.

131. **Flood Risk Management Plan - Major**

The approved flood risk management plan and all recommendations from the flood awareness & evacuation strategy are to be implemented within the development prior to the issue of the Occupation Certificate. A paper or electronic copy of the flood risk management plan is to be kept in the lobby in each tenancy/dwelling in the kitchenette. Details & evidence are to be provided to the satisfaction of the principal certifier prior to the issue of any Occupation Certificate.

OPERATIONAL CONDITIONS

132. **Commercial Tenancy Use**

The ground floor commercial tenancies are not to be approved as a retail premises and are to be occupied by a 'food and drink premise' or any other permitted use.

133. **Graffiti Removal**

Where the external walls of the building, landscaped structures and / or other facilities within the property / site are vandalised by graffiti, the graffiti shall be removed with the affected areas returned to its former state within seven (7) days of the occurrence.

134. **Waste Collection – Commercial / Industrial**

All waste and recycling containers shall be stored in the designated waste storage area. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The occupier shall be responsible for cleaning the waste storage area, equipment, and waste collection containers.

To ensure minimal impacts on surrounding properties commercial waste and recyclable material generated by the premises must not be collected between the hours of 9.00 pm and 8.00 am.

135. **Operation of Vehicular Premises**

The operation of the development and movements of vehicles shall comply with the following requirements:

a) All vehicles must enter and exit the site in a forward direction;

b) Parking spaces must not be enclosed without further approval of Bayside Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS/NZS2890.1,
c) All commercial vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction;
d) Loading and unloading activities associated with the delivery shall take place wholly within the dedicated loading areas;
e) All garbage/waste collection activities shall take place and be wholly undertaken within the site in the dedicated loading areas. No bins are to be presented to the street for collection;
f) All manoeuvring movements of vehicles shall be carried out wholly within the site and vehicle manoeuvring area shall be kept clear at all times;
g) The maximum size of vehicle accessing the site shall be limited to an 8.8m long MRV Vehicle (as denoted in AS2890.2).

136. **Ongoing Use Mechanical Parking Facility**

The Operation and Management Plan for the mechanical/electronic parking systems (turntable), approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times. The system shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times.

137. **Maintenance of Stormwater Drainage System**

The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems, flood storage tanks/chambers 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. Rainwater tanks shall be routinely de-sludged and all contents from the de-sludging process disposed: Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.

138. **Green Travel Plan and Transport Access Guide**

The Green Travel Plan and Transport Access Guide shall be monitored and reviewed annually in order to revise and improve the plan to achieve the targets on the number of occupants to travel by public transport, cycling and walking. Copy of the annual review shall be submitted to bayside Council. In order to ensure the certainty to implement Green Travel Plan for all future tenants of the site, a copy of the green travel plan and transport access guide shall be part of the lease agreement for all tenants.

DEVELOPMENT CONSENT ADVICE

139. **Lapsing of Consent**

This consent will lapse five (5) years from the date of consent, unless the building, engineering or construction work relating to the building, subdivision or work is physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse.

140. **Consult with Utility Provider**

You are advised to consult with your utility providers (i.e. Ausgrid, Telstra, etc.) in order to fully understand their requirements before commencement of any work.

141. **Dial Before You Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact *Dial Before You Dig* at *www.1100.com.au* or telephone on 1100 before excavating or erecting structures (This is the law in NSW).

If alterations are required to the configuration, size, form or design of the development upon contacting the *Dial Before You Dig* service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets.

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the *Dial Before You Dig* service in advance of any construction or planning activities.

142. **Dividing Fences Act 1991**

This approval is not to be construed as a permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act 1991.

143. **Asbestos**

All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:

e) Work Health and Safety Act 2011, and

f) Work Health and Safety Regulation 2011, and

g) Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)], and

h) Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)], and

i) Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in the Health and Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

144. **Hazardous Waste**

Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory

authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:

d) Work Health and Safety Act 2011, and

e) Work Health and Safety Regulation 2011

f) Protection of the Environment Operations (Waste) Regulation 2005.

145. **Annual Fire Safety Statement**

In accordance with Clause 177 of the Environmental Planning and Assessment Regulation, 2000, the owner of the building premises must cause the Council to be given an Annual Fire Safety Statement in relation to each essential fire safety measure implemented in the building.

The Annual Fire Safety Statement must be given:

d) Within 12 months after the date on which the Fire Safety Certificate was received, and

e) Subsequent Annual Fire Safety Statements are to be given within 12 months after the last such statement was given, and

f) An Annual Fire Safety Statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation, 2000, and

A copy of the statement is to be given to the Commissioner of Fire and Rescue NSW, and a further copy is to be prominently displayed in the building.

146. **Signage May Require Separate Approval**

Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.

147. **Street / Shop**

A street / shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.

148. **Noise Minimisation during Demolition and Construction**

Demolition and construction shall minimise the emission of excessive noise and prevent “offensive noise” as defined in the Protection of the Environment Operations Act, 1997.

Noise reduction measures shall include, but are not limited to, the following strategies:

a) choosing quiet equipment, and

b) choosing alternatives to noisy activities, and

c) relocating noise sources away from affected neighbours, and

d) educating staff and contractors about quiet work practices, and

e) informing neighbours of potentially noise activities in advance, and

f) equipment such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8.00 pm and 7.00 am, or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences.

Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary, at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.