

### COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSEC-123
<b>DA Number</b>	DA-2019/385/B
<b>LGA</b>	Bayside Council
<b>Proposed Development</b>	Section 4.55(2) Application to approved student accommodation development to modify the communal open space, internal reconfigurations, amendments to through site link and stairs, minor increase to the height of the fire stair/lift on the southern and northern core and modifications to conditions
<b>Street Address</b>	6-8 John Street and 13B Church Avenue Mascot
<b>Applicant/Owner</b>	Iglu No. 211 Pty Ltd
<b>Date of DA lodgement</b>	15 December 2020
<b>Total number of Submissions Number of Unique Objections</b>	<ul style="list-style-type: none"> <li>Five (5) submissions</li> </ul>
<b>Recommendation</b>	<b>Approval</b>
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	<p>The proposal seeks to modify a condition of consent which was imposed by the Panel in the original development application.</p> <p><i>(Instruction on functions exercisable by Council on behalf of Sydney Regional Planning Panels- Applications to Modify Consents)</i></p>
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>Environmental Planning &amp; Assessment Act 1979, Part 4 – Development Assessment &amp; Schedule 7 of the SEPP- State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils</li> <li>Environmental Planning &amp; Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications</li> <li>State Environmental Planning Policy (Affordable Rental Housing) 2009</li> <li>State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>Botany Bay Local Environmental Plan 2013</li> <li>Botany Development Control Plan 2013</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>Architectural plans- Bates Smart Architects Pty Ltd</li> <li>Statement of Environmental Effects- Mecone</li> </ul>
<b>Clause 4.6 requests</b>	Nil
<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>Structural damage and vibration</li> <li>Building height</li> <li>Loss of community garden</li> </ul>
<b>Report prepared by</b>	<b>Angela Lazaridis – Senior Development Assessment Planner</b>
<b>Report date</b>	22 April 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?  
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

**Yes**

#### **Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Not applicable</b>
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<b>Special Infrastructure Contributions</b>	
Does the DA require Special Infrastructure Contributions conditions (S7.24)?	<b>Not applicable</b>
<i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	
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<b>Conditions</b>	
Have draft conditions been provided to the applicant for comment?	<b>Yes</b>
<i>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</i>	

**SYDNEY EASTERN CITY PLANNING PANEL**  
**PANEL DETERMINATION MEETING**

SECPP No	PPSSEC-123
DA Number	DA-2019/385/B
Local Government Area	Bayside Council
Proposed Development	Section 4.55(2) Application to approved student accommodation development to modify the communal open space, internal reconfigurations, amendments to through site link and stairs, minor increase to the height of the fire stair/lift on the southern and northern core and modifications to conditions
Street Address	6-8 John Street and 13B Church Avenue Mascot
Applicant	Iglu No. 211 Pty Ltd
Owner	Iglu No. 211 Pty Ltd
Number of Submissions	Five (5) submissions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	<p>The proposal seeks to modify a condition of consent which was imposed by the Panel in the original development application.</p> <p><i>(Instruction on functions exercisable by Council on behalf of Sydney Regional Planning Panels- Applications to Modify Consents)</i></p>
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> <li>○ Environmental Planning &amp; Assessment Act 1979, Part 4 – Development Assessment &amp; Schedule 7 of the SEPP- State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils</li> <li>○ Environmental Planning &amp; Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications</li> <li>○ State Environmental Planning Policy (Affordable Rental Housing) 2009</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>○ Botany Bay Local Environmental Plan 2013</li> <li>○ Botany Development Control Plan 2013</li> </ul>
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> <li>• Architectural plans- Bates Smart Architects Pty Ltd</li> <li>• Statement of Environmental Effects- Mecone</li> </ul>

Report by	Angela Lazaridis – Senior Development Assessment Planner
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## RECOMMENDATION

1. That the Sydney Eastern City Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(2) of the *Environmental Planning and Assessment Act 1979* be satisfied that the proposed modification:
  - a) is substantially the same development as the development for which consent was originally granted and before that consent was modified;
  - b) has been notified; and
  - c) has been assessed having regard to the relevant matters in s.4.15 of the *Environmental Planning and Assessment Act 1979*.
2. That the Sydney Eastern City Planning Panel consider any submissions made concerning the proposed modification and take into account the reasons of the consent authority that granted the consent that is sought to be modified.
3. That modification application DA-2019/385/B seeking to modify development consent DA-2019/385 to modify the communal open space, internal reconfigurations, amendments to through site link and stairs, minor increase to the height of the fire stair/lift on the southern and northern core and modifications to conditions at 6-8 John Street and 13B Church Avenue Mascot be APPROVED. The proposal is modified in the following manner:
  - a) By amending Condition No. 1 relating to updated plans;
  - b) By amending Condition No. 18 relating to dilapidation reports;
  - c) By amending Condition No. 44 relating to the rooftop communal open space on the northern building;
  - d) By adding Condition No. 141(c) relating to changes to the operational plan and house rules;
  - e) By amending Condition No. 145(c) relating to use of northern rooftop communal area.

The reasons for approval are as follows:

- a) The proposal continues to respond to the need for student accommodation in close proximity to public transport.
- b) The modified built form does not adversely impact on the immediate surrounding developments.
- c) The modified proposal continues to be consistent and conforms to the objectives of the B4 Mixed Use zone and desired future character of the Mascot Station Precinct.

## EXECUTIVE SUMMARY

Council received Modification Application No. 2019/385/B on 15 December 2020 which sought to modify the approved student accommodation development including the communal open space, internal reconfigurations, amendments to through site link and stairs, minor increase to the height of the fire stair/lift on the southern and northern core and modifications to conditions at 6-8 John Street and 13B Church Avenue, Mascot.

The Modification Application is referred to the Sydney Eastern City Planning Panel as the proposal seeks to modify Condition No. 44 which was a condition imposed by the Panel. The

condition relates to the deletion of the basketball court from the northern tower rooftop and replace with communal open space. The applicant seeks to delete the condition as they have amended the plans to demonstrate that the area will be a multi-functional active recreation space. While Council have reviewed the plans and agree with the proposed modification, the deletion of the condition is not supported as it ensures that this area will be retained for communal open space. The condition is further amended to prohibit ball games.

The applicant had originally submitted plans and a statement of environmental effects which demonstrated a further increase to the bicycle storage, floor levels, removal of the community garden and landscaping. These elements are not subject to an assessment in this modification, but rather to address conditions of consent. Therefore, an assessment against these components have not been carried out and will be dealt with through post determination consultation with Council.

The application was placed on notification for a period of fourteen (14) days between 11 January to 25 January 2021. Five (5) submissions were received and have been addressed in the report.

The proposed modifications have been addressed against the relevant controls and Council is generally supportive of the changes. It is recommended that the application be approved, subject to the modified conditions of consent as attached in Schedule 1.

## SITE DESCRIPTION

The subject site is comprised of three lots legally known as Lot 2 in DP 547700, Lot 8 in DP 939729, Lot 9 in DP 939729 or namely 6 John Street, 8 John Street and 13B Church Avenue Mascot. The sites are located on the northern side of John Street (6-8 John) and a battle-axe arrangement with access off Church Avenue (13B Church Avenue). The site has a north-south orientation with 13B Church Avenue being to the north while the other two sites are to the south. The block is situated between O'Riordan Street to the east and Bourke Street to the west.



Figure 1. Locality Plan



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

The site is generally rectilinear in shape with a total site area of 3,161sqm, a 34 metre street frontage width to John Street and a 5.5 metre wide battle-axe driveway along Church Avenue. The battle-axe driveway forms part of an easement along Church Avenue and runs along the western boundary, providing access for service vehicles and cars to both the rear of the subject site and to the existing adjoining 7-8 storey residential flat buildings located at 10-14 John Street/19-21 Church Avenue to the west. The site has a slight fall along the length of the site from south to north.

The site is currently vacant with the previous industrial buildings being demolished through a complying development certificate. All vegetation on the site has been removed. Development surrounding the site within its immediate vicinity is characterised by a mix of uses including residential developments. John Street exhibits a street wall height of 6-8 storeys comprising of residential apartment development and Church Avenue exhibits scales of development ranging from 6-13 storeys of residential apartment/mixed use development. An 8-storey residential apartment building complex is located directly to the east. Immediately beyond is linear park which extends up to Gardeners Road. The northern boundary is shared with an existing 1-2 storey industrial building. The site to the north is currently a single storey warehouse building which has approval for a thirteen storey residential flat building

The site is located in close proximity to both Mascot Town Centre and 150m east of the Mascot Station Transport Interchange. It is also located approximately 1.2km north of the Sydney Airport Domestic Terminal and approximately 2km south west of Green Square Town Centre. The site is within a short bus, train or cycle ride of leading educational institutions such as the Sydney University, University of Technology Sydney, and the Sydney CBD. Mascot is all also well serviced by Sydney buses which accommodate journeys to the eastern suburbs and beaches. The site is identified as flood affected and is located within a 20-25 ANEF Contour area.

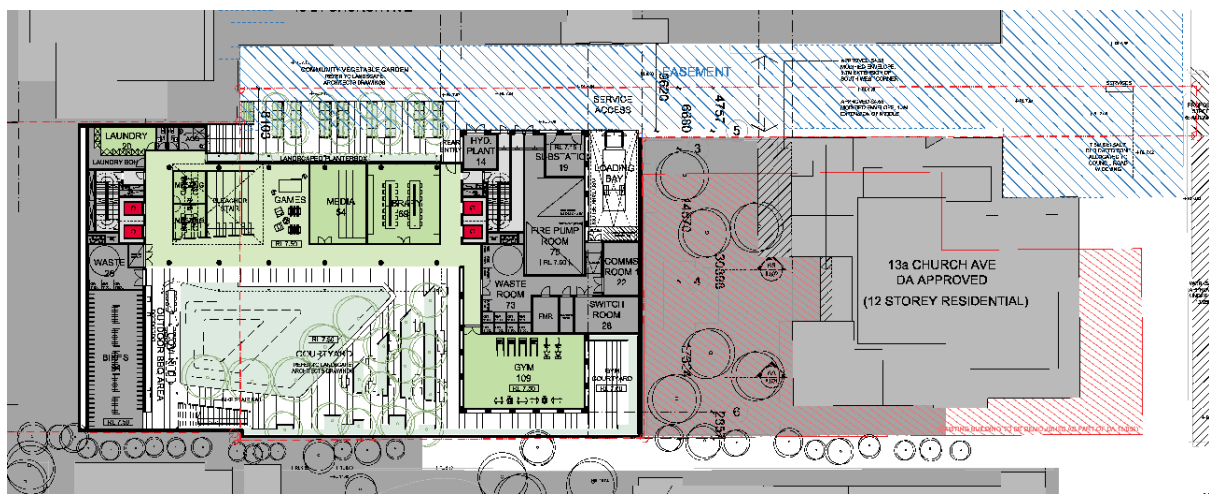


## BACKGROUND

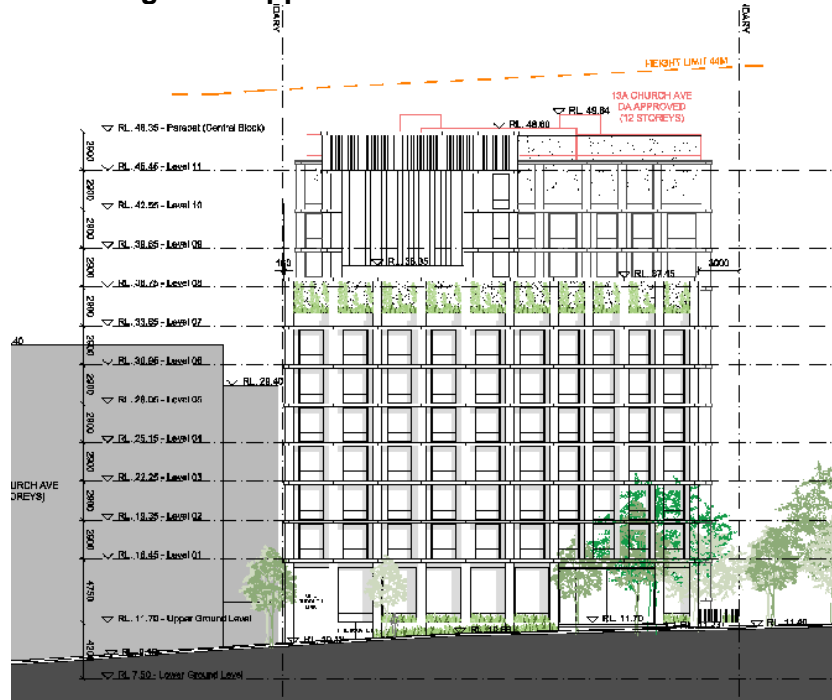
### Approved Development and Modification Applications

- DA-2019/385-** Approved by the Sydney Eastern City Planning Panel on 16 September 2020 for the construction of a building for student accommodation ranging between seven (7) to twelve (12) storeys in height and including four hundred and thirty-five (435) bedrooms and associated landscaping. The Panel made some changes to the consent which included amending conditions relating to the community garden, removal of the basketball court on the rooftop terrace on the northern building, as well as additional conditions relating to creating a community reference group and access to the through-site link.

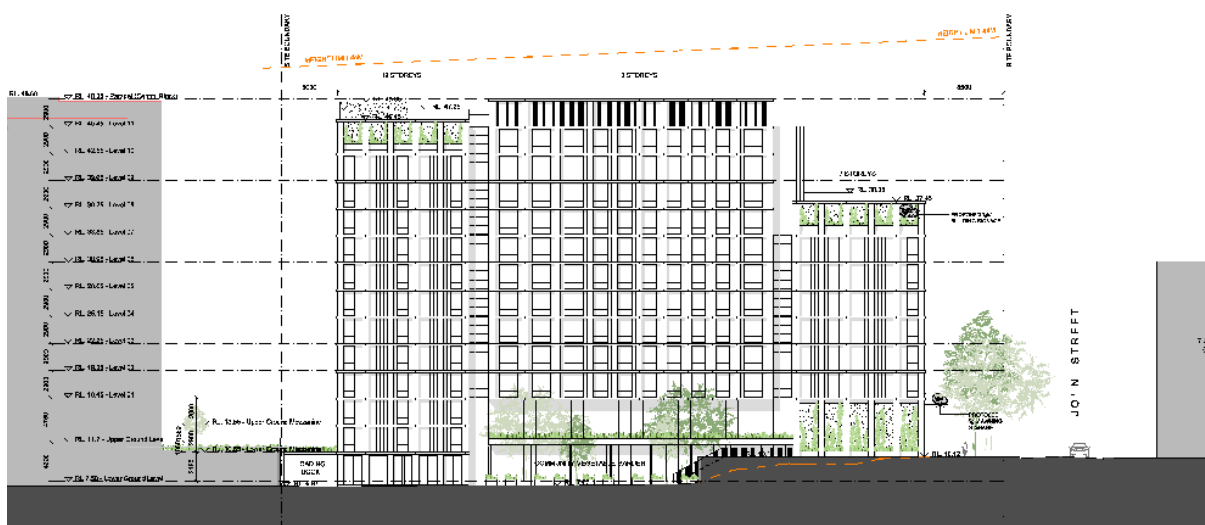
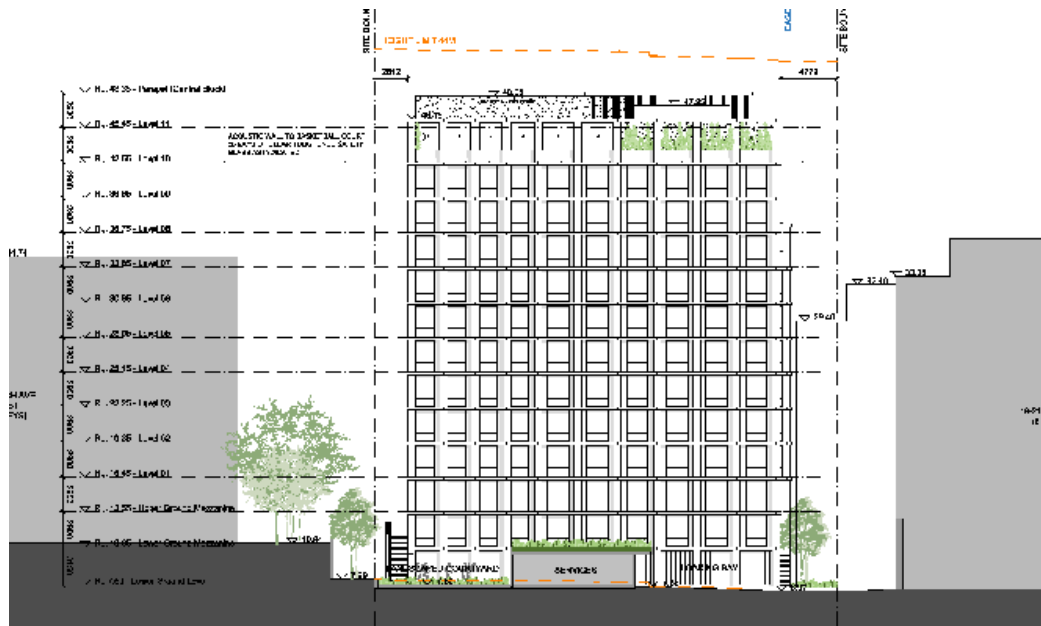
The below figures are of the approved development under DA-2019/385:



**Figure 3. Approved Lower Ground Floor Plan**



**Figure 4. Approved Southern (street) Elevation**





- **DA-2019/385/A-** Modification to Condition Nos. 39 and 42 relating to s.7.11 Development Contributions is currently under assessment.

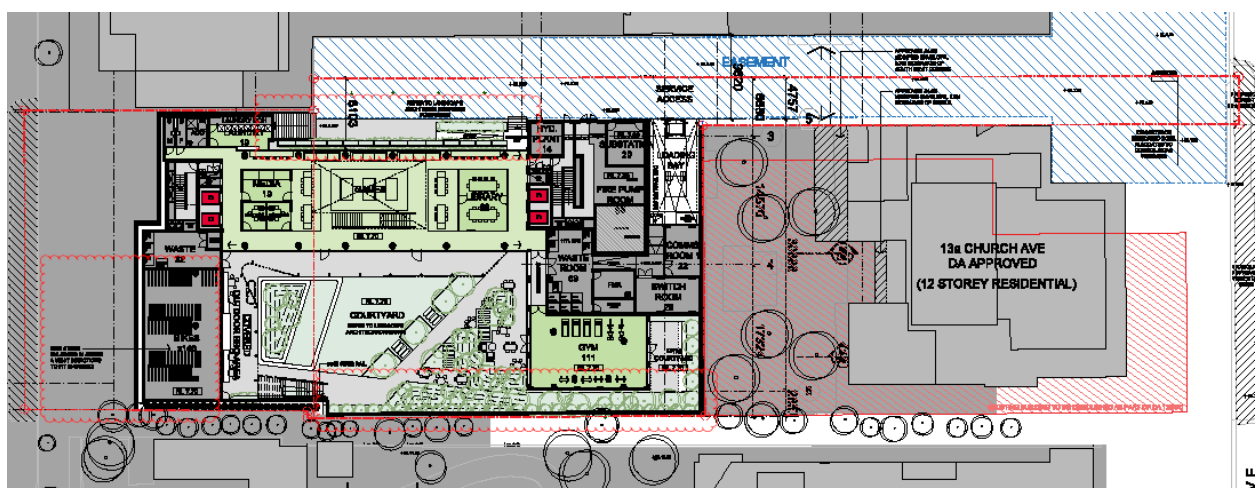
### Modification Application History

- 15 December 2020- The modification application was submitted to Council;
- 11 January to 25 January 2021- The application was placed on public notification;
- 1 February 2021- Council requested the applicant to provide additional information relating to the rooftop terrace area on the northern building and to address inconsistencies with the plans;
- 9 February 2021- A meeting was held with the applicant and Council to discuss Councils request for information;
- 16 February 2021- The applicant submitted an amended SEE to update the scope of works;
- 18 March 2021- The application was presented to a briefing meeting with the Panel.

### **DESCRIPTION OF PROPOSED MODIFICATIONS**

The modified proposal, as amended, seeks consent to an approved student accommodation development to modify the communal open space, internal reconfigurations, amendments to through site link and stairs, minor increase to the height of the fire stair/lift on the southern and northern core and modifications to conditions. A description of the proposed modifications is provided as follows:

- Minor internal reconfigurations to the lower ground and upper ground levels to improve amenity and circulation of the communal area;
- Minor amendments to the through site link and stair and primary entry access;
- Minor increase to height of fire stair/lift overrun height on southern and northern core;
- Modification to conditions including the deletion of Condition No. 44 relating to the rooftop communal open space.



**Figure 8. Proposed Lower Ground Floor Plan**

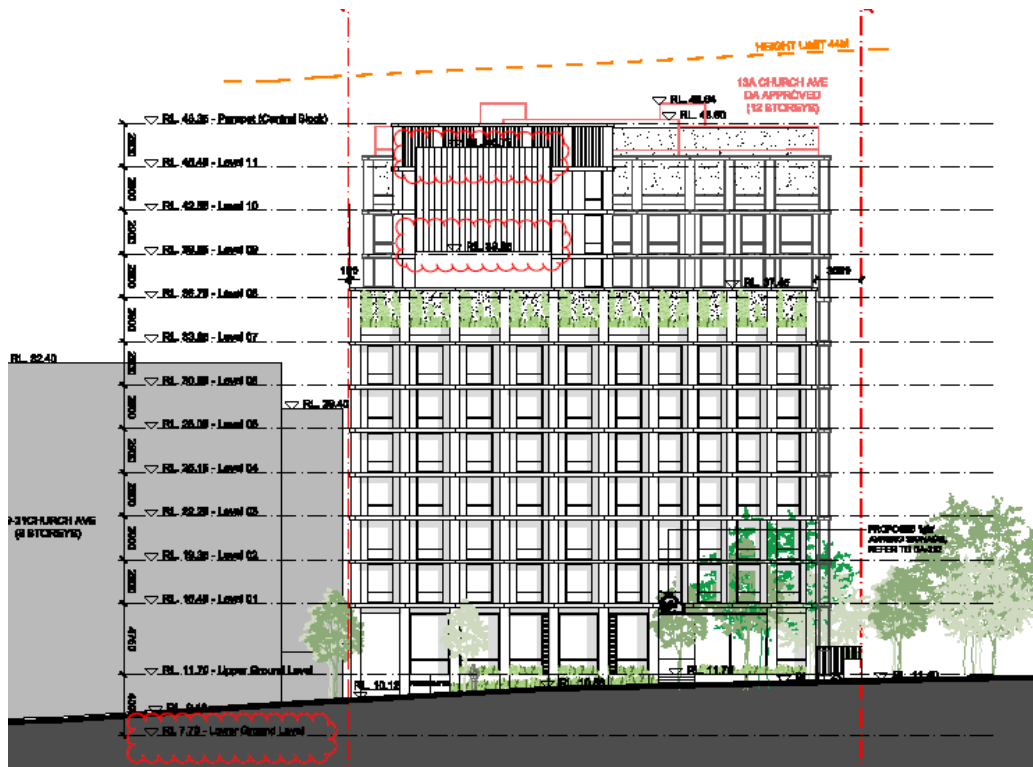


Figure 9. Proposed Southern Elevation

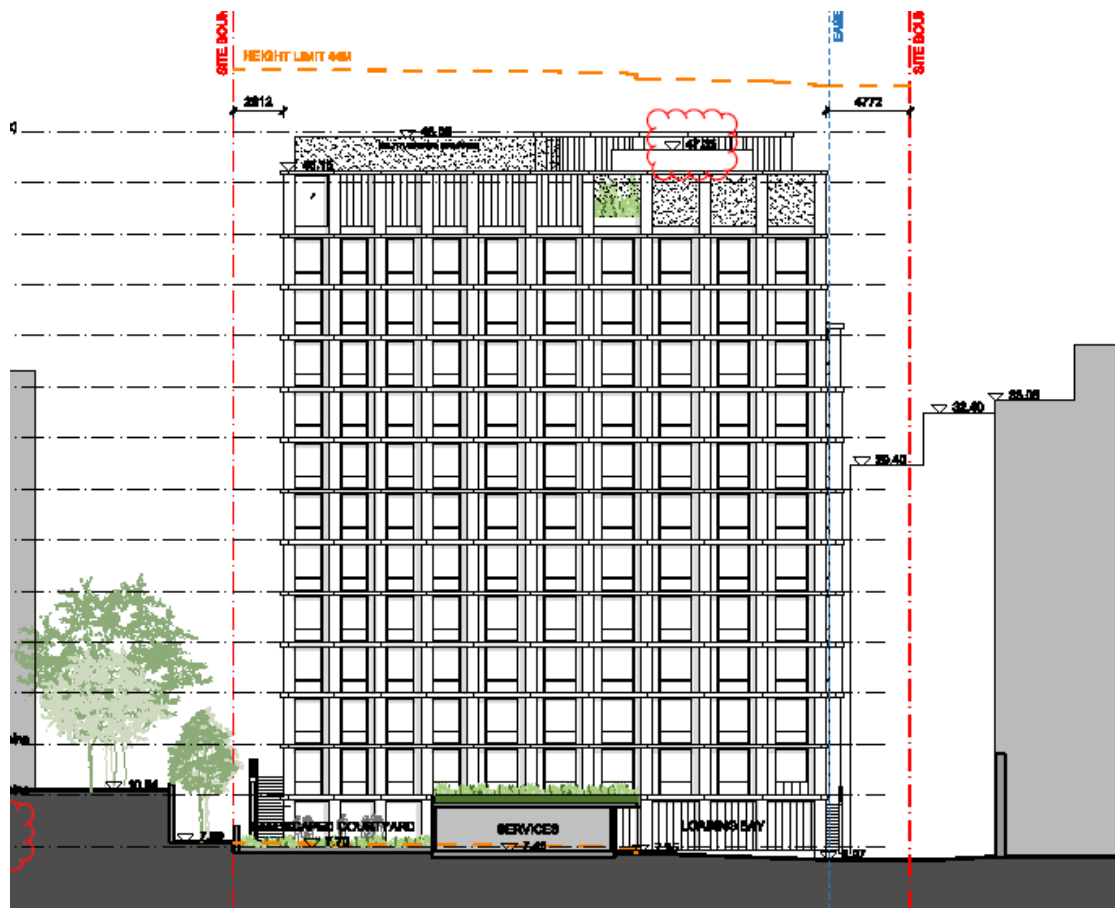
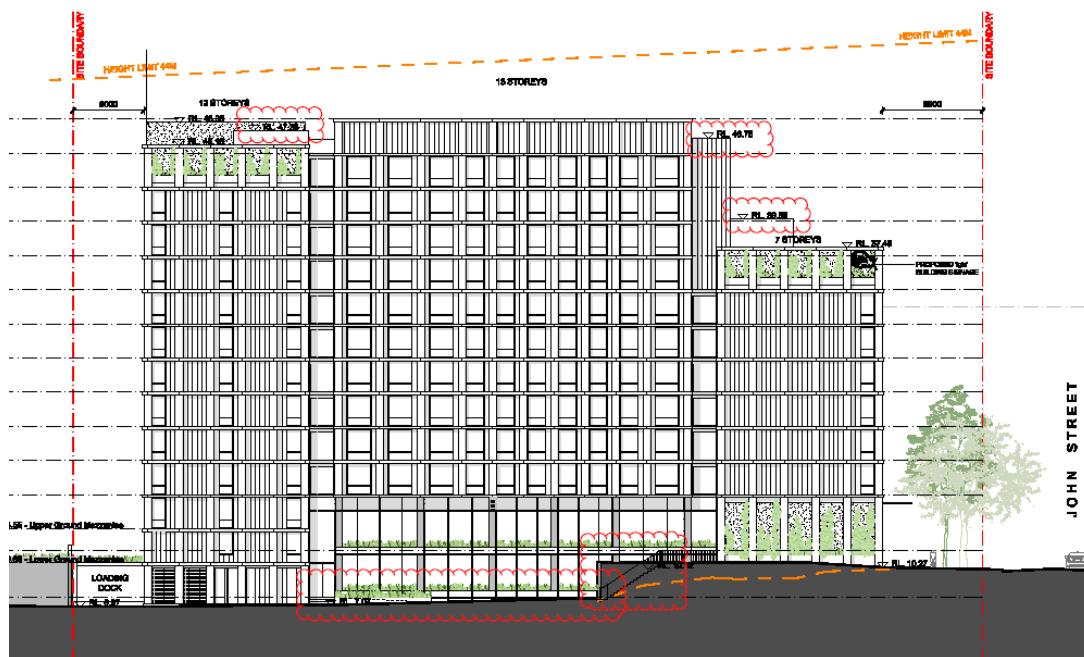
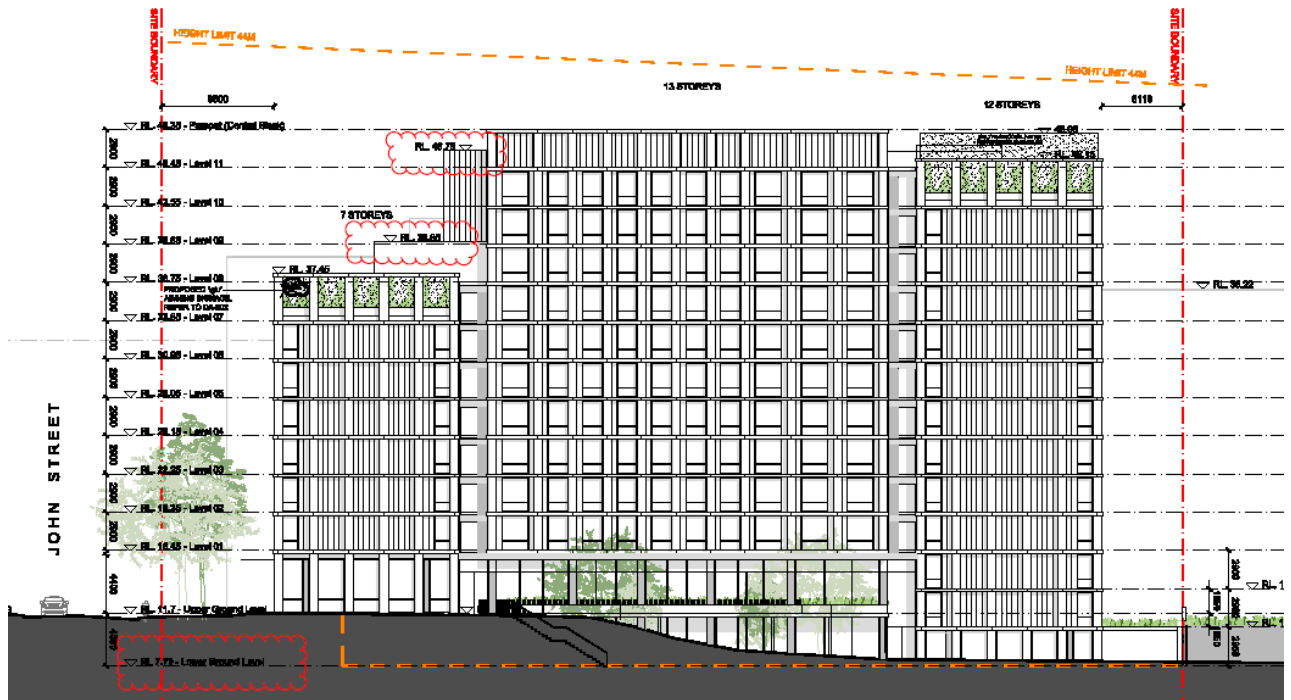


Figure 10. Proposed Northern Elevation



## ASSESSMENT OF PROPOSED MODIFICATIONS

An assessment of the proposed modifications is provided below:

Modification No. 1- Rooftop communal open area

The proposed modification relates to the communal rooftop area of the northern building. Condition No. 44 was imposed by the Panel to delete the basketball court and replace with communal open space. The reason the Panel included the condition was that ball games would generate noise and would impact on the amenity of the neighbouring residential

developments. It was considered in the original development application that the applicant had not proposed adequate noise attenuation measures which was raised as a key issue in the submissions. The applicant has provided amended plans to demonstrate that this area will be designated as a multi-functional active recreation area for the residents of the development. They have also elected to delete Condition No. 44 as they have addressed the condition.

The applicant has provided the following justification for the modification to the rooftop communal area:

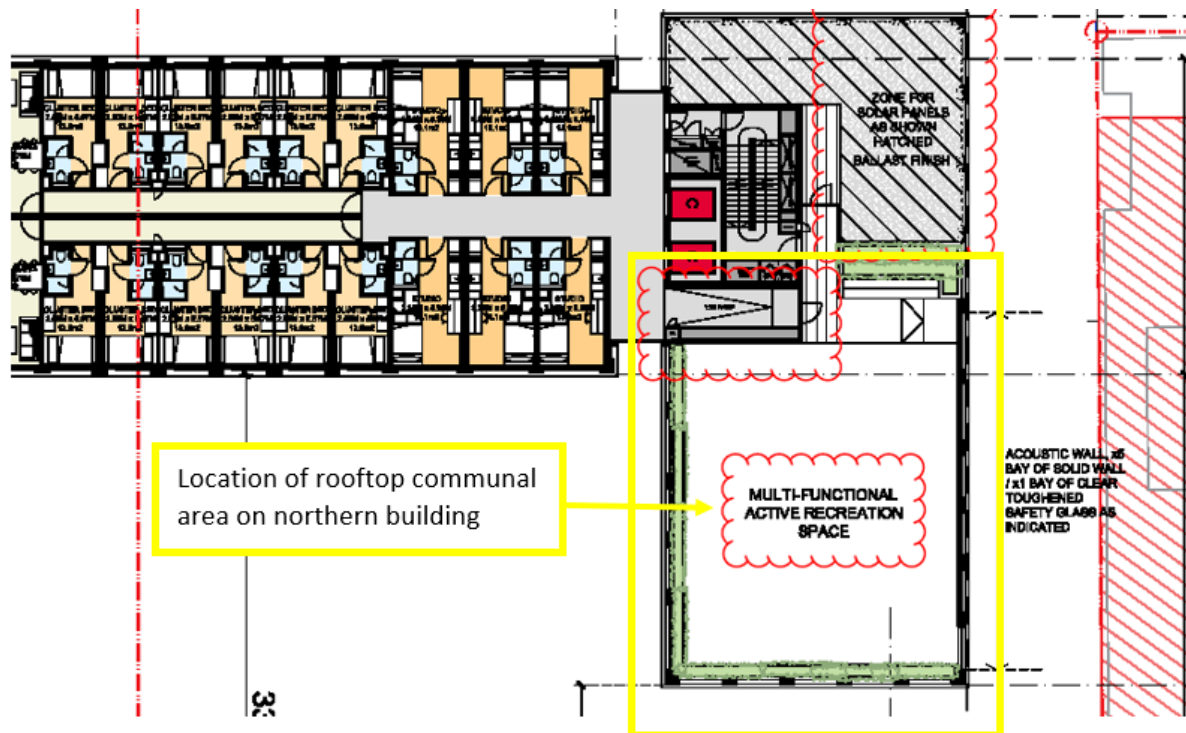
*“Condition 44 provisions the deletion of the basketball court prior to the issue of a construction certificate with the rooftop to remain as a communal open space. The applicant seeks to meet the requirements of the condition by maintaining the rooftop as communal open space to be used for light active recreation and subsequently delete the condition to reflect this. Whilst the basketball court has been deleted as required by the Condition 44, it is considered that the resultant communal open space should still be focused on creating opportunities for outdoor exercise on the following grounds:*

- There is a need for a communal recreation space within the development due to the lack of alternative opportunities in the immediate vicinity of the site. The types of exercise envisaged may include CrossFit, personal workouts, boxing, pilates, yoga etc;*
- Outdoor active communal spaces are always important, but even more so for accommodation without private balconies. They provide for both the physical and mental health and wellbeing of the students, especially during the current and ongoing pandemic;*
- The original DA was supported by Acoustic Reports prepared by Acoustic Logic. At the meeting with Council on Tuesday, 10 March 2020, Council advised that the current proposed location on the northern tower is considered the most appropriate for minimising the impacts on neighbours and that they would not want to see the active recreation space taken out of the proposal as it was acknowledged that there is a lack of such space in the area;*
- Consistent with Condition 67, photovoltaic cells will continue to be integrated on the rooftops. The solar panel zone will be separated from the level 10 communal space via a security balustrade and gate;*
- Additional measures are proposed to be installed to mitigate and manage noise generated by uses on the terrace. These comprise the installation of a solid sound barrier wall on the northern façade of the recreation space (only) and will be comprised of five (5) bays of solid wall and one (1) bay of clear toughened safety glass. The overall height of the proposed development will remain unchanged from the approved plans. As detailed in the Acoustic Report as lodged with the original DA, acoustic noise travels in a line of sight and upward. Any impact to the neighbouring residences above the roof of the northern tower (potentially at 13A Church Avenue) have been mitigated by the installation of the acoustic barrier (while noting that all other neighbouring residences are below the level of the northern rooftop);*
- Additional clarification was included in the original DA around what the terrace comprised and how it would be managed. Consistent with Condition 145(c), the communal open space rooftop area (Northern Building) will be off-limits between 6pm and 9am, 7 days a week; and*

- *From a business perspective, the inclusion of an open recreation space offers a building with important amenity point of difference for students that would otherwise occur in the surrounding public domain.*

*Therefore, this modification seeks to delete the basketball court and replace it with a communal open space providing for active outdoor exercise."*

The below figure demonstrates the location of the communal rooftop area within the development and how it has been defined.



**Figure 13. Proposed communal rooftop area on the northern tower**

Council have reviewed the applicants justification and agree that the development continues to require active recreation on site to cater for the future residents of the development. This was also the intention of the Panel by including the condition to delete the basketball court component from the development whilst retaining a communal area. Council does not agree with the deletion of the condition from the consent as its retention ensures that this area will always be communal open space. Condition No. 44 has been amended so that ball games are prohibited within this area and this is also reflected in Condition Nos. 141 and 145, which are further elaborated on later in this report.

It is considered that the uses put forwarded by the applicant which includes yoga, pilates, cross fit, boxing etc are not significant noise generating activities and are not considered to impact on the amenity of the neighbouring developments. The applicant has demonstrated that the acoustic wall along the northern side of this active recreation area will be retained as part of the development which assists in mitigating noise emitted from the space.

#### Modification No. 2- Internal reconfiguration of lower ground and upper ground level

The proposal seeks to modify the lower ground and upper ground levels of the development. At the lower ground level, the approved bleacher stairs have been removed, the media areas



have been repositioned next to the library and the toilets/laundry has been reconfigured. At the upper ground level, the applicant reconfigures the meeting rooms, removes the communal area, and increases the size of the lounge area next to the café. The studio rooms have been reconfigured to relocate the bathroom and bedroom however the size of the rooms have not been modified. This applies to all levels of the development. The below figures demonstrate the approved lower ground and upper ground levels and the proposed lower ground and upper ground levels, clearly marked where there are changes.

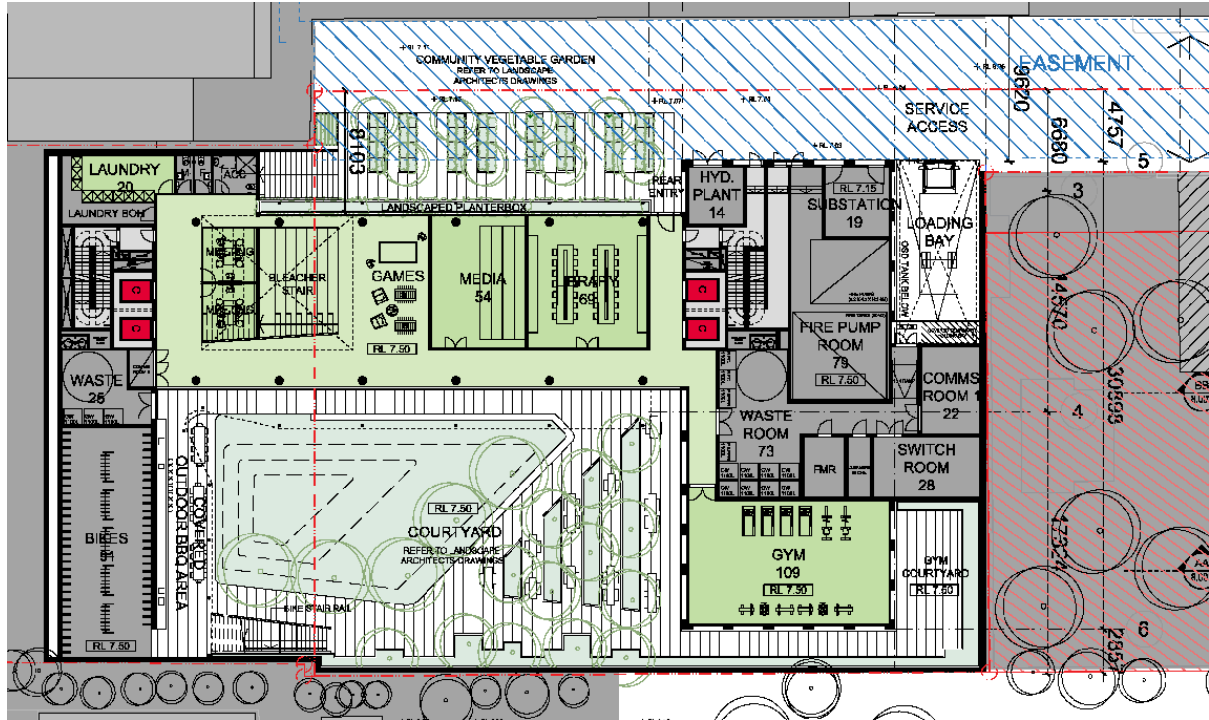


Figure 14. Approved Lower Ground Floor Plan

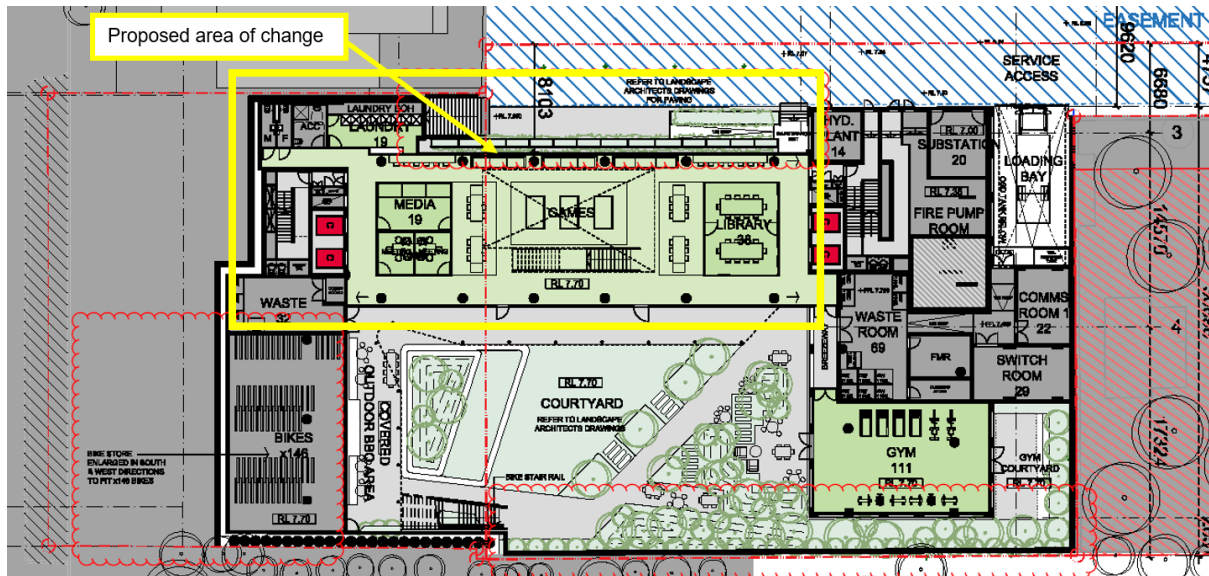


Figure 15. Proposed Lower Ground Floor Plan



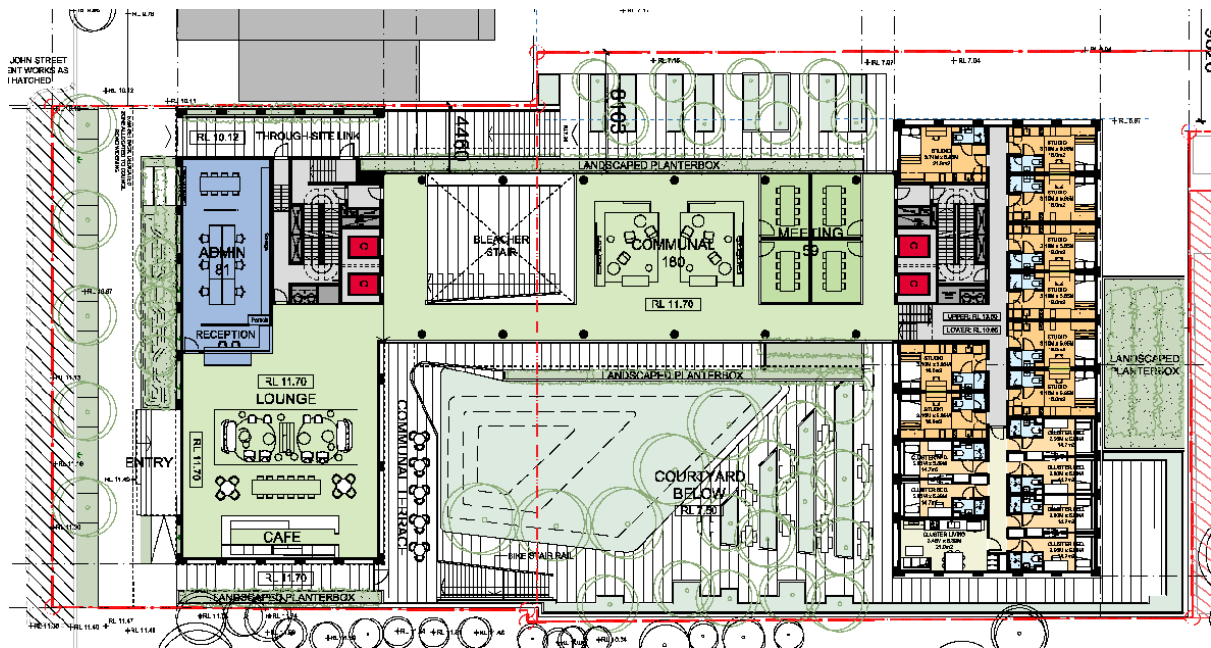


Figure 16. Approved Upper Ground Floor Plan

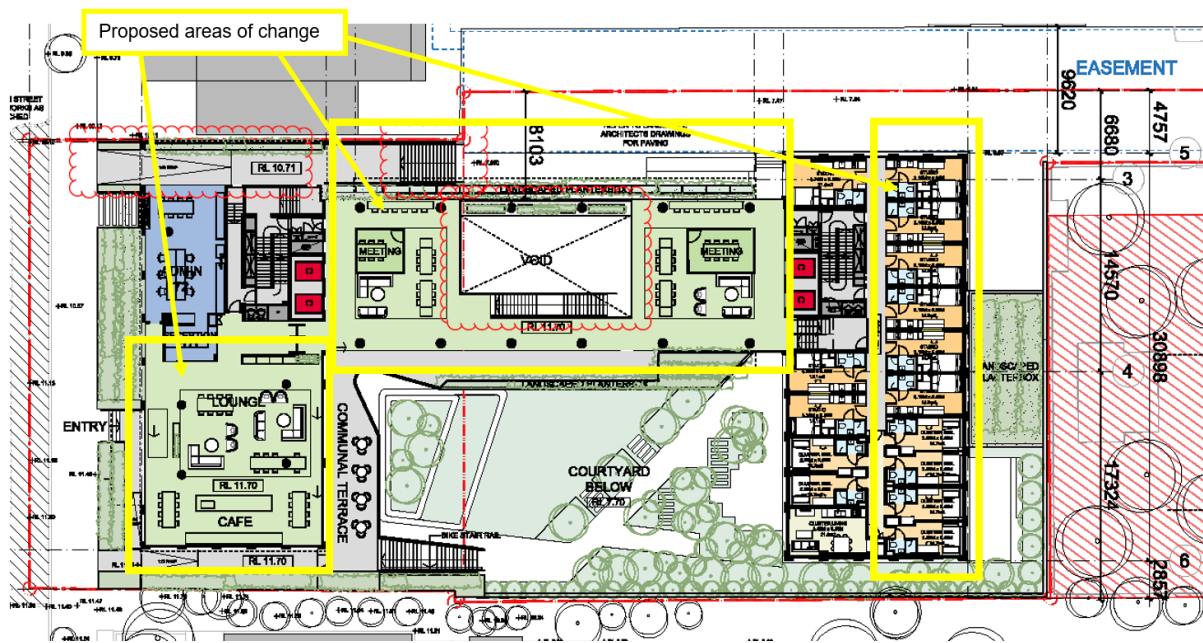


Figure 17. Proposed Upper Ground Floor Plan

The consent required the applicant to provide greater bicycle parking areas which resulted in the bike storage area to be increased in size and setback closer to John Street. This is not subject to an assessment under this application however as this is a parking area that is partially below ground, this would not be considered in the assessment of GFA. This also applies to the removal of the community garden on the western side of the site as well as the landscaped area which were subject to a condition of consent rather than part of the proposed modification.

The proposal does not alter the approved setbacks, is within the existing building envelope and predominantly relates to moving internal walls. The proposed reconfiguration of these levels is supported.

### Modification No. 3- Amendment to through-site link and John Street entry

The proposed modification relates to the approved through-site link stairs and entry ramp levels. The applicant has provided the following justification for the modification:

*'The through-site link public stair and lane entry stair and ramp have been relocated and raised (from RL 10.12m to 10.71m) to ensure they do not encroach upon the easement. No proposed paved areas will encroach the easement. The proposed entry has also been slightly modified to provide DDA access and improve landscaping.'*

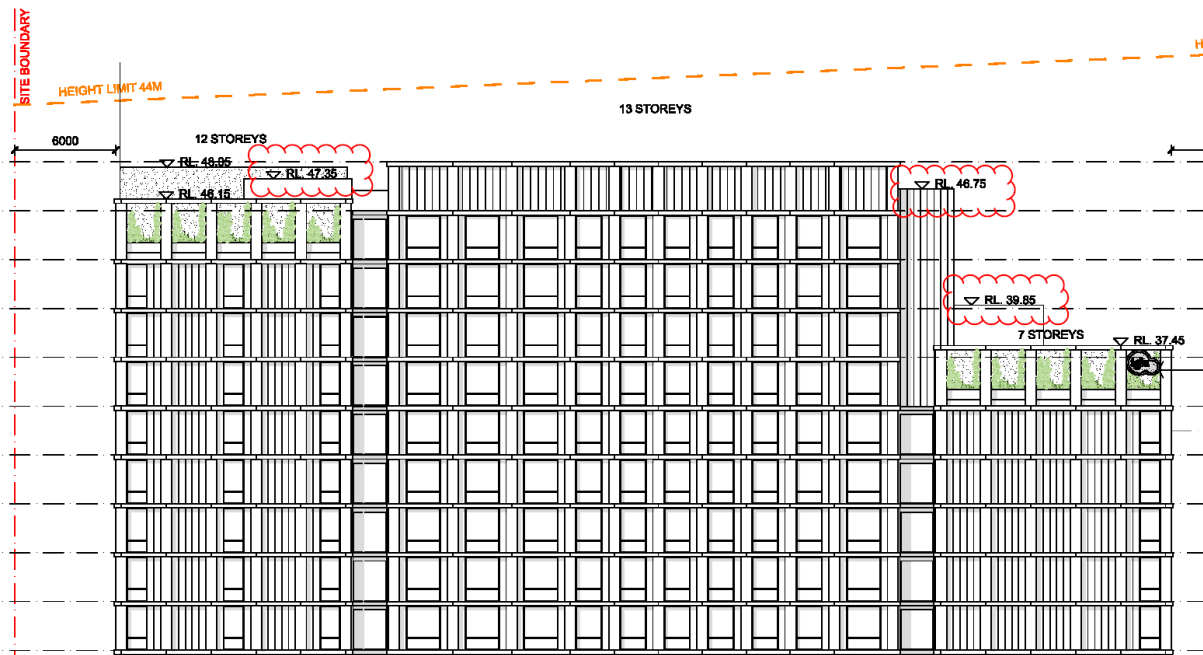
The plans demonstrate a separate ramp going up into the building along the western side of the meeting area on the lower ground level. Disabled access is provided through the building in the instance that access cannot be achieved from Church Avenue to John Street and vice versa. The change in level is acceptable for the development. The consent has a condition which requires the public through-site link to be available 24/7. This has not been modified as part of this application.

### Modification No. 4- Increase in height of lift overrun and fire stairs

The applicant seeks to amend the height of the lift overruns and fire stair transfer on the northern and southern buildings. The applicant has provided the following justification to the modification:

*'The proposed works seek to increase the two (2) southern core lift overruns and fire stair transfer height over Levels 7 and 10 with the minor adjustment of the roof terraces for BCA compliance. This will require the increase of the building height of the stair on the southern core from RL 45.45m to RL 46.60m (increase by 1.15m) and from RL 38.35m to RL 39.85m (increase by 1.5m). A minor adjustment on the northern lift overrun core height from RL 47.25m to RL 47.35m (0.1m) is also proposed. The additional heights are isolated to the respective lift overrun and fire stairs and will not alter the overall height of the approved development which continues to stand at RL 48.35 (parapet-central block) and compliant with the LEP.'*

The figure below demonstrates the location of the height variation. As shown, the additional height continues to be below the maximum LEP height control of 44 metres and does not surpass the approved maximum building height of 40.35 metres (RL 48.35m AHD). The 100mm height increase on the northern tower is inconsequential and does not increase the overshadowing onto the neighbouring properties. The additional height of the lift overrun and stair access on the southern tower also does not contribute to additional overshadowing due to its centrally located position on the southern side of the building. The additional height is only restricted to access and does not include any habitable area. Therefore, the proposed increase to the lift overruns/fire stair is supported.



**Figure 18. Proposed western elevation**

#### Modification No. 5- Modification to conditions

The proposed changes outlined above result in several conditions to be modified. The following conditions will be amended subject to this application:

##### **Condition No. 1:**

The condition relates to the stamped plans and will be updated to reflect the current plans.

##### **Condition No. 44:**

An assessment of the Condition No. 44 has been carried out under Modification No. 1 above. The condition is to remain and will be further amended to detail that ball games are prohibited on the communal rooftop areas.

#### Council changes to conditions:

The following conditions have been modified by Council as they directly relate to the proposed modifications sought to be amended by the Applicant and from issues raised in the submissions:

##### **Condition No. 18:**

Condition No. 18 relates to commissioning dilapidation reports on the neighbouring residential properties. This condition ensures that all developments, included within the condition, have been documented on their current built and structural condition prior to the commencement of any works. An issue was raised in the submissions that Building B of 18-26 Church Avenue has not been included as a designated development that would be subjected to a dilapidation report. Considering its location to the site and the effects from the demolition process that the residents of that building have felt, it is recommended that a new sub clause be included to reference Building B, 18-26 Church Avenue.

### **Condition No. 141(c):**

Sub clause (c) of this condition is newly added to address the prohibition of ball games on the rooftop communal area of the northern tower within the operation plan and house rules. The condition has been worded as follows:

- c) the operation plan and house rules are to be amended to demonstrate that no ball games are permitted within the communal rooftop area on the northern building.***

As issues relating to noise mitigation were present in the original development application and in the subject application, it is agreed that ball games and high intensity activities are not suitable for this area. Particularly ball games which would rebound off the acoustic walls and the ground and potentially create adverse impacts to the surrounding neighbouring residential developments.

### **Condition No. 145(c):**

Sub clause (c) of this condition has been amended to state that ball games are prohibited on the communal rooftop area of the northern tower. This condition is part of the conditions that require to be satisfied for the ongoing use of the premises. This further supports Condition Nos. 44 and 141(c).

## **STATUTORY CONSIDERATIONS**

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### **SECTION 4.55(2) CONSIDERATIONS**

In considering the Section 4.55(2) Application, the matters listed in Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* have been taken into consideration in the preparation of this report and are as follows:

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

The Section 4.55(2) modification application will not alter the approved use which is student accommodation (boarding house) development. The proposal seeks to make changes to the communal open space, internal reconfigurations, amendments to through site link and stairs, minor increase to the height of the fire stair/lift on the southern and northern core and modifications to conditions. These key external changes will not create any further impacts to the neighbouring. The proposed modifications will continue to allow the development to be substantially the same development to what was approved.

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

Division 4.8 of the Act does not apply to this application.

- c) ***It has notified the application in accordance with (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the modification application was notified for a fourteen (14) day period from 11 January to 25 January 2021.

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

Five (5) submissions were received as part of the notification process. The issues raised in the submissions are as follows:

- *Rooftop communal terrace on the northern tower*

Objectors Comment: *‘The community had major concerns with a basketball court as did the regional panel given the noise impact to such a large residential built up area that creates acoustic challenges. Ball games and other sport are likely to have a similar impact that needs to be managed and we see soccer is included in the new DA. We agree the students need their own dedicated communal space given the number of students living there and the lack of facilities in the general area with a massive population already. We ask for additional comfort of how resident concerns regarding noise will be managed for all the families and residents living in the area. There is need for the Council to heavily invest the \$8 million contribution from Iglu in this direct area. Mascot is one of the most densely populated area in Australia, a gateway for overseas and interstate guests and should be receiving more attention and investment from local and state government.*

*Due to the close proximity between buildings and no place for the sound to go to bounce within buildings, there will be noise impacts.’*

Council Comment: The basketball court has been removed as part of the proposal and has been replaced with an active recreation area. The application originally made comment that the space would be used for other ball games which was not supported by Council and the applicant amended their SEE to indicate lesser noise intensive activities such as yoga and pilates. Condition No. 44 as well as 141 and 145 have been modified to prohibit any ball games from these areas. The acoustic wall along the northern elevation of this area is to be retained. With regard to the development contribution expenditure, this is outside the scope of assessment of this application.

- *Increase in height – lift overrun and fire stair*

Objector Comment: *‘The building is already very high and out of step with the immediate neighbours on all sides in some cases 4 times as high. We ask the developer what can be done to help soften the impact/compensate for further increase in height and the imposing nature of lift overruns/fire stairs. People will talk about the student accommodation building and how imposing it is so anything that can be done to soften, improve the immediate area is highly recommended. The additional lift overrun/fire stairs will further impact shadowing issues, aspect to views and amenity for existing buildings.’*

Council Comment: The additional building height is contained to lift overruns and stair access. The increased height on the northern tower is 100mm and will not be distinguishable. The increased height on the southern tower is greater than 1 metre however remains less than the height of the approved central tower parapet. Due to the orientation of the development and the highest component of the building contributing to the overshadowing, it is not considered that these elements will further increase the overshadowing onto the adjoining developments.

- *Additional excavation for bicycle storage*

Objectors Comment: *'The additional excavation causes further concern for many residents who have experienced alarming vibrations during the simple demolition phase. Even as far away as Building B of Aero apartments across an asphalt road. The current conditions of DA-2019/385/B requires dilapidation reports and vibration monitoring for all surrounding building but not Aero apartments- 18-26 Church Avenue. This was requested by the community as part of the last DA and was omitted from the conditions which was omitted from the conditions which was disappointing and has caused a lot of stress and concerns for residents. We strongly request that simply Building B of 18-26 Church Avenue (Aero Apartments) be in the conditions for this or the previous DA to have dilapidation report and vibration monitoring. We understand it may not be strictly required by law, however given the fact Building B of Aero experienced major vibrations during simple demolition, that this was reported to the site conducting the work, Council, the project manager and ignored at various levels leaves major concerns for residents.'*

*The 2 metre extra excavation for lower ground level for additional bicycle parking heightens concerns regarding destabilisation to surrounding building due to the vibrations experienced during a simple demolition. If surrounding buildings are stable enough to withstand the impact, then these vibrations should not have been felt.'*

Council Comment: Consideration of any excavation was provided in the detailed site investigation reports in the original development application. The condition requiring additional bicycle parking has resulted in the bicycle storage room to be increased in size by pushing out towards John Street. While this does require extra excavation, the excavation is limited to 2 metres in width and less than 3 metres in depth. The excavation is not considered to be substantial and cause any structural damage to the neighbouring sites. Regardless, there are conditions of consent already imposed which requires vibration monitoring and dilapidation reports which are required to be complied with by the developer.

- *Change to the community gardens and changes to landscaping*

Objector Comment: *'The removal and further changes to the community garden is another detriment to the community. Can we please ask that more be done to improve and embellish the local area to help lift the local area. Modern artwork and more tree planting, additional well designed greenery installations on the façade in the immediate area of the student building would be appreciated to help compensate for the loss of the community garden and other impacts of proposed modifications. It would also be in the developers interest to soften the impact of the building and embellish the building with more greenery to perhaps help make this student accommodation facility a flagship one and positively lift Iglus profile in the process.'*

Council Comment: A condition of consent was imposed to delete the community garden due to its location within the easement on the site. Additional tree planting in the public domain and within the site was included in the consent. There is no requirement for



public artwork to be provided on site. With regard to the nature of the Mascot Station area and its beautification, this does not fall in the scope of the subject application.

- *Additional bicycle parking*

Objectors Comment: *'The expected use and parking requirement is 2.5% to 5% and increasing the bicycle parking from 91 to 146 will encourage but does not guarantee the outcome of more students using this facility. Provision does not equal to real usage. Students will be taking other modes of transportation whichever easier for them, especially when the closest UNSW is 4.7km away which is a 9.4km bicycle return trip. Providing this facility for the purpose of adhering to regulations while causing long term impact to the owners of the surrounding building is not acceptable.'*

Council Comment: Noted, however additional bicycle parking was requested by Councils Development Engineer as there is no car parking provided on the site.

- *Vibration from works on the site*

Objectors Comment: *'We have requested vibration monitors to be installed for our building but have been refused.'*

*The residents concerns with this development and potential impact to established structures is also validated by the Regional Panels recent approval of 16-18 John Street/23 Church Avenue with various conditions imposed with respect to geotechnical, structural and hydrogeological engineers and reports being required. The same conditions should be considered by Council and Panel relative to the known risks in the area. We note that this development is only one door down from 16-18 John Street. Unfortunately, it seems the area needs additional diligence beyond the normal requirements. Prevention is better than the cure. For ease of reference conditions that may be relevant from DA-2019/359 may include 15, 16, 18, 22, 44, 91, 111 and 112. A number are likely covered by the existing conditions and as a minimum the community request that dilapidation vibration monitoring simply be in place for Aero Building B, 18-26 Church Avenue.'*

Council Comment: The development application had imposed conditions of consent relating to dilapidation reports, vibration monitoring and other means of reducing structural impacts on the neighbouring developments. It is noted that the development at 18-26 Church Avenue was not included in the list of residences that required a dilapidation report to be commissioned. Considering its close proximity to the site, it is recommended that Condition No. 18 be amended to include Building B of 18-26 Church Avenue Mascot.

## **SECTION 4.55(3) MODIFICATION CONSIDERATIONS**

The original Development Application was approved by the Sydney Eastern City Planning Panel on 16 September 2020. The reasons for the decision are provided below:

*"The majority of the Panel were of the view that the proposed student accommodation satisfied public need and that the location, some 200m from the rail station, in a high-density residential area was a desirable and appropriate location for such a use. The concerns raised by residents are appreciated, however, the proposal is a permissible use in the zone, is of a form that minimises external impact and through management and Conditions of Consent, will address the concerns raised.*

*The Panel was, however, concerned with the proposed basketball court on the rooftop of the building. Its use, apart from noise, can cause considerable nuisance to surrounding residents. It was not considered a necessary element of the proposal and therefore, in this case, the Panel agreed to delete the proposal but to allow the rooftop area to be used for a more passive communal open space. This will be achieved by a condition of consent.*

*Michael Nagi and Ed McDougall disagreed with the majority decision for the following reasons:*

- *Given the objects of the Environmental Planning and Assessment Act 1979, including the promotion for the orderly and economic use and development of land, and the promotion of proper construction and maintenance of buildings, including the health and safety of their occupants, and the site's adjacency to the Mascot Towers development site, the development could not be supported at this time given the broader concerns that development in the immediate area has created for the planning system across the entire state.*

*The removal of the basketball court from the rooftop communal area, and the inclusion of 7-9 John Street in the dilapidation report is supported.*

*The development application was approved subject to the conditions in the council assessment report with the following amendments.*

- *Additional Condition to read "The proposed rooftop basketball court shall be deleted. The rooftop shall remain as communal open space. Details to be provided prior to the issue of a Construction Certificate."*

The applicant seeks to amend the component which discusses the communal rooftop area on the northern building. While the basketball court has been removed, the applicant has allocated this space as multi-functional active recreation. Discussion regarding this rooftop area has been undertaken above and the condition has been appropriately modified.

## **SECTION 4.15 CONSIDERATIONS**

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 No. 55 – Remediation of Land**

The modified proposal does not seek to amend the outcomes that were approved under DA-2019/385 and any subsequent modification applications and the site continues to be suitable for student accommodation.

#### **State Environmental Planning Policy (Affordable Rental Housing) 2009**

An assessment against the relevant controls under Division 3- Boarding House of the ARHSEPP 2009 has been carried out. The proposed modifications continue to be compliant

with the original assessment in the development application. The proposal continues to be under the height limit and the amount of communal open space and solar access to these areas is retained. The proposed modifications are satisfactory in this instance.

### Botany Bay Local Environmental Plan (BBLEP) 2013

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

<b>Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013</b>	<b>Compliance Yes/No</b>	<b>Comment</b>
Land use Zone	Yes	The site is zoned B4 Mixed Use zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The modification application does not seek to amend the use of the approved student accommodation/boarding house within the BBLEP 2013 which is a permissible form of development in the zone.
Does the proposed use/works meet the objectives of the zone?	Yes	<p>The proposed development continues to be consistent with the objectives of the B4 Mixed Use Zone which are as follows:</p> <ul style="list-style-type: none"> <li>• To provide a mixture of compatible land uses.</li> <li>• To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</li> </ul>
What is the proposed height? Does the height of the building comply the maximum height?	No change	<p>The maximum height allowed on the site is 44 metres.</p> <p>The approved height is 40.35 metres (RL 48.35) metres.</p> <p>While there is an increase in the height of the lift overruns and stair access, these fall below the height of the central tower parapet.</p> <p>The height continues to be compliant with Clause 4.3 of the Botany Bay Local Environmental Plan 2013.</p>
What is the proposed FSR? Does the FSR of the building comply the maximum FSR?	No change	<p>The maximum FSR allowed on the site is 3.2:1.</p> <p>The proposed development is defined as a boarding house. The ARHSEPP affords a</p>

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
		<p>FSR bonus of 20% resulting in a maximum FSR of 3.84:1 is allowed on the site.</p> <p>Approved development FSR: 3.67:1.</p> <p>There is no change proposed to the overall GFA/FSR in this application.</p> <p>The FSR continues to be compliant with the Botany Local Environmental Plan 2013 when considering the FSR bonus under the SEPP.</p>
<p>The following provisions in Part 6 of Botany Bay Local Environmental Plan apply–</p> <ul style="list-style-type: none"> <li>6.16 – Design Excellence</li> </ul>	N/A	<p>The site is in the Mascot Station Key Precinct area therefore the proposal is subject to Design Excellence. The original development application achieved design excellence. The minor nature of the proposed modifications does not alter the outcomes and built form that were assessed under DA-2019/385 and therefore a reassessment by the Design Review Panel is not warranted in this instance.</p>

The proposed modification application continues to be consistent with the zone objectives and controls within the Botany Bay Local Environmental Plan 2013.

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

##### Draft Bayside Local Environmental Plan 2020

The Bayside draft LEP 2020 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. There are no further changes in the draft LEP that require assessment against the proposed modifications.

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

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

The development proposal has been assessed against the relevant controls, for this modification application, contained in the Botany Bay Development Control Plan 2013 as follows:

#### *Part 3C – Access and Mobility*

The key change regarding access to the development relates to the level change for the through site link. The development continues to provide accessible entry to the development through the introduction of ramping to the lower ground floor level. The stairs that lead up to John Street remain unchanged.

#### *Part 7A – Shared Accommodation*

The original development application was assessed against the controls within Part 7A of the BBDCP 2013 for a 'boarding house'. The proposed modifications do not alter any of the outcomes or requirements within this section of the DCP. While there are some internal changes to the studio rooms, their size has not been amended and they still maintain appropriate amenity. The amount of communal open space has not been reduced and the development continues to be consistent with the desired future character of the area.

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

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

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

The proposed modifications to an approved student accommodation development to modify the communal open space, internal reconfigurations, amendments to through site link and stairs, minor increase to the height of the fire stair/lift on the southern and northern core and modifications to conditions and as such, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality. The proposed modifications will have no additional environmental impacts beyond those considered by Council during the assessment and determination of DA-2019/385.

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

The suitability of the site was addressed in the original approval of DA-2019/385.

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

In accordance with Part 2 – Advertising and Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the modification application was notified for a period of fourteen (14) days between 11 January to 25 January 2021. Five (5) submissions were received during the notification period and have been discussed in the report above.

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

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

## CONCLUSION

The Section 4.55(2) Application seeking to modify Development Consent No. 20149/385 to the approved student accommodation development to modify the communal open space, internal reconfigurations, amendments to through site link and stairs, minor increase to the height of the fire stair/lift on the southern and northern core and modifications to conditions at 6-8 John Street and 13B Church Avenue Mascot, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

The development continues to maintain communal open space for its residents on the rooftop as originally conditioned by the Panel. To mitigate excessive noise from activities carried out in this space, conditions have been amended and imposed to restrict ball games on the northern buildings' communal rooftop. The other proposed modifications to the building height, internal reconfigurations and to the through site link are supported.

The proposal is substantially the same development to the development application approved and will have minimal impact within the site and surrounding areas. The issues raised within the submissions have been addressed with most issues relating to structural damage from further excavation, landscaping and loss of community gardens and the additional building height.

Therefore, the Section 4.55(2) Modification Application is recommended for approval subject to the conditions (as amended) in the attached schedule of consent conditions.

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## Attachment

### SCHEDULE 1 – CONDITIONS OF CONSENT

Premises: 6-8 John Street and 13B Church Avenue Mascot      DA No: DA-2019/385/B

#### SCHEDULE OF CONSENT CONDITIONS

##### GENERAL CONDITIONS

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

Drawing No.	Author	Date Received
DA01.001- Site Plan- Rev A		Dated 22 October 2019; Received 28 April 2020
DA03.0G1- Lower Ground Floor Plan (Church Avenue)- Rev <del>B</del> <b>D</b>		<del><b>Dated 31 March 2020;</b></del> <del><b>Received 28 April 2020</b></del> <b>Dated 26 November 2020;</b> <b>Received 15 December 2020</b>
DA03.0G2- Upper Ground Floor Plan (John Street)- Rev <del>B</del> <b>D</b>		<del><b>Dated 31 March 2020;</b></del> <del><b>Received 28 April 2020</b></del> <b>Dated 26 November 2020;</b> <b>Received 15 December 2020</b>



DA03.0G3- Upper Ground Floor Mezzanine Plan- Rev <b><del>B</del> D</b>	Bates Smart Architects Pty Ltd	<del>Dated 31 March 2020;</del> <del>Received 28 April 2020</del>  Dated 26 November 2020; Received 15 December 2020
DA03.001- Typical Low Floor Plan (L01-L06)- Rev <b><del>B</del> D</b>		<del>Dated 31 March 2020;</del> <del>Received 28 April 2020</del>  Dated 26 November 2020; Received 15 December 2020
DA03.007- Level 07 Plan- Rev <b><del>B</del> D</b>		<del>Dated 31 March 2020;</del> <del>Received 28 April 2020</del>  Dated 26 November 2020; Received 15 December 2020
DA03.008- Level 08-09 Plan- Rev <b><del>B</del> D</b>		<del>Dated 31 March 2020;</del> <del>Received 28 April 2020</del>  Dated 26 November 2020; Received 15 December 2020
DA03.010- Level 10 Plan – Rev <b><del>C</del> D</b>		<del>Dated 27 July 2020;</del> <del>Received 3 August 2020</del> Dated 26 November 2020; Received 15 December 2020
DA03.011- Level 11 Plan- Rev <b><del>B</del> D</b>		<del>Dated 31 March 2020;</del> <del>Received 28 April 2020</del>  Dated 26 November 2020; Received 15 December 2020
DA03.012- Roof Plan- Rev <b><del>B</del> D</b>		<del>Dated 28 April 2020;</del> <del>Received 28 April 2020</del>  Dated 26 November 2020; Received 15 December 2020
DA07.001- John Street Elevation- Rev <b><del>B</del> D</b>		<del>Dated 28 April 2020;</del> <del>Received 28 April 2020</del>  Dated 26 November 2020; Received 15 December 2020
DA07.002- West Elevation- Rev <b><del>B</del> D</b>		<del>Dated 28 April 2020;</del> <del>Received 28 April 2020</del>  Dated 26 November 2020; Received 15 December 2020
DA07.003- Church Avenue Elevation (Boundary 13A Church Avenue)- Rev <b><del>B</del> D</b>		<del>Dated 28 April 2020;</del> <del>Received 28 April 2020</del>  Dated 26 November 2020; Received 15 December 2020
DA07.004- East Elevation- Rev <b><del>B</del> D</b>		<del>Dated 28 April 2020;</del> <del>Received 28 April 2020</del>  Dated 26 November 2020; Received 15 December 2020
DA08.001- Section AA- Rev <b><del>C</del> D</b>		<del>Dated 27 July 2020;</del> <del>Received 3 August 2020</del>

		<i>Dated 26 November 2020; Received 15 December 2020</i>
DA08.002- Section BB- Rev <b>B D</b>		<del><i>Dated 28 April 2020; Received 28 April 2020</i></del> <i>Dated 26 November 2020; Received 15 December 2020</i>
DA08.003- Section CC- Rev <b>B D</b>		<del><i>Dated 28 April 2020; Received 28 April 2020</i></del> <i>Dated 26 November 2020; Received 15 December 2020</i>
DA08.004- Section DD- Rev <b>B D</b>		<del><i>Dated 28 April 2020; Received 28 April 2020</i></del> <i>Dated 26 November 2020; Received 15 December 2020</i>
DA08.005- Section EE- Rev <b>A-D</b>		<del><i>Dated 27 July 2020; Received 3 August 2020</i></del> <i>Dated 26 November 2020; Received 15 December 2020</i>
DA09.001- GFA Diagrams- Rev <b>B D</b>		<del><i>Dated 31 March 2020; Received 28 April 2020</i></del> <i>Dated 26 November 2020; Received 15 December 2020</i>
DA11.000- External Finishes – Rev A D		Dated 19 September 2019; Received 28 April 2020
DA-201 – Signage Details 1		Received 28 April 2020
DA-202 – Signage Details 2		Received 28 April 2020
Landscape Plans- Rev G	RPS Group	Dated 31 July 2020; Received 3 August 2020

**[Amendment B – Section 4.55(2) – Amended on 6 May 2021]**

Reference Document(s)	Author	Date Received
Preliminary Site Investigation and Detailed Site Investigation	JBS&G Australia Pty Ltd	Dated 8 October 2019; Received 25 October 2019
Geotechnical Investigation	JK Geotechnics	Dated 30 August 2019; Received 25 October 2019
Construction Pedestrian Traffic Management Plan	Varga Traffic Planning Pty Ltd	Dated 27 September 2019; Received 25 October 2019
Construction and Traffic Management Plan	Iglu	Dated 2 September 2019; Received 25 October 2019
DA Design Report	Bates Smart	Dated October 2019; Received 25 October 2019

Civil DA Report	Enstruct Group Pty Ltd	Dated March 2020; Received 28 April 2020
Civil Drawings- Rev 3	Enstruct Group Pty Ltd	Dated 8 April 2020; Received 28 April 2020
Asbestos Management Plan	JBS&G Australia Pty Ltd	Dated 8 October 2019; Received 25 October 2019
Acid Sulfate Soil Management Plan	JBS&G Australia Pty Ltd	Dated 8 October 2019; Received 25 October 2019
Survey Plan- Sheet 1-6	LTS Lockley	Dated 25 March 2019; Received 25 October 2019
Remedial Action Plan	JBS&G Australia Pty Ltd	Dated 8 October 2019; Received 25 October 2019
BASIX Report	IGS Integrated Group Services	Dated October 2019; Received 25 October 2019
DA10.001 and DA10.002- Perspectives	Bates Smart	Dated 19 September 2019; Received 28 April 2020
Green Travel Plan	The Transport Planning Partnership	Dated 8 April 2020; Received 28 April 2020
Acoustic Assessment	Acoustic Logic	Dated 9 April 2020; Received 28 April 2020
Operations Management Plan	Iglu	Received 3 August 2020
Waste Management Plan	Iglu	Dated 14 April 2020; Received 28 April 2020
Traffic and Parking Assessment Report	Varga Traffic Planning Pty Ltd	Dated 1 October 2019; Received 28 April 2020
View Impact Analysis	Bates Smart	Received 28 April 2020
Access Report	Architecture and Access Pty Ltd	Dated 7 October 2019; Received 25 October 2019
Access Strategy- Hotel-Student Accommodation SOU Provisions	Architecture and Access Pty Ltd	Dated 11 September 2019; Received 25 October 2019
BCA Assessment Report	Steve Watson and Partners	Dated October 2019; Received 25 October 2019
Clause 4.6 variation-motorcycle parking	Mecone	Dated October 2019; Received 25 October 2019
Fire Engineering Report	Innova Services	Dated 1 October 2019; Received 25 October 2019
Pedestrian Wind Environment Study	Windtech	Dated 20 September 2019; Received 25 October 2019
Statement of Environmental Effects	Mecone	Dated July 2020; Received 3 August 2020

Solar Light Reflectivity Study	Windtech	Dated 23 September 2019; Received 25 October 2019
<b><i>Amended Statement of Environmental Effects</i></b>	<b><i>Mecone</i></b>	<b><i>Dated 6 February 2021; Received 16 February 2021</i></b>

***[Amendment B – Section 4.55(2) – Amended on 6 May 2021]***

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

2. This Consent relates to land in Lot 2 in DP 547700, Lot 8 in DP 939729, Lot 9 in DP 939729, and as such, building works must not encroach on to adjoining lands or other public places, except as otherwise permitted by this consent.
3. The consent given does not imply that works can commence until such time that:
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
    - (i) The consent authority; or,
    - (ii) An accredited certifier; and,
  - b) The person having the benefit of the development consent:
    - (i) Has appointed a principal certifying authority; and
    - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
4. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
5. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these conditions Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the Applicant.
6. This consent is for student accommodation development and does not authorise the permanent residential occupation of the building and prohibits any permanent strata-titling of the building as a residential flat building.
7. The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 "Design, Construction and Fit out of Food Premises".

8. The building shall be designed, constructed and maintained to comply with the requirements of the Local Government Act 1993, as amended and the Regulations there under.
9. The proprietor of the premises places of shared accommodation shall provide Council with details for Council's Environmental Health Unit register by completing the Registration form available on request from the customer service centre
10. Trading shall not commence until a final inspection has been carried out by Councils Environmental Health Officer and all health (boarding house) related requirements have been complied with.
11. No further signage, other than signage permitted as exempt or complying development, shall be installed or displayed at the premises without a development application being lodged with Council and consent thereto being given by Council in accordance with Councils guidelines and *State Environmental Planning Policy No. 64 – Advertising and Signage*.

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

Where relevant, the following external authority conditions apply:

12. 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 49.1 metres Australian Height Datum (AHD).
  - c) In my capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, I have no objection to the erection of this development to a maximum height of 49.1 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) "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)).
  - j) The height of the prescribed airspace at this location is 51 metres above AHD.
  - k) Planning for Aircraft Noise and Public Safety Zones
  - l) 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).
  - m) 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.
13. The following conditions are imposed by **Transport for NSW (TfNSW)**:
- a) All vehicles shall enter and exit the site in a forward direction.
  - b) 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.
  - c) A Construction Traffic Management Plan (CTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control shall be submitted to Council for approval prior to the issue of a Construction Certificate.
  - d) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on the surrounding state road network during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
14. The following advisory conditions are imposed by **NSW Police**:
- a) CCTV should be installed at entry / exit points, to building, surrounding building and isolated areas.
  - b) Adequate lighting should be positioned in surrounding areas of building to create visibility at night and to reduce opportunity for hidden areas.
  - c) Clear signage on Buildings (John Street and Church Ave) number and building name, should be clearly displayed, with light shining on signs at night to allow clear visibility for Police.
  - d) All shrubs to be no higher than 1 metre, so visibility and clear sight lines can be maintained onto the premise.

- e) Security may be needed to monitor entry/exit points and or anti-social behaviour.
- f) Information for International Students should be provided regarding Local Police station / contact numbers. Information also containing personal safety and awareness.

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

- a) The applicant shall confer with Ausgrid to determine if an electricity distribution substation is required. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.
- b) The applicant shall confer with Ausgrid to determine if installation of electricity conduits in the footway is required. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.
- c) The applicant shall confer with Ausgrid to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

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

The relocation of the existing electricity supply pole in the road reserve at (specify location if required) to (specify location if required), is required to avoid conflict with the new driveway. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The applicant shall enter into a contract with Ausgrid for the relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.

### **PRIOR TO COMMENCEMENT OF ANY WORKS**

16. Community Reference Group

- a) Prior to the commencement of any works, a Community Reference Group (CRG) should be appointed to meet monthly with the developer (or its representative) on site to obtain updates on construction and timeframes and to provide feedback;
- b) The CRG should be no more than 10-12 members and include at least one member from each of the surrounding developments, with at a minimum a representative from 3-9 Church Avenue, 635 Gardeners Road, 19-21 Church Avenue and 7-9 John Street;
- c) The CRG members will be selected at an open meeting held on site with interested parties nominated from each development, and, if excess interested parties, final CRG members drawn from a hat;

- d) The developer (or its representative) is to issue letters to each of the surrounding developments at least 7 days before the meeting is to be held to nominate the final CRG members.
17. Prior to the commencement of any work, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
18. A professional engineer specialising in structural engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises, a photographic survey, and including buildings, foundations and structures likely to be affected by the site works as determined by the consulting engineer. This shall include, but not limited to:
- a) 13A Church Avenue Mascot
  - b) 3-9 Church Avenue Mascot
  - c) 10-14 John Street and 19-21 Church Avenue Mascot
  - d) 7-9 John Street Mascot
  - e) ***Building B, 18-26 Church Avenue 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 Certifying Authority 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 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 8.00am-6.00pm.

***[Amendment B – Section 4.55(2) – Amended on 6 May 2021]***

19. Prior to commencement of any works, a Safe Work Method Statement shall be prepared by a licensed builder/contractor who is registered with the Safe Work NSW to the satisfaction of the Principal Certifying Authority and a copy sent to Council (if it is not the PCA) and Safe Work NSW. The statement must be in compliance with *AS 2601-1991 Demolition of Structures*, the requirements of Safe Work NSW and conditions of this approval. This Plan must include provisions for:
- a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
  - b) Induction training for on-site personnel;



- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors under Work Health & Safety Act 2011(NSW) and the Work Health & Safety Regulation 2011 (NSW) unless specified in the Act and/or Regulation that a license is not required). Any asbestos removal work shall be undertaken in accordance with the How to Safely Remove Asbestos: Code of Practice published by Safe Work Australia;
  - d) Dust control – dust emission must be minimised for the full height of the building. A minimum requirement is that the perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray. Compressed air must not be used to blow dust from the building site;
  - e) Disconnection of relevant utility services, including Gas and Electrical Supply;
  - f) Fire Fighting – Fire fighting services on site are to be maintained at all times during any work. Access to fire services in the street must not be obstructed;
  - g) Access and Egress – No activity shall cause damage to or adversely affect the safe access and egress of this building;
  - h) Waterproofing of any exposed surfaces of adjoining buildings;
  - i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the Protection of the Environmental Operations Act 1997;
  - j) Working hours, in accordance with this Development Consent;
  - k) Proposed truck routes, in accordance with this Development Consent (where applicable);
  - l) Location and method of waste disposal and recycling in accordance with the Waste Minimisation and Management Act 1995;
  - m) Sewer – common sewerage system;
  - n) On site monitoring both during asbestos removal and hazardous materials.
  - o) Identification of any hazardous materials including surfaces coated with lead paint, and the disposal methods for hazardous materials.
  - p) Erosion and Sedimentation Controls are in place and in accordance with the approved plan.
20. A sign must be erected in a prominent position on any site on which building work or any other work is being carried out:
- a) Showing the name, address and telephone number of the principal certifying authority for the work, and
  - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c) stating that unauthorised entry to the work site is prohibited.
  - d) Any such sign is to be maintained while the building work is being carried out, but must be removed when the work has been completed.
21. If a Construction Certificate is required, a copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.

22. Prior to the commencement of any works, the applicant must inform Council, in writing, of:
- (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
  - (b) The name and permit number of the owner-builder who intends to do the work;
  - (c) The Council also must be informed if: -
    - (i) A contract is entered into for the work to be done by a different licensee; or
    - (ii) Arrangements for the doing of the work are otherwise changed.
23. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
  - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
  - c) Permit to install temporary ground anchors in public land,
  - d) Permit to discharge ground water to Council's stormwater drainage system,
  - e) Permit for roads and footways occupancy (long term/ short term),
  - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
  - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
  - h) Permit to place skip/waste bin on footpath and/or nature strip, and
  - i) Permit to use any part of Council's road reserve or other Council lands.
  - j) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area. It should be noted that the issue of such permits may involve approval from RMS and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.
24. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,

- b) If necessary, underpin and support such building in an approved manner;
- c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
- d) Existing structures and or services on this and adjoining properties are not endangered during any excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
- e) If the soil conditions required it:
  - (i) Retaining walls associated with the erection of a building (swimming pool) 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.

25. Prior to the commencement of any works, a Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:

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

designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,

- i) Proposed protection for Council and adjoining properties, and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
- k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- l) Obtain Permits required under this consent.

26. Prior to the commencement of any works, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the Principal Certifier for approval. The plan shall:

- a) be prepared by a RMS accredited consultant,
  - (i) address, but not be limited to, the following matters:
  - (ii) ingress and egress of vehicles to the site;
  - (iii) loading and unloading, including construction zones;
  - (iv) predicted traffic volumes, types and routes; and
  - (v) pedestrian and traffic management methods.
- b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
- c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

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

27. A Noise and Vibration Management Plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from excavation or 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](http://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.

28. Erosion and sediment control devices shall be installed and in function prior to the commencement of any excavation or construction works upon the site in order to prevent sediment and silt from site works (including 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, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary

29. All contractors shall comply with the following during all stages of works on site:
- a) A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - b) A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - c) A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - d) A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - e) A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
30. A Soil and Water Management Plan shall be prepared in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organization of Councils. A copy of the plan must be submitted to Council. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.
31. 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 must be displayed throughout construction. A copy of the sign is available from Council.
32. Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction. The controls are to be designed and installed in accordance with the Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Regional Organisation of Council. Copies of the guidelines are available from Council.
33. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their

intended purpose by an appropriately qualified and practising engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.

34. Should any hazardous materials be identified a Work Management Plan completed in accordance with AS2601 – Demolition of Buildings shall be submitted to the Principal Certifying Authority prior to the any works for the building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.
35. Prior to commencement of any works, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
36. Hazardous or intractable wastes arising from the excavation and construction process shall be removed and disposed of in accordance with the requirements of Safe Work Australia and the Department of Environment and Climate Change and Water and with the provisions of:
  - a) New South Wales Occupational Health and Safety Act, 2000;
  - b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
  - c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
  - d) Protection Of the Environment Operations Act 1997 (NSW); and
  - e) Department of Environment and Climate Change Waste Classification Guidelines (2008).
37. Prior to the commencement of any work the applicant is to submit payment for a Tree Planting Bond of \$2,000.00 to ensure protection of the planted tree. The duration of the Bond shall be limited to a period of 12 months after the occupation certificate is issued. At completion of the bond period of twelve months (12 months) the Bond shall be refunded pending an inspection of the tree by council. If a tree is found to be dead, pruned or dying and will not recover the applicant will forfeit all or part of the bond to replace or maintain the tree.
38. 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.

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.

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.

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

39. The applicant must prior to the commencement of any works, pay the following fees:
- a) Environmental Enforcement Fee 0.26% of the cost of works (with an estimated cost of works capped at \$10 million)
  - b) Footpath Crossing Deposit \$ 133,414.00
  - c) Section 7.11 Contributions \$7,853,524.80
40. The required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
41. Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit and Performance Bond of **\$133,414.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council after the completion of all works relating to the proposed development have been completed.
42. Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans, a contribution of **\$7,853,524.80** is payable as calculated below:

#### ***City of Botany Bay Section 7.11 Contributions Plan 2016***

The 7.11 contributions for the development is as follows:

a)	Community Facilities	\$ 642,873.99
b)	Recreation and Open Space	\$6,632,629.17
c)	Transport	\$ 520,838.63
d)	Administration	\$ 57,183.01

The total Section 7.11 Contribution of **\$7,853,524.80** is to be paid to Council prior to the issue of any Construction Certificate.

**Note:** The Section 7.11 Contributions are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

In accordance with the ministerial directions of 25 June 2020 by the NSW State Government relating to the deferral of payment of contributions, a monetary contribution that is required to be paid under the conditions of this consent must be



paid before the issue of the first occupation certificate in respect of any building to which this consent relates.

If no construction certificate in respect of the erection of any building to which the consent relates has been issued before or on 25 September 2022, the monetary contribution must be paid before the issue of the first construction after that date for any such building.

43. Prior to the issue of the Construction Certificate, all references to the community gardens is to be deleted from the plans and relevant documentation. Amended plans shall be submitted to Council for review and approval prior to the issue of the Construction Certificate.
44. Prior to the issue of the Construction Certificate, the proposed rooftop basketball court shall be deleted. The rooftop shall remain as communal open space. **Ball games are prohibited within the communal rooftop areas.** Details of the rooftop are to be submitted to Council for review and approval prior to the issue of the Construction Certificate.

***[Amendment B – Section 4.55(2) – Amended on 6 May 2021]***

45. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
  - a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
  - b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers) and Council in connection with:
    - (i) The additional load on the system, and
    - (ii) The relocation and/or adjustment of the services affected by the construction.
  - c) The Ausgrid lighting and power poles will need to be decommissioned and new underground supplied lighting poles shall be constructed satisfying V2 lighting requirements and any other requirements as specified by Council and any other service provider,
  - d) Any above ground utilities must be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
  - e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of any Construction Certificate.

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

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

46. Adequate ambient lighting shall be provided along the western side of the proposed development (through site link) to provide improved safety and illumination for residents and pedestrians traversing through the development and shall be designed in accordance with the AS/NZS 1158 lighting series and AS 4282-1997 "Control of the Obtrusive Effects of Outdoor Lighting". Lighting is also to be installed into all steps that form part of the through site. All lighting 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. The construction certificate plans and documentation shall reflect these requirements and shall be submitted to Council for review and approval prior to the issue of the Construction Certificate.
47. Prior to the issue of the Construction Certificate, amended plans are to detail the location of monitored CCTV cameras which are to be installed along the whole length of the through site link. This is to be reviewed and approved by the Private Certifying Authority prior to the issue of the Construction Certificate.
48. A detailed Public Domain Frontage Design must be prepared by suitably qualified professionals for assessment and approval by Council's Public Domain Team for all frontage works that are required to be constructed within the public domain and which are subject to approval pursuant to Section 138 of the Roads Act 1993. All frontage works shall be in accordance with development consent conditions, Council technical manuals, master plans, town centre plans, Australian standards and standard design drawings and specifications.

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. The plans prepared are to detail compliance with all external works required under this development consent and must be submitted to Council with the frontage works application for assessment.

A 'public domain frontage works application' must be submitted to Bayside Council's Customer Service Centre for assessment of all required works within the road reserve, upon payment of the relevant fee, prior to the issue of any Construction Certificate.

Note: Preliminary consultation with Council's Public Domain team is highly recommended.
49. 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, the Principal Certifying Authority and Principal Certifying Authority must:
  - a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
  - b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
50. Prior to the issue of any Construction Certificate, the approved plans must be submitted to Sydney Water Tap in<sup>TM</sup> online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. Sydney Water's Tap in<sup>TM</sup> online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

51. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the “e-developer” icon or telephone 13 20 92.
- i) Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design. The Section 73 Notice of Requirements must be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.
52. Plans and cross sections showing the compliance of the recommendations of Part J BCA assessment report issued by Steve Watson and Partners on October 2019 to be submitted with the application for the issue of the Construction Certificate.
- 53.
- a) All walls within the kitchen, food preparation, storage and display areas shall be of solid construction. Walls in food preparation areas shall be finished with one or a combination of glazed tiles, stainless steel, aluminium sheeting, laminated thermosetting plastic sheeting, polyvinyl sheeting with welded seams or similar impervious material which is adhered directly to the wall. The finishing materials of the wall surfaces shall provide a smooth even surface free from buckles, ledges, fixing screws, picture rails, open joint spaces, cracks or crevices.
- b) The intersection of walls and plinths with floors in the kitchen, food preparation, storage and display areas shall be coved with a minimal 25mm radius.
- c) The floors within the kitchen, food preparation, storage and display areas shall be constructed of a suitable material which is nonslip, durable, resistant to corrosion, nontoxic, non-absorbent and impervious to moisture. Floors which drain to a floor waste shall be evenly graded (at least 1:100) so that water falls to the floor waste.
- d) The surface finish of the ceiling shall not be perforated and shall be finished in an impervious material which is free from open joints, cracks, crevices, (in accordance with AS 46742004, acoustic and decorative panels are not to be used in wet areas, food preparation areas, bin storage areas or other areas where open food is displayed or served). The ceiling over the food preparation, storage and display areas shall be painted with a washable paint of a light colour. The intersection of walls and the ceiling shall be tight jointed, sealed and dustproof.
- e) All surfaces of counters, bars, food display units, window display, self –service displays and bainmaries shall be smooth, durable, impervious and free from cracks, crevices and cavities. The underside shall have an impervious finish. Window displays for wet foods shall be coved at all intersections and installed in accordance with AS/NZS 3500.2.2003.
- f) A double bowl sink or two compartment tub which is of a size capable of fully immersing the largest piece of equipment shall be provided with hot and cold water supplied through a single spout in the kitchen/food preparation area. Double bowl sink or tubs shall be supplied with water of at least 45 o C in one

bowl for washing purposes; and 80 °C in the other bowl for sanitising purposes if hot water sanitising occurs at the sink.

- g) Hand wash basins shall be located so that they are not obstructed, are at bench height either permanently fixed to a wall, supporting frame or sunk into the bench top, accessible and no further than 5 metres (excluding toilet hand basins) from any place where food handlers are handling open food, in the parts of the premises where open food is handled, in utensil/equipment washing areas, in staff entrance to areas where open food is handled and in toilet cubicles or immediately adjacent to toilets. Hand basins shall have a permanent supply of warm running potable water delivered through a single outlet and taps which operate hands free shall be provided at all hand basins with sufficient space between the spout and base of basin for the washing of hands and arms.
  - h) All hand basins shall be provided with soap and a towel dispenser for dispensing transfer of pathogenic microorganisms to the hands or arms (air dryers as the only means of drying hands shall not be permitted). A receptacle for used towels shall be provided at the hand wash basin.
54. Rooms and areas designated for the storage and washing of garbage receptacles shall be designed and constructed in accordance with the following requirements;
- a) The floors and walls shall be constructed of a suitable material which is durable, smooth, resistant to corrosion, impervious to moisture and coved with a minimum radius of 25mm at the intersection of walls with floors
  - b) The floor shall be graded and drained to a floor waste gully connected to the sewerage system and traps of the premises in accordance with all Sydney Water requirements
  - c) Provide a hose tap connected to the water supply. Water used for cleaning garbage receptacles may be either potable or non potable water.
  - d) The room shall be ventilated with either natural ventilation or alternatively mechanically ventilated in accordance with the requirements of Australian Standards AS 1668.
55. The Accredited Certifier shall not issue a Construction Certificate until all structural or equipment requirements for food premises specified in the conditions of development consent, the structural requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 “Design, Construction and Fitout of Food Premises” have been incorporated in the plans and specifications for the Construction Certificate.
56. Each bedroom and studio room must be numbered and there must be displayed clearly on the door of or in each bedroom the maximum number of persons allowed to be accommodated in the bedroom.
57. All fixtures, fittings, furniture, shall be constructed of durable, smooth, impervious materials capable of being easily cleaned. All parts of the premises and all appurtenances (including furniture, fittings, bedsteads, beds and bed linen) must be kept in a clean and healthy condition, and free from vermin.
58. If the place is one in which persons may board or lodge for 7 days or longer, an adequate number of beds (each provided with a mattress), adequate storage space and blinds, curtains or similar devices to screen bedroom and dormitory windows for privacy must be provided for the occupants.
59. The Principal Certifying Authority shall not issue a Construction Certificate until a detailed acoustic assessment /report of all mechanical plants (ventilation systems,

exhaust fans, ventilation fans and condenser units) and equipment including airconditioners which meet the NSW EPA Noise Policy for Industry (2017) and Protection Of Environment Operations Act 1997 noise emission criteria for residential air conditioners as specified in Development Application Acoustic Assessment for 6-8 John Street & 13B Church Avenue, Mascot by Acoustic Logic – Project ID 20191049.1 Document Reference 20191049.1/0904B/R1/JM dated the 9 April 2020 has been carried out.

The acoustic assessment / report shall include at least the following information:

- a) the name and qualifications or experience of the person(s) preparing the report
- b) the project description, including proposed or approved hours of operation, all mechanical plants (ventilation systems, exhaust fans, ventilation fans and condenser units) and equipment including air conditioners for the premises
- c) relevant guideline or policy that has been applied
- d) results of background and any other noise measurements taken from most noise affected location at the boundary line
- e) meteorological conditions and other relevant details at the time of the measurements
- f) details of instruments and methodology used for noise measurements (including reasons for settings and descriptors used, calibration details)
- g) a site map showing noise sources, measurement locations and potential noise receivers
- h) noise criteria applied to the project
- i) noise predictions for the proposed activity
- j) a comparison of noise predictions against noise criteria
- k) a discussion of proposed mitigation measures, the noise reduction likely and the feasibility and reasonableness of these measures
- l) how compliance can be determined practically

The report shall be prepared by a suitably qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants). It shall be submitted to the Principal Certifying Authority. All recommendations and/or noise mitigation measures (If applicable) shall be complied with.

- 60. 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 must be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor must review and endorse any additional investigation and remediation proposed prior to the commencement of any works. Evidence of this appointment must be provided to council prior to the issue of the relevant construction certificate.
- 61. To ensure that the Remedial Action Plan (RAP) proposed for the site are sufficient to enable the site to be made suitable for the proposed student accommodation development, an Interim Site Audit Advice must be completed by the accredited site auditor under the Contaminated Land Management Act 1997 and must be submitted

to Council clearly demonstrating that any proposed remediation and management is appropriate to make the development suitable for the proposed uses. This must be provided prior to the issue of any construction certificate for excavation or construction.

62. Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater 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 (SMTG) 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. All drawings shall correspond with the approved architectural plans.

The detailed design stormwater plans must incorporate, but not be limited to, the following:

- a) The stormwater management provisions generally made in the CIVIL DA REPORT prepared by entruct group pty ltd, Project No: 5899, Rev D, dated 25/03/2020 and the conceptual civil plans prepared by entruct group pty ltd for project number 5899 in the following table;

drawing no.	drawing title	rev.	date
ENS-CV-0001	COVER SHEET – DRAWING LIST	02	24/09/19
ENS-CV-0002	GENERAL NOTES	02	24/09/19
ENS-CV-0101	SITE PLAN	03	08/04/20
ENS-CV-0401	SEDIMENT AND EROSION CONTROL PLAN	02	24/09/19
ENS-CV-0451	SEDIMENT AND EROSION CONTROL DETAILS	02	24/09/19
ENS-CV-0501	PAVEMENT PLAN	04	08/04/20
ENS-CV-0801	DETAILS – SHEET 1	02	24/09/19
ENS-CV-0802	DETAILS – SHEET 2	02	24/09/19
ENS-CV-0803	DETAILS – SHEET 3	02	24/09/19
ENS-CV-0804	DETAILS – SHEET 4	03	08/04/20

along with the provisions/documentation/revisions detailed below:

- b) All detailed stormwater drawings shall be updated to correspond with the approved architectural plans and other relevant conditions of consent, and
- c) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the “State of Nature” condition (i.e. the site is totally grassed/turfed), rather than pre-development condition, and
- d) Emergency overflow shall be provided for within the OSD design, and

- e) The stormwater discharge from the site shall connect via gravity discharge to a new junction pit on Church Avenue to Council infrastructure specifications as part of the development, and
  - f) Heavy duty drainage grates shall be provided on the driveway at the boundary, and
  - g) A minimum capacity 10000L of Rainwater Tank(s) shall be provided for the site. Only roof water shall be directed to the rainwater tank. Overflow from the rainwater tank shall be directed to the site drainage system. The rainwater tank(s) must be designed to be connected to all outdoor landscape irrigation along with all communal lower ground floor & upper ground floor toilets within the development, and
  - h) All subsurface structures must be designed in accordance with Botany Bay DCP Part 10 Stormwater Management Technical Guidelines Section 7. No groundwater seepage is permitted be drained from the subsurface structure out of the site, and
  - i) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG, and
  - j) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site, and
  - k) A WSUD Strategy and MUSIC model must be prepared and submitted for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
  - l) Detailed calculations including computer modelling supporting the proposal.
63. Prior to the issue of any Construction Certificate, a qualified practicing chartered professional geotechnical engineer registered with the NER must:
- a) Review the recommendations and assessment in the geotechnical investigation report prepared by JKGeotechnics, ref 32293LJrpt2Rev1, dated 30 August 2019, conduct any further geotechnical testing and assessment of the site as required and ensure the appropriate recommendations are implemented into the construction certificate plans and documentation,
  - b) Provide detailed recommendations to allow the satisfactory implementation of the works:
    - (i) The appropriate means of excavation/shoring in light of proximity to adjacent property and structures is to be detailed,
    - (ii) Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated,

- (iii) Review the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site),
- (iv) An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages, and
- c) Provide a certificate that the construction certificate plans and documentation are satisfactory from a geotechnical perspective, and
- d) Certify the proposed method to temporarily and permanently support any excavation adjacent to adjoining property, structures and road reserve,
- e) 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. The report must be submitted with the application for a Construction Certificate for the relevant stage of works, and
- f) Inspect the works as they progress at frequencies determined by the geotechnical engineer, an inspection schedule is to be prepared.

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.

64. Prior to the issue of any Construction Certificate, a certificate from a practicing Structural Engineer, registered with the NER, must be submitted to the Principal Accredited Certifier stating that the subsurface structural components located on the boundary of the public road and neighbouring properties, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads. An engineering design certificate is required to be submitted for the design of the shoring wall. The certificate shall be issued by a Chartered Professional Engineer competent in Structural engineering.

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

65. Prior to the issue of the Construction Certificate, if neighbouring properties or roadway are to be utilised for excavation support, the legal rights of any adjoining properties must be respected including for permanent and temporary excavation supports. In this regard, the written permission of the affected property owners must be obtained and a



copy of the owner's consent for excavation support or other material in adjacent lands must be lodged to the principal certifier.

Where excavation support materials are proposed to be used in public land, an application must be made to Council or the relevant road authority for approval under Section 138 of the Roads Act 1993, via a permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified engineer, with supporting details addressing the following issues:

- a) Demonstrate that any structures will not adversely affect public infrastructure, and the proposed supports within the road reserve are of an adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross-sectional details where appropriate.
- b) The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.

66. Prior to the issue of any Construction Certificate, the following changes are to be made and shown on the construction certificate plans and documentation:

- a) The bicycle storage in the lower ground floor plan must be enlarged to accommodate 145 bicycle parking spaces designed in accordance with AS2890.3:2015. The enlargement shall not result in the reduction of available space on the lower ground floor plan for residents, and
- b) The floor level of the lower ground floor that is within a habitable area is to be raised to RL 7.70m AHD to comply with the flooding requirements.

The amendments are to be undertaken to the satisfaction of Bayside Council.

67. Prior to the issue of the 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 space on the rooftop. The cells shall not exceed the applicable height limit for the site as prescribed by the Botany Bay LEP 2013.
- b) Sensor controlled and zoned internal lighting and air conditioning.
- c) Maximisation of non-potable stormwater re-use in landscape irrigation and the communal toilets on the lower and upper ground floor of the development.

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

68. Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to, assessed and approved by the Principal Accredited Certifier:

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

- b) All service vehicles shall enter the property front in front out, and
  - c) A longitudinal section plotting headroom clearance along the travel path is to be provided for assessment, and
  - d) Demonstrate 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
  - e) Swept path analysis shall be provided for manoeuvring of MRV commercial vehicles, depicting a reverse entry and forward exit manoeuvre to/from the loading dock proposed within the development, and
  - f) Sight distances throughout the development must be in accordance with Australian standards, and
  - g) Certification of the above requirements and strict compliance with AS2890.2:2018 is to be provided by a suitably quailed engineer experienced in traffic & parking design.
69. A suitably qualified engineer 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, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of the construction certificate.
70. Prior to the issue of the Construction Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer, must be provided for the development. The flood impacts on the site and surrounding area shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The Plan must make provision for 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.
  - b) Flood warning signs/depth indicators for areas that may be inundated.
  - c) A flood evacuation strategy.
  - d) A flood awareness strategy.
  - 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.
71. The Final Landscape Plan and Lower Ground Floor Plan 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 Bayside Council's Landscape Architect prior to the issue of the Construction Certificate. The landscape documentation shall include, but not be limited to:
- a) *Landscape treatment within central courtyard and eastern boundary:*

- (i) The planter bed along eastern boundary shall be 3 meters in the widest area, and 2.5 meters in the most narrow area adjacent the Gym, excluding the area adjacent to the stairs which will be a narrow planter bed as shown in the approved plans. Pedestrian link to the east of the gym which leads to the gym courtyard shall be deleted and replaced with deep soil buffer planting. The gym courtyard is to be accessed from within the gym only. Soil levels along the boundary shall seek to retain the existing ground level. If levels are required to be changed, details and sections of treatments shall be provided for assessment.
  - (ii) A minimum of one large canopy tree to reach a minimum mature size of 15 meters shall be included in the wider area of the planter bed or in the central area. The tree shall be planted at minimum 200 litres pot size.
  - (iii) One medium to large canopy tree will be planted in the north eastern corner of the planter/site. Tree shall be capable of reaching minimum 7 meters height at maturity in local conditions. Tree shall be planted at minimum 200 litres pot size.
  - (iv) Eastern boundary setback must include screening small leaves shrubs capable to reach a minimum mature height of three metres, and must include trees and shrubs. Palms do not provide an appropriate buffer along the side setback.
- b) *John Street landscape setback*
- (i) From the 34 m meters long and 3 meters wide landscape setback along John Street, at least 17 meters of frontage shall include the full width of setback as deep soil planting provision with a minimum measurement of three meters. To reduce the hardstand areas within the deep soil entry access stairs and landing to lounge area shall be reduced.
  - (ii) The landscape treatment of this setback shall include canopy trees and understorey maximum height of 900mm to comply with CPTED principles. At the moment the landscape plan shows some kind of tree in the graphics, but is not indicating which tree species is proposed. This setback shall include a minimum of four (4) canopy trees capable to reaching a minimum mature height of 6 meters in local conditions.
  - (iii) Planter along the frontage setback shall reach the boundary line. In general a clear definition of private and public land shall be define in the interface with public domain. Approved plans present 500mm of the setback to be public domain footpath, this is not desirable, clear delineation of public and private areas is desirable.
- c) *Include relevant details to the development:*
- (i) 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, tactile and sectional construction details.
  - (ii) Details of all fences and retaining walls in particular when located along boundaries, or when impacting or visible to public domain areas.

- (iii) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, bins, bollards.
  - d) A *Landscape Maintenance Schedule* shall be submitted that covers a 12 month period to provide a guide to the landowner or occupier on how to best maintain the constructed landscaped areas; and include the following information: shrub pruning/trimming (frequency, plant requirements); Fertilising and pest control (soil testing, types, rate, frequency); Mulching, weeding and soil improvement (frequency, materials); Irrigation (checks, adjustments); tree maintenance (fertilising, mulching, tree stakes adjustments, special tree requirements); Maintenance of hard landscape elements (paving, edges, walls, pergolas, seats, and planter box walls); and planter boxes/roof gardens/green wall (specialised maintenance requirements).
  - e) 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.
  - f) All areas to be used at night shall be well lit (including pedestrian pathways, laneways, access routes and entrances).
72. Prior to the issue of a Construction certificate, the applicant shall submit a Frontage Works Application. Public domain landscape improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan.
- a) John Street, shall include new street trees: *Corymbia maculata* along verge, between parking lane and footpath, and *Ulmus parvifolia* "Todd" within road blisters, located in line with parking lane. Pot size supplied shall be not less than 200 Litre. Height above container 3.5meters, calliper at 300mm greater than 60mm, with a clear trunk height of 1.5 meters.
  - b) Each new Street tree shall include a 50mm diameter slotted watering pipe with geotextile sleeve around rootball connected to watering grate (or kerb hole if WSUD option used) Root Rain Urban or equivalent
  - c) An experienced Landscape Contractor shall be engaged to undertake all landscaping public domain work and shall be provided with a copy of both the approved CC landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.

- d) New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, biannual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.

### **DURING WORKS**

#### **73. Community Reference Group**

- a) Meetings are to be held once a month between the developer/representative and community members.
- b) The developer (or its representative) is to issue letters to each of the surrounding developments at least 7 days before the meeting is to be held.
- c) Meetings are to generally run in accordance with the NSW Community Consultative Committee Guidelines provided by the Department of Planning, Industry and Environment.
- d) Details of the developer/operator are to be provided to the community members in the instance there are complaints during the construction and post construction process.
- e) All meetings are to be minuted and minutes are to be distributed to all community committee members who will be responsible for distributing or making available to their respective buildings/owners

74. The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before any works commence.

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

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

77. Dewatering is not permitted on this site without NSW-EPA approval.

#### **78. 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 (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- 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.

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

- a) Building 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.
- 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.
- c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- d) Building 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.
- 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.
- 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
  - ii. cover stockpiles
  - 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.
- h) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site.
- 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.
- j) Access to the site shall be restricted to no more than two 3m driveways off John Street. 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 2 metres to remove mud from the tyres of construction vehicles.

- 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. Separate permits are required to be obtained and approved by Council for all works including but not limited to road and footpath closure, stand and operate a registered vehicle or plant, occupy road with unregistered item, work zone, hoarding, shoring support (anchoring), tower crane operation, public land access, temporary dewatering, and any excavation and works proposed to be undertaken on public land.
81. In order to ensure the design quality excellence of the development is retained:
- a) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
  - b) 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;
  - c) Evidence of the design architect's commission is to be provided to Bayside Council prior to the issue of the Construction Certificate.
  - d) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
82. The approved Waste Management Plan shall be complied with at all times during excavation, construction and on-going use of the site.
83. 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.
84. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
85. During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
86. If the work involved in the construction of a building:
- a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,

- b) involves the enclosure of a public place:
    - (i) a hoarding or fence must be erected between the work site and the public place.
    - (ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
    - (iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
    - (iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
  - c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
87. Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain.
88. Consent is granted for the removal of one (1) *Araucaria columnaris* (Cook Pine) from the site. To offset the removal of the Cook Pine, the applicant is to incorporate a replacement Cook Pine of 100 Litre bag size in the landscaping design and will be planted within the deep soil zone of the proposed development. The developer is to supply Council with an additional Cook Pine of similar size which will be planted in the Public Domain at a location to be determined by Council.
89. 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
90. To ensure that relevant engineering and water quality provisions are met during the period of any temporary dewatering associated with 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.
91. 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 site works 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 site 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 professional engineer, 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 professional engineer to prevent any further damage and restore support to the supported land.

Note: Professional engineer has the same mean as in Clause A1.1 of the BCA. Note: Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure". Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

92. Vibration levels induced by the excavation and construction 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.

93. Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the *Protection of the Environment Operations Act 1997*.

**a) Level Restrictions**

Construction period of 4 weeks and under:

the  $L_{10}$  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 20 dB(A).

Construction period greater than 4 weeks and not exceeding 26 weeks:

the  $L_{10}$  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).

**b) Time Restrictions**

Construction/excavation work shall be limited to the following hours:

Monday to Friday: 07:00 am to 05:00 pm

Saturday: 08:00 am to 01:00 pm

No Construction to take place on Sundays or Public Holidays.

**c) Silencing**

All possible steps should be taken to silence construction site equipment.

94. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
  - b) Each toilet provided:
    - i) must be standard flushing toilet; and,
    - ii) must be connected:
      - 1 to a public sewer; or
      - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
      - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
  - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

95.

- a) Existing building elements such as steel framed windows, cast zinc letters, doors and equipment should be salvaged as far as possible and consideration given to reuse for interpretation purposes or these elements being offered for sale or reuse.
- b) 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.
- c) Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- d) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- e) The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
- f) During, 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 excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.

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

96. Construction related activities must not take place on the roadway without Council approval.

Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Construction Zone signs by the Services NSW.

Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

97. Any new information that comes to light during excavation 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 must 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).

98. 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) 'Remedial Action Plan, 13B Church Avenue and 6-8 John Street, Mascot, NSW', (Report 56108/125048 Rev 0), by JBS&G, dated 8 October 2019, or as amended.
- e) 'Asbestos Management Plan, Redevelopment of 13B Church Avenue and 6-8 John Street, Mascot, NSW', (Report 56108/125046 Rev 0), by JBS&G, dated 8 October 2019, or as amended.

99. For any water from temporary site dewatering to be permitted to go to the stormwater system, the water must meet the relevant default guideline values (DGVs) in Australian & New Zealand Guidelines for Fresh & Marine Water Quality (ANZG 2018). All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person

indicating the water is acceptable to be released into 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.

100. To ensure that relevant engineering and water quality provisions are met during the period of temporary 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. Temporary dewatering must not commence until this is issued by council. Permanent dewatering is not permitted.
101. All materials excavated from the site (fill or natural) must 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.
102. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill must be appropriately certified material and must be validated in accordance with the:
  - a) NSW Environmental Protection Authority (EPA) approved guidelines; and
  - b) Protection of the Environment Operations Act 1997; and
  - c) Protection of the Environment Operations (Waste) Regulation 2014.

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

103. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements must be made available to Council Officers on request throughout the remediation and construction works.
104. The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the 'Acid Sulfate Soil Management Plan, 13B Church Avenue and 6-8 John Street, Mascot, NSW', (Report 56108/125050 Rev 0), by JBS&G, dated 8 October 2019, or as amended.

#### **CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

105. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
106. All applications associated with works on 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 Council.
107. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.

108. Prior to the issue of an Occupation Certificate, the underground placement of any low and/or high voltage street electrical mains in the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner. Appropriate and suitable street lighting shall be provided in accordance with Council's Specification to the Church Ave and John Street frontage of the site as necessary, so as to provide safety and illumination for residents of the development and pedestrians in the area. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.
109. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works, at no cost or expense to Council:
- a) On John Street and Church Avenue, adjacent to development, remove redundant driveway crossovers and provide required tree planting and public domain improvements as specified by Council in accordance with Council's Landscape Architect, Mascot Station Precinct Masterplan and Council Infrastructure Specifications, and
  - b) On John Street and Church Avenue, adjacent to development, demolish existing kerb and gutter and construct new kerb & gutter for the full length of the property in accordance with the Mascot Station Precinct Masterplan and Council Infrastructure Specifications, and
  - c) On John Street and Church Avenue, adjacent to development, demolish existing footpath and construct new paved footpath as per Council's Infrastructure, Landscape Architect and Mascot Station Precinct Public Domain Specifications, and
  - d) On John Street and Church Avenue, adjacent to development, construct new asphalt sheeting of half road width including construction of new road pavement and reconstruction of any damaged road pavement along the entire frontages of the development site in accordance with Council's Infrastructure specifications, and
  - e) On John Street, adjacent to development, construct new underground supplied Ausgrid lighting poles to provide suitable street lighting to the frontages of the site, so as to provide safety and illumination for residents of the development and pedestrians in the area (this shall include the Church Avenue frontage of the site if deemed necessary by council). All street lighting shall comply with relevant electricity authority guidelines and requirements, and
  - f) On Church Avenue, adjacent to development, construct new junction pit and associated stormwater pipe, connecting to existing stormwater infrastructure in Church Avenue to Council infrastructure specifications, and
  - g) On Church Avenue, adjacent to development, construct new 6m wide access driveway crossing layback to Council infrastructure specifications, and

All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be constructed to the satisfaction of Bayside Council.

110. The public footpaths on John Street and Church Avenue shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The

footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).

111. Prior to completion of the building works, a new full width vehicular entry is to be constructed to service the property. All obsolete vehicular entries are to be removed and reconstructed as per Council requirements.
112. The applicant is responsible for the protection of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
113. Prior to the issue of any Occupation Certificate(s), inspection reports for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
114. Prior to the issue of any Occupation Certificate, at no expense to the Council and generally in accordance with approved plans (refer to Condition 1), dedicate the portion of land to Bayside Council for the purpose of widening John Street and Church Avenue. The areas of the land to be dedicated shall be the full length of the John Street and Church Avenue frontages of the development site and as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Bayside Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. Bayside Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land Titles Office. A copy of the registered document must be submitted to Bayside Council for record purposes prior to occupation.
115. Prior to the issue of any Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
116. Prior to the issue of any Occupation Certificate, the Principal Certifier must ensure that the vehicular access and off street parking facilities have been constructed in accordance with the approved construction plans, AS2890.2 and AS2890.3 line marked and all signage erected. The car parking area is to be clearly and appropriately marked/signposted indicating all the vehicular movements on the site.
117. Prior to the issue of any Occupation Certificate, a registered plumber's certification that the Rainwater Tank Re-use system(s) have connected for non-potable stormwater re-use including all toilet flushing in the communal lower and upper ground floor toilets and landscape irrigations must be provided.
118. Prior to the issue of any Occupation Certificate, a Chartered Professional Engineer competent in geotechnics shall certify that the construction works have been constructed in accordance with the approved geotechnical report/recommendations

and include an evaluation of the completed works. A copy of the certificate shall be supplied to the Principal Certifying Authority.

119. Prior to the issue of any Occupation Certificate, a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Botany Bay DCP Part 10 Stormwater Management Technical Guidelines. The certificate shall include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
120. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- a) Positive Covenant for on-site waste collection by private commercial waste collection service.
  - b) Positive Covenant and Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
  - c) Positive Covenant and Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

*The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.*

121. Prior to the issue of the Occupation Certificate, the approved Green Travel Plan and Transport Access Guides (TAGs) is to be made available to all occupants when requested. Posters are to be displayed in all communal areas advising availability of the Green Travel Plan and TAGs at the front counter. Details & evidence are to be provided to the satisfaction of the principal certifier prior to occupation.
122. All vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to a prominent place near the loading dock on the site, approved by the principal certifier, warning pedestrians of the dangers associated with truck and passenger vehicular movements in the driveway access to Church Avenue. Another plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to a prominent place within the loading dock stating the following "All vehicles (including deliveries and garbage collection) shall enter the loading bay utilising a reverse manoeuvre and exit the loading bay in a forward direction".
123. Prior to the issue of an 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/night-time deliveries, methods to avoid congestion of service vehicles, how the vicinity will be managed, driver safety training, pedestrian safety management, safe vehicular manoeuvres for the loading dock, forward entry and exit requirement for the site and general mitigation measures to prevent amenity impacts to neighbouring properties. The plan shall be prepared by



a suitably qualified professional traffic engineer and shall be submitted to the Principal Accredited Certifier for assessment and approval.

124. 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. It is not permitted for any waste/recycling from the development to be collected (or displayed for collection) from any street frontage.
125. The approved flood risk management plan and all recommendations from the flood awareness strategy are to be implemented within the development prior to the issue of the Occupation Certificate. A copy of the flood risk management plan is to be kept at the Front desk. Details & evidence are to be provided to the satisfaction of the principal certifier prior to occupation.
126. Prior to the issue of the Occupation Certificate, at least 145 bicycle spaces are to be provided at the lower ground floor level.
127. Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval.
128. Written Council approval of completed public domain works is required prior issue of any Occupation Certificate for the development.
129. Trading shall not commence until a final fit out inspection has been carried out by Council's Environmental Health Officer and all health (food) related conditions of consent have been complied with. Council's Environmental Health Officer shall be given 2 business days advance notice of an inspection.
130. Prior to issue of Occupation Certificate the applicant shall submit to the Principal Certifying Authority (PCA) an acoustic compliance report to verify that the measures stated in the 'Development Application Acoustic Assessment for 6-8 John Street & 13B Church Avenue, Mascot by Acoustic Logic – Project ID 20191049.1 Document Reference 20191049.1/0904B/R1/JM dated the 9 April 2020', including to the rooftop areas and all other noise mitigation measures associated with the mechanical plants (ventilation systems, exhaust fans, ventilation fans and condenser units) and equipment including airconditioners have been carried out and certify that the construction meets the above requirements. If Council is not the PCA, a copy shall be submitted to Council concurrently. The report shall be prepared by a suitably qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
131. The premises shall be registered with Councils Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.
132. The occupier of the food premises shall provide a Food Safety Supervisor (FSS) for the business. The original FSS Certificate must be kept on the premises. For further information regarding FSS, visit the NSW Food Authority website at [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au).
133. A Stage 4 – Site Validation Report (SVR) must be prepared by a suitably qualified contaminated land consultant and must 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 must 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 must 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.

- 134. 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* must be submitted to council clearly demonstrating that the site is suitable for the proposed development. This must 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 must 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, an application to amend the consent pursuant to the *Environmental Planning & Assessment Act 1979* must be submitted to ensure that they form part of the consent conditions.
- 135. Prior to issue of an Occupation Certificate for the development an application for Property Address Allocation and associated fee are required to be submitted to Council. All determination of address numbers are in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and NSW Address Policy and User Manual. The form is available for download at Bayside Council website.
- 136. Prior to issue of any Occupation Certificate, the following must be complied with:
  - a) All landscape works are to be carried out in accordance with the approved Construction Certificate landscape plans by Council for the approved development. The landscaping is to be maintained to the approved standard at all times.
- 137. 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.
- 138. Prior to the issue of the Occupation Certificate, a positive covenant shall be registered on the Title of the site which acknowledges that:
  - a) The development is restricted to student accommodation.
  - b) The terms of such positive covenant shall be provided that it can only be varied by Bayside Council.
- 139. A separate application must be made for a subdivision certificate to consolidate Lot 2 in DP 547700, Lot 8 in DP 939729, Lot 9 in DP 939729. The application is to be accompanied by:
  - a) Linen plans with six (6) copies and appropriate fees. The linen plans must include details of any easement or encroachments and include a Section 88B Instrument under the Conveyancing Act, 1919.

- b) Documentary evidence demonstrating full compliance with all conditions of this Development Consent No.2019/385 and all pertinent Development Consent(s) and Section 4.55 Application(s) related to the subject allotment.
140. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.
141. Prior to the issue of the Occupation Certificate,
- a) the operation plan is to be amended to update the hours of operation of the outdoor rooftop terrace on the Southern Building from 9am to 8pm, 7 days a week.
  - b) the operation plan and house rules is to be amended to demonstrate that no resident or visitor of the premise is to access the development from Church Avenue. All pedestrian and bicycle access to the development should be carried out from John Street. Suitable signage to include the point of access for residents and visitors are to be installed in a suitable location near the front and side entry (except in case of emergencies).
  - c) ***the operation plan and house rules are to be amended to demonstrate that no ball games are permitted within the communal rooftop area on the northern building.***

***[Amendment B – Section 4.55(2) – Amended on 6 May 2021]***

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

142. The Community Reference Group shall continue meeting for a period of two years after the date of issuing the Occupation Certificate to address any concerns raised by the interested parties.
143. The proposed student accommodation/boarding house shall be accommodated by 435 rooms, and a maximum occupancy of 435 persons. One visitor is permitted within the studio rooms, however no visitors are permitted for the cluster rooms.
144. Adopt and implement all recommendations contained in the acoustic report prepared by Acoustic Logic, as amended.
- 145.
- a) The outdoor central garden/terrace/BBQ at the lower ground level is only permitted to be used between 9am to 10pm, 7 days a week with a maximum of 100 people in the area at any one time. Smoking and loud noise, including music is prohibited. Management is responsible for locking the area off at 10pm.
  - b) The outdoor terrace fronting John Street (Southern Building) is only permitted to be used between 9am to 8pm, 7 days a week. Smoking and loud noise, including music is prohibited. Management is responsible for locking the area off at 8pm. Appropriate lighting is to be provided.
  - c) The communal open space rooftop area (Northern Building) is only permitted to be used between 9am to 6pm, 7 days a week. Smoking and loud noise, including music is prohibited. Management is responsible for locking the area off at 6pm. Additional

external lighting will not be provided to the communal open space area. **Ball games are prohibited in this area at all times.**

The operation plan is to be abided by both staff and residents of the premise.

**[Amendment B – Section 4.55(2) – Amended on 6 May 2021]**

146. All students, student guest or employees must not congregate outside the front entry on John Street Mascot or at the rear of 13B Church Avenue Mascot.
147. No amplified/ stereo/music/ speakers/ assembly speeches are permitted in all outdoor terrace (North and South including areas Roof Garden, Central Garden (Events Space and Courtyard forest), Garden Lane and Active Roof areas), Barbeque area, multipurpose sports area outdoor areas and all other external areas.
148. No parties are allowed in the external areas at lower ground level after 10pm, and on the rooftop levels after 6pm.
149. All signs are not to be flashing or create any adverse impacts onto the neighbouring residential developments.
150. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking, the rainwater tank 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.
151. The operation of the development and movements of vehicles shall comply with the following requirements:
  - a) All vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction;
  - b) All commercial vehicles (including deliveries and garbage collection) shall enter the loading bay utilising a reverse manoeuvre and exit the loading bay in a forward direction;
  - c) Loading and unloading activities associated with the delivery shall take place wholly within the dedicated loading areas;
  - d) All garbage collection activities shall take place and be wholly undertaken within the site in the dedicated loading areas by a private commercial waste collection service;
  - e) All manoeuvring movements of vehicles shall be carried out wholly within the site and vehicle manoeuvring area shall be kept clear at all times;
  - f) The maximum size of vehicle accessing the site shall be limited to an 8.8m long Medium Rigid Vehicle (MRV) (as denoted in AS2890.2:2018).
152. 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 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.

153.

All tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.

Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, such as on a the notice board in the communal room, where it can easily be observed

154. Ongoing maintenance of the road verges and footpaths on John Street and Church Avenue shall be undertaken by the owner/operator of the development. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.

155. A full time manager or resident/student leader or security officer is to be present on the site at all times.

156. The approved operations plan/Plan of Management for the site shall be complied with at all times during the use and operation of the premises. The occupants and staff of the premises shall be provided with at least one copy of the House Rules. An additional copy of the House Rules shall be displayed in a secure, publicly visible and accessible position within the premises.

The operation of the Premises shall comply with the following:

a) Hours of operation of areas, and

b) Amenity of Neighbourhood, and

c) Complaints Management:

(i) Complaints Log - The manager/resident/student leader is to keep a log of the premises hours of operation, and details of complaints and incidents associated with the student accommodation. This is to include complaints from neighbouring developments, and

(ii) Managing Complaints - The manager/resident/student leader is the responsible person for the communication with any resident's complaints. All residents shall be notified of the telephone number to call in the event of any complaint. This is to include complaints from neighbouring developments.

157. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.

158. No garbage collection associated with the development is permitted between 10pm and 6am.

159. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.
160. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975*, and *AS2201, Parts 1 and 2 - 1978 Intruder alarm systems*.
161. The use of the premises shall not give rise to any of the following when measured or assessed at “sensitive” positions within any other property. These “sensitive” positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
  - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
  - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
  - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
162. Public access to the through-site link shall be available 24 hours a day, 7 days a week.