

Draft Modified Conditions of Consent

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.*

Plan/Dwg No.	Drawn by	Dated
Site Plan / DA_1000 5	AJC	8 March 2023
Demolition plan / DA_1100 A	AJC	13 September 2016
Development site plan / DA_1101 2	AJC	2 September 2021
Land dedication plan / DA_1102 2	AJC	2 September 2021
Basement Level Plan / DA_2001 17	AJC	8 March 2023
Ground level plan / DA_2100 6	AJC	8 March 2023
Mezzanine Level / DA_2101 3	AJC	8 March 2023
Level 01 plan / DA_2102 16	AJC	8 March 2023
Level 02 + 03 plans / DA_2103 13	AJC	8 March 2023
Level 04 + 05 plans / DA_2105 11	AJC	28 September 2021
Level 06 + 07 plans / DA_2107 11	AJC	28 September 2021
Level 08 + 09 plans / DA_2109 11	AJC	28 September 2021
Level 10 + 11 plans / DA_2111 11	AJC	28 September 2021
Level 12 + Roof Plan + Open Garden Shade Structure / DA_2112 10	AJC	2 September 2021
Roof plan / DA_2113 2	AJC	22/12/21
North + south elevations / DA_3101 10	AJC	8 February 2023
East Elevation / DA_3102 10	AJC	8 February 2023
West elevation / DA_3103 10	AJC	8 February 2023
Internal elevations / DA_3104 10	AJC	8 February 2023
Section A&B / DA_3201 13	AJC	8 March 2023
Section C&D / DA_3202 9	AJC	8 March 2023
Apartment Schedule / DA_5000 7	AJC	28 September 2021
Adaptable Apartment Plans 1 / DA_5200 4	AJC	28 September 2021
Apartment Plans / DA_5201 3	AJC	28 September 2021
Materials + finishes / DA_8500 4	AJC	2 September 2021
Signage schedule / DA_8801 2	AJC	2 September 2021
Materials and Finishes Schedule / L002 B	Oculus	3 February 2023
Master Plant Schedule / L003 B	Oculus	3 February 2023
Site Plan / L004 B	Oculus	3 February 2023
Surface Finishes Ground Floor / L201 D	Oculus	3 February 2023
Surface Finishes Ground Floor / L202 B	Oculus	3 February 2023
Surface Finishes Level 4 / L203 B	Oculus	3 February 2023

Plan/Dwg No.	Drawn by	Dated
Sections and Elevations / L700 B	Oculus	3 February 2023
Sections and Elevations / L701 A	Oculus	12 June 2020
Sections and Elevations / L702 B	Oculus	3 February 2023
Sections and Elevations / L703 B	Oculus	3 February 2023
Sections and Elevations Roof Level / L704 B	Oculus	3 February 2023
Landscape Details / L 801 A	Oculus	12 June 2020
Landscape Details / L 802 A	Oculus	12 June 2020
Landscape Details / L 803 A	Oculus	12 June 2020

Reference Document(s)	Author	Dated
Acid Sulfate Soil Management Report Project 73738	Douglas Partners	21 December 2014
Revised Acoustic Assessment, Ref 20220221.2/2802A/R0/HD	Acoustic Logic	28 February 2022
BASIX Certificate 595120M_05	Building & Energy Consultant Australia	8 February 2022
Construction Environmental Management Plan Project No. EPC_1412/3	Evolve Project Consulting	December 2014
Erosion and Sediment Control Plan Project No. EPC_1412/3	Evolve Project Consulting Pty Ltd	December 2014
Geotechnical Report Project 73738.01	Douglas Partners	February 2015
Pedestrian Wind Environment Statement WC954-04F01 (Rev 0)	Windtech Consultants	22 June 2021
Site Auditor Letter re: Remediation Action Plan	Environ	30 January 2015
Environmental Site Assessment ENVILCOV00417AA-R01i2	Coffey	12 February 2008
Remediation Action Plan project ref: ENVILCOV00417AA-R02i1	Coffey	19 March 2008
Addendum to Site Flood Study	WMA Water	24 November 2021
Statement of Compliance - Access for People with a Disability Job No. 214374 E	Accessible Building Solutions	19 November 2021
Recycling and Waste Management Plan, Project No. EPC_1412/3, Document No. WMP-R01	Evolve Project Consulting Pty Ltd	September 2016
Schedule of Proposed 50 BTR Apartments	AJC	March 2023

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

2. No construction works shall be undertaken prior to the issue of the Construction Certificate.
3. This Consent relates to land in Lot 10 DP 1219678, and as such, building works must not encroach on to adjoining lands or other public places, other than public domain work or the awning required of this consent.
4.
 - a) **All building work must be carried out in accordance with the provisions of the Building Code of Australia;**
 - b) **All plumbing stacks, vent pipes and downpipes, including balcony drainage and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level; and,**
 - c) **All air conditioning units shall be appropriately treated to ensure that they are concealed from view.**
 - d) **Parking spaces and associated facilities shall be provided and allocated in accordance with the following table:**

Use	Number of Spaces Allocated
Residential apartments (68 apartments)	
Residential apartments 2 bedroom apartments = 46 units 3 bedroom apartments = 22 units	A total of 136 residential car parking spaces allocated as per the following: <ul style="list-style-type: none"> • 2 car parking spaces shall be allocated to each 2 bedroom apartment • 2 car parking spaces shall be allocated to each 3 bedroom apartment
Residential visitor	14 visitor car parking spaces (including 8 EV charging spaces)
Car Wash Bay	1 dedicated car wash bay space
Build-To-Rent (BTR) Housing (50 units)	
BTR apartments 1 bedroom apartments = 32 units 2 bedroom apartments = 18 units	10 car parking spaces
Non-Residential	
Commercial	A total of 8 car parking spaces allocated as per the following: B01 – 2 spaces

	B02 – 1 space B03 – 1 space B04 – 1 space B05 – 1 space B06 – 2 spaces
Others	
Loading Bay	1 MRV space and 1 garbage truck space
Car Share	1 dedicated car share space operated by a commercial car share provider.
Motorcycle parking	
Residential	3 spaces
Bicycle parking	
Residential	38 spaces

The above parking allocation must be always adhered to, complied with, and shall be reflected in any subsequent Strata subdivision of the development. Subdivision of the Build-To-Rent (BTR) apartments and their associated parking spaces is not permitted.

All residential visitor spaces, car wash bays, car share bays and loading bays shall be stated as common property on any Strata plan for the site. All residential accessible parking spaces shall be allocated to adaptable dwelling units.

Any tandem / stacked parking spaces shall be allocated to a single residential / commercial unit only.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

5. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the approved BASIX Certificate are fulfilled.
 - a) Note Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or,
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate;
 - iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

6. 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.

6A. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

6B. Adopt and implement all applicable measures to adhere to the specific noise emission criteria contained in the acoustic report prepared by Acoustic Logic ref: 20220221.2/2802A/R0/HD, dated 28/2/2022.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

6C. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

7. The proposed development is to comply with the conditions dated 12 April 2023 issued by Sydney Trains. Details of the requirements of Sydney Trains are provided below:

- a) ***A1 – Prior to the undertaking of works or the issuing of a Construction Certificate that enables the undertaking of works (whichever occurs first), the Applicant shall undertake a condition and dilapidation survey of all adjoining rail infrastructure and assets (including tunnels and station box). A detailed report of this survey shall be submitted to Sydney Trains for endorsement. The length of rail infrastructure and assets to be surveyed shall be as determined by Sydney Trains. The report shall include, but not limited to:***

- i) Details of defects*
 - ii) Size of cracks*
 - iii) Photos of the defects with labels showing locations on the tunnel wall lining and station cavern wall.*
 - iv) Any signs of wetness, staining and seepage occurring on the defects.*
 - v) A sensitivity analysis depending on the severity of the defects to address actual lining condition.*
 - vi) A risk assessment shall also be undertaken to determine the acceptable risk level based on the outcome of the sensitivity study and dilapidation survey.*
- b) A1 (new) – Prior to the issuing of a Construction Certificate, the Applicant shall prepare and provide to Sydney Trains for review, comment, and written endorsement the following final version rail specific items in compliance with the relevant ASA Standard Development Near Rail Tunnels (<https://www.transport.nsw.gov.au/industry/asset-management-branch>):*
- 1 A final Geotechnical Engineering Report that meets Sydney Trains' requirements. The report shall demonstrate that the development has no negative impact on the rail corridor infrastructure or the integrity of the infrastructure through its loading and ground deformation and shall contain structural report/drawings including rail specific potential impacts and shall contain geotechnical/structural design details/analysis.*
 - 2 A final Numeric modelling analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.*
 - 3 A final Tunnel monitoring plan for review and approval by Sydney Trains (including instrumentation and the monitoring regime during excavation and construction phases).*
 - 4 Detailed Survey Plan showing the relationship of the proposed development with respect to rail land and infrastructure.*
 - 5 Cross sectional drawings (both architectural and structural) showing ground surface, nearest rail tracks & infrastructure, property boundary and/or easement, sub-soil profile, proposed [development/basement excavation] and structural design of sub-ground support (i.e., footings/piles etc.) adjacent to the rail corridor. The measured distance between the proposed development, property boundary and rail asset(s) at the closest point must be shown. All horizontal, RL and vertical measurement are to be verified by a Registered Surveyor.*
 - 6 A Rail Impact Assessment Report that considers:*
 - The construction methodology with construction details pertaining to structural support during demolition and excavation on the tunnel. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.*
 - A craneage plan that confirms that there will be that no loads will be placed onto the rail tunnel.*

The Certifier is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

If required by Sydney Trains, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The Certifier is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- c) **A2 – If required by Sydney Trains, prior to the undertaking of works or the issuing of a Construction Certificate that enables the undertaking of demolition works (whichever occurs first), the Applicant shall submit for Sydney Trains endorsement a Vibration Monitoring Report. This report is to detail, but not limited to:**
- i) proposed monitoring method**
 - ii) proposed monitoring locations**
 - iii) proposed monitoring frequencies**
 - iv) proposed trigger levels and action plans should trigger levels be exceeded**
- d) **A3 – Prior to the undertaking of works or the issuing of a Construction Certificate that enables the undertaking of works (whichever occurs first), the Applicant shall submit for Sydney Trains endorsement the following documentation:**
- i) Risk Assessment Report**
 - ii) Safe Work Method/Excavation, Demolition & Construction management plan and methodology**
 - iii) Machinery to be used during demolition, excavation and construction**
- e) **A5 – The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate that enables the installation of secondary retention piles, bracing truss and bulk excavation works:**
- i) Revised shoring plan showing Zone 1 and Zone 2 as defined in Figure 1 of the Airport line tunnel protection guidelines. All measurements to tunnel are to be actuals and not approximates.**
 - ii) Revised numerical modelling report with a re-run analysis given the change in construction sequence and use of temporary anchor and diaphragm wall.**
 - iii) Detailed design documentation relating to the shoring (diaphragm) wall.**

- f) ***A6 – Prior to the undertaking of works or the issuing of a Construction Certificate that enables the undertaking of works (whichever occurs first), the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance is to cover the specific works approved by this consent. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure and must be in place for the duration of the works approved by this consent. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to the issuing of the Construction Certificate, the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.***
- g) ***A7 – Prior to the undertaking of works or the issuing of the first Construction Certificate (whichever occurs first), the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the entire works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to the issuing of the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.***
- h) ***A8 – Unless advised by Sydney Trains in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.***
- i) ***A9 – All rock faces shall be inspected by an engineering geologist during excavation to confirm that the site conditions are consistent with design assumptions, to verify the stability of the faces.***
- j) ***A10 – Asset Standards Authority standard T HR CI 12070 ST requires that during construction works, the maximum peak particle velocity (PPV) in the tunnel lining shall not exceed 12.5mm per second. Accordingly, the Allowable Vibration Limit is to be limited to 12.5mm per second.***
- k) ***A11 – Should the Applicant wish to undertake additional geotechnical borehole testing on completion of demolition works, this testing shall not be undertaken until written approval has been obtained from Sydney Trains.***
- l) ***A12 – Due to the possibility of encountering potential rock reinforcement anchors/dowels installed to stabilise the tunnel during construction or during operation, in the event that anchors/dowels are encountered, the excavation activities are to cease and Sydney Trains advised. The risk to the tunnel may need to be assessed and stabilised. The continuation of any further excavation is to be in accordance with Sydney Trains requirements.***

- m) ***A13 – No rock anchors/bolts are to be installed into RailCorp's property (this includes stratum and easements).***
- n) ***A14 – At any time during the demolition, excavation and construction period deemed necessary by Sydney Trains, and prior to the issue of the Occupation Certificate, a joint inspection of the rail tunnels is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during works to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.***
- o) ***A15 – Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant is to submit to Sydney Trains a plan showing all mobile craneage and other aerial operations to be used during all stages of works that may be located above or in close proximity of the rail tunnels or Station box during the entire works period. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.***
- p) ***A16 – Prior to the issuing of any Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains property, easements or stratum (either by the new building or rock anchors/bolts), unless agreed to by Sydney Trains. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.***
- q) ***A17 – An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".***
- r) ***A18 – Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principle Certifying Authority with the application for a Construction Certificate.***
- s) ***A19 – Sydney Trains and Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, are entitled to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being***

constructed and maintained in accordance with the approved plans and these conditions of consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.

- t) **A20 – Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains must be submitted to Council for its records prior to the issuing of a Construction Certificate or Occupation Certificate.**
- u) **A21 – Any conditions issued by Sydney Trains as part of the endorsement/certification by Sydney Trains of any of the submitted documentation required under the above conditions will also form part of the consent conditions that the Applicant is required to comply with.**

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

8. **The proposed development is to comply with the conditions dated 5 May 2023 issued by Sydney Airport Corporation Limited (SACL). Details of the requirements of SACL are provided below:**
- (1) **The building must not exceed a maximum height of 53.5 metres AHD, including all lift over-runs, vents, chimneys, aerials, antennas, lighting rods, any roof top garden plantings, exhaust flues, etc.**
 - (2) **The building must be obstacle lit with low intensity steady red lighting during the hours of darkness at the highest point of the southern tower. Obstacle lights are to be arranged as per section 9.31 of the Civil Aviation Safety Regulations 1998 – Part 139 (Aerodromes) Manual of Standards (MOS). Characteristics for low intensity are described in Section 9.32 of the MOS.**
 - (3) **The Proponent must ensure obstacle lighting is maintained in serviceable condition and any outage immediately notified to SACL.**
 - (4) **The proponent must ensure the obstacle lighting has remote monitoring capability. For detailed requirements for the monitoring of obstacle lights within the aerodrome's OLS refer to Section 9.36 of the MOS. In addition:**
 - **The proposed obstacle lighting system must incorporate an alarm system that will provide monitoring to notify the designated person responsible for the obstacle lighting.**
 - **The designated person must be available 24 hours per day, 7 days a week.**
 - **In the event of the obstacle lighting being inoperable, the designated person must immediately contact the Sydney Airport Airfield Operations Supervisor on 0419 278 208 or 02 9667 9824 to advise of the outage.**

- **Action must be taken to repair the obstacle lighting within 12 hours of the light not being operational.**
 - **The contact details of the person responsible for monitoring of the obstacle lighting must be sent to SACL prior to commencement of the obstacle lighting becoming operational and must be kept to date.**
 - **Once the obstacle lighting is working again, the person responsible for the maintenance of the obstacle must notify the Sydney Airport Airfield Operations Supervisor.**
- (5) **The Proponent must advise Airservices Australia at least three business days prior to the controlled activity commencing by emailing ifp@airservicesaustralia.com and quoting YSSY-CA-604.**
- (6) **Separate approval must be sought under the Regulations for any equipment (e.g. cranes, concrete pumps) required to construct the building. Construction cranes or concrete pumps may be required to operate at a height significantly higher than that of the proposed control activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (e.g. cranes, concrete pumps) be obtained prior to any commitment to construct.**

Please note that CASA has advised any infringement of PANS-OPS surfaces for any more than three months (or less than three months without suitable mitigation) by a crane would present an unacceptable risk to the safety of airport operations to and from Sydney Airport.

- (7) **On completion of construction of the building, the Proponent must provide SACL with a written report from a certified surveyor on the finished height of the building.**
- (8) **A separate assessment and approval under the Regulations will be required for any further addition to the height of the building (including the installation of antennas) as it will increase the penetration of the OLS.**

Please note CASA has advised that any additional infringement of prescribed airspace by the building or its associated structures (i.e. aerials, lift overruns) at the site would present an unacceptable risk to the safety of air transport to and from Sydney Airport.

Breaches of approval conditions are subject to significant penalties under Sections 185 and 187 of the Act.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

9. **The proposed development is to comply with the following General Terms of Approval provided by the Water NSW on 8 May 2023:**

Dewatering

- (a) **GT0115-00001 – Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.**
- (b) **GT0116-00001 – Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.**
- (c) **GT0117-00001 – A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.**
- (d) **GT0118-00001 - If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waternsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii)**

if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.

- (e) GT0119-00001 – All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.**
- (f) GT0120-00001 – The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.**
- (g) GT0121-00001 – Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.**
- (h) GT0122-00001 – Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by**

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

- (i) GT0123-00001 – (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/water-licensing/dewatering**
- (j) GT0150-00001 – The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual.**
- (k) GT0151-00001 – Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.**
- (l) GT0152-00001 – This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an**

extension of this approval may be applied for within 6 months of the expiry of Term.

- (m) GT0155-00001 – The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report**

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

10. The proposed development is to comply with the following advice provided by Roads and Maritime Services in November 2016:
- a) The proposed development must be confined to the land described as Lot 10 in DP 1219678 and no development is permitted on land described as Lot 11 in DP 1219678 (except with consent of RMS or Court Orders that allow access).
 - b) Any works on classified roads are to be approved by the RMS (or Court Orders that allow access) prior to the issue of any Construction Certificate.
11. The proposed development is to comply with the following conditions provided by Sydney Water on 21 May 2015:
- a) The existing 150 mm drinking water main in Gardeners Road fronting the proposed development does not comply with the Water Supply Code of Australia (Sydney Water Edition — WSA 03-2002) requirement for minimum sized mains for the scope of development. The developer will be required to amplify the existing system providing a 200mm water main frontage to service the proposed development. The proposed drinking water infrastructure for this development will be sized & configured according to the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012).
 - b) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. Make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing> Developing> Land development or telephone 13 20 92.
 - c) You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction/building

works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see Plumbing, building and developing then Building over or next to assets).

11A. ***The proposed development is to comply with the following conditions provided by NSW Police on 22 September 2022:***

- ***CCTV should be installed at entry / exit points to buildings and commercial spaces, foyer / mail area, in lifts, corridors and common areas.***
- ***CCTV should be installed at entry / exit points to basement carpark and inside carpark at different points covering majority of angles. Sufficient lighting throughout carpark is also recommended.***
- ***Security swipe system to be positioned at entry to carpark along with secure roller door to keep unauthorised people out of carpark.***
- ***Mailbox / delivery area to be internal of building. CCTV should be positioned covering this area.***
- ***Information placed in foyer entrance area, covering delivery of packages policy for residents, where each resident must take responsibility for any packages/food deliveries they order to prevent the growing trend of package theft. A securable parcel drop box should be installed to allow the safe and secure delivery of large parcels to the residents. (Australia post or private couriers should be given swipe passes or phone number to call before delivering items)***
- ***Alternatively, have an arrangement whereby delivery companies can leave large parcels at a building managers office so residents can collect at a different time.***
- ***Information on how and when to report crime should be displayed in foyer areas, including phone numbers such as Emergency, Crime Stoppers, Police Assistance line and Redfern Police station. If any of the above information is required in other languages, your local Crime Prevention officer can assist with this information.***
- ***CCTV and adequate lighting should be positioned covering premises and surrounding areas of buildings / precinct to create visibility at night and to reduce opportunity for hidden areas and capture criminal activity.***
- ***CCTV should be available to police promptly when requested and should be retained for a period of 1 month or more. Swipe passes for general access to the buildings should be issued to police in case emergency access is required. After hours emergency/security number/s should be provided to police.***
- ***Clear signage of building numbers and building names to be clearly displayed, with light shining on signs at night to allow clear visibility for Police.***
- ***Warning signs "CCTV in use at all times, trespassers will be prosecuted" etc. to be clearly displayed.***
- ***All shrubs to be no higher than 1 metre, so visibility and clear sight lines can be maintained onto the premises.***

- **Signage to be installed throughout buildings providing access control, and clear directions for residents / visitors.**

[MDA-2022/31 – Section 4.56 added on 8 June 2023]

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

12. ***Prior to the issue of any Construction Certificate, the applicant must pay the following fees and bonds. Details are provided elsewhere within these conditions. A summary of the payments is as follows:***

a) <i>Builders Damage Deposit and Performance Bond</i>	<i>\$80,000</i>
b) <i>Development Control</i>	<i>\$12,900.00</i>
c) <i>Section 94 Contributions</i>	<i>\$2,400,594.31</i>
d) <i>Street Tree Maintenance Bond</i>	<i>\$12,000.00</i>

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

13. ***A Section 7.11 contribution of \$2,400,594.31 shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Former City of Botany Bay s7.11 Development Contributions Plan 2016 (Amendment 1) and having regard to the Ministerial Directive of 21 August 2012 (the \$20,000 cap). The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained Contributions Plan. The contribution is to be paid prior to the issue of any compliance certificate; subdivision certificate or construction certificate. The contributions are only used towards the provision or improvement of the amenities and services identified below.***

<i>Community Facilities</i>	<i>\$196,507.90</i>
<i>Recreation and Open Space</i>	<i>\$2,027,402.00</i>
<i>Transport Facilities</i>	<i>\$159,205.23</i>
<i>Administration</i>	<i>\$17,479.19</i>
<i>Total in 2022/23</i>	<i>\$2,400,594.31</i>

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

14. **Prior to the issue of any Construction Certificate, 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.

15. ***A detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:***
- ***be prepared by a RMS accredited consultant,***
 - ***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***
 - ***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.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

16. Prior to the release of any Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Engineering and Regulatory Services Department, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.
17. 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) As part of this development, the Ausgrid lighting poles along Gardeners Road, will need to be decommissioned and new lighting poles shall be constructed satisfying V3 lighting requirements and any other requirements as specified by Council, RMS and any other service provider,

- d) All above ground utilities on Gardeners Road shall 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, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

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

18. ***Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Bayside Council for assessment and approval. Engineering 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. A full set of detailed drainage design plans is to be provided covering each level of the development.***

The detailed drainage design plans shall incorporate the provisions detailed below:

- (a) ***An On-Site Detention System (OSD) shall be provided for the site and designed in accordance with 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 (excluding the land to be dedicated to Council for Galloway Street road widening) under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,***
- (b) ***All calculations for the OSD storage and maximum site discharge are to be provided. A DRAINS Model is to be submitted to Council for assessment,***
- (c) ***An OSD catchment plan is to be provided showing the impervious (roof and hardstand) and pervious area draining into the OSD's system. Also show the bypass area. If there is OSD bypass, the OSD bypass not to exceed 15% of the site area and the OSD storage is to be increased as per section 6.1 (vi),***
- (d) ***An OSD lid plan to be submitted showing the distance from pit centre to centre. The proposed access openings into the OSD tank shall be a minimum of 1200 x 1200 square and shall have adequate access to enter***

and exit the tank. One of the access openings must be provided directly above the OSD outlet,

- (e) The OSD and water quality improvement system including rainwater tanks are to be located in an area that is readily accessible from common areas to ensure it can be readily accessed, inspected and maintained. Therefore, the OSD tank must be designed so that some of the access openings on level 1 are provided within the vehicular circulation aisle that will remain as common property in the future strata subdivision,**
- (f) An OSD base plan is to be provided showing all base levels and minimum 1% fall toward the outlet. The OSD base plan is also to include weir RL's and overall dimensions,**
- (g) The location of all the buildings structural columns that penetrate the OSD tank are to be clearly shown,**
- (h) As per Section 6.2 of the Botany Bay DCP a discharge control pit (DCP) is to be provided including an overflow chamber. The OSD base plan and section to be amended accordingly to show the DCP and overflow chamber. The calculation of the minimum volume provided in the OSD is to exclude the DCP and overflow chamber for the effective OSD area,**
- (i) All inlet pipes into the OSD tank are to be clearly shown (including what catchment they are from). Only the non-trafficable roof drainage is to be directed to the rainwater tank. All inlet pipes into the OSD/RWT are to have inverts above the TWL. No pipes are permitted to be hang within the OSD tank,**
- (j) Emergency overflow provision shall be provided for the OSD compliant with section 6.5 of the SMTG ensuring any surcharge flows due to the design being exceeded and/or blockage can escape via a physical overland flow path directly to the public road. Additionally, an emergency overflow pipe system is to be provided,**
- (k) The stormwater discharge from the site shall connect to the underground stormwater pit and pipe system along the frontage of the site (a connection to the kerb and gutter system is not permitted). NOTE: Connections to the underground drainage system in Bourke Street and Gardeners Road require approval from TfNSW,**
- (l) A minimum capacity 10,000L rainwater tank is to be provided. Only non-trafficable roof areas shall drain to the rainwater tank. The rainwater tank is to be connected to all ground floor toilet flushing, the car wash bay and the ground lvl/lvl 2/lvl 4 landscape irrigation system (for non-potable stormwater re-use). The rainwater tank properties must be provided. The rainwater tank must be modelled in MUSIC. Planter box and trafficable floor drains must not drain to the rainwater tank,**

- (m) The basement pump-out pit shall be designed as per section 7.3 of the SMTG. The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,**
- (n) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a “fully tanked” structure. The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement. The pump out pit section is to be provided and to show the surface level, base levels, top water level (TWL), and minimum 1% fall towards the pumps. The invert level (IL) of the inlet pipes draining into the pump out pit is to be shown,**
- (o) All surface run-off from the car parking levels is to be directed through an oil separator. Manufacturer details to be provided for the oil separator,**
- (p) The stormwater drainage plans shall incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay’s SMTG. The water quality improvement system shall be designed to capture and treat at least 85% flows generated from the site. A MUSIC model must be prepared for the development demonstrating that water quality improvement meets or exceeds the stormwater pollution reduction targets as described in the Botany Bay DCP Part 3G section 3G.4. The MUSIC model must be prepared in line with the NSW MUSIC Modelling Guidelines and submitted to council for assessment and approval,**
- (q) A WSUD catchment plan shall be provided and be aligned with the MUSIC modelling,**
- (r) Manufacturer details are to be provided for the proprietary products used for stormwater treatment,**
- (s) The drainage for the car wash bay is to be shown (to be fully bunded with all run-off directed to the sewer),**
- (t) A HGL analysis is to be submitted for the proposed stormwater system on the site, this is to include a tailwater condition as per Botany Bay DCP Section 3.1. The downstream water level in the HGL analysis shall be assumed either top of kerb or the 1% AEP downstream water level whichever is higher. The DRAINS Model is to be submitted to Council for assessment. The pipe system is to be designed for the 5% AEP and the overland flow path is to be designed for the 1% AEP,**
- (u) 300mm wide heavy duty drainage grates shall be provided on the driveway, the drainage grates shall be located within the site adjacent to the future property boundary with Galloway Street (9.0m setback from existing property boundary),**

- (v) ***A silt/litter arrestor pit shall be provided prior to discharge of stormwater from the site.***

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

19. For any water from site dewatering to be permitted to go to stormwater the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Freshwater. All testing must be completed out 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 Councils stormwater system.
20. ***To ensure that relevant engineering and water quality provisions are met during the period of temporary dewatering for construction, a permit must be obtained from Council to permit discharge to the stormwater system (including payment of the applicable fee as per Bayside Council's fees and charges). 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. To obtain the permit the applicant must supply the following to Council:***
- a) ***A dewatering Management Plan & Water Quality Plan prepared by a suitably qualified consultant (e.g., Geotechnical Engineer). 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.
- b) ***Geotechnical Engineering Report addressing excavation and dewatering of the site without causing damage to nearby properties and infrastructure.***
- c) ***Certificate of Currency (Public Liability \$20million minimum) that will cover the entire period of the dewatering activity.***

The temporary dewatering permit will not be valid without further consent from WaterNSW. The applicant shall confer with WaterNSW and obtain the necessary statutory approvals from WaterNSW to dewater the site prior to commencement of any site activities involving pumping out of groundwater into Council's stormwater system. Evidence of these approvals are to be submitted to the Principal Certifier and Council prior to the commencement of any excavation.

All temporary dewatering activities are to be undertaken in accordance with the requirements of Council, Water NSW, and expert geotechnical engineering & hydrogeologist advice.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

21. **[MDA-2022/31 – Section 4.56 deleted on 8 June 2023]**

21A. **Prior to the issue of any Construction Certificate, all subsurface structures shall be designed with a waterproof retention system (i.e., full structural tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and “flotation” (buoyancy) effects. If subsoil drainage is permitted to be provided around the subsurface structure, the subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure but must not be connected to the internal drainage system. No groundwater is permitted to enter the subsurface structures and, no pump-out system is permitted to be used to drain and discharge groundwater from the subsurface structures. The design of subsurface structure, tanking, waterproofing and subsoil drainage shall be undertaken and certified by Engineer(s) registered with the National Engineering Register (NER). Design details, construction specifications and engineering design certification shall be included in the documentation accompanying the Construction Certificate.**

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

22. A Construction Management Program shall be submitted to, and approved in writing by the Principal Certifying Authority and Council prior to the issue of any Construction Certificate. Note that Council may seek advice from the RMS on this Construction Management Program. The program shall detail:

- a) The proposed method of access to and egress from the site for construction vehicles, including the proposed method of traffic control access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area. Access across public parks and open space reserves is prohibited. Site access is to be generally obtained from public roads. .
- b) The proposed phases of construction works on the site and the expected duration of each construction phase.
- c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process.
- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of

any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.

- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
 - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent.
 - i) Proposed protection for Council and adjoining properties.
 - j) The location and operation of any on site crane.
 - k) The location of any Work Zone (if required) approved by Council's Engineering Section, including a copy of that approval.
 - l) Obtain Permits required under this consent.
23. Erosion and sediment control devices are to be installed prior to the commencement of any demolition, excavation or construction works upon the site. Accordingly, a detailed Sedimentation & Erosion Control plan prepared by a suitably qualified person in accordance with the guidelines set out in the Department of Housing Manual "Managing Urban Stormwater, Soils and Construction" shall be submitted to the Principal Certifying Authority for approval with the Construction Certificate application. These devices are to be maintained throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of construction where necessary to minimise erosion and sediment transport from the site.
24. The applicant is to submit an application to Council for the erection of a protective hoarding where required along the street frontage of the property. Applicable fee and charges in accordance with Council's Management Plan are to be fully paid prior to issue of Construction certificate.
25. To ensure commencement and completion of construction works of the New Road in the future, a bond in the form of a cash deposit or unconditional Bank Guarantee of one hundred and fifty thousand dollars (\$150,000) shall be lodged with Council prior to issue of the Construction Certificate to guarantee this requirement will be met in the future. The bond will only be refunded when the works have been completed to Council satisfaction.
26. ***[MDA-2022/31 – Section 4.56 deleted on 8 June 2023]***

- 26A. ***Prior to the issue of any Construction Certificate, or the commencement of any works, whichever occurs first, a professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all adjoining premises, a photographic survey, and including buildings, foundations, and structures likely to be affected by the excavation as determined by the consulting engineer. This shall include, but not be limited to, the following properties:***

(a) 669 Gardeners Road MASCOT NSW 2020

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

A copy of the Pre-Construction Dilapidation Report is to be provided to the adjoining properties (subject of the Dilapidation Report), a minimum of seven (7) days prior to the commencement of work. Evidence confirming that a copy of the Dilapidation Report was delivered to the adjoining properties must be provided to the PCA.

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00 am and 6.00 pm.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

27. ***[MDA-2022/31 – Section 4.56 deleted on 8 June 2023]***

- 27A. ***Prior to the issue of any Construction Certificate, an application for Frontage Works (Public Domain Construction – Frontage / Civil Works Application) shall be made to Bayside Council's Customer Service Centre for assessment of all required works within the road reserve. A fee is payable to Bayside Council in accordance with Council's adopted fees and charges.***

Prior to the issue of any construction certificate for above ground works, a civil engineering design of the road widening of Galloway Street must be submitted to, and approved by, Bayside Council. Modifications to the location and design of the pram ramps that facilitate north-south pedestrian movements along Bourke Street may be necessary as part of these road widening works.

Prior to the commencement of Public Domain works, a Public Domain Frontage Design package (for the entire frontage of the site including Galloway Street, Bourke Street and Gardeners Road) must be prepared by suitably qualified professionals for all frontage works that are required to be constructed within the public domain that are subject to assessment and approval pursuant to Section 138 of the Roads Act 1993. Public domain

frontage works can include, but not be limited to, civil, drainage, landscaping, undergrounding of services, lighting, traffic signage, line marking, parking, and traffic devices to address and satisfy relevant development consent conditions. All frontage works shall be in accordance with Bayside Council technical manuals, specifications, master plans, town centre plans, Australian Standards, and standard design drawings.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

28. 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 structural engineer, showing all details, including the extent of encroachment and the method of removal, or any other method of and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principal Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
29. Prior to the issue of a relevant Construction Certificate, the following requirements shall apply to telecommunication facilities in the building:
 - a) Appropriate access and space within the plant area of the building shall be provided for telecommunication carriers or other providers of broad-band access by ground or satellite delivery.
 - b) Appropriate ducting and cabling shall be provided for telecommunication carriers or other providers for telecommunication access and broad-band cabling to each apartment of the building.
30. Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant's expense.
31. Detailed mechanical ventilation system plans and specification prepared by a *professional practising engineer*, as defined by the Building Code of Australia, must be submitted to Principal certifying authority prior to the release of the relevant Construction Certificate certifying compliance with AS/NZS 1668 *The Use of Mechanical Ventilation and Air Conditioning in Buildings*, Part 1-2002: *Fire and smoke control in multi-compartment buildings* and Part 2-2002: *Ventilation design for indoor air contamination control*. (Note: *BCA has not yet adopted the 2002 Standards and still utilises the previous 1991 AS1668*).
32. Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1 and AS1668.2. Details to be submitted to the Principal Certifying Authority prior to release of the relevant Construction Certificate.
33. Prior to the release of the relevant Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at

0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.

34. Prior to the issue of the relevant Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certifying Authority. Storage of Waste and recycling shall meet the following requirements.

The rooms for the storage of garbage and recyclable materials shall be:

- a) Fully enclosed;
- b) Adequately ventilated;
- c) Constructed with a concrete floor, concrete or cement rendered walls covered to the floor;
- d) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.
- e) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.

35. ***The proposed development will result in substantial excavation that has the potential to affect adjoining buildings and public infrastructure. The applicant must seek independent advice from a Geotechnical Engineer on the impact of the proposed excavations on the adjoining properties and detail what measures are to be taken to protect those properties from undermining during construction.***

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

- a) ***Conduct a thorough geotechnical investigation of the site in line with geotechnical industry standards. The type and extent of substrata formations on the site shall be determined via the provision of a minimum of two (2) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum; and***
- b) ***Provide detailed recommendations to allow the satisfactory implementation of the works:***
 - i) ***The appropriate means of any excavation/shoring is to be determined and detailed, considering the proximity to adjacent property and structures,***
 - ii) ***Potential vibration caused by the method of excavation and potential settlements affecting nearby***

footings/foundations/buildings shall be discussed and ameliorated,

- iii) Review and certify the proposed method to temporarily and permanently support any excavation 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.**
- c) Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure, and**
 - d) Provide the Principal Certifier and Bayside Council with a certificate from the engineer on the necessity and adequacy of support for the adjoining properties; and**
 - e) Certify that the construction certificate plans and supporting documentation are satisfactory from a geotechnical perspective, and**
 - f) Inspect the works as they progress at frequencies determined by the Geotechnical Engineer.**

All recommendations of the Geotechnical Engineer are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

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.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

- 36. Prior to the issue of any Construction Certificate, the Principal Certifier must ensure the approved Construction Certificate plans and specifications detail the following required amendments to the approved plans and documents:**
 - (a) To ensure the allocation of parking complies with the Botany Bay DCP part 3A and the Housing SEPP, the following amendments shall be made to the parking facility to the satisfaction of Bayside Council:**

- (i) *(On basement level 1, visitor car parking spaces V01, V02 and V03 shall be reallocated as residential car parking spaces.*
 - (ii) *On ground level, residential car parking spaces 1 and 2 shall be reallocated as commercial car parking spaces.*
 - (iii) *On ground level, the car parking space labelled as “SHARED” shall be clearly allocated as a car share space operated by a commercial car share operator.*
 - (iv) *10 residential car parking spaces shall be reallocated to the Build-To-Rent (BTR) component of the development, these spaces shall all be located together on level 1.*
 - (v) *The plans shall clearly indicate the allocation of each car parking space as per condition 4 d) of this consent (136 residential car parking spaces, 14 visitor car parking spaces, 10 BTR car parking spaces, 8 commercial car parking spaces, 1 dedicated car wash bay and 1 dedicated car share space operated by a commercial car share operator). A minimum of half of the approved adaptable dwellings shall be provided with an accessible parking space.*
- (b) *The finished floor level of the ground floor habitable floor levels (ground floor commercial tenancies and residential lobbies) shall be revised to be set at RL 6.0m AHD minimum.*
- (c) *The plans are to clearly show that no permanent structures are proposed within the area to be dedicated to Council for the road widening of Galloway Street (9.0m wide strip of land for the full length of the Galloway Street frontage).*
- (d) *The size and depth of the balconies for the 68 residential apartments is to fully comply with Part 4E of the Apartment Design Guide. Any further amendments required to be made to achieve compliance is to involve the external walls being pushed internally towards the apartments.*
- (e) *The SANS advertising sign on the eastern elevation on Level 12 is to be deleted.*

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE FOR ABOVE GROUND WORKS

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

- (a) **Compliance with AS2890 Car, Bicycle and Motorcycle Parking:**
 - i. *The parking facility (including parking spaces, ramps, aisles, vehicular crossing etc.) must comply in full with AS2890.1. The longitudinal profile(s) of the access driveway and any ramps within the parking facilities must comply with the Ground Clearance, Gradient (%) and Length requirements of the 2890 Australian Standards Series,*

- ii. **All vehicles are to enter and exit the site in a forward direction,**
- iii. **The minimum number of accessible car parking spaces shall be in accordance with the relevant disability legislation. The design and construction of accessible car parking spaces shall be in accordance with AS2890.6 and/or AS4299,**
- iv. **The gate for the entry to the parking facility shall be located to permit the queuing of one (1) vehicle when waiting to enter the basement garage,**
- v. **Pedestrian sightlines for vehicles existing the site are to comply with AS2890.1,**
- vi. **Convex mirrors shall be provided at blind corners within, and leading to, the car parking levels to provide increased sight distance for vehicles,**
- vii. **The one-way ramp connecting the ground floor level car park and level 1 car park shall have a traffic signal system implemented to manage conflicting two-way movements:**
 - I. **Traffic lights and vehicle sensors are to be provided at the top and bottom of the one-way ramp in locations that are readily visible and prompt vehicles to stop where and when needed.**
 - II. **Line marking and signage must be provided at both the top and bottom of the one-way ramp to clearly delineate waiting bay areas that provide for the passing of vehicles. The function of these waiting areas must be demonstrated using swept paths for a B85 passing a B99 vehicle with appropriate clearances as per AS/NZS 2890.1.**
 - III. **The traffic signals shall operate with the following operational mode:**
 - **Automatically revert to and dwell on green for incoming.**
 - **Outgoing driver activates sensor.**
 - **Signals change to red for incoming and green for outgoing.**
 - **After a pre-set clearance time signals revert to red for outgoing traffic and green for incoming traffic.**
- viii. **A minimum of 38 bicycle parking spaces and 3 motorcycle parking spaces must be provided as part of the development and designed in accordance with AS2890.3:2015 and AS2890.1 respectively,**
- ix. **The Construction Certificate plans must show the provision of 1 car wash bay with a minimum width of 3.5m. A cold-water tap (typically connected to the rainwater tank) and waterproof power outlet shall be provided along with a sign fixed to the wall saying, 'Car Wash Bay'. The car wash bay must be bunded in accordance with AS1940 and AS/NZS 4452 with direct connection to the sewer in accordance with a Sydney Water trade waste agreement,**
- x. **The design of the entire car parking facility is to be certified by a Civil Engineer (traffic engineer) registered with the National Engineering Register (NER) as being strictly in accordance with the abovementioned requirements and the Australian Standard 2890 parking facilities series.**

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

- i. **Loading and unloading within the site shall be designed and be**

- restricted to commercial vehicles not exceeding the size and mass description of the MRV from AS2890.2:2018 and Councils Garbage Truck. Commercial vehicles greater in size and mass than the MRV and Councils Garbage Truck are not permitted to enter the site,*
- ii. The design of the parking facility (including driveways/access ramps/vehicular crossings etc.) shall conform with Australian Standards AS2890.2:2018 along the travel path of the service vehicles,*
 - iii. To comply with flooding requirements, a crest shall be provided on the driveway access to the site at RL 5.80m AHD minimum to protect the basement from flooding. To achieve this, the ground floor car park level (excluding the entry ramp from Galloway Street) shall be set at RL 5.80m AHD minimum,*
 - iv. A longitudinal driveway profile shall be submitted to Bayside Council for assessment and approval. The profile shall start in the centre of Galloway Street, be along the critical edge (worst case) and terminate at the MRV loading bay. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%), headroom clearances and lengths. Gradients, transitions, and headroom clearances shall be in accordance with AS2890.2:2018 for a MRV vehicle. The longitudinal driveway profile shall clearly indicate the proposed gutter, kerb, footpath, and boundary levels for the road widening of Galloway Street. Evidence of Bayside Councils approval shall be submitted to the Principal Certifier. The approved longitudinal driveway profile is to be reflected in the construction certificate plans,*
 - v. All service vehicles shall enter and exit the property in a forward direction,*
 - vi. Swept path analysis shall be provided for manoeuvring of MRV commercial vehicles and Councils Garbage Truck, depicting a forward entry and forward exit manoeuvre to/from the site via the loading dock proposed within the development,*
 - vii. A longitudinal section plotting headroom clearance along the travel path of the service vehicle(s) is to be provided. It must be demonstrated that a safe headroom clearance of 4.5m is achieved along the entire travel path, parking, and manoeuvring areas of the MRV and Councils Garbage Truck within the development,*
 - viii. All waste collection must be undertaken on-site, no bins/waste are permitted to be presented to the street for collection,*
 - ix. The design of the loading dock (including access to the loading dock) is to be certified by a Civil Engineer (traffic engineer) registered with the National Engineering Register (NER) as being strictly in accordance with the abovementioned requirements and the Australian Standard 2890.2.*
- (c) Prior to issue of the relevant Construction Certificate, details of the approved street awning, including plans and sections, must be provided to the Principal Certifier. The awning shall be consistent with the approved development application plans unless specifically varied below. The details must include:*

- i. A minimum setback of 600mm from the face of the kerb, maximum fascia height 600mm, minimum soffit height 3.3m and a maximum step of 900mm for sloping sites. The awnings must be entirely self-supporting; posts are not permitted,**
- ii. All stormwater is to be collected and connected to the street gutter. In this regard awning downpipes for drainage are to be fully concealed within or recessed into the ground floor frontage of the building. Awning gutters are to be constructed so that they are not visible from the footpath or are integral to the awning structure,**
- iii. The design and certification by a Structural Engineer registered with the National Engineering Register (NER) for Roof Category R1 in accordance with AS/NZS 1170.1: 2002, AS/NZS 1170.0: 2002, and AS/NZS 1170.3: 2011. The design must incorporate all loads including dead loads, live loads, wind load (lateral, uplift, and downward pressure), and potential impact load,**
- iv. The awning(s) must be constructed of non-combustible materials,**
- v. Lighting is required and must comply with AS/NZS 1158.3.1: 2005 and AS/NZS 1158.0: 2005. Lighting must be recessed into the awning and be integral to its structure with all wiring and conduits concealed,**
- vi. Subject to compliance with the requirements above, Bayside Council grants approval pursuant to Section 138 of the Roads Act 1993. Council's approval remains whilst the structure is in place and the structural stability of the awning is not compromised. Maintenance of the awning is the responsibility of the owner of the land.**

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

38. [MDA-2022/31 – Section 4.56 deleted on 8 June 2023]

38A. Prior to the issue of the relevant Construction Certificate, a Flood Risk Management Plan, prepared by a suitably qualified Civil Engineer, must be provided for the development. The flood risk and flood hazard on the site and its surrounds shall be assessed for the 1% AEP and PMF flood events. The management plan must make provision for, but not be limited to, the following:

- (a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development, and**
- (b) Flood warning signs / depth indicators for areas that may be inundated, and**
- (c) A flood evacuation strategy, and**
- (d) A flood awareness strategy, and**
- (e) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.**

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

39. **Architectural and landscape plan shall be amended to reflect the following:**
- (a) The 5 meters deep soil area along Gardiners Road shall maximise the deep root planting provision. Both architectural and landscape plans shall reflect the provision of deep soil at natural ground level with planting. Planting shall maximise the inclusion of canopy trees. If raised levels are required along the interface with public domain, all raised walls shall not exceed 500mm from public domain natural ground level. Area of planting along this interface shall be minimum 3 meters wide to allocate trees in planting areas of suitable sizes.**
 - (b) The private domain landscape areas shown on the plan by Oculus, Plans Issue B and dated 3rd February 2023 shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by Council’s Landscape Architect prior to Construction Certificate. The landscape documentation is to be prepared by Oculus Landscape Architects and shall include, but not be limited to:**
 - (i) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas. Canopy trees are to be a minimum litreage of 200 litres.**
 - (ii) Landscaping on the ground floor setbacks to Gardeners Road and Galloway Street is required to be increased. Incorporate planting on podium in suitable locations. Canopy trees are required to be incorporated to provide a level of amelioration to the development that is appropriate to the scale of the building heights.**
 - (iii) Soil depths of planter on slabs shall be in accordance with the requirements of Table 5 of Part 4P of the Apartment Design Guide. Proposed tree planting shall not be reduced in quantity nor in mature size. Provide sectional details and drainage details of all planting areas above slabs. All planter box depths and dimensions shall be in accordance with Council’s DCP and be capable of supporting a mix of small, medium and large canopy trees.**
 - (iv) All communal areas are to include medium sized canopy trees where feasible.**
 - (v) Barbeque facilities are required to be incorporated within communal area/s.**
 - (vi) Incorporate an arbor or similar within communal areas to provide weather protection where required.**
 - (vii) Full detailing (sectional construction details) of communal areas including the children’s play space is required, including details of paving, schedule of materials, furniture and lighting.**

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

40. **A detailed public domain plan (landscape documentation including plans and specifications) must be submitted to and approved by Council’s Landscape**

Architect prior to the issue of the relevant Construction Certificate. The landscape documentation is to be prepared by Oculus Landscape Architects and shall include, but not be limited to:

- (a) The clear delineation of all public domain areas as follows:**
 - (i) Gardeners Road**
 - (ii) Bourke Street**
 - (iii) Galloway Street**
- (b) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.**
- (c) Street trees are required along Gardeners Road, Bourke Street and Galloway Street in accordance with Council's Street Tree Master Plan.**
- (d) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking. Canopy trees are to be a minimum of 200 litres pot size for Galloway Street and front setbacks, and 400 litres pot size for Gardeners and Bourke Street, unless other approved by Council due to site restrictions.**
- (e) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictors, tree pits, tree grates, tree guards, tree pit treatments and so on in accordance with Council's Draft Public Domain specifications.**
- (f) Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Public Domain schedule/specification. Drainage details in specific locations, use of WSUD initiatives or materials.**
- (g) Details of all other hardscape landscape elements such as street furniture, any pedestrian amenity lighting, bins and bollards. Locations to be clearly identified on plan.**
- (h) Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.**
- (i) The public domain landscaping shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. This amended plan supercedes the original landscape plan. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction all times.**

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

41. Any required fire booster assemblies and electrical kiosks and the like are to be located so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be submitted to and approved by Council.
42. The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to Certifying Authority prior to the release of the Construction Certificate for above ground works and the building plans endorsed with the required acoustical measures.
43. The building shall be designed in accordance with the *Office of Environment and Heritage (Department of Environment, Climate Change and Water) 'NSW Road Noise Policy'*, and shall also meet the criteria recommended in Table 1 of Australian Standard AS 2107-2000. Details shall be submitted to the certifying authority prior to the release of the Construction Certificate for above ground works.
44. Details on the mechanical plant and equipment to be submitted to the Principal Authority prior to the release of the relevant Construction Certificate for above grounds works. The report must identify the compliance of each item of plant and equipment in relation to the following criteria
 - a) The operation of all plant and equipment shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background L_{A90} 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 L_{Aeq} 50dB(A) day time and L_{Aeq} 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 L_{Aeq} 65dB(A) day time/night time.
 - d) For assessment purposes, the above L_{Aeq} 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.

Note “sensitive” positions should be selected to reflect the typical use of a property (i.e. 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.
45. The measures required in the approved acoustic report shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000.

The work detailed in the report includes:

- a) Appropriate acoustic glazing to stated windows and doors,
- b) Detailed roof and ceiling construction,
- c) Wall and ceiling corner details and,
- d) External door specification,
- e) Acoustically treated mechanical ventilation.

Note: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner.

46. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Certifying Authority prior to the issue of the first Construction Certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
47. Prior to the issue of the relevant Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.
48. Prior to the issue of the relevant construction certificate, the architectural plans shall be amended to include gas and water tap connections to each private open space area.
49. Circulation spaces shall be well lit at night, with any lighting on the site designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with *AS4282-1997 Control of the obtrusive effects of outdoor lighting*; and the installation of solar power to external space lighting. Details are to be submitted to the Principal Certifying Authority prior to the release of the relevant Construction Certificate.
50. Appropriate noise insulation shall be provided between common walls within residential apartments. Details shall be provided to the Principal Certifying Authority.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK

51. To ensure external public infrastructure is protected during works, and to ensure satisfactory performance of the completed external public infrastructure works, a builder's damage deposit and performance bond, or unconditional bank guarantee, of \$80,000 shall be lodged with Council prior to the commencement of works.

A maintenance period of twelve (12) months shall apply to all external engineering works and landscaping works (including paving) completed in relation to this application. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification. The deposit will be refunded subject to inspection by Council twelve (12) months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

52. A final Waste Management Plan prepared in accordance with Council's Waste Management and Minimisation Guidelines Development Control Plan shall be submitted to the Council for approval prior to the commencement of works. The Waste Management Plan shall include the size and storage of bins, the collection point for the waste contractor recycling contractor, maintenance of the bins and the provision of recycling and composting facilities.
53. A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of any Construction Certificate.

This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.

54. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP) prior to the release of any construction certificate. This plan shall incorporate and reference the construction environmental management plan and address site limitations.
55. Prior to any excavation works an acid sulfate soil (ASS) assessment shall be undertaken to determine the presence and extent of any ASS at the site. Should any potential acid sulfate soil (PASS) or actual acid sulfate soil (AASS) be identified then the an Acid Sulfate Soils Management Plan shall be prepared which shall include any site specific procedures and mitigation measures required and a site analysis from a NATA registered laboratory. All recommendations of the report shall be implemented prior to the commencement of excavation and building works.
56. A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.

57. Erosion and sediment control devices shall be installed and functioning prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines including the *Protection of the Environment Operations Act 1997*.

These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

58. 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.
59. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge shall be provided in this report.

Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

60. Prior to commencement of any works, where necessary, relevant application(s) shall be made to Council's Customer Services Counter and the following approvals and permits on Council's property/road reserve shall be obtained 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.
61. Prior to commencement of any works, the Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with Bayside Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be **LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED**. The amount of Common Law liability shall be unlimited.
62. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
63. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
64. Existing structures and or services on this and adjoining properties are not to be endangered during any excavation or construction work associated with the above project. The application is to provide details of any shoring, piercing or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilize any adjacent structures.
65. At least forty-eight (48) hours prior to the commencement of, the applicant must inform Council, in writing, of:
- a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This person's full name and address.
 - c) Details of Public Liability Insurance.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

66. An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both

the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

67. 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.
- a) 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.
 - b) 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.
 - c) 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.
68. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
69. 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 the *'Remediation Action Plan, 653 Gardeners Road, Mascot, Coffey* (Project Ref: ENVILCOV00417AA-R02i1) dated 19 March 2008.
 - d) Any recommendations recommended by the appointed EPA accredited Site Auditor under the Contaminated Land Management Act.
70. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. 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 Councils stormwater system.

If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.

71. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Office of Environment and Heritage (OEH) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
72. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
 - a) Office of Environment and Heritage (OEH) approved guidelines; and
 - b) Protection of the Environment Operations Act 1997; and
 - c) Protection of the Environment Operations (Waste) Regulation 2014.

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

73. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
 - a) The Soil and Water Management Plan;
 - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
 - c) Protection of the Environment Operations Act 1997.
74. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
75. During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
76. During Demolition, Excavation and Construction, care must be taken to protect Sydney Water's, RMS and Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits, culverts, etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to RMS and Council's infrastructure (including damage caused

by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with RMS and Council's specification and AUS-SPEC at no cost to RMS and Council.

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

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

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

b) Time Restrictions

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

Monday to Friday : 07:00 am to 06:00 pm

Saturday: 08:00 am to 05:00 pm

No Construction to take place on Sundays or Public Holidays.

c) Silencing

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

78. 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;

Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.

d) If the soil conditions required it:

- i) Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided, and
 - ii) Adequate provision must be made for drainage.
79. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;
 - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - e) any such sign is to be removed when the work has been completed.
80. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - 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.
81. The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA *Environmental Noise Control Manual*.
82. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A free copy of the sign is available from Council's Customer Service Counter.
83. Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.

84. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
85. 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.
86. During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

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

87. New street trees at the pot size specified shall be installed in the accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.
88. ***The public footpaths in Gardeners Road, Bourke Street and Galloway Street 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. Pavers shall be ordered allowing for adequate lead time for manufacture and delivery (10-12 weeks).***

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

89. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal joint between the sides and base of the planter to contain drainage to within the planter.

- c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
90. 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.
91. Landscaping on the property and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. This amended plan supercedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
92. ***The applicant is to submit payment of a Street Tree Maintenance Bond of \$12,000.00. The duration of the Bond shall be limited to a period of 24 months after final inspection of new street trees by Council. At the completion of the 24 month period the Bond shall be refunded pending a satisfactory inspection of the trees by Council. If any tree is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work.***
- [MDA-2022/31 – Section 4.56 amended on 8 June 2023]***
93. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the Bayside Council prior to the Issue of an Occupation Certificate.
94. A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

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

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

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

- 96. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
- 97. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to use or occupation of the premises. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 98. Prior to commencing trading the occupier of the premises must register any food premises with Council (application form attached), and register with the New South Wales Food Authority (contact details for registration for the Food Authority NSW are <http://www.foodnotify.nsw.gov.au/nafsis> or by telephone 1300 650 124.
- 99. The internal road network, pedestrian facilities and parking facilities (including visitor parking and parking for persons with disabilities) shall be clearly designated, sign posted and line marked prior to the issuing of an Occupation Certificate. Signage

and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999.

100. 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.
101. Prior to release of the Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the approved acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
102. All services (Utility, Council, etc) within the road reserve (including the footpath) affected by the proposed development shall be relocated/adjusted where required to match the proposed/existing levels. All costs are to be borne by the applicant.
103. Prior to the issue of any Occupation Certificate, all associated works on Council's land must be must be completed and approved by Council.
104. ***Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) pursuant to the Conveyancing Act 1919 are to be created on the title of the lots on which the following systems are present:***
 - (a) ***Stormwater Detention System***
 - (b) ***Stormwater Pump-Out System***
 - (c) ***Stormwater Quality Improvement Device.***

The terms of the instruments to be in favour of Bayside Council and are to be submitted to Bayside Council for review and approval. The wording is to be as per Botany Bay DCP Part 10 – Stormwater Management Technical Guidelines appendix B, C and E respectively. An application must be lodged with, and approved by, Bayside Council prior to issue of the Occupation Certificate.

Bayside Council must be provided with the relevant fees and all supporting information required (such as works-as-executed drainage plans and certification) prior to Bayside Council endorsing the Instrument. Council requires proof of lodgement of the signed documents with the NSW Land Registry Services prior to the issue of the Occupation Certificate.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

- 104A. ***Prior to the issue of an Occupation Certificate, the following restriction(s) on Use of Land shall be imposed under Section 88E of the Conveyancing Act***

1919 on the title of the land and lodged with the NSW Land and Property Information:

(a) Build to Rent Housing

For a continuous period of fifteen (15) years from the date of issue of any Occupation Certificate (being an Interim or Final Occupation Certificate) the following Restrictions on the Use of the Land will apply:

(i) The following dwellings are to be occupied, or intended to be occupied, by individuals under residential tenancy agreements:

Level 2	Level 3	Level 4	Level 5	Level 6	Level7
A201	A301	A401	A501	A603	A703
A202	A302	A402	A502	B603	B703
A203	A303	B403	A503		
A204	A304	B404	B503		
A205	A305				
A206	A306				
A207	A307				
A208	A308				
A209	A309				
A210	A310				
B203	B301				
B204	B302				
B205	B303				
B206	B304				
B207	B305				
B208	B306				
B209	B307				
B210	B308				
	B309				
	B310				

These units shall not be used for any other purpose other than for the purposes of build-to-rent housing, as defined in State Environmental Planning Policy (Housing) 2021; and,

(ii) The tenanted component of the building will not be subdivided into separate lots; and,

(iii) The tenanted component of the building will be owned and controlled by 1 person, and operated by 1 managing agent, who provides on-site management.

[MDA-2022/31 – Section 4.56 added on 8 June 2023]

105. [MDA-2022/31 – Section 4.56 deleted on 8 June 2023]

105A. The car share car parking space must be operated by a recognised commercial car share operator within the site. A contract for the operation

of the car share space(s) by the commercial car share provider must be entered into prior to issue of any Occupation Certificate. The car share space must be made available to car share operators without a fee or charge. The car share space must be appropriately line marked and signposted to indicate its usage to be exclusively as a car share space to the satisfaction of the car share operator. The car share space must be publicly accessible at all times and the intercom system must be designed to facilitate public access to the car share parking space.

The use and operation of the car share space must be accommodated in the titling and management of the residential development, including covenants, building/strata management statement, by laws and other instruments prior to the issue of any Occupation Certificate. The titling and management of the development must provide for:

- (a) Free use of the car share space by the car share operator.***
- (b) The maximum size of the car share vehicle shall be equal to, or smaller than, a B99 vehicle (as denoted by AS/NZS2890.1:2004).***
- (c) Public access to the car share parking space shall always be available (all 7 days of the week and all 24 hours of each day) and shall be well-lit.***
- (d) Insurances, including public liability.***
- (e) The car share space must be retained as common property in the strata subdivision of the development.***

The car share space is to be fully operational, and the commercial car share operator is to confirm its operation to the Principal Certifier and Bayside Council prior to the issue of any Occupation Certificate.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

106. Prior to the issue of the Final Occupation Certificate, engineering certification shall be submitted to the Principal Certifier confirming the following:

- a) Site stormwater drainage system has been constructed in accordance with approved construction certificate plans and Botany Bay DCP Part 10 – Stormwater Management Technical Guidelines.***
- b) Certification from Bayside Council confirming all external public infrastructure engineering works have been completed to Bayside Council satisfaction.***

Additionally, certification shall also confirm that all flood protection related matters have been fully complied with including, but not be limited to, the following:

- c) A certificate from a registered Surveyor shall be provided to the Principal Certifier, certifying that the lobbies and commercial floor levels***

are constructed at a minimum level of RL 6.0m AHD and, certifying that the floor level for the ground level carpark (excluding the entry ramp from Galloway Street) is constructed at a minimum level of RL 5.80m AHD.

- d) The approved Flood Risk Management Plan and all recommendations from the Flood Awareness & Evacuation Strategy are to be implemented within the development prior to the issue of the Occupation Certificate. A copy of the Flood Risk Management Plan is to be kept on-site**

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

107. [MDA-2022/31 – Section 4.56 deleted on 8 June 2023]

107A. Before the issue of any Occupation Certificate, a post-construction dilapidation report must be prepared by a suitably qualified Engineer, to the satisfaction of the Principal Certifier detailing whether:

- a) after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and**
- b) where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent, and**
- c) a copy of the post-construction dilapidation report must be provided to the Principal Certifier, Council and to the relevant adjoining property owner(s).**

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

108. Prior to the issue of any Occupation Certificate, the Applicant shall carry out the following works as specified by Bayside council in accordance with Bayside Council's Engineer, Landscape Architect, Public Domain Masterplans, and Infrastructure Specifications:

- (a) Construction of Galloway Street road widening (new road pavement, kerb, gutter, footpath, landscaping, drainage, signage, line marking, lighting etc.) to the requirements of Bayside Council. The road widening is to be as per Councils Mascot Station precinct masterplan and the Botany Bay DCP.**
- (b) Construction of a new full width paved footpath and planting of required street trees/landscaping along all frontages of the development site (Galloway Street, Bourke Street and Gardeners Road).**
- (c) Construction of vehicular entrance designed to accommodate the largest vehicle entering the site.**

- (d) **Construction of new kerb and gutter along the frontage of the development site in accordance with the applicable TfNSW and Council specifications.**
- (e) **Removal of the existing concrete vehicular entrance/s, kerb laybacks and other damaged/redundant public domain improvements which will no longer be required.**
- (f) **Reconstruction of selected areas of the existing footpath, vehicular entrances, road, kerb, and gutter as required.**
- (g) **As part of the road widening for Galloway Street, construct two new kerb inlet pits and associated 375mm diameter stormwater pipe, connecting to existing stormwater infrastructure in Galloway Street, to Bayside Council infrastructure specifications.**
- (h) **The Bourke Street cycleway linemarking at the intersection of Bourke Street and Galloway is to be repainted to comply with TfNSW on road bicycle lane requirements (e.g., green shading, bicycle stencils etc.).**

All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed to the satisfaction of Bayside Council at the Applicant's expense. A report shall be submitted in accordance with Bayside Council's Contributed Asset Procedure for all constructed assets in the ownership of Bayside Council. Works-As-Executed plans prepared by a registered surveyor and engineering certification shall be submitted.

Final inspection reports for the works on the road reserve shall be obtained from Bayside Council's authorised officer and submitted to the Principal Certifier attesting that this condition has been satisfied prior to the issue of any Occupation Certificate.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

- 109. Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) 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.
- 110. **Prior to the issue of any Occupation Certificate, the following is to be complied with:**
 - a) **Along the southern boundary, the applicant shall dedicate a 9.0metre wide portion of land (271m²) to Bayside Council for the purpose of widening Galloway Street. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Bayside Council for approval. The road widening area shall be unlimited in stratum. Once approval from Council is granted, the plan shall be registered with NSW Land Registry Services prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to the Principal Certifier and**

Bayside Council for record purposes. The dedication and administrative registration including all associate costs are to be fully borne by the applicant.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

111. **Prior to the issue of any Occupation Certificate, a Civil Engineer registered with the National Engineering Register (NER) must certify that the stormwater system has been constructed in accordance with the approved plans (as per condition 18) and as required by Botany Bay DCP Part 10 – Stormwater Management Technical Guidelines. The constructed stormwater drainage system shall be inspected, evaluated, and certified. The certification shall demonstrate compliance with the approved plans, relevant Australian Standards, Codes and Council Specifications. A works-as-executed (WAE) drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. The WAE plan must clearly illustrate the surveyed dimensions and details of all drainage aspects. The certification and WAE plan(s) shall be supplied to the Principal Certifier and Bayside Council.**

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

112. Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
- a) All reduced levels shown upon the approved plans, with relation to the required building heights, drainage, boundary and road reserve levels, have been adhered to; and
 - b) The development as built stands within the subject land.
113. A copy of any Building Management Statement and By-Laws, if strata titled shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Occupation Certificate. The Building Management Statement and By-Laws shall address all conditions associated with the ongoing use of the development of Development Consent No. 2015/22 and include:
- a) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 2015/22;
 - b) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 2015/22;
 - c) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste sterile, disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times;

- d) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are available for collection adjacent to the garbage truck bay depicted on the approved plans, between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises before 12.00 noon;
- e) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000;
- f) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997;
- g) The linen plan must include details of any easements, encroachments, rights of way, including right of footway, restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
- h) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
- i) 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;
- j) CCTV surveillance of all public areas within the development site; and

114.

- a) Residents of this development are not eligible to participate in Council's on-street resident parking scheme. Before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised of this by the owner of the building.
- b) Prior to the issue of the Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building;

- c) Where a building is to be Strata subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.

115. A suitable intercom system linked to all units within the development shall be provided at pedestrian and vehicle entrances to ensure that any legitimate visitors to the site can gain access to the development, including the visitor parking located in the car parking area. The details of the intercom system shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.
116. Each apartment and non-residential unit shall be provided with individual water meters.
117. Written evidence is required to be provided to Council prior to the issue of the Final Occupation Certificate from all service providers such as Sydney Water, Energy Australia and their telecommunication provider, confirming that adequate infrastructure can and/or has been provided to the development.
118. *[MDA-2022/31 – Section 4.56 deleted on 8 June 2023]*
- 118A. ***Prior to the issue of any Occupation Certificate, a Civil Engineer registered with the National Engineering Register (NER) shall certify that the vehicular access and off-street parking facilities have been constructed & line marked in accordance with the approved construction plans and the applicable Australian Standards (i.e., AS/NZS 2890.1, AS 2890.2, AS 2890.3, AS/NZS 2890.6, AS 1742, AS4299). The car parking area is to be clearly and appropriately line marked/signposted indicating all the vehicular movements on the site. All parking spaces must be clearly designated as to their use in accordance with this development consent.***

Furthermore, the below shall be certified as being implemented within the completed development:

- ***Wheel stops shall be installed in all car parking spaces adjoining high obstructions in accordance with AS/NZS 2890.1.***
- ***Bollards shall be erected for all accessible parking spaces that are designed in accordance with AS/NZS 2890.6.***
- ***Large convex mirrors are to be installed at all corners/bends throughout the parking facility to provide increased sight distance for vehicles.***
- ***All car parking spaces shall be clearly allocated to their respective use as per conditions 4 d) and 36 of this consent.***
- ***A minimum of 38 bicycle parking spaces are to be provided on-site compliant with AS2890.3:2015.***
- ***Traffic signal and vehicle sensor system has been implemented for the one-way ramp.***
- ***Provision of EV charging spaces (at minimum 8 visitor parking spaces shall be equipped with EV charging facilities).***

The certification must be submitted to the Principal Certifier.

[MDA-2022/31 – Section 4.56 amended on 8 June 2023]

119. The floor surface of the entry area, kitchen and internal storage, of each two-bedroom and three-bedroom apartment, are to be water-resistant and easy to be cleaned and maintained, i.e. not carpet.
120. Street numbers shall be clearly displayed with such numbers being of contrasting colour, of adequate size and location for viewing from the footway and roadway, and in accordance with the NSW Addressing Policy.

All letter boxes must be constructed and located in accordance with the relevant provisions of Australian Standard AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction. Letter boxes shall be located in lobbies or perpendicular to the street alignment, with no interference with proposed landscaping.

Details of street numbering, letter boxes, and apartment numbers, shall be submitted to Council for approval prior to the issue of the Occupation Certificate.

121. Legible signage should be provided throughout the development containing information on common areas.
- 121A. ***The noise reduction measures specified in the noise report prepared by Acoustic Logic, dated 28/2/22, ref: 20220221.2/2802A/R0/HD, shall be validated by a Certificate of Compliance prepared by the acoustic consultant, and submitted to the Principal Certifier, prior to the issue of a Occupation Certificate. If Council is not the Principal Certifier, a copy shall be submitted to Council concurrently.***

[MDA-2022/31 – Section 4.56 added on 8 June 2023]

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

122. 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, bi-annual 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.
123. Ongoing maintenance of the road verges and footpaths and nature strips in Gardeners Road, New Street (Galloway Street) and Bourke Street shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
124. 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.

125. 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.
126. The use of the premises shall not give rise to air impurities in contravention of the *Protection of the Environment Operations Act 1997*. Waste gases released from the premises shall not cause a public nuisance nor be hazardous or harmful to human health or the environment.
127. 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*.
128. The operation of the required car share space must be undertaken in conjunction with a car share service provider.
129. The permitted hours of the retail premises are as follows:
 - a) Monday – Friday: 7:00am to 11:00pm;
 - b) Saturday : 8:00am to 12:00am
 - c) Sunday : 8:00am to 10:00pm

The operations limited by these hours are inclusive of preparation, deliveries, cleaning and the like.

Any additional hours of operation to the premises shall be subject to a further application to Council.

130. This consent does not provide approval for footpath occupation. Footpath occupation, including footpath dining, is regulated through licensing agreements made with Council.
131.
 - 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.

132.

- a) All waste and recycling containers shall be stored in the designated waste storage areas within the building. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The occupier shall be responsible for cleaning the waste storage area, equipment, and waste collection containers.
- b) No waste or waste containers shall be placed on the public way (including: footpaths, roadways and reserved) at any time.

133.

- a) Each residential dwelling (apartment) is approved as a single dwelling only. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
- b) The adaptable apartments approved under this development consent are to remain as adaptable apartments at all times; and
- c) Any storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces shall be monitored by CCTV cameras at all times;
- d) The approved Waste Management Plan shall be complied with at all times during the on-going use of the site / premises.

134. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or like vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.

135. Any air conditioning units shall comply with the following requirements:

- a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
- b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a

habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday,
or
- ii) Before 7 am or after 10 pm on any other day.