

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSEC-23
DA Number	DA-2019/385
LGA	Bayside Council
Proposed Development	Demolition of existing structures and construction of a building for student accommodation ranging between seven (7) to twelve (12) storeys in height, and including four hundred and thirty-five (435) bedrooms and associated landscaping
Street Address	6-8 John Street and 13B Church Avenue Mascot
Applicant/Owner	Iglu No. 211 Pty Ltd c/- Mecone
Date of DA lodgement	25 October 2019
Number of Submissions	<p><u>Round One:</u> 137 submissions (including 35 individual submissions and 102 pro-forma letters)</p> <p><u>Round Two:</u> 160 submissions (including 66 individual submissions and 94 pro-forma letters)</p>
Recommendation	Approval, subject to conditions of consent in the attached Schedule
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Development with a CIV of \$59,697,000.00
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 7 of the SEPP- State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils • Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications • State Environmental Planning Policy (Affordable Rental Housing) 2009 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 64- Advertising and Signage • State Environmental Planning Policy (Vegetation in non-rural areas) 2017 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Botany Bay Local Environmental Plan 2013 • Botany Development Control Plan 2013
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plans- prepared by Bates Smart • Detailed Shadow Study- prepared by Bates Smart • Clause 4.6 variation- prepared by Mecone • Landscape Plans- prepared by RPS Group • Green Trave Plan- prepared by The Transport Planning Partnership • Operation Management Plan- prepared by Iglu • Design Review Panel Minutes- Bayside Council
Clause 4.6 requests	<ul style="list-style-type: none"> • Non-compliance in motorbike parking

	<ul style="list-style-type: none"> • The development standard the clause 4.6 application relates to is Clause 30(1)(h) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 • The zone the clause 4.6 relates to is B4- Mixed Use
Summary of key submissions	<ul style="list-style-type: none"> • Car and motorbike parking/traffic generation/lack of infrastructure • Setbacks/bulk/scale • Solar Access • View Loss • Character and Use • Easement • Construction process, destabilization of neighbouring properties and groundwater • Noise, dust and pollution etc
Report prepared by	Angela Lazaridis- Senior Development Assessment Planner
Report date	11 June 2020

Summary of s4.15 matters

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

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

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

SYDNEY EASTERN CITY PLANNING PANEL PANEL DETERMINATION MEETING

SECPP No	PPSSEC-23
DA Number	DA-2019/385
Local Government Area	Bayside Council
Proposed Development	Demolition of existing structures and construction of a building for student accommodation ranging between seven (7) to twelve (12) storeys in height, and including four hundred and thirty-five (435) bedrooms and associated landscaping
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Regional Development Criteria (Schedule 7 of the SEPP)	Development with a CIV of \$59,697,000.00
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> ○ Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 7 of the SEPP- State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils ○ Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications ○ State Environmental Planning Policy (Affordable Rental Housing) 2009 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy No. 64- Advertising and Signage ○ State Environmental Planning Policy (Vegetation in non-rural areas) 2017 ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ Botany Bay Local Environmental Plan 2013

	<ul style="list-style-type: none"> ○ Botany Development Control Plan 2013
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Report by	Angela Lazaridis – Senior Development Assessment Planner

RECOMMENDATION

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

- a) That the Sydney Eastern City Planning Panel, exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 approves a variation to the motorbike parking prescribed by Clause 30(1)(h) of State Environmental Planning Policy (Affordable Rental Housing) 2009, as it is satisfied that the applicants' request has adequately addressed the matters required to be demonstrated by cl4.6, and the proposed development would be in the public interest because it is consistent with the objectives within the zone.
- b) Grant approval of Development Application No. 2019/385 for the demolition of existing structures and construction of a building for student accommodation ranging between seven (7) to twelve (12) storeys in height, and including four hundred and thirty-five (435) bedrooms and associated landscaping at 6-8 John Street and 13B Church Avenue Mascot, subject to the conditions of consent in the attached Schedule; and
- c) That any objectors be advised of the Sydney Eastern City Planning Panel decision.

The reasons for the recommendation is as follows:

- a) The proposal responds to a need in providing student accommodation in close proximity to public transport;
- b) The proposal is consistent and conforms to the objectives of the B4 Mixed Use zone and conforms with the desired future character of the precinct; and
- c) The proposal provides a considered built form response that will deliver a positive urban design outcome.

EXECUTIVE SUMMARY

Council received Development Application No. 2019/385 on 25 October 2019 for the demolition of existing structures and construction of a building for student accommodation ranging between seven (7) to twelve (12) storeys in height, and including four hundred and

thirty-five (435) bedrooms and associated landscaping at 6-8 John Street and 13B Church Avenue Mascot.

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

The development application underwent two rounds of public notification. The first round was carried out between 7 November to 21 November 2019. 137 submissions were received (including 35 individual submissions and 102 pro-forma letters). The second round of notification occurred between 7 May to 21 May 2020. One week extension was granted to the notification period with an end date of 28 May 2020. 160 submissions were received (including 66 individual submissions and 94 pro-forma letters). All issues raised in the submissions, both in Round 1 and 2 have been assessed and considered in the report below.

The key issues in the assessment of the development application include car parking and motorbike parking departures, setbacks, view loss, solar analysis and the through site link.

The development generates a total of 218 car spaces and 87 motorbike spaces where none have been provided. The applicant has submitted a Clause 4.6 variation to justify the non-compliance in motorbike spaces and has provided a green travel plan and traffic report to justify the lack of off-street car parking. The development is user specific and has no distinct controls within the BBDCP 2013. The development has been categorised as a 'boarding house' and has used the ARHSEPP 2009 parking rates for the assessment. The operators of the development have a number of other developments across Sydney which do not have car parking and have provided surveys of these developments as a basis for assessment in this application. The site is within 200 metres of Mascot Train Station which the applicant has stated would be the main form of transportation to and from tertiary establishments. Further assessment is carried out in the report below.

The development proposes variations to the setback controls that are applicable to the site. Again, there are no specific controls for student accommodation therefore the setbacks established and relied upon are that of a residential flat building against SEPP No. 65 and the Apartment Design Guide. The proposal has a departure in the northern setback with the entire 12 levels set back 6 metres from the boundary. From Level 3 and above, the proposal is required to be setback 9 metres from the boundary and then a further 3 metres from Level 6 and above. There are also minor non-compliances with the eastern and western setbacks. Further assessment is carried out in the report below.

Concerns were raised by submitters regarding overshadowing and view loss particularly from the neighbouring properties on the southern side of John Street, from 3-9 Church Avenue and from 10-14 Coward Street. The applicant has provided solar analysis diagrams and view loss analysis plans which demonstrate that the solar amenity and view loss issue has been addressed and is acceptable.

The applicant is proposing a through site link which is located on the western side of the site which runs from John Street to Church Avenue. The proposal provides steps down from John Street to a community garden area. The through site link is over an existing easement that benefits 13B Church Avenue and allows for vehicular access to the garages of the development to the west as well as to the approved development to the north at 13A Church Avenue. Part of the community garden is located within the easement. As there are structures proposed within the easement which has not been negotiated with the other beneficiaries of the easement and the safety and management of a through site link has not been resolved between the neighbours, the community garden and through site link has been deleted

through condition. Should a resolution be achieved between the neighbouring properties in the future, then this could be subject to a modification application.

In summary, the proposed development application has been assessed against the relevant controls and on balance, Council is generally supportive of the proposal subject to the conditions of consent in the attached Schedule.

SITE DESCRIPTION

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



Figure 1. Locality Plan



Figure 2. Aerial Map of subject site

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

The site currently contains a 1.5 to 2 storey red brick warehouse building at 13B Church Avenue, a two to three storey red brick light industrial building at 6 John Street and a part 1 and part 2 storey brown brick industrial warehouse at 8 John Street. The previous uses on the sites include glass and windshield manufacturing and warehouse and distribution buildings.



Figure 3. Existing warehouse at 8 John Street



Figure 4. Existing warehouse at 6 John Street



Figure 5. Existing warehouse at 13B Church Avenue

SURROUNDING LOCALITY

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



Figure 6. Existing development at 10-14 John Street



Figure 7. Existing development directly opposite the site at 208-210 Coward Street



Figure 8. Linear Park (to the east of the site and directly next to 3-9 Church Avenue)

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

BACKGROUND/SITE HISTORY

Site History

- BA No. 22/75 approved alterations to the existing windscreen and glass fixture factory building on 17 December 1975 at 6 John Street.
- BA No. 19/77 approved alterations to the existing factory and associated office space on 26 October 1977 at 8 John Street.
- DA-09(172) for 13B Church Avenue Mascot was withdrawn and originally proposed the demolition of the existing building and the construction of a ten storey residential flat building containing 34 units and basement car parking.
- DA-14(180) for 6-8 John Street Mascot was approved by the former City of Botany Bay Councils' Development Committee on 5 August 2015 for the integrated development for the demolition of the existing structures and construction of a part 10 and part 11 storey residential flat building with associated landscaping, basement car parking and strata title subdivision. The development was approved with 39 apartments and parking for 70 vehicles
- DA-14(180).02 for 6-8 John Street Mascot was approved by the Bayside Local Planning Panel on 27 February 2018 for a modification to the approved residential flat building by amending the development to increase the number of residential apartments from 39 to 52 units and reduce the number of car parking from 70 spaces to 55 spaces to align the proposal with the Apartment Design Guide, increase the height of the development by 2.53 metres to 47.78 AHD and modifications to conditions.
- DA-2019/432 for 6-8 John Street and 13B Church Avenue is for the demolition of all structures on the site, remediation and tree removal is currently under assessment and will be determined by the Bayside Local Planning Panel on 23 June 2020.
- On 11 May 2020, Council were notified that the developer lodged a Complying Development Certificate (CDC) application on 5 May with a private certifier (Steve Watson and Partners). The application is for the demolition of three industrial buildings. A determination notice of this application has not been provided to Council.
- On 21 May 2020, Council were notified that the developer was to carry out asbestos removal on the site over a period of 5 days. A notice of intention to remove friable asbestos was applied for to Safe Work NSW.

Development Application History

- 25 October 2019 – Development Application was lodged with Bayside Council.
- 6 November 2019 – The application was presented to the Bayside Traffic Advisory Committee Meeting for recommendations.
- 7-21 November 2019 – The development application was publicly notified.
- 12 December 2019 – The application was presented to a Design Review Panel as the site is located within Mascot Station Precinct which requires an assessment on Design Excellence. Minutes were issued to the applicant and are discussed in greater detail below.
- 24 February 2020 – Council sent the applicant an RFI relating to car parking, view loss, FSR, solar analysis, setbacks, noise, minor planning matters, submissions, engineering, environmental health and landscaping matters.
- 27 February 2020 – A briefing meeting was held with the Sydney Eastern City Planning Panel.
- 10 March 2020 – A meeting was held between the applicant and Council to run through the issues raised within the RFI letter.
- 28 April 2020 – Additional information was received including amended plans, landscape plans, green travel plan, view analysis, traffic reports, acoustic report, operational management plan and civil plans.
- 7-28 May 2020 – The application was re-notified for a period of two weeks till the 21st of May. An additional week extension to the notification period was provided to the 28th of May.

DESCRIPTION OF PROPOSED DEVELOPMENT

The proposed development, in its amended form, is for the demolition of existing structures and construction of a building for student accommodation ranging between seven (7) to twelve (12) storeys in height, and including four hundred and thirty-five (435) bedrooms and associated landscaping.

The proposal is further broken down as follows:

- Demolition of the three existing premises which include a 1.5 to 2 storey red brick warehouse (13B Church Street), a 2 to 3 storey red brick light industrial building (6 John Street) and a part 1, part 2 storey brown brick industrial warehouse (8 John Street);
- Remediation of the site and removal of three trees;
- Construction of a student accommodation building (boarding house), ranging from 7 to 12 storeys and containing 435 beds. Each studio boarding room or 6-bed cluster is provided with ensuite and kitchenette facilities. The accommodation is arranged as follows;

- 213 x studio boarding rooms (includes 18 rooms available for the key disability groups); and
 - 37 x 6-bed cluster boarding rooms (222 beds in total).
- Upper ground level spaces including admin and reception with lounge and café which leads onto a communal terrace and communal spaces with meeting rooms, exceeding 234sqm of internal communal spaces;
- Lower ground level spaces including laundry room, gym, library, media room, meeting room, bike storage space, covered outdoor BBQ area waste room, totalling 680sqm of communal outdoor area;
- Expansive landscaped internal sunken courtyard and planters which provides over 419sqm (14%) of deep soil landscaped space at ground level (excluding community garden);
- Two (2) Communal rooftop terraces with landscaping and amenities which provides 808sqm of open space. One of the communal areas includes a basketball court on the rooftop of the northern building;
- Through-site link and community vegetable garden;
- Bicycle storage area with capacity for 94 bicycles;
- Loading and unloading bay included at lower ground level at the rear of the development with access from Church Avenue.

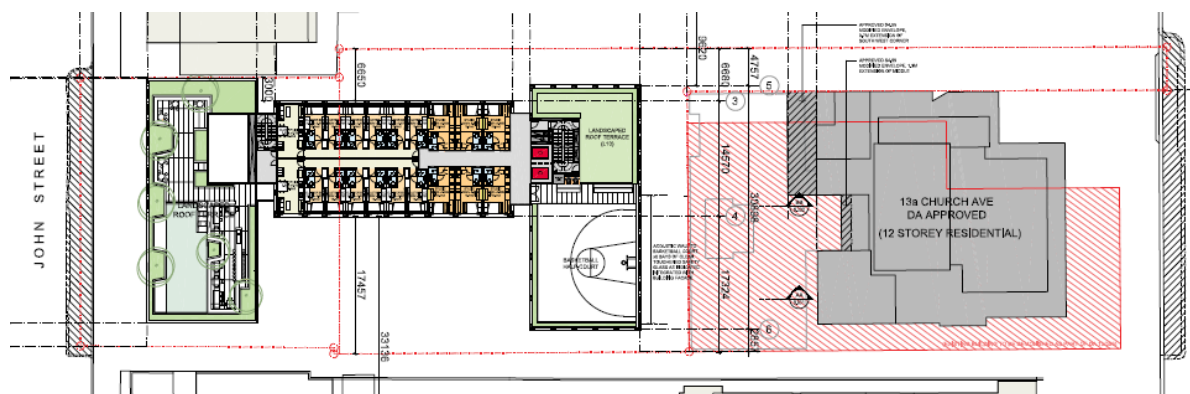




Figure 10. Proposed Southern (John Street) Elevation

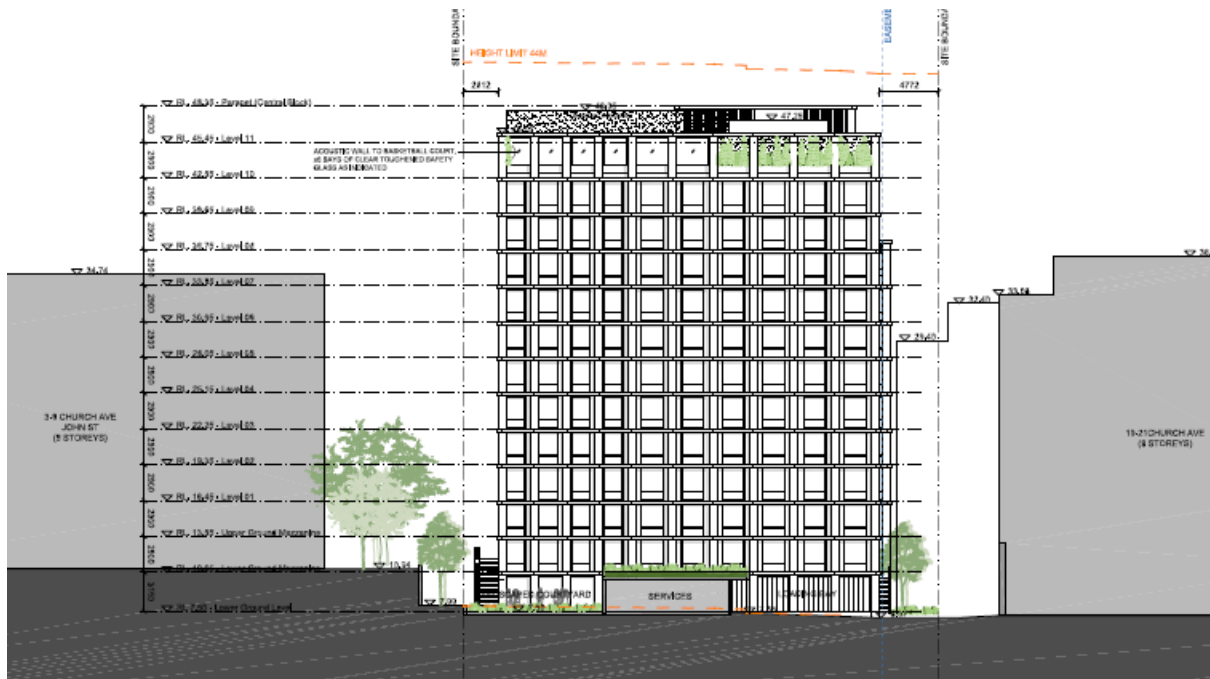


Figure 11. Proposed Northern Elevation



Figure 12. Proposed Western Elevation

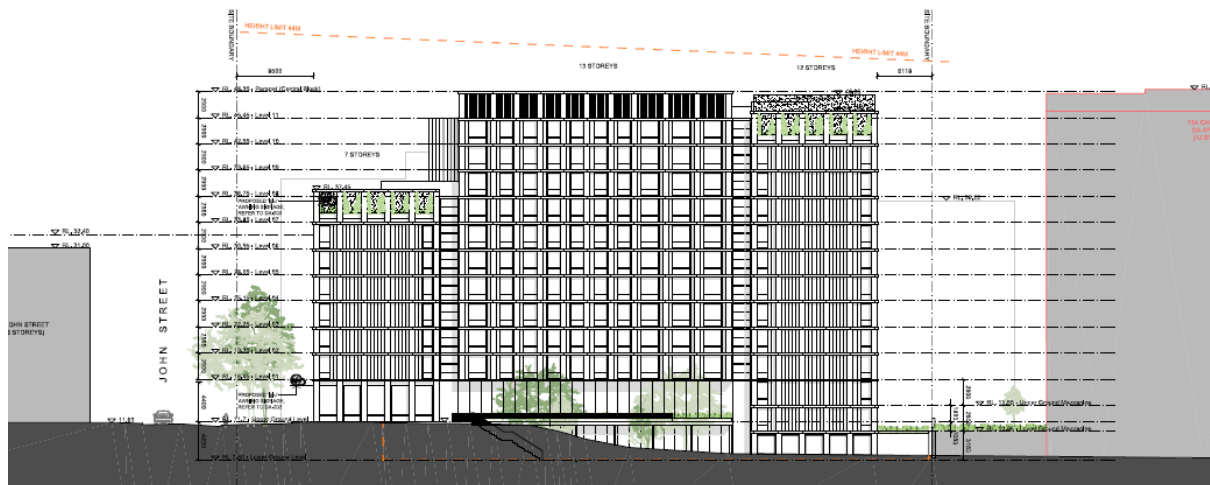




Figure 15. Proposed John Street Perspective (viewed from south-eastern side of John Street)

SECTION 4.15 CONSIDERATIONS

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

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

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Infrastructure) 2007

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

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

Clause 45 which relates to development likely to affect an electricity transmission or distribution applies to the development application. The application was referred to Ausgrid however no response was received for the application. Appropriate conditions relating to contacting Ausgrid prior to the issue of the construction certificate and generalized substation conditions have been imposed. Due to its location in Mascot Station Precinct, the site requires all aboveground powerlines and services are to be underground. Appropriate conditions

imposed by Council's Engineers have been included in the attached Schedule. The relevant clauses of the Infrastructure SEPP have been satisfied.

Clause 104 – Traffic Generating Development

The proposal is identified as a traffic generating development under Schedule 3 - Traffic generating development due to the number of rooms proposed within the building therefore a referral to Transport for NSW (TfNSW) was issued. While there is no car parking proposed on the site, TfNSW assessment has been provided below:

"TfNSW has reviewed the submitted application and has no objections, subject to the following requirements being included in any consent issued by Council:

- 1. All vehicles shall enter and exit the site in a forward direction.*
- 2. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018.*
- 3. A Construction Traffic Management Plan (CTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control shall be submitted to Council for approval prior to the issue of a Construction Certificate.*
- 4. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on the surrounding state road network during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>*

The above conditions will be imposed in the attached Schedule. Further discussion relating to car parking is provided below.

State Environmental Planning Policy No. 55- Remediation of Land

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

Council's Environmental Scientist reviewed the below reports in their assessment of contamination and geotechnical measures:

1. 'Preliminary Site Investigation and Detailed Site Investigation, 13B Church Avenue and 6-8 John Street, Mascot, NSW', (Report 56108/125044 Rev 0), by JBS&G, dated 8 October 2019.
2. 'Remedial Action Plan, 13B Church Avenue and 6-8 John Street, Mascot, NSW', (Report 56108/125048 Rev 0), by JBS&G, dated 8 October 2019.
3. 'Asbestos Management Plan, Redevelopment of 13B Church Avenue and 6-8 John Street, Mascot, NSW', (Report 56108/125046 Rev 0), by JBS&G, dated 8 October 2019.
4. 'Acid Sulfate Soil Management Plan, 13B Church Avenue and 6-8 John Street, Mascot, NSW', (Report 56108/125050 Rev 0), by JBS&G, dated 8 October 2019.

The applicant has provided a breakdown of the works that are to be carried out as part of this proposal:

“To ensure that the site is suitable for future development, the remediation objectives are outlined as follows;

- Decommissioning and removal of contamination sources inclusive of existing USTs and associated infrastructure;*
- Removal of unacceptable risks to human health from the asbestos impacted soils such that the site is suitable for the proposed use;*
- Validate the remedial works in accordance with the relevant NSW EPA Guidelines and with reference to the adopted site criteria; and*
- Document the validation process.*

The Remedial Action Plan (RAP) prepared by JBS&G Australia Pty Ltd outline the following key processes required for the demolition and removal of the existing structures from the site;

- Removal and disposal of hazardous materials in accordance with relevant regulatory guidance including WHS Regulations 2017 and Waste Classification Guidelines 2014 (EPA 2014) as outlined in the Hazardous Building Material Surveys (JBS&G 2019b18 and JBS&G 2019c19); and*
- Conduct hazardous materials clearance inspections prior to the demolition of the remainder of building structures.”*

The following comments have been provided by Councils' Environmental Scientist with regard to contamination and Acid Sulfate Soils:

“Contamination

The Preliminary Site Investigation and Detailed Site Investigation (PSI & DSI) included a site history review and identified a number of areas of concerns including underground storage tanks (UST), former market garden, hazardous building materials and car/machinery industries (AECs). A field and laboratory program comprising soil, groundwater and soil vapour testing was carried out to address the AECs. With the exception of ACM in fill, no unacceptable results were identified in soil, groundwater and soil vapour. Based on the results, the PSI & DSI concluded that the site can be made suitable for the proposed student accommodation development, subject to remediation of USTs and ACM impacts.

The Remedial Action Plan (RAP) outlined an acceptable approach to address the USTs and ACM impacts, supplemented with an Asbestos Management Plan (AMP) to manage ACM during remediation/construction. The RAP approach is acceptable to render the site suitable for future development. No objection is raised to the application with regard to demolition and remediation subject to appropriate conditions of consent.

Acid Sulfate Soils

The site is mapped as being within Class 2 Acid Sulfate Soil land. The Acid Sulfate Soil Management Plan (ASSMP) included limited testing and identified potential acid sulfate soils (PASS) at depths. The ASSMP provided an approach to manage PASS risks, including additional screening and treatment procedures. The ASSMP did not discuss impact on the groundwater. However, the bulk excavation (to ~7m AHD) to level the ground would not extend into the groundwater table (~5m AHD, reported in the PSI & DSI), dewatering would not be expected. The ASSMP is acceptable and no issue is raised with respect to demolition and remediation.

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

State Environmental Planning Policy No. 64- Advertising and Signage

State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64) aims to ensure advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish. Clause 8 and Clause 13 of SEPP 64 prevents development consent from being granted to signage unless the consent authority is satisfied that it is consistent with the objectives of the SEPP and has satisfied the assessment criteria specified in Schedule 1.

The proposal involves the installation of three business identification signs. Two of the signs will be mounted on the building as depicted on the western and eastern elevation. The signs measure 1.5 metres by 2 metres and are solid metallic or acrylic in nature and installed on the trellis screening. The third sign is an awning sign attached to the ground floor fronting John Street and measures 1.65 metres by 1.248 metres and will also be of solid metallic or acrylic. An assessment of the proposed signage against the SEPP 64 assessment criteria has been undertaken and summarised in the table below. This assessment demonstrates that the proposed signage satisfies the relevant provisions of SEPP 64, including achieving the aims and objectives of the policy.

Assessment Criteria	Comment	Complies
<u>Character of the Area</u> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed high-level signage is compatible with the existing and future character of the Mascot Station Precinct. The scale and location of the signage is consistent with existing signage in the area.	Yes
<u>Special Areas</u> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	Due to their size and location, the signage will not detract from the amenity or visual quality of nearby residential land uses. The signage is of a scale and appearance that is compatible with the existing built form of Mascot. The proposed high-level signage will be located in line with the communal rooftop terrace on Level 7 fronting John Street and the ground floor canopy level along John Street. They do not visually detract from the streetscape.	Yes
<u>Views and Vistas</u> Does the proposal obscure or compromise important views? Does the proposal dominate the skyline and reduce the quality of vistas? Does the proposal respect the viewing rights of other advertisers?	The high-level signage will sit flush against the facade of the building and will not obscure or compromise any important views. All signage has been designed to sit below the roof line. The signs are also not of a bulk or scale that would impede any view from the street.	Yes

	<p>The signage is of a scale and height consistent with existing signage on other development in the surrounding locality. The signage will not adversely impact on views or vistas from other properties, nor will it impede the visibility of other signage.</p>	
<p><u>Streetscape, setting and landscape</u> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? Does the proposal contribute to the visual interest of the streetscape, setting or landscape? Does the proposal reduce clutter by rationalising and simplifying existing advertising? Does the proposal screen unsightliness? Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</p>	<p>The proposed signage is compatible with the scale of the surrounding streetscape, setting and character of the mixed use zone.</p> <p>The signage will therefore complement the existing signage in the wider precinct, with no adverse impacts on the streetscape.</p> <p>The proposal will not contribute to visual clutter as the signage panels are unified in appearance.</p> <p>The signage will not protrude above structures or tree canopies</p>	Yes
<p><u>Site and building</u> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? Does the proposal respect important features of the site or building, or both? Does the proposal show innovation and imagination in its relationship to the site or building, or both?</p>	<p>The proposed sign is consistent with the design of the building and is appropriately sized and sited with consideration to the existing and proposed built form of Mascot. The proposed signs will not visually detract from the student accommodation development as it will not protrude above the building line and be appropriately softened. The sign will utilise modern technology and be built with contemporary materials that are consistent with the current and future context of the site.</p>	Yes
<p><u>Associated devices and logos with advertisements and advertising structures</u> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</p>	<p>The development proposes their logo as their signage which is not intrusive.</p>	Yes
<p><u>Illumination</u> Would illumination result in unacceptable glare? Would illumination affect safety for pedestrians, vehicles or aircraft? Would illumination detract from the amenity of any residence or other form of accommodation? Can the intensity of the illumination be adjusted, if necessary?</p>	<p>The signage plans state that the proposal will be artificially illuminated. The degree of illumination is minimal and will not create any negative impact. A condition has been imposed that the signs should not flash.</p>	Yes

Is the illumination subject to a curfew?		
<u>Safety</u> Would the proposal reduce the safety for any public road? Would the proposal reduce the safety for pedestrians or bicyclists? Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The signage is affixed to the building and is of a static display with exception of the awning sign. They will not reduce safety or interfere with sightlines.	Yes

The proposal satisfies the assessment criteria under SEPP No. 64 therefore the signage proposed is acceptable.

State Environmental Planning Policy (Affordable Rental Housing) 2009

Part 2 Division 3 of the ARHSEPP 2009 identifies specific development standards that apply to boarding houses. While this is not relatively the same type of the development, student accommodation is similar in nature to a boarding house development and the relevant controls are assessed against the development as demonstrated below:

Standard	Control	Proposed	Compliance
Clause 26 (c)– Land to which division applies	B4 Mixed Use zone	The proposed development is located within the B4 Mixed Use zone	Yes
Clause 27(3) – Development to which Division Applies	Development on land within zone R2 Low Density Residential within Sydney Region or equivalent to that zone must be within 400m walking distance from B2 or B4 zones and accessible areas.	The site is located within the B4 Mixed Use zone with bus services within 200 metres of the site.	Yes
Clause 29(1)(c) – FSR	3.84:1 (3.2:1 LEP requirement + 20% bonus [0.64:1])	The development has a 11,757sqm GFA which is an FSR of 3.72:1.	Yes
Clause 29(2)(a) – Building Height	Not more than permitted under an LEP. BBLEP 2013 Height Control 44m	The development achieves a maximum building height of 40.35m (RL 48.35) to the top of the lift overrun.	Yes
Clause 29(2)(b) – Landscape area	Compatible with streetscape	The John Street frontage is the prominent façade with all access off this street. The proposed landscaping is greater than what is existing along John Street with the majority of the front setbacks of neighbouring developments containing minimal landscaping and ground floor POS. The landscaping proposed is appropriate in the area.	Yes

		Additionally street setbacks are consistent	
Clause 29(2)(c) – Solar Access	One communal area receive 3 hours of direct sunlight between 9am and 3pm in mid-winter	The communal living area will receive 2 hours of sunlight while the communal open space will receive a minimum of 3 hours of sunlight. This is due to the orientation of the site and the location of the communal living room in a high density environment.	Acceptable – Refer to Note 1
Clause 29(2)(d)- Private Open Space	<ul style="list-style-type: none"> One area at least 20m² with a minimum 3m width. Manager area – 8m² with a minimum dimension of 2.5m 	<p>The proposal comprises of three key areas of communal open space, with two located on rooftops and one located at the lower ground floor. The area of COS is appropriate.</p> <p>There are no on-site managers proposed. A condition has been imposed that there be a full time manager or resident/ student leader or security guard on the site at all times.</p>	Yes
Clause 29(2)(e) - Parking	<ul style="list-style-type: none"> 0.5 parking spaces are provided for each boarding room (218 car spaces req.) Not more than 1 space per person employed. 	There are no car spaces proposed on the site.	No – Refer to Note 2
Clause 29(2)(f)- Accommodation size	<ul style="list-style-type: none"> 12m² per single boarding room 16m² in any other case 	The development is divided into studios and cluster rooms. The studio apartments have a minimum room size of 12sqm. The cluster rooms are less than 12sqm however these rooms have shared bathroom, living room, kitchen facilities. The cluster rooms are still considered 'boarding' room as the plans demonstrated an average of 12sqm excluding the bathroom and kitchen facilities is provided to each occupant. This is calculated by combining the area of the shared facilities (excluding the kitchen and bathroom) plus the area of the private room and then dividing by the number of persons in the cluster. The applicant has stated that this is the same approach taken for all their other developments across Sydney.	Yes

Clause 30(1)(a) – Communal Living room	At least one communal living room for 5 or more rooms.	The lower ground, ground and mezzanine includes communal living areas.	Yes
Clause 30(1)(b) – Size of rooms	No rooms more than 25m ²	None of the rooms exceed the maximum 25sqm living area (which excludes bathroom and kitchen).	Yes
Clause 30(1)(c) – Number of Lodgers	No more than 2 lodgers per room	The Plan of Management indicates that each room will contain one student. However the applicant has indicated that studio rooms could accommodate guests. This is not encouraged by Council. A condition of consent has been included so that there are no more than 435 students living/sleeping in the premise at any one time.	Yes
Clause 30(1)(d) – Bathroom & Kitchen Facilities	Access be provided to each lodger to use a bathroom and kitchen	All studios are self-contained while the cluster rooms have shared facilities	Yes
Clause 30(1)(e) – On site Manager	20 lodgers or more	Technically a student accommodation does not require a live in manager however a condition of consent has been imposed so that there is a manager or student/resident leader or security on site at all times.	Yes
Clause 30(1)(g) – Commercial Zoned Lane	No part of the ground floor that fronts street is to be used for residential purposes	The ground floor is not used for residential purposes.	Yes
Clause 30(1)(h) – Bicycle & Motorcycle Parking	At least one per 5 boarding rooms (req. 87)	The development does not include any motorbike spaces.	No – Refer to Note 3
Clause 30(a) – Character of Local Area	Development must be compatible with the character of the local area.	The proposed development is consistent with the built form along John Street, the height of approved or recently built development surrounding the site and to the west and is designed appropriately with regard to material and colour.	Yes- Refer to Note 4

Note 1 – Solar Access to communal living areas under the ARHSEPP

Clause 29(2)(c) of the ARHSEPP 2009 requires at least one communal living area to receive at least 3 hours of sunlight in mid-winter. The applicant has provided solar analysis with sun eye views of the development. The communal living areas are to be provided at the lower ground, upper ground and mezzanine level. The plans demonstrate that these areas will receive less than 3 hours of sunlight in mid-winter with the most sunlight received between 9am and 10am and then between 12pm and 12.30pm. At the very most, the communal living areas would receive 2 hours.

The applicant has provided the below justification for the departure in direct sunlight to these areas:

“The context of the site’s specific constraints, opportunities and optimal design has been considered in the proposed design. This has been considered when analysing the opportunity to provide direct solar access to communal living areas. Rather than ‘typical’ or traditional boarding house communal living areas, this student focused building provides a hierarchy of communal areas from noisier recreation space, to semiprivate meeting/presentation spaces, to quiet private/study rooms. The communal rooftop living space, BBQ, dining and breakout space on the roof as well as the living rooms for all the “cluster rooms” meet the solar access requirements.

Further, overall, 79% of the rooms are orientated north, east or west to maximise solar access. The ground floor of the proposal is designed to act, not as a traditional boarding house living room, but more as a student ‘hub’ designed to enhance the student living and learning experience. This area will likely include uses such as study lounge, media/presentation room, meeting rooms to facilitate group study and assignments, recreation / games area, and regular career mentoring / seminars / presentations. These areas are best located in the centre of the site to be readily accessible by all building occupants and to blend with the outdoor courtyard area. These areas are provided with ample natural light to facilitate these student functions without any need for direct solar access.

The subject site is relatively narrow with predominant frontage south facing. The ground floor of the south building is activated with a lobby, reception, lounge and café. Despite these constraints the Suns Eye Diagrams show that the communal lounge and café will receive direct solar access between 10am and 11am during mid-winter. The building provides areas and access for services such as waste collection. Considering this tight site, these services have been located on the ground floor of the northern building accessed off Church Avenue driveway/easement. This is the ‘back of house’ location, and as such is a suboptimal location for communal living.”

The argument presented by the applicant is supported particularly if the common facilities of the cluster rooms are considered to be ‘living rooms’. These areas will receive the minimum required for the development. It is agreed that the site is constrained in providing compliant sunlight due to its topography, orientation and width. The location of the living/meeting spaces away from the majority of the neighbouring developments to reduce any noise or other impacts is more paramount than these areas receiving direct sunlight.

The applicant has provided subsequent shadow analysis which demonstrates that during spring-equinox, these communal living area will receive the minimum 3 hours of sunlight with the eastern elevation receiving sun between 9am to 11am and between 2pm to 3pm. Overall, Council finds the proposal acceptable with regard to solar access in this instance.

Note 2 – Car Parking

Clause 29(2)(e) of the ARHSEPP 2009 requires developments which are not operated by a social provider to have a car parking rate of 0.5 spaces per room. The development contains 435 rooms therefore would generate a total of 218 car spaces. The proposal provides zero spaces.

The applicant has provided justification that car parking is not required on the site or as part of the proposed development. They have stated that the demographic of the occupants

residing within the development would be students, more specifically international students. Generally student accommodation, which is a specific user group, attracts a low car ownership, also noting that the site has the benefit of a very accessible location being within 200m walking distance from Mascot Train Station and within 400m walking distance from bus services along Bourke Street, Coward Street and Gardeners Road. There are eight bus services within the immediate vicinity and is further detailed in the Green Travel Plan.

The car parking requirements contained within the ARHSEPP and the DCP do not consider the specific car parking demand of purpose-built student accommodation or access to public transport. In this instance to provide a more reasonable consideration of the car parking demand the applicant was required to provide a Green Travel Plan as well as a Traffic and Parking Assessment Report. This plan and report required the applicant to research car ownership of occupants of similar developments (within Sydney) and assess factors that will influence modes of travel for future occupants including availability of parking, price of parking, frequency of public transport services and likely locations commuters will be traveling to/from. The assessment of these factors concludes that the primary attraction of the proposed development for future occupants is the ease of access to public transport with a high frequency of services to desirable destinations, such as tertiary institutions.

The Green Travel Plan goes into detail regarding alternate methods of transportation with the primary one being the train station and bus services and secondary being cycle use, taxi/uber, car share facilities and walking. Council received a number of submissions regarding to the capacity of Mascot Station. While it is acknowledged that the Station is very busy at peak hours, it is not considered that all students would be commencing classes first thing in the morning or finishing around 5pm. Class schedules vary and this will be reflected within the usage of the public transport network. The capacity of Mascot Station unfortunately is not covered under Council jurisdiction but rather State Government. Therefore Council cannot govern or impose additional services onto the network. It is noted that additional trains have been imposed on the T8 line recently due to the current nature of Covid-19 to assist in transporting the general public around the metropolitan area.

The Green Travel Plan goes into detail on the existing data of transportation usage within Mascot Station. The results show that the primary mode of transportation is by public transport which is at 58% while use of private vehicle is at 32%. The developer has indicated that based on surveys of other student accommodation developments across Sydney, the subject development will have a 0% reliance on car use, a 74% reliance on public transport, a 15% reliance on bicycle and an 11% reliance on walking. An analysis of their other developments across Sydney operated by the developer/operator demonstrate that out of the 6 known student accommodation developments run by Iglu, all 6 do not have vehicles. While the assessment includes premises at Redfern and Broadway which are much closer to tertiary establishments, developments similar in nature to the subject application have also been considered i.e. Chatswood and the recently approved development at Summer Hills. It is also noted that the Plan references tenancy agreements in which an agreement between the student and the operator is entered into on the understanding that there is no car parking on the site and that the student does not have car ownership. This at least will assist in keeping away additional cars from parking on the street or add to traffic generation.

Further reasons for not providing parking on the site stem from the nature of the area and the site itself. The area is of a high density nature and currently experiences issues with traffic generation. There are limited car parking spaces on the street with the majority of streets comprising time restrictions. The unavailability of on-street car parking within the immediate surroundings will force travel demand to public transportation or bicycle usage. Secondly, to comply with the number of car spaces required under the SEPP, the proposal would require extensive excavation that would result in at least three levels of basement car parking. Any excavation on the site would result in dewatering of groundwater and may result in the

destabilization of the neighbouring sites. The lack of cars on the street generated by the development will assist in removing potential for additional traffic generation and congestion within Mascot Station Town Centre. It is noted that concerns raised by objectors that students will be using on-street spaces is substantiated and Council cannot guarantee that they will not however by condition and by the nature of the use and the procedures placed by the operator, car parking usage is not considered to provide additional strain to the road network.

The applicant has proposed a bicycle storage room on the lower ground level of the development to accommodate 94 bicycles. While this is supported, Council's Development Engineer has requested that the size of the storage be increased to contain a minimum of 145 spaces due to the large number of students/staff residing on the site. This has been conditioned within the consent. The area has the benefit of having an existing cycle lane along Bourke Street which runs north towards the city. Council is investigating further cycle routes within the Precinct, possibly along Coward Street to provide and encourage alternate sustainable forms of transport to the area.

It is noted that the development does not rely on car share facilities to offset a lack of on-site parking, but instead outlines that there is existing services within the locality that students may take advantage of should they occasionally require a car. The applicant points out the specific usage of the site, the highly accessible nature and subsequent reduced dependence of vehicle ownership among users. The Green Travel Plan makes a recommendation that the operator enter negotiations with car share facilities to provide a solution.

To ensure that the premises is utilised for student accommodation and to ensure minimal impacts on surrounding streets Council recommends a condition of consent, which restricts the occupants of the proposed development to tertiary students, the number of students or people staying at the development is 435 and a further condition which outlines that students/staff of the development will not be entitled to a residential on-street parking permit.

Note 3 – Variation to the Motorbike Parking

The applicant has provided a Clause 4.6 variation to Clause 30(1)(h) of the ARHSEPP 2009 which requires one motorbike space per 5 rooms. Considering there are 435 rooms proposed in this development, the building requires a total of 87 motorbike spaces. The proposal provides zero spaces. The Clause 4.6 variation prepared by Mecone provides the following justification:

“Clause 4.6(3)(a) - Is Compliance with the development standard unreasonable or unnecessary in the circumstances of the case

....

As previously outlined, there is no specific objectives provided for Clause 30 of the ARH SEPP. Despite this, in the case of the proposed development, there are several circumstances which indicate that the objectives of the standard and zone are achieved notwithstanding non-compliance with the motorcycle parking requirement:

- The proposed development is consistent with the B4 Mixed use zone objectives as described above and places the new residents within easy walking distance of local shops and services, reducing their need for ownership and storage of any form of vehicle;*
- The proposal will aligns with the objectives of BBLEP2013 and will promote the use of public transport, walking and cycling because the site is highly accessible with Mascot*

train station and multiple bus services (along Coward Street, Bourke Street and Gardeners Road) in close proximity, providing easy access to tertiary institutions such as universities that are also located within easy walking distance to train stations and bus stops;

- *It is considered that the future tenants (being students) would not rely on motorcycles for transport due to cost and ownership constraints and would rely instead on cheaper forms of transport (being public transport, cycling and walking) which is consistent with the proponent's experiences at its other facilities currently operating in Sydney, Melbourne and Brisbane;*
- *The contravention of the motorcycle parking requirement does not raise any matter of State or regional planning significance. In contrast, the absence of motorcycle and car parking aligns with Bayside Council's views on local transport planning priorities, 'to minimise car parking in areas which have good access to public transport to promote sustainable transport' and the Mascot Station precinct objective to 'encourage increased use of public transport, walking and cycling and reduce reliance on cars'.*
- *There is no public benefit in maintaining the standard in the circumstances of the case as explained below.*

Therefore, strict compliance with the motorcycle parking requirement would be unreasonable and unnecessary in the circumstances.

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

...

There are sufficient environmental planning grounds to justify contravening the development standard as the proposed development allows for the promotion and co-ordination of the orderly and economic use and development of the land in the following ways:

- *The development is for a purpose built facility for student accommodation. The students that attend these facilities are generally not local and travel from other locations including overseas. As the student accommodation is not their permanent place of residence, the students do not have private vehicles or motorcycles. The facility is sited purposely close to local services and public transport to ensure that the students have access to a range of needs without the reliance on private transport.*
- *The proposal is supported by a Green Travel Plan prepared by Varga Traffic Planning. The Green Travel Plan aims to;*
 - *Reduce dependence on private cars;*
 - *Improve pedestrian and cycling facilities;*
 - *Promote public transport and car sharing;*
 - *Reduce congestion in the local area.*

After reviewing the context of the site and the use of the site by students, the Plan proposes a number of key actions to meet strategic directions related to aligning land use planning and transport planning, including the reduction in the need for private vehicle ownership. These actions include;

- *Considering a subsidy for staff and students travelling via public transport;*
 - *Provision of transport information notice boards and other mechanisms to make employees and students aware of travel options;*
 - *Utilisation of car share facilities;*
 - *Restricting off street parking of cars and motorbikes to nil;*
 - *Provision of end of trip facilities;*
 - *Establish walking and cycling groups for students and staff;*
 - *Providing travel access guide to staff and students as part of an induction package and regularly review/update this information to ensure it is up to date.*
- *The development will create a 'better planning outcome' given it will promote the use of more sustainable forms of transport including public transport, cycling and walking and is consistent with Council's approach to traffic and parking, which is to reduce private vehicle trips within the LGA;*
 - *The proposal will also provide sufficient bicycle parking which surpasses ARH SEPP minimum requirements;*
 - *The proposal will not create any additional traffic generation to the surrounding road network given no car parking spaces and no motorcycle spaces are provided;*
 - *The proposal will not significantly impact upon the amenity of the adjoining neighbours, whereas encouraging motorcycle use by the residents of the proposed development would result in additional noise impacts on neighbours;*
 - *If the proposal was to incorporate 87 motorcycle spaces (as per the requirement) this would reduce the private open space for the courtyard, amenities and reduce deep soil landscaping; and,*
 - *Strict compliance with the motorcycle parking requirement would hinder the attainment of the objectives of the Environment and Planning Assessment Act 1979 (**the Act**) and would not result in the orderly and economic use and development of land.*

Clause 4.6(4)(a)(ii) - the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

It is demonstrated below that the proposed development will be in the public interest because it fulfils the following objectives:

The objectives of the particular standard:

It is reiterated that there are no stated objectives associated with the control or Clause 30 in general. However, it is considered that the purpose of Clause 30 of the SEPP is to ensure that boarding houses are compatible with their context, provide adequate facilities for occupants and do not result in any adverse impacts to the surrounding area, including traffic impacts.

The objectives for development within the zone in which the development is proposed to be carried out.

*This falls within the **B4 Mixed Use** zone and the relevant objectives are addressed*

below;

- **To provide a mixture of compatible land uses.**

The proposed development includes a use that is permitted with consent in the zone, which will contribute to the diversity of residential uses in the surrounding locality. Furthermore, the proposed development will include student accommodation within walking distance of the Mascot Local Centre and Mascot train station. The future occupants will be patrons of and potentially work in the local centre, strengthening the local economy.

- **To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.**

- *The proposed development facilitates a high-quality built form at the subject site that integrates with the surrounding built form and responds appropriately to the topography and context of the site and the objectives of the zone. The development facilitates solely for the accommodation of students.*
- *The proposed development will support the continued operation and future growth of businesses within the B4 Mixed Use zone. The proposal introduces a new, permitted use into the Mascot Station Precinct, which will contribute to the continued operation and development of the surrounding diverse uses.*
- *The student residents will be within walking distance to employment opportunities in the Mascot Local Centre and nearby Green Square Town Centre.*
- *The proposed development will be located in an accessible location which is in proximity to Mascot train station and a number of bus services which will maximise public transport patronage.*
- *The proposal also incorporates appropriate bicycle parking provisions. The provision of no motorcycle parking will encourage the use of more sustainable forms of transport such as walking and cycling and supports this objective and vision to encourage interaction within the community and its services.*
- *Providing private motorcycle parking spaces would actively reduce public transport patronage and discourage walking and cycling.*

Taking into consideration the above the proposed development serves the public interest, as it is consistent with the objectives of the development standard and the B4 Mixed Use zone. Furthermore, there is no significant benefit in maintaining the motorcycle parking requirements given the proposal facilitates a significantly better planning outcome with improved amenity and better environmental impacts.”

Officers' Comments:

The Clause 4.6 variation to the motorbike parking variation has been assessed in accordance with the ARHSEPP 2009.

The applicant makes worthwhile points regarding to the non-compliance. The applicant has satisfied at least one of the tests outlined within *Wehbe v Pittwater Council* in that it is considered that the non-compliance has achieved the objectives of the standard therefore compliance is unnecessary. The applicant has also demonstrated that there are sufficient environmental grounds to support varying the standard.

It is supported that the proposal will successfully achieve the objectives of the clause and zone and the departure in motorbike parking is not a significant issue for Council as it is not a

popular form of transport that is found within the area and is usually utilized by students due to its costs. It is noted that the train station is in close proximity to the site and is likely, with the use of bicycles, the most common form of transport for students to tertiary establishments. Additionally, the amount of motorbike spaces required under the ARHSEPP 2009 exceeds the amount of motorbike spaces that would be required for a residential apartment development under SEPP No. 65 therefore onerous to pursue compliance.

The proposal is consistent with the objectives of the standard and the applicant has satisfactorily established that the proposed variation is appropriate in maintaining and enforcing the development standard in these cases would be unreasonable and unnecessary and would not allow the orderly and economic development of this site. It is considered that the Clause 4.6 variation provides sufficient justification in supporting the non-compliant motorbike parking and has addressed the matters that are stated within Clause 4.6(3) and should be supported.

Note 4 – Character of Local Area

The subject site is located within the B4 Mixed Use zone and is located within Mascot Station Town Centre Precinct. The Centre includes a variety of uses such as residential flat buildings, commercial offices, retail stores and supermarkets and other commercial ventures. The area has a maximum height control of 44 metres and there is a specific DCP for this area which is further discussed in detail in Part 9A – Mascot Station Precinct in the report below.

Clause 30A of ARHSEPP states that Council cannot grant consent to a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area. In establishing the character test, consideration is given to the Planning principles of the Court. In *Project Venture Developments v Pittwater Council [2005] NSWLEC 191* the Court stated that in order to test whether a proposal is compatible with its context, two questions should be asked:

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

Applicants' Comment:

"It is considered that the proposed student accommodation will provide a development that is compatible with the Character of the Mascot Station Precinct, with its close proximity to education facilities and commercial centres. The proposed development also aligns with the vision of the centre by reinforcing the distinctive characteristics of the area and seeks to enhance and protect the public domain with through street widening and tree planting along John Street. The proposal also includes a community vegetable garden located in the through site link that connects John Street and Church Avenue. This initiative will increase precinct permeability, enliven the currently disused laneway, and whilst engaging residents with the broader community to contribute to a sustainable vibrant community.

The proposed development will also contribute to the range of building types within the area whilst stimulating the local economy during both the construction phase as well as through the residents who will reside at the development. An Operational Management Plan has been prepared and outlines the complaints register and student accommodation rules as required by the SEPP.

The proposal has been carefully designed to accommodate all degrees of mobility and integrate ecologically sustainable design elements and which form an integral part of the development. These elements include the encouragement of sustainable methods of transport, passive design with high levels of insulation, access to natural light and ventilation, extensive landscaping in both the central sunken courtyard and rooftops, and water collection and re-use systems. Careful consideration has also been made to the neighbouring developments with various design options and approaches being studied.

While it is acknowledged that the proposed development results in a variation to the motorcycle parking controls under the SEPP (ARH) 2009 and BBLEP2013, it is considered that it is wholly compliant with the objectives of these clauses and therefore reflective of the built form in the locality. It is also considered that the student accommodation provides a development which is consistent with the objectives of the BBDCP2013 relevant to the site. As such, the student accommodation is considered compatible with the character of the locality and warrants the support of Council.

*Legal precedent established in Project Venture v Pittwater Council (2005) NSW LEC 191 details two key questions to be addressed when assessing a proposal's compatibility between a building and its surrounding context. The following **Table 6** outlines the consistency with the case law;*

Physical Impact:

Noise

To ensure that the proposal's physical impacts on surrounding development are acceptable, an Acoustic Assessment and an Operational Management Plan has been prepared.

The Acoustic Report The assessment notes that the proposed development can be made suitable for the proposed use and comply with the relevant controls, provided the recommendations in the report are implemented. The Operational Management Plan outlines controls such as noise management measurements to mitigate any impacts to neighbouring properties. Smoking and loud noise including music will be prohibited in external common areas. All external areas will be locked off by Management at 10pm and re-opened at 9am, 7 days a week with a maximum number of 100 people in the area at any time.

Further, substantial landscaping is proposed on site to ensure that the proposal will provide a high level of visual amenity and outlook to neighbouring developments when compared the existing buildings on site.

Overlooking

The proposed development has been designed to minimise overlooking. The windows on the Southern boundary overlook John Street. The development incorporates substantial setbacks and building separation as well as landscaping to minimise any risks to nearby residents. The roof top terraces on the northern and southern block incorporates landscaping with trellis and climbing plantings to minimise any overlooking. Smoking is prohibited. Loud noise, including music, is prohibited in external common areas. All external areas will be locked off by Management at 10pm and re-opened at 9am, 7 days a week with a maximum number of 100 people in the area at any time (see Operational Management Plan).

Overshadowing

The Plans compare the proposal to the approved building envelope on the site. On account the proposed development provides a lower building envelope fronting John Street, the development will maintain greater solar access to the building to the south of the subject site.

Constraining development potential

The subject site represents the last remaining developable block that has either been redeveloped already or does not contain an existing consent supporting redevelopment. The proposal has had to consider the impacts on and from the surrounding existing developments/approvals and provide a reasonable outcome on the subject site.

Visual Impact:

The proposed design is 40m in height. This is below the BBLEP2013 height control of 44m. The proposed building height of 7-8 storeys on John Street is consistent with the existing street wall buildings on the northern side of the street.

The proposed development includes a setback of 8.5m to the southern boundary (John Street) which aligns with the street wall of the adjoining building. The northern building has been setback 6m from the boundary.

*The setback from the **western** boundary is 4.6m in order to accommodate for the existing access easement. The ground level includes a 3m setback on the **south western** side boundary to accommodate the proposed pedestrian through-site link. The **east** proposes a setback of 3m.*

The proposed development incorporates landscaping in the internal centralised sunken courtyard which will establish a green outlook for residents and will provide an area for relaxation and recreation that encourages social interaction. The through-site link and service lane on the northern boundary will include a freestanding and movable community vegetable garden.

The proposed communal rooftop garden on located on Level 7 of the southern block and Level 10 of the northern block will provide additional planting. The northern block roof top will include a basketball halfcourt and AstroTurf exercise area.

Artists' impressions have been prepared by Bates Smart Architects that show the proposed development in the context of the surrounding locality.

The proposed design incorporates materials and finishes into the design which respond appropriately to the context of the area, its character and surrounds."

Officers Comments:

The development has been designed so that there is a consistent street wall of 7 storeys presented along John Street. This aligns with the height of the development to the west at 10-14 John Street and has similar, if not the same, setbacks along the street. The proposal provides for a greater landscaped area within the front setback which improves the street and is superior to the existing developments along the northern and southern side of John Street which are generally characterised by courtyards to their respective units. The central building is the tallest of the three buildings on the site and has been orientated so that impact from bulk and shadow is minimal. The northern building steps down from the central building and is below the height of the approved development to the north. With regard to building form and scale, the proposal is consistent with newer developments in the area. The site does have the disadvantage of being located on a topographically challenged site as well as located between two established developments which have a maximum building height of 8 storeys.

It is also key to note that the development will replace another approved development which contained a part 11 and 12 storey residential flat building which had more bulk presented to John Street than the subject proposal. The current proposal is more in line with the existing developments. The proposal is not visible or prominent from Church Avenue with the development being set away from the street in a battle-axe arrangement. The main points of visibility would be from the neighbouring sites. The neighbouring site to the east at 3-9 Church Avenue does have a significant landscaped setting at the ground level plane. While the applicant has proposed a large amount of landscaping at ground level and rooftop level, further conditions of consent have been imposed requiring a greater amount of trees and species that when mature, would assist in softening the built form when viewed from the streetscape. While the development is not your typical residential flat building, it is still considered residential accommodation and should be treated in this matter, regardless of if the occupants are permanent or transitional.

The applicants' justification is further supported within the minutes from the Design Review Panel who assessed design excellence and the nine principles within SEPP 65. While the proposal is not a SEPP No. 65 development, the principles in this instance are still relevant and apply. As provided in greater detail in the Design Excellence section of the report below, the Panel were pleased with the proposed material and colour scheme and thought that the development as a whole was compatible with the local area particularly as the building proposes three distinct building volumes which relate to the surrounding character of the street and its buildings. While the buildings in the centre and rear of the site are higher than the developments immediately to the west and east of the site, the proposal is consistent with the approved development at 13A Church Avenue as well as 27 Church Avenue. It is considered that the character of the area would remain intact and the proposal will not create a detrimental impact on the streetscape. Therefore, the proposed development satisfies Clause 30A of the ARHSEPP 2009.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Given the proposed student accommodation comprises independent bathrooms and kitchenettes in some of the rooms, the provision of BASIX technically applies. The proposal was accompanied by a BASIX Assessment report prepared by IGS Integrated Group Services on 25 October 2019, which confirms proposed energy efficiency measures sought to be incorporated as part of the proposal. The proposal adequately satisfies the provisions of the SEPP.

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

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

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan and substantially reproduces the effect of these clauses in the Vegetation SEPP. Council will continue to regulate the clearing of vegetation (including native vegetation below the BOS thresholds through the DCP.

The site contains three trees within the rear setback of 13B Church Avenue which are proposed to be removed. Two of the trees are insignificant however there is one (1) *Araucaria columnaris* (Cook Island Pine) located on the north-eastern corner of the site that is considered significant. You can see the tree in the left hand side of the photo at Figure 5 above. While Councils' Tree Management Officer initially had issue with its removal, it was agreed that removal could occur subject to the imposition of a condition requiring tree planting to occur elsewhere on the site. The rationale for its removal is that the tree is located within a dense area where any future development, whether for a student accommodation or residential apartment building, would be hindered due to its location. Additionally, the tree, while well established, does not provide much privacy or protection as other species of trees. Appropriate conditions of consent imposed by Council's Tree Management Officer and Landscape Architect have been imposed in the attached schedule.

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

Botany Bay Local Environmental Plan 2013 (BBLEP)

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

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
2.7 Demolition of a building or work may be carried only with development consent	Yes	The proposal seeks to demolish all structures, remediation as well as tree removal. The buildings are located on the boundary therefore a relevant condition requiring a dilapidation report of all immediate properties is imposed in the consent to ensure that the properties within the immediate vicinity of the development is not adversely impacted from the proposed demolition.
Land use Zone	Yes	The site is zoned B4 Mixed Use zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	Whilst specifically for student accommodation, the proposal is defined as a boarding house within the BBLEP 2013 which is a permissible form of development in the zone.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the objectives of the B4 Mixed Use Zone which are as follows: <ul style="list-style-type: none"> • To provide a mixture of compatible land uses.

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
		<ul style="list-style-type: none"> To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
What is the proposed height? Does the height of the building comply the maximum height?	Yes	<p>The maximum height allowed on the site is 44 metres.</p> <p>The proposed height is 40.35 metres (RL 48.35) metres.</p> <p>The proposal height is compliant with Clause 4.3 of the Botany Bay Local Environmental Plan 2013.</p>
What is the proposed FSR? Does the FSR of the building comply the maximum FSR?	Yes	<p>The maximum FSR allowed on the site is 3.2:1.</p> <p>The proposed development is defined as a boarding house. The ARHSEPP affords a FSR bonus of 20% resulting in a maximum FSR of 3.84:1 is allowed on the site.</p> <p>The proposal achieves a maximum FSR of 3.67:1.</p> <p>The proposed FSR is compliant with the Botany Local Environmental Plan 2013 when considering the FSR bonus under the SEPP.</p>
Is the land affected by road widening?	N/A	The site is affected by road widening along John Street and Church Avenue. This is required in the DCP rather than in the LEP therefore an assessment against this clause is not warranted.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The site is not a heritage item, is not located within a heritage conservation area or is within the vicinity of a heritage item.
<p>The following provisions in Part 6 of Botany Bay Local Environmental Plan apply–</p> <ul style="list-style-type: none"> 6.1 – Acid Sulfate Soils 	Yes	The site is located within a Class 2 and 4 ASS zone. The proposal was accompanied by an Acid Sulfate Soils Management Plan which was reviewed by Council's Environmental Scientist and was supported.

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
<ul style="list-style-type: none"> 6.2 – Earthworks 	Yes	The proposed work may necessitate to some minor earthworks on site. Conditions of consent have been imposed to ensure minimal impacts on the amenity of the surrounding properties, drainage patterns and soil stability.
<ul style="list-style-type: none"> 6.3 – Stormwater Management 	Yes	The proposal contains an on-site detention system located at lower ground level. The application was referred to Council's Engineer who had no objections subject to appropriate conditions of consent.
<ul style="list-style-type: none"> 6.8 – Airspace Operations 	Yes	The site is subject to a maximum height of 51 metres AHD. The proposal is below the maximum RL height and therefore complies.
<ul style="list-style-type: none"> 6.9 – Development in areas subject to aircraft noise 	Yes	The subject site lies within the 20-25 ANEF contour. An amended Acoustic Report, prepared by Acoustic Logic on 9 April 2020, has been submitted with the development application, which indicates that the development has been designed to comply with the requirements of AS2021-2000. The development is considered to be consistent with Clause 6.9 of BBLEP 2013.
<ul style="list-style-type: none"> 6.15 – Active Street Frontage 	Yes	Church Avenue has been identified as an active street frontage area. The site only has the driveway on this frontage therefore there is no requirement that the development have an active street frontage on that frontage. Regardless, the ground floor along John Street has provided an activated entry.
<ul style="list-style-type: none"> 6.16 – Design Excellence 	Yes	The site is located in the Mascot Station Key Precinct area therefore the proposal is to be assessed against Design Excellence. The proposal was presented to the design review panel in which greater detail is provided below in Note 5.

Note 5 – Design Excellence (Clause 6.16 of the BBLEP 2013)

The site is located within the Mascot Station Precinct as identified within the Key Areas Map within the BBLEP 2013. Therefore the site is subject to design excellence. The proposal was presented to the design review panel on 12 December 2019. The proposal had previously gone to a Panel meeting prior to the lodgement of the development application on 1 August 2019. The minutes below are from the second Panel meeting as part of the DA. Essentially, the Panel were satisfied that the design exhibits a high standard of architectural design, materials and detailing and that the form, arrangement and external appearance will improve the quality and amenity of the public domain.

Context and Neighbourhood Character

Panel Comments:

The Panel considers that the applicant's design team has undertaken a comprehensive and well-considered assessment of the surrounding urban context, including the difficulties associated with the change in levels between the rear and the front of the property as well as existing and proposed development on adjacent sites.

The Panel notes that the applicant has taken on board the suggestions and comments from the previous meeting regarding the rear lane. The Panel commends the design approach and the through site link.

It was suggested that the applicant consider differentiating the ground-floor façade on the side laneway and John Street (West and South elevations respectively) with a different treatment (either through a change of colour in the reveals of the windows or set-back of glass). This would help to reinforce the urban legibility and role of the through-site link and the connection between John Street and the side lane. Note: This is just a suggestion for the architects to consider. It is not a requirement. The Panel is confident to leave this to the architects' discretion.

Built Form and Scale

Panel Comments:

The Panel commends the way the architects have responded to the site with three distinct building volumes and the manner in which these volumes relate to the surrounding character of the street and its buildings. There is a clear built form strategy and this has been developed into a convincing and compelling architectural outcome. The Panel particularly commends the articulation of the roofscape and the sequence of (external and internal) spaces that are proposed over the ground and lower ground floors.

Density

Panel Comments:

The Panel considers that the density is appropriate for the site.

Sustainability

Panel Comments:

The Panel commends the sustainability initiatives that are proposed.

Landscape

Panel Comments:

The Panel believes that there is a high quality of landscape being proposed for the site.

The Panel expressed some reservations about the community gardens that are proposed in the laneway but after discussion with the applicant, they accept that this is predominantly an issue of maintenance and "ownership". The Applicant accepts that they will need to manage the gardens and perhaps aspire surrounding residents will start to use them as an integrated

community asset. The Applicant noted that the level of community involvement in these gardens is something that they will have to monitor.

Note was made about the importance of the legibility and clear site lines associated with the laneway and that while the community gardens are a commendable concept, that they be located so to enhance the visual clarity and comprehension of the laneway's primary purpose as a through site link, thereby reinforcing CPTED guidelines.

Amenity

Panel Comments:

The issues raised at the previous meeting appear to have been properly addressed.

There is some concern however about the extent of over-shadowing on the neighbouring residential building to the east. The Applicants indicate that they had addressed this and are confident that the impacts are negligible – shadows on the adjoining building should be prepared and provided to Council to verify this. The Panel is happy to endorse the scheme as long as shadow impacts can meet the Council's requirements.

Safety

Panels Comments:

The Panel is happy that these items have been addressed in the developed scheme.

Housing Diversity and Social Interaction

Panels Comments:

The Panel is happy that these items have been addressed in the developed scheme.

Aesthetics

Panels Comments:

The Panel commends the developed scheme and believes that it will provide a positive addition to the area.

The above comments, in addition to the comments that were previously raised by the Panel on the 1 August 2019 meeting, form part of an attached document to this DA. The only comment that they raised with uncertainty was the overshadowing of the development to the neighbouring site to the east. This has been discussed in greater detail below in the report. Therefore the proposal achieves Design Excellence in accordance with Clause 6.16(4) of the Botany Bay Local Environmental Plan 2013.

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

The following draft EPIs are of relevance:

Draft Bayside Local Environmental Plan 2020

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

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

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

The draft LEP does not impact the site.

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

Botany Bay Development Control Plan (BBDGP) 2013

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

Part 3A – Parking and Access

An assessment against car and motorcycle parking has been provided in the ARHSEPP section of the report above.

Loading and Unloading

The development proposes a service loading bay on the north-western corner of the northern building. The loading bay is restricted to one space and accommodates an MRV. As demonstrated in the plans, the space appears to not be enclosed with a roof to allow for the vehicle to access the area. The space is accessed through Church Avenue by the shared driveway easement and has been demonstrated by the applicant that any vehicles will access and exit the site in a forward direction. Council garbage trucks cannot access the area therefore a condition for a private waste contractor has been included. Appropriate conditions have been imposed regarding to the hours of use of the loading bay, waste collection management and grading.

Part 3C – Access and Mobility

The development application was accompanied by two access reports prepared by Architecture and Access Pty Ltd. The development proposes a total of 18 accessible sole occupancy rooms which have been divided into three types of rooms- 5 rooms for mobility impairments, 9 rooms for hearing and speech impairments, and 4 rooms for vision impairments. These units are distributed throughout the building and the building operator is required to allocate these based on user requirements.

The proposal provides a ramp at the principal entrance along John Street as well as contains four lifts within the development. All communal areas are accessible by lift therefore there is no disadvantages presented. The development does not provide accessible parking however this is similar to the argument presented in the car parking discussion above. Mascot Station is an accessible station with lifts going down to the platforms. The proposal satisfies the provisions of the DCP.

Part 3D – Signage

Refer to SEPP No. 64 – Advertising and Signage in the report above.

Part 3G – Stormwater Management

The proposal provides for an on-site detention system which is detailed within the civil plans and report prepared by Enstruct Pty Ltd. The site is also flood affected on 13B Church Avenue and requires the building to be raised to meet the minimum freeboard. The application was referred to Council's Development Engineer who had no objections to the stormwater system provided on the site, subject to conditions imposed in the consent relating to stormwater, flood report and flood levels.

Part 3H – Sustainable Design

The development application was accompanied by a BASIX Report prepared by IGS Integrated Group Services as well as a BCA report which addresses Part 3J and prepared by Steve Watsons and Partners. The reports have determined the development will provide appropriate ESD initiatives and achieve an acceptable level of energy efficiency. The reports also recommend some improvements to be incorporated to improve upon the existing key sustainability elements of the development. In addition to the recommendations in the report, Council's Development Engineer has included a condition which requires the applicant to provide stormwater re-use, photovoltaic panels to be installed as well as sensed controlled air conditioning and lighting.

Part 3I – Crime Prevention, Safety and Security

The proposal has been designed so that the principal entry point within the building is through John Street and will be carried out through swipe cards so that the general public cannot enter as they choose. Additionally, the ground floor provides large glass windows so that passive surveillance is carried out to the street and the lower ground courtyard. The developer has issued a plan of management which outlines the operations of the development and this and additional security conditions have been imposed in the attached consent. A condition requiring an on-site manager/resident or student leader/security has been included in the instance where there are any complaints or issues. Additionally, the application was referred to NSW Police who have provided advisory conditions relating to security, CCTV and hidden areas. The proposal is considered to satisfy the provisions of the DCP.

Part 3J – Aircraft Noise and OLS

The provisions of Australian Standard AS2021-2000 have been considered in the assessment of the development application, as the subject site is located within the 20-25 ANEF contour. Residential/commercial in these areas is considered acceptable under Table 2.1 of Australian Standard AS2021-2000 unless an acoustic report is submitted to Council, which demonstrates that the proposed dwelling can achieve the requirements under Table 3.3 of AS2021-2000.

An acoustic report prepared by Acoustic Logic and dated 9 April 2020 accompanies the development application.

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

The Acoustic Report was referred to Council's Environmental Health Officer who had no objections to the amended document subject to conditions imposed in the consent.

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

Part 3K – Contamination

Refer to SEPP No. 55 – Remediation of Land above in the report for discussion.

Part 3L – Landscaping and Tree Management

The development provides a total of 738.9sqm of landscaped area. This is generally provided at the lower ground level which contains a communal grassed area, the ground level at the front of the site, the rooftop terrace on top of Level 7 fronting John Street and the rooftop communal area on the northern building near the basketball court. The proposal also has a total of 419.3sqm of deep soil area. The proposal also provides, at the communal rooftop terrace areas, mesh around the boundaries of the area to allow for trellis planting to further provide a green effect when viewed from the street and surrounding developments. Additionally, the applicant has addressed Council's concern with regard to the distance between the rooftop terrace fronting John Street and the neighbouring site to the west by providing a wider planter so that the area of trafficable rooftop is increased away from the side boundary.

The application was referred to Council's Landscape Architect who originally did not support the proposal and required an amended landscape plan and greater detailing with regard to planters, tree species and other landscaping matters. The applicant provided an amended landscape plan which demonstrated that the applicant had considered Council's original comments. Appropriate conditions have been imposed in the attached Schedule. One major change to the landscaped area at ground level which has been conditioned is the requirement that the applicant provide a larger number of trees with a significant mature height at the lower ground communal area near the eastern boundary. The advantages of the subject development is that the proposal does not include any basement car parking. Therefore they have the benefit of having a significant amount of deep soil area. As one of the key issues raised in the submissions related to the lack of green and open space as well as visual privacy, the planting of these trees will assist in greening the site as well as providing a landscape screening of the building from the communal areas of 3-9 Church Avenue as well as when viewed from John Street. The additional trees will also assist in softening the built form in a high density area.

Part 3N – Waste Minimisation and Management

A waste minimisation and management plan (WMMP) prepared by Iglu was submitted with the application which outlines the processes the development operators will carry out waste management. The waste report demonstrates that the lower ground level contains two separate waste rooms with the larger of the two located directly adjoining the loading bay. The waste from the smaller waste room will then be wheeled to the larger room for collection. Waste collection is to be carried out by a private contractor from the dedicated loading bay and this has been appropriately conditioned. The development also contains garbage chutes at the northern and southern core on each level for easy access. The application was referred to Council's Waste Management Officer who had no issues with the proposal and the size of the waste rooms.

Part 4C – High Density Residential

The relevant sections that will form an assessment against Part 4C of the DCP are as follows:

Setbacks

There are no specific setback provisions for student accommodation within the DCP. As stated within the report, the proposal has been assessed with the controls that would apply for a boarding house development as it is the most similar form of development for assessment. The boarding house provisions refer back to Part 4C of the BBDCP 2013 which states that the development should comply with the provisions under SEPP No. 65 and the Apartment Design Guide.

In this instance, the proposal provides the following setbacks:

Northern Setback:

- Nil- lower ground level
- 6 metres – Upper Ground Floor and above

Southern Setback:

- 6.6 metres- Upper Ground Floor to Level 6

Eastern Setback:

- 2.85 metres to 17.457 metres- Lower Ground Floor to Level 10

Western Setback:

- Nil to 6.1 metres- Lower Ground Level
- 4.8 metres to 6.1 metres –Upper Ground Levels
- 3 metres to 6.1 metres – Level 1 to Level 10

The proposal along the southern boundary is consistent with the setback existing at the neighbouring property to the west. No concerns are raised regarding building separation or visual privacy as the street forms the separation between the site and the properties directly opposite.

The eastern elevation does not comply however considering that the development adjoins 3-9 Church Avenue which contains three separate buildings that are considerably set away from the common boundary and providing at least a 14 metre setback between the subject development and the southern-most building, the proposal is acceptable. The rear boundary width (excluding the easement) is 33.8 metre wide. Full compliance with the controls from both the eastern and western elevation would result in the southern building having a width of less than 10 metres. The development has been designed so the eastern facades on the northern and southern buildings have a limited amount of windows facing the neighbouring site. Additionally, the length of these two buildings is approximately 14.5 metres therefore does not take up the majority of the eastern frontage. The central building has the benefit of being setback 17.457 metres from the boundary which is greater than the setback requirements in the ADG. While the majority of the windows within this building are located on the eastern facades, there is no concern for overlooking.

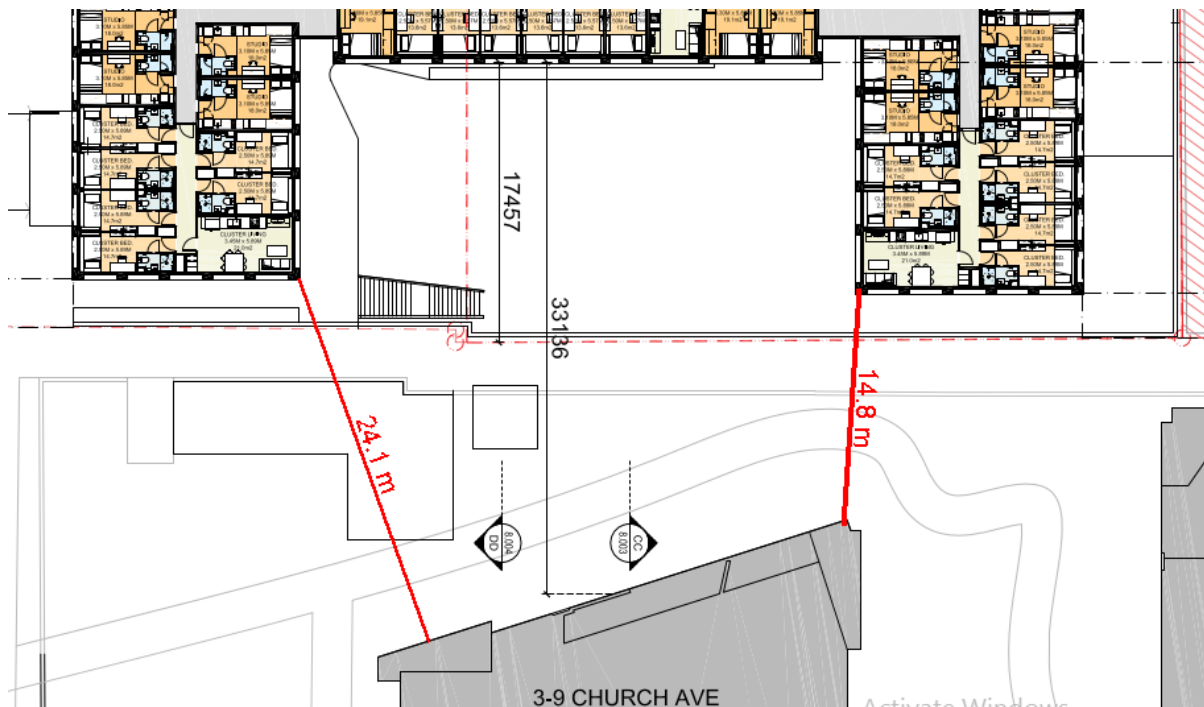


Figure 16. Proposed separation between subject development and 3-9 Church Avenue

The western façade has a varied setback along the length of the site. The lower levels are completely set away from the common boundary while between Levels 1 to 6, the proposal has a nil setback for the southern building, a 3 metre to 6.65 metre setback for the central building for its entire height and a 4.75 metre setback for the northern building for its entire height. The southern building aligns with the setback existing on the neighbouring development to the west which is on the boundary. Additionally, there are no windows proposed on this elevation. This arrangement is acceptable.

The central and northern building has the benefit of the existing easement located between the subject site and 10-14 John Street/19-21 Church Avenue providing greater separation. The northern building, similarly to the eastern façade discussion, does not propose a large number of windows at this elevation. This is consistent with what has been approved next door which contains small windows along its eastern elevation close to the boundary and approximately the same distance away to what the proposal seeks. The central building of the subject development contains the majority of the windows on this elevation. The windows will not impact nor provide direct overlooking into the neighbouring living areas of the units. The building is orientated to be inbetween the central and southern building at 10-14 John Street/19-21 Church Avenue and if any overlooking was to occur, it would be to the communal area at ground level.



Figure 17. Location of existing easement between the site and 19-21 Church Avenue

The key concern that has been raised within the submissions relates predominately to the northern elevation. The proposal seeks to set back the development 6 metres for its entire height, with the exception of the lower ground level abutting the northern boundary. The development does not comply from Level 3 and above, which requires a 9 metre setback and from Level 6 and above which requires a 12 metre setback to provide separation between the subject site and the neighbouring site.

The applicant proposed the below justification for the northern boundary setback:

“The rear setback to the northern boundary has been informed by ensuring a suitable separation distance between the built form on the subject site and the approved built form on the adjoining site to the north. A separation distance of 22.3m has been provided, which is reflective of a suitable building separation distance Apartment Design Guide (ADG) for apartments above 9 storeys in height. It is acknowledged that the Apartment Design Guide does not apply to boarding house/student housing development, however the ADG distances have been considered to demonstrate a suitable amount of amenity is provided between developments.

The plans illustrate the proposed structure enclosing the basketball court. The enclosure will comprise of a transparent mesh structure in between the pillars and a mesh canopy. This will provide a structure for plants to grow on, provide safety for its users and confine basketballs to the designated court.

Further mitigation measures to manage the acoustic emissions, a 3.6m high solid sound barrier wall will be installed on north façade of the basketball court (only). This sound barrier will be comprised of clear toughened glass, Perspex, wood, metal materials or the likes. The plans also include the installation of 1m high solid balustrade/ planter-boxes to east and south of the court.”

It is considered that the impact at this elevation is not significant due to there being a large building separation approved at the northern site. The issue regarding to visual privacy that would be created by the subject development to the neighbouring properties at 13A Church Avenue and 3-9 Church Avenue is not considerable due to the windows being students' rooms and not communal facilities where students would congregate. It is key to note that the development does not contain any balconies and all windows are located within 3 metres so

they comply with the BCA requirements. Therefore the impact with regard to overlooking is further reduced than if the development was a residential flat building which would require balconies to be provided on the site.

Overall, the proposal while non-compliant in setbacks, is justified above and the departures are accepted.

Through Site Links and Easement

Control C2 of Part 4C.2.7 Through Site Link requires sites that have dual frontage and a length of 25 metres and greater to provide a through site link. The proposal has provided a through site link along the western side of the site with steps leading down from John Street to a community garden and then access through the shared access easement to Church Avenue. The easement is currently used for vehicle access to the subject site, vehicle access to 10-14 John Street/19-21 Church Avenue and proposed vehicle access to 13A Church Avenue.

The proposal seeks to activate and transform the easement by integrating a community vegetable garden and a pedestrian through site link. The community vegetable garden incorporates freestanding vegetable crates and the applicant has indicated that they could be moved as necessary to ensure access and sited in a location that is beyond the vehicular access points. The location of the vegetable garden is an underutilized area of the easement and only is accessible from the subject site and not from the neighbouring sites.

The proposal for a through site link is something that Council encourages however there is a few unresolved issues with regard to this element of the application. The easement benefits a number of properties which utilize the easement for vehicular access. The terms of the easement do not specify pedestrian access. It does not appear that the subject site has carried out discussions with the other beneficiaries of the easement. Concern is raised that the planters/community garden are located within the easement and are permanent structures. Additionally, the concern is raised with regard to pedestrian safety of the through site link especially when the primary use of the easement is for vehicle access. The proposal does not demonstrate any bollards or a separate area for pedestrians which is separated between the vehicle access. The applicant has stated that lighting will be installed however the point where the easement extends past 13B Church Avenue and abuts 13A Church Avenue has not been resolved, particularly where the approved development will have their garage access from the easement. A condition of consent has been included to delete this element from the proposal. Should the applicant wish to pursue this option in the future, subject to approval of all parties, Council could entertain this as a modification application.

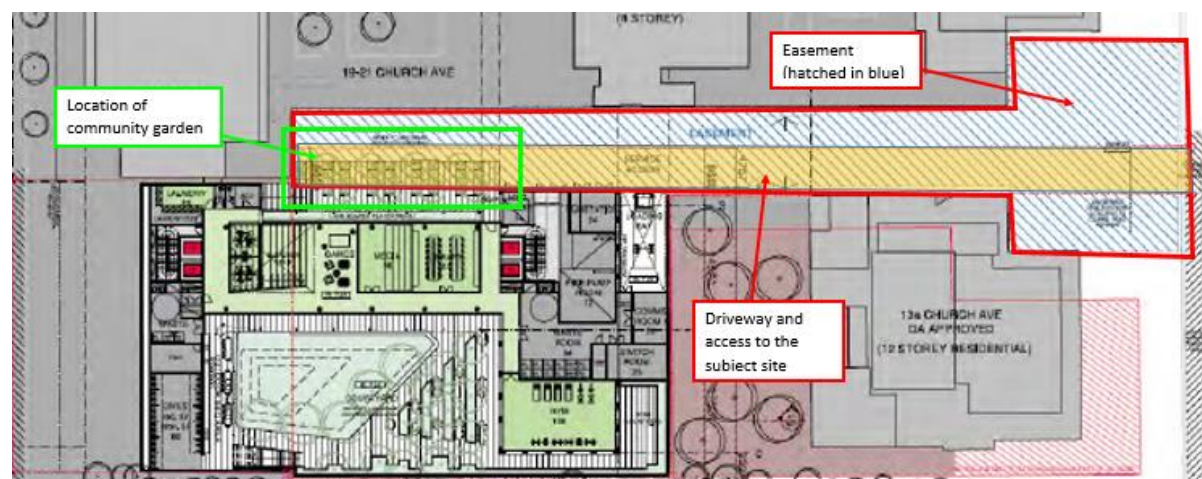


Figure 18. Location of easement, driveway and proposed community vegetable garden



Figure 19. View towards the community vegetable garden from John Street elevation

Part 7A – Shared Accommodation

The proposed development has been assessed against the controls within Part 7A of the BBDGP for a 'boarding house' and as follows:

Part	Control	Proposed	Complies
7A.4.1 General Requirements	C2 Development, including additions and alterations, must reflect the built form and design of surrounding area. Refer to the relevant desired future character statement in Part 4, 5, 6, 8 or 9	An assessment regarding design and built form is carried out throughout the report.	Yes
	C3 Outdoor recreational areas e.g. courtyards and gardens should be located, if possible, away from bedrooms and habitable rooms of adjoining residences.	The communal outdoor area at lower ground level is located on the eastern side away from the majority of surrounding development. The rooftop terraces has been designed to mitigate excessive noise to neighbouring properties.	Yes
	C4 Landscaping should be used to soften and minimised noise impacts from courtyards, gardens and driveways on the surrounding area	Landscaping is proposed to the John Street frontage as well as predominantly to the eastern side of the site. Mature trees are to be planted on the site to soften the impact of the development.	Yes
	C5 Boarding houses are to be located in close	The site is located within 200m from Mascot Train Station as well	Yes

	proximity to public transport i.e. within 400 metres.	as bus stops along Bourke Street and within 400m from Gardeners Road and Coward Street.	
	C8 A Plan of Management (POM) is required to be submitted.	A Plan of Management was provided with the application.	Yes
	C13 An acoustic report prepared by a suitably qualified acoustical consultant is required.	An acoustic assessment prepared by Acoustic Logic has been submitted as part of this application.	Yes
	C14 An application for a boarding house incorporating 75 or more bedrooms is to be supported by a Traffic Report prepared by a suitably qualified person.	A traffic report was prepared as part of the development application.	Yes
	C18 The gross floor area of a bedroom is to be at least: (i) 12m ² (including 1.5m ² required for wardrobe space); (ii) 4m ² when a second adult occupant is intended (which must be clearly shown on plans); plus (iii) 2.1m ² for any ensuite (which must comprise a hand basin and toilet); (iv) 0.8m ² for any shower in the ensuite; (v) 1.1m ² for any laundry (which must comprise a wash tub and washing machine); and (vi) 2m ² for any kitchenette (which must comprise a small fridge, cupboards and shelves and microwave).	(i) Discussion provided in the ARHSEPP 2009 section of the report above; (ii) There are no double rooms proposed within the development; (iii) & (iv) All studio rooms are provided with ensuite & shower that meet Council's requirements. The cluster rooms have shared facilities (v) Rooms do not have laundry as there is communal laundry space; (iv) All studio rooms contain a kitchenette. A communal kitchen is proposed for the cluster rooms.	Yes
	C20 At least 1 of the bedroom provided must incorporate disabled access, meeting the requirements under the BCA.	There are 18 accessible rooms within the development.	Yes
	C22 The minimum ceiling height of any bedroom	The ceiling heights are compliant. The development has a floor to	Yes

	containing double bunks is 2.7 metres.	floor height of 2.9 metres however a minimum of 2.4 metre floor to ceiling is required under the BCA.	
	C23 30% of all bedrooms are to have access to private open space with a minimum area of 4m ² in the form of a balcony or terrace area.	The development does not contain any balconies. To address open space, the proposal provides ample communal open space areas at lower ground and ground level, the community garden and rooftop terraces.	Acceptable
	C25 A communal kitchen is to be provided with a minimum area that is 6.5m ² or 1.2m ² for each resident occupying a bedroom without a kitchenette.	A communal kitchen is provided for the cluster rooms. Studio rooms have their own kitchenettes	Yes
	C26 The communal kitchen is to contain: (i) One (1) sink for every 6 people , or part thereof, with running hot and cold water; and (ii) One (1) stove top cooker for every 6 people, or part thereof, with appropriate exhaust ventilation.	The communal kitchens are compliant.	Yes
	C28 An indoor communal living area with a minimum area of 20m ² or 1.25m ² per resident with a minimum width of 3 metres is to be provided.	The proposal contains more than 20sqm of communal living area at the lower three levels of the development.	Yes
	C32 Communal open space is to be provided with a minimum area of 20m ² and a minimum dimension of 3 metres.	Communal Open Space is provided at 680sqm	Yes
	C35 Communal bathroom facilities accessible to all residents 24 hours per day are provided with at least: (i) One (1) wash basin, with hot and cold water, and one toilet for every seven (7) residents, or part thereof, for each occupant of a room that does not contain an ensuite; and	The studio rooms contain their own ensuite while the cluster rooms contain shared bathrooms. The proposal is acceptable with regard to this.	Acceptable

	(ii) One shower or bath for every seven (7) residents, or part thereof, for each occupant of a room that does not contain a shower.		
	C36 Laundry facilities are to be provided and are to include: (i) One (1) 5kg capacity automatic washing machine and one domestic dryer for every twelve (12) residents or part thereof; and (ii) At least one large laundry tub with hot and cold running water.	A communal laundry is provided on the lower ground level.	Yes

Part 9A – Mascot Station Town Centre Precinct

The site is located within Urban Block 4 within the Mascot Station Precinct. An assessment against the relevant controls of this section of the DCP has been carried out below.

Part 9A.2 – Vision Statement

The vision statement within the DCP outlines Councils' vision for the area surrounding Mascot Train Station. This section of the DCP states that Mascot Station Town Centres' role is as a mixed use centre where commercial uses, including retail shopping and community uses provide diversity in what has been previously an industrial and commercial development focus. The proposed development is consistent with the vision Council has for the area and provides a diversity in use and built form.

Part 9A.3.5 - Desired Future Character – Urban Block 4

The desired future character of Urban Block 4 is broken up into three sections which discusses land uses, street character and built form; public domain; and road widening. The DCP states that remaining potential redevelopment sites will provide apartment buildings up to 13 storeys in height. While the development is technically not a residential flat building, the proposal is for residential accommodation. Additionally, the development is under 13 storeys therefore is characteristic of the built form anticipated in the area and on the site. Figure 10 of this section of the DCP demonstrates the area in which public domain and open space have been earmarked within the urban block. There is no indication that the current site is and was ever anticipated to be open or green space. To the east of the site, Linear Park is located which provides for a landscaped setting. Finally, the site is impacted by road widening along Church Avenue and John Street. The proposal has incorporated road widening within its scheme.

The DCP goes into detail on alternate forms of development that differs from this Mascot Station DCP. Council will consider alternative development proposals relating to the future layout and built form controls if the alternative development proposal meets the future vision of Mascot Station Town Centre Precinct as well as the Desired Future Character Principles of Urban Block 4. Therefore the argument that the development has to comply wholly with Part 9A of the DCP is not substantiated.

Part 9A.4- General Controls

This section of the DCP does not go into detail on the subject site with regard to height and floor space. Therefore the BBLEP 2013 controls apply in this instance. The development is under the height, both in the LEP and in the desired future character statement, and is compliant with the FSR applicable for this type of development. The relevant controls are assessed in the table below:

Part	Control	Proposed	Complies
9A.4.3.3 Site Amalgamation and Subdivision	C2 The redevelopment of lots within Urban Blocks 1, 3, and 4 must conform to the lot alignments in Figures 26, 27, 28 and 29.	Proposal complies with the street alignment of Figure 29 of the BBDCP 2013 for the John Street frontage.	Yes
9A.4.3.4 Street Setbacks	C2 All development within Urban Block 4 must comply with the street setbacks identified in Figures 34 and 35.	Council's DCP has identified that sites west of the Sydney Water SWSOOS relevant to these controls. Council's DCP does not specify any street setback requirements for new street alignments for the subject site.	N/A
	C3 All development within Urban Blocks 1, 3 and 4 must comply with the section plans in Figures 36, 37, 38, 39, 40, 41 and 42.	Regardless, the subject site proposes a reduced front setback boundary line matching the adjoining residential developments along John Street. The new front boundary alignment will be setback 5.43 metres from the original boundary alignment which will allow for public domain works along its John Street frontage. Church Avenue only contains the driveway to the site and no built form is proposed at this frontage	
	C4 All property boundary front setbacks must be deep soil and landscaped and must not have any underground intrusions such as underground car parking or on site detention	The proposal does not include any basement therefore there is adequate deep soil in the site along John Street.	Yes
	C5 Setbacks are to maximise the retention of existing trees and their root systems (including those on adjoining properties) and may need to be variable to achieve this.	The plans demonstrate a landscaped area along John Street. Additional conditions are imposed regarding to tree planting at this elevation.	Yes
9A.4.4.1 Design Excellence	C1 Prior to its lodgement as a Development Application, the proposed development must be presented to the Design Review Panel.	While the development is not a SEPP 65 development, the application was presented to a design review panel who determined that the	Yes

		development exhibits design excellence.	
9A.4.4.2 Streetscape and Building Form	C3 Buildings must have a consistent street wall height (in terms of the number of storeys) and provide a continuous street frontage along all significant streets.	The John Street elevation demonstrates a 7 storey street wall. The building extends to the rooftop terrace creating the visual of an 8 storey however the habitable area is consistent with the neighbouring development. The central and rear building is similar in scale and form as to recent developments approved in the area particularly to the development at 13A Church Avenue. An assessment on setbacks is provided in Part 4C above.	Yes
	C4 Diversity and activity is to be ensured via providing a variety of frontage widths for retail shops along the street.	The ground floor along John Street is activated to allow for passive surveillance and variation to the street.	Yes
9A.4.4.3 Public Domain Interface at Ground Level	C1 Development must be designed so that it has a clearly definable entry and addresses the street	The key entry to the development is off John Street. Secure entry will be carried out through swipe key cards.	Yes
	C2 The primary area of outdoor private open space must not be located on the street frontage.	The open space areas are not located at the street frontages.	Yes
	C4 The landscaped street setback area shall be on one level or at a slightly battered grade, not terraced or stepped or containing narrow planter boxes, to allow adequate lateral root space and soil volume for medium to large canopy trees.	The landscaping along John Street is not terraced or stepped. Appropriate conditions of consent have been imposed in the attached Schedule.	Yes
	C6 The visual connection between the building frontage and the public domain must be considered carefully in all development. This may require the floorplate of development to step up/down with the topography to ensure that the floor level of the building frontage is generally at footpath level.	The communal open space area is at lower ground level which is one level below the street and has been designed appropriately.	Yes
9A.4.4.5 Residential and Non-Residential Interface	C2 Shadow diagrams must be provided for all development proposals for the summer and winter solstices. Shadow diagrams must show shadow impacts at 9am, 12 noon and	The applicant has provided a solar assessment of the neighbouring properties and how the development will impact them. An assessment is provided in the Note below.	Acceptable – Refer to Note 6

	3pm for both solstices. Additional building setbacks may be required where internal site shadow impacts or impacts on adjoining properties are considered by Council to be unreasonable.		
	C3 The design and positioning of all mechanical plant and equipment (i.e. air conditioning units, mechanical ventilation, duct work and exhausts) must be taken into account early on in the design process. The non-residential use must not have a negative influence on residential uses concerning noise or odour.	All plant rooms are either located on at the lower ground level or located on the rooftop of the central building. All plant are appropriately screened and visually and acoustically mitigated.	Yes
9A.4.4.7 Crime Prevention, Safety and Security	C2 Development must comply with Part 3I - Crime Prevention, Safety and Security.	An assessment has been carried out in the report above.	Yes
9A.4.4.8 Loading and Unloading	C2 All commercial developments and mixed use developments must provide onsite loading and unloading areas.	One loading bay is provided at the rear of the site with access off Church Avenue.	Yes
	C4 Loading docks must be located so that vehicles do not stand on any public road, footway, laneway or service road	The loading bay is on the site and will not intrude on any service road, footpath or laneway.	Yes
	C5 Where possible vehicles using the loading and unloading areas are to enter and leave the site in a forward direction.	The loading bay has been designed so that all vehicles enter and exit the site in a forward direction.	Yes
9A.4.4.9 Car Parking Rates	C2 Where an inconsistency with the car parking rates outlined in Part 3A - Car Parking is identified; this Part will prevail for existing development only	The development does not provide any car parking. An assessment has been carried out in the report above.	No - Refer to ARHSEPP section above
9A.4.5.1 Acoustic Privacy	C1 Council staff may request an acoustic assessment report, prepared by a qualified consultant, be submitted with the development application. It must, at a minimum, address: O1 Impacts on acoustic privacy of proposed residential uses from any surrounding noise sources such as aircraft noise, road traffic and commercial and retail uses; and O2 Impacts on acoustic privacy of surrounding residential uses from any proposed commercial and retail uses; and O3 The impact of the	An acoustic report has been provided for assessment and has been reviewed by Council's Environmental Health Officer. The key points of noise is from the rooftop terrace areas and communal open space areas as well as the plant areas. As the development is also located within the 20-25 ANEF contour, the development is to be acoustically designed. Appropriate conditions relating to noise have been imposed in the consent including time	Yes

	development on the surrounding area, through mechanical services, construction works and phases of development.	restrictions to communal open space areas. The development proposes acoustic screening around the basketball court to mitigate noise and has placed curfews on all open space area as conditions.	
	C4 Where the height of the proposed development is higher than the existing height of the localised building stock (and the proposed development has a direct line of sight to the seaport and/or the airport) an acoustical assessment by an accredited acoustical consultant is required which takes into account noise from the operations of Port Botany and Sydney Kingsford Smith Airport.	An acoustic report has been provided and has addressed this issue.	Yes
9A.4.5.3 Views	C1 Development is to preserve views of significant topographical features such as the urban skyline, landmark buildings and areas of high visibility.	The applicant has carried out an assessment on view loss from the southern property at 7-9 John Street/208-210 Coward Street, Greater detail is provided below.	Refer to Note 7 below
	C2 Building design, location and landscaping is to encourage view sharing between properties.	Discussed below.	Acceptable
	C3 Existing significant view corridors as viewed to and from public places must be protected.	Discussed below.	Acceptable
	C4 The opportunity to create new view line corridors will be taken wherever possible and appropriate.	The proposal does not provide new view line corridors.	N/A
9A.5 Public Domain Works	C1 Public Domain works are to be provided in accordance with Figures 57, 58, 59 and 60, the principles in the Public Domain Strategy and Appendix A of the Mascot Town Centre Precinct Masterplan.	Appropriate conditions have been imposed requiring a public domain frontage works application to be applied with Council. The proposal is fairly consistent with the document.	Yes
	C2 Widened footpaths, new street paving and pedestrian and cycle links must be provided in accordance with the principles of the Public Domain Strategy and Appendix A of the Mascot Town Centre Precinct Masterplan.	New pathways and footpaths will be constructed as the site requires road widening.	Yes

	C9 All existing above ground service cables, including power lines, telecommunications cables and other similar services (“overhead service cables”) in the streets adjacent to and within the confines of the development site will be placed underground at no cost to the Council.	A condition of consent has been included that all cables and powerlines are located underground.	Conditioned
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Note 6 – Solar Analysis of Neighbouring Developments

The site has a north-east to south-west orientation therefore any overshadowing would predominantly fall to the south onto John Street and onto the developments at 7-9 John Street/208-210 Coward Street and 214-220 Coward Street. The applicant has provided two sets of shadow analysis drawings which include sun eye views of the development as well as aerial and elevation shadow diagrams on the immediate neighbouring properties as well as a calculation table which provides the number of hours the affected units would receive sunlight.

The solar analysis calculation table demonstrates that the development at 7-9 John Street/208-210 Coward Street will continue to receive acceptable levels of sunlight. The developments that are most impacted by the proposal are from Level 6 and below and this is due to the subject proposal having a seven storey street wall. The proposal achieves retention of at least 70% of the neighbouring buildings solar access.

The property to the west at 10-14 John Street will be impacted by the development between 9am to 12pm due to the orientation of the site. The neighbouring development is already overshadowed on the lower levels from their own respective buildings on the site particularly the northern tower. The proposal will impact the eastern section of the northern façade of the southern building however it is considered from the sun eye view diagrams that appropriate levels of sunlight would be received.

The development at 3-9 Church Avenue will be impacted by the proposal to its southern building in the afternoon hours, from 1pm and onwards. This will impact the western façade and partially the northern façade and this is a result of its orientation and splayed frontage. The residents of the neighbouring site have raised awareness of there being solar panels located centrally on the rooftop of each building. An assessment of the solar panels in addition to the facades of each affected building has been assessed below.

An example of the shadow analysis carried out by the applicant is provided in the below figure. This is an image of the impact of the proposal onto the northern façade of 7-9 John Street/208-210 Coward Street at 10am. As demonstrated the western and central part of the building will be impacted at this hour however the impact is generally to the podium level.

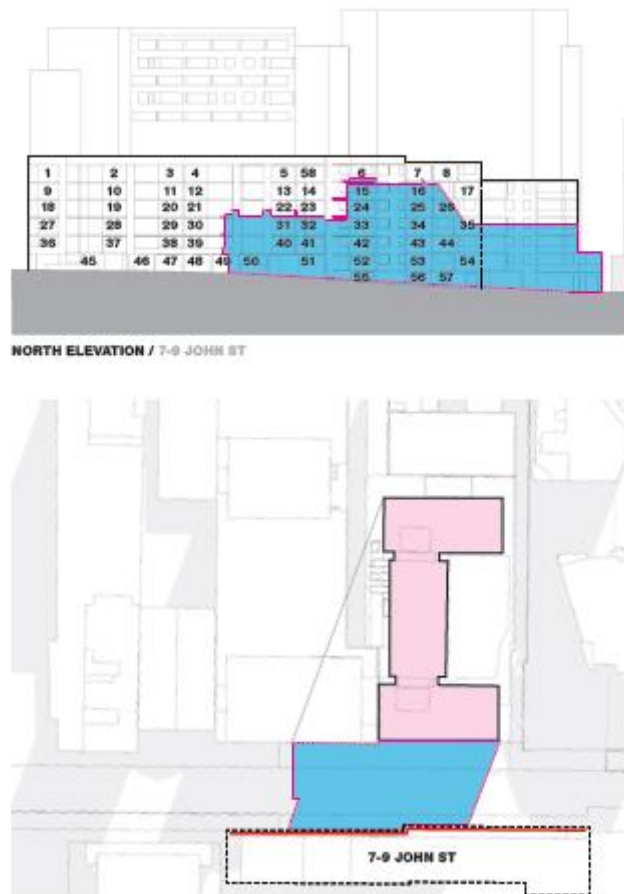


Figure 20. Elevation shadow diagram of 7-9 John Street/208-210 Coward Street at 10am

The applicant provided the following justification for the solar impact onto the southern property, following the amended plans:

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

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed). At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comments: The development is located amidst a high density environment as well as in the centre of a mixed use zone. A height of 44 metres maximum is permissible in the zone. In comparison with the size of the site, the orientation of the site being north-east to south-west as well as there being a level change from John Street to the rear of the site, the degree in protecting and retaining sunlight to the neighbouring properties is more difficult than if the area was a low density environment. The impact also stems from the neighbouring developments, particularly the one to the west having reduced side setbacks as well as building separation between their respective buildings on their site.

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

Comments: While the proposal has limited side setbacks which are discussed in greater detail in the setback section of the report above, it is not considered that they contribute to unnecessary overshadowing. The development has been designed so that there are three built forms with the highest of the buildings located central to the site and away from the eastern boundary. While it is closer to the western boundary, it has been designed to mitigate significant overshadowing onto 10-14 John Street. The building is located at least 17.5 metres away from the eastern boundary therefore does not contribute excessive overshadowing. Similarly with the southern building fronting John Street. The degree of overshadowing is similar to developments approved to the west of the street as they have the same street wall height. Should the building have been taller at this elevation, the impact onto 7-9 John Street/208-210 and 214-220 Coward Street would have been more significant. Finally, the non-compliant setbacks at the eastern elevation are restricted to two buildings with a depth of 14.5 metres therefore the impact is less than a building that has a depth of 25 metres or more which is permissible within the ADG or within the DCP. The applicant has designed the building to limit the amount of impact onto the neighbouring sites as much as possible and it is believed that the proposal is successful in providing a good building orientation considering the size, orientation and topography of the site.

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

Comments: The windows and balcony doors are not considered to be of a significant size and are generally characteristic of the size provided in residential flat buildings and as required under the ADG. Awnings and balconies from above contribute to some overshadowing to their own windows. The degree of overshadowing from the proposed development is considered reasonable in this instance.

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

Comments: The private open space area which is being assessed includes the private balconies of the neighbouring developments to the east, west and south. This also includes their communal open space areas at ground level (3-9 Church Avenue) as well as the solar panels that are located on the rooftop of each building at 3-9 Church Avenue. As demonstrated within the applicants shadow analysis, a number of balconies of units on the lower levels of the opposite development at 7-9 John Street/208-210 Coward Street will be overshadowed. This is the same with units on 10-14 Coward Street during the morning hours while the western façade of the southern building at 3-9 Church Avenue will start to be overshadowed by 1.30pm. The solar panels at 3-9 Church Avenue are

located on top of Level 8 of each building. The building that would be most affected is the southern building as the other two buildings are located to the north-east of the subject site. The solar panels are centralized to the building. While the shadow diagrams show that the building will be overshadowed, it is not considered that the solar panels will be impacted significantly. This relates to the fact that they are positioned away from the building edge and will have the benefit of receiving direct sunlight before 2.30pm. The overshadowing onto the solar panels is acceptable.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comments: The development does not propose any fences or overhangs that would contribute to any negative overshadowing. The proposal does have a level change towards the rear of the site however the building has been stepped down to alleviate any changes. The rooftop terraces at both the northern and southern building are technically an extension to the built form with the building technically enclosing these areas from a visual perspective. It is not considered that this element results in significant overshadowing.

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

Comments: The site is one of the last sites within the Mascot Station Town Centre Precinct which has yet to be redeveloped. The surrounding development is characteristic of high density development with a maximum height of 8 storeys. However newer developments in the area have been approved with a height of 13 storeys which is characteristic with Council's desired future character controls in the DCP as well as the maximum building height control within the LEP. It is unlikely that the neighbouring properties will require further redevelopment in the near future.

Considering the above, the proposal has been assessed accordingly in regards to solar amenity and is acceptable in this instance.

Note 7 – View Loss Analysis

Part 9A.4.5.3 of the DCP 2013 requires developments to preserve views of significant topographical features such as the urban skyline, landmark buildings and areas of high visibility. The below image is the view currently experienced when looking north-east from a balcony in one of the units on Level 12 at 214-220 Coward Street which is located to the south-west of the subject site. This building is also located on the outer edge of Mascot Station Town Centre Precinct within the B4 Mixed Use zone. The location of the subject site and the neighbouring sites is clearly marked within the image. It is key to note that the subject site at 6-8 John Street has an approval for a residential flat building up to 12 storeys in height. The development at 13A Church Avenue to the north of the subject site also has a development approval for a 12 storey mixed use development. The consent for 13A Church Avenue has been activated.



Figure 21. Photo of the views to the north taken from Level 12 of a unit within 214-220 Coward Street

The applicant has carried out a view impact analysis of the development and view loss that would be experienced from three different points at 208-210 Coward Street. The markers are at Levels 6, 9 and 12 and centralized to the building. The figures below show the expanse of view loss contributed by the proposed development (blue), the previous approved scheme on the site (red) and the rear building being the approved development at 13A Church Avenue. It appears that the applicant has not physically been able to get access to any of the units from 7-9 John Street/208-210 Coward Street to display the view that would be lost.

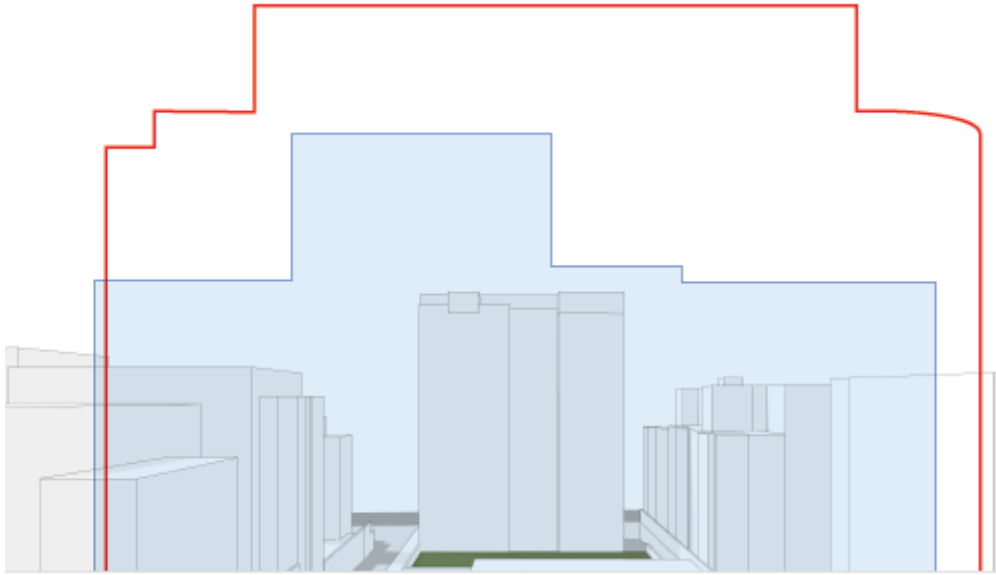


Figure 22. Expanse of building from Level 6 of 208-210 Coward Street

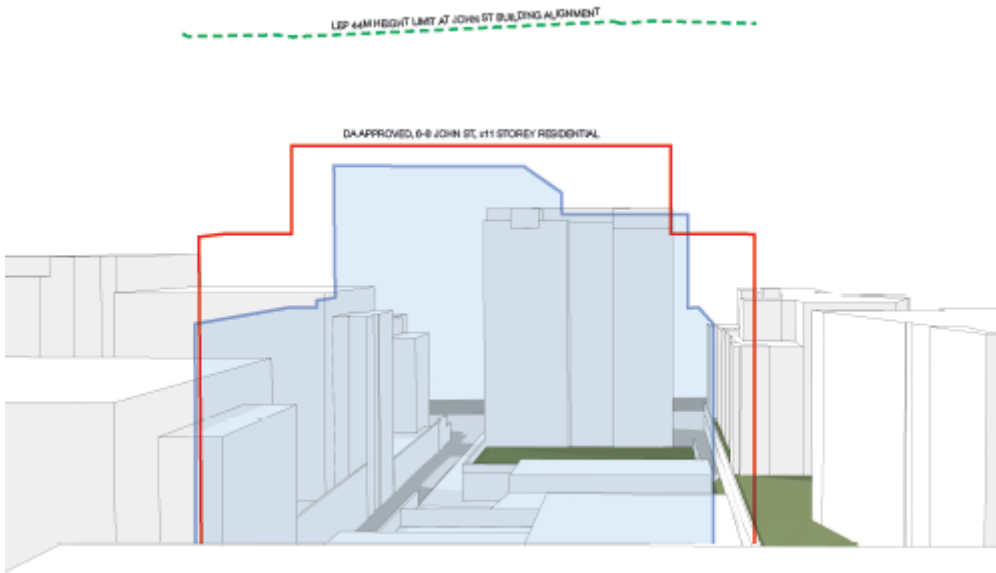


Figure 23. Expanse of building from Level 9 of 208-210 Coward Street

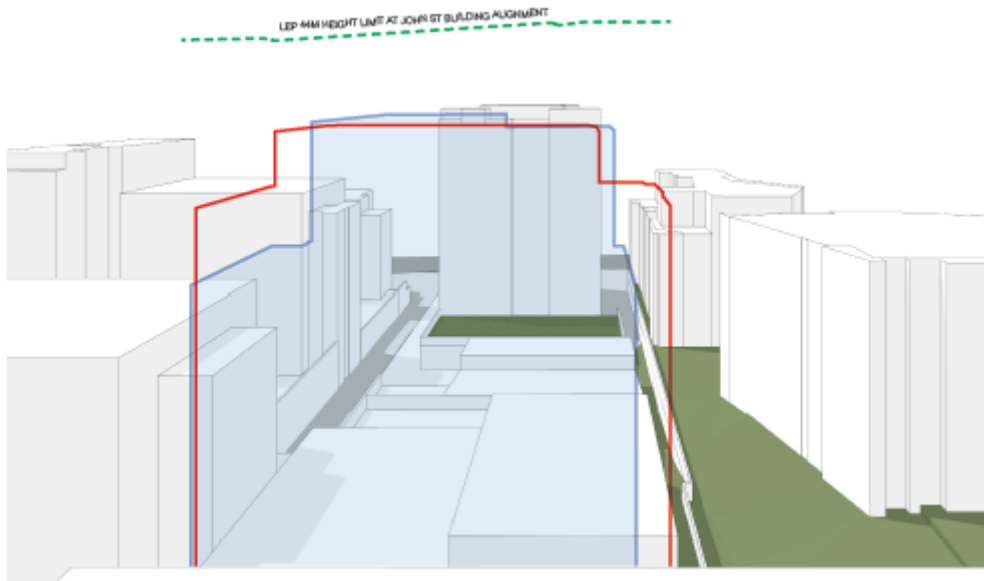


Figure 24. Expanse of building from Level 12 of 208-210 Coward Street

An assessment of the four steps that were considered within *Tenacity vs Warringah Council 2004 NSWLEC 140* has formed the assessment for the view loss analysis for the subject application. The four points and assessment is as below:

1. Assessment of the views to be affected

Applicants Comments:

The proposed DA as illustrated in the View Analysis, is significantly reduced in comparison to the approved DA over 6-8 John Street. The neighbouring sites do not have water views; rather they have partial non-iconic land and air views.

Councils' Comments:

It is acknowledged that the properties on the southern side of John Street will be partially impacted by view loss from the proposed development, particularly from Levels 8 and above from 7-9 John Street/208-210 Coward Street and 214-220 Coward Street which are directly to the south of the development. Views of the entire city skyline are evident from the principal living areas and from the balconies of these units. This includes a view of the Sydney Tower, Anzac Bridge and surrounding towers however no view of the Sydney Opera House or the Sydney Harbour Bridge. On the higher levels, views to Sydney Park when looking in a north-western direction and Green Square and eastern Sydney when looking in a north-eastern direction can be seen. It is key to note that the views are distant and across the Mascot Station Centre.

2. Assessment of the part of the property the views are obtained from

Applicants Comments:

The views from the adjacent development on the southern side of John Street will be mostly affected on the upper levels which currently have distant views of the city skyline. The view loss analysis clearly indicates a Refer to View C within the View Analysis Plans. The proposed development is well below the permissible LEP height control and results in improved views compared to the approved DA. The proposed DA provides an improved

development outcome by retaining more views for neighbours adjacent to John street compared to the existing approved DA over 6-8 John Street.

Councils' Comments:

Views of the city skyline can be viewed from the principal living areas and balconies of the units that are directly to the south of the site. Apartments that are located to the south-west of development also have views of the city skyline as well as to Green Square. The applicants' analysis of Level 6 demonstrates that the unit is located on top of the podium which is setback away from the street frontage. There is a setback greater than 6 metres from the building edge of the lower six levels. The Level 9 analysis demonstrates that the unit chosen for the assessment is central to the building and is also set back away from the street. This unit is positioned so that it is higher than the maximum building height presented at 10-14 John Street and 19-21 Church Avenue. The Level 12 unit is located on the highest floor of the building and is centralized to the development. This unit would have unobstructed views of the city skyline as no development currently exists directly in front at a similar height. However this would change once construction of the development at 13A Church Avenue commences.

3. Assessment of the extent of the impact

Applicants Comments:

The view analysis provides a very clear comparison between the approved DA over the site and the proposed DA. The proposed DA provides an improved outcome for the residents of the adjacent development on the southern side of John Street.

Councils' Comments:

Following on from the applicants' statement that the proposal is an improved outcome to the approved development on the site, the statement is correct as the current proposal has a greater setback proposed as well as has a reduced building height along the southern building fronting John Street. Should the proposal have provided a 12 storey street wall along John Street, which is permissible, the expanse of building and degree of view loss would be considerably more than what is proposed. It is considered that the views experienced on the lower levels of 7-9 John Street/208-210 Coward Street (from Level 9 and below) would be completely lost.

Units located at 214-220 Coward Street would not be so affected by the proposal as the development is not directly in front of their building. The impact of the approved building will obstruct views to the eastern part of the skyline however is not considered that will block views to Sydney Tower.

4. Assessment of the reasonableness of the proposal that is causing the impact

Applicants Comments:

The proposed development complies with the site setback controls and stands substantially below the LEP height control of 44m. The amended Architectural Plans include the lowering of north core by x1 storey (L10 is last storey served by lifts, access to roof plant via service hatch from L10 north core). Further, the proposal includes the removal of roof at top of L11 central block. The façade and screening are retained so no visual impact will result. These amendments result in a reduced impact to neighbouring dwellings. The proposal DA is considered reasonable in comparison to the approved DA over the site results in an improved retention of views from the neighbouring property.

The development has been carefully studied and designed. Consideration has been made to alternative designs. The proposed design was considered the most suitable in terms of minimising amenity impacts whilst ensuring compliance with the applicable controls.

Councils Comments:

It is hard to preserve views in a high density area without requiring the development to be half its size. The proposal is under the maximum height limit and is consistent with the desired future character of Urban Block 4 as presented in this DCP. While it is noted that there are city skyline views experienced by the neighbours, it is reasonable to assume that development would be built and constructed at a height that matches the LEP standard and would result in a degree of view loss. The applicant has demonstrated the impact between the current proposal, the approved development on the site at 6-8 John Street as well as the approved development at 13A Church Avenue. Even if the development was not to be pursued, there is already a development that has been approved at a local planning panel level which found it acceptable at the height and built form presented to the Panel. View loss was also considered as part of that application and was found to be reasonable. It is unreasonable to consider the views at Level 6 which is lower in building height than the minimum characteristic height along the street. Level 9 and 12 have more to lose than Level 6. Additionally, as mentioned previously, the development is located on the southern side of Mascot Station Town Centre Precinct and would have been approved prior to the current controls or the current SEPP No. 65 and ADG controls in place. The remaining apartment stock directly surrounding the site, with the exception of 13A Church Avenue, was approved prior to the current BBLEP and BBDCP 2013 which would have changed a number of controls.

Conclusion:

As demonstrated in the assessment above, it is inevitable to completely maintain the existing views experienced by the residents of 7-9 John Street/208-210 Coward Street. Many factors such as Council's desired future character does not prohibit 13 storey developments, the location of the neighbouring development being the most southern located residential building within the Mascot Station Precinct, the distance of Mascot from the Sydney CBD and the expanse of city skyline contained to a rather small area that is located directly to the north of the site. Other than the Sydney Tower, it is not considered that there are any other significant attractions that would be impacted by the development. As shown in the view impact analysis, should the proposal be reduced in height or size, there will still be a view loss experienced by the approval of 13A Church Avenue. Considering all the reasons presented by the applicant as well as viewed by Council, it is considered that the size and bulk of the development is acceptable with regard to view loss.

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

The proposed development is inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

As outlined in the assessment above, the proposed development will have significant adverse environmental, social or economic impacts in the locality.

The application was accompanied by a fire engineering statement which confirms that an assessment can be undertaken by a C10 Accredited Fire Engineer in consultation with project stakeholders to demonstrate that the building works will comply with the Performance Requirements of the Building Code of Australia.

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

The site is affected by aircraft noise being situated within a 20-25 ANEF Contour. The proposal was accompanied by acoustic report which has been reviewed and is acceptable subject to conditions imposed in the consent for the development to comply.

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

The site is affected by flooding. The proposal has been designed so that the majority of the development is located above the flood level with appropriate freeboard. Council's Engineers has included conditions regarding the lower ground level to comply and be raised to achieve freeboard.

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

It has been demonstrated that the existing warehouses on the site may contain asbestos. The applicant has provided an asbestos management plan which discusses the appropriate removal from the site. Conditions have been imposed in the consent requiring the developer to comply with Safe Work NSW regulations.

The proposed use as a 'boarding house development' is permissible within the B4 – Mixed Use zone as identified within the BBLEP 2013 and achieves the objectives and controls of both the BBLEP and BBDCP 2013. It is considered that the development is suitable for the site.

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

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application underwent two rounds of public notification. The first round was carried out between 7 November to 21 November 2019. 137 submissions were received (including 35 individual submissions and 102 pro-forma letters). The second round of notification occurred between 7 May to 21 May 2020. One week extension was granted to the notification period with an end date of 28 May 2020. 160 submissions were received (including 66 individual submissions and 94 pro-forma letters). An assessment of all the issues is summarized below:

- *Significant concern for demolition and remediation practices as well as structural damage from construction*

Objector Comment: Concern is raised regarding the recent structural issues occurring at Mascot Towers which is further down the street. Issues have been raised relating to structural

damage, foundations and water table issues and how these impact the adjoining site. Fears are raised that the works on the site will destabilise the adjoining buildings.

Council Comment: Appropriate conditions have been included to prevent this from occurring. The works proposed will not disturb the groundwater table. If required, it would be very limited and would be subject to the appropriate permits. Dilapidation reports are required by condition on the neighbouring buildings in the instance where damage does occur during demolition, remediation and construction in which the subject developer will need to rectify damage. Vibration conditions have also been imposed to prevent vibration from disturbing adjoining buildings.

- *Noise from heavy machinery and construction vehicles*

Objector Comment: Concern is raised due to the noise and vibration of machinery involved in the demolition, remediation and construction process as well as noise from construction vehicles.

Council Comment: Appropriate conditions have been imposed in the consent to assist in mitigating noise and vibration. Conditions relating to hours of construction, a traffic management plan regarding to construction vehicle movements, vibration conditions and general conditions regarding works being carried out has been provided. Should the developer not adhere to these controls, then this becomes a compliance issue.

- *Asbestos removal and adherence to management plan*

Objector Comment: It is highly likely that the building contains asbestos and as the area is highly populated there is a high risk to the community, especially to the child care centre directly opposite. What is to be done to identify the asbestos in the building; safely remove this matter; how will the residents be assured that any promises made about the safe removal of asbestos will actually be adhered to; what testing will occur post removal to ensure safety of nearby residents; and notify the local residents with transparency and honesty in relation to the items listed above.

Demolition Traffic Management Plan should be amended and not include access from Church Avenue to minimise dust, soil and any dirt material and potential airborne Asbestos Dust exposure to sensitive area across the road namely to the child care centre.

Council comment: The applicant has provided an Asbestos Management Plan to address the management and removal of asbestos from the site. In addition to this, a Remediation Action Plan has been submitted which details the removal of asbestos impacted soils such that the site is made suitable. Both processes would be subject to inspections by experienced and suitably trained environmental consultants. Any handling of asbestos would be in accordance with Safe Work NSW regulations and appropriate conditions have been imposed in the consent. Additionally, a condition has been imposed that all construction vehicles are to enter and exit the site from John Street to avoid any disruptions to the neighbouring sites and the child care centre along Church Avenue.

- *Dust mitigation*

Objector Comment: Concern is raised that the proposed demolition and works on the site would generate excessive dust and would impact on the health of the residents and children in the nearby child care centres.

Council Comment: An appropriate condition has been imposed in the consent to mitigate dust emissions. The condition requires at a minimum that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process.

- *Tree removal on site*

Objector Comment: The proposal seeks to remove all trees on the site. The large Norfolk pine should not be removed as it is located on the boundary and provides screening for any potential development. The children in the neighbourhood are attached to it as it resembles a Christmas Tree. The minimal joy for children in the immediate area (especially as the parks, facilities and playgrounds promised have not eventuated – eg linear park is simply grass when promised to be water play, sports facilities, café etc). The tree must remain intact and any development accommodate it. The area has minimal trees and removing these is further detriment to the local environment. Any development on the site should also include significant mature trees brought in and planted to provide natural screening around whatever development is made and improve amenity, this is a critical not negotiable.

Council Comment: The tree removal has been addressed in the report above under Vegetation SEPP. While the trees are being removed to accommodate development on the site, additional conditions requiring tree planting within the site and in the public domain has been imposed in the consent to compensate the loss of the existing trees. The trees are species that when at full mature age will assist in screening the building.

- *Traffic generation particularly peak hour*

Objector Comment: Concern is raised regarding to traffic generation that will occur during demolition and with the use as a student accommodation development. Particularly relating to the impact of the one way thoroughfare on Church Avenue, road widening proposed, truck queuing and increased traffic near the child care centre.

Council Comment: Council is in the process of reviewing the road network with Church Avenue earmarked for two way entry and exit which will assist in easing traffic generation. Additionally, the development does not propose any car parking therefore the amount of traffic generation from the subject development would be minimal and significantly less than if the proposal was for a residential flat development. The road widening proposed will allow for additional car spaces on the street and allow for better flow.

With regard to traffic, the applicant is to submit a traffic management plan to Council prior to the commencement of works on the site. This will address truck movements and other management on the site. Council has also imposed a condition restricting any truck movements from entering and exiting the site from Church Avenue as it is noted that the street is one way and addresses the health and safety concerns regarding the child care centre. Queuing of trucks is to be avoided and should not block residents' vehicles or existing parking on the street. This is to be addressed in the Traffic Management Plan.

- *Works have commenced on the site and conduct of developer*

Objectors Comments: The proposal has not addressed sufficiently the concerns raised by the community. The developer appears to have commenced on this DA without approval. The community is very uncomfortable with the conduct of the developer throughout the process and especially most recently with the commencement of demolition. It gives the community significant concern and worry that if this is how they conduct themselves at the very beginning (when they should be fostering confidence from the community and trying to get approval),

how can they be trusted in anyway to operate the commercial venture into the long term respecting the community and how can they be trusted to operate fairly and reasonably during the heavily concerning construction phase with all the risks that are present (Mascot Towers, Pollution, Asbestos, Traffic and an extremely large vulnerable population in the direct area, etc). A list of events are further broken down in the objection.

Council Comment: Demolition of any building on the site cannot be carried out with consent, either through a DA or through a CDC application. It is noted that at the time of writing the report, consent had not been provided by Council and no notification of an approved CDC was provided for filing. Any demolition being carried out is to be stopped until the proper approvals have been granted. With regard to asbestos approval, it is noted that the developer has been in discussions with Safe Work NSW to carry out removal of friable asbestos. This is to be carried out with regard to the provisions and safety controls imposed by Safe NSW. Should asbestos have been removed at the time of determination of this report, asbestos removal is to be carried out with the conditions of consent in the attached Schedule and the Safe Work NSW provisions.

- *Health and safety especially for children in the child care*

Objector Comment: Concern is raised regarding the existing child care centre on Church Avenue and the impact of demolition to the children as well as the residents and workers in the surrounding areas.

Council Comment: Appropriate conditions have been imposed in the consent which relate to dust mitigation, traffic and construction vehicle impacts, asbestos management, noise and any other disruptions.

- *The site should be public and open space*

Objector Comment: Concern is raised that the site should be a public park and green space and that there is too much development and buildings in the area. Council needs to purchase this site and provide more green space for all the surrounding apartments. The plans that were put in place to design and build a family friendly community space at Linear Park has become non-existent because of the asbestos found in the soil. As there is a distinct lack of wide public open spaces & parks in the Mascot station precinct area, the Bayside Council runs the risk of turning the Mascot train station precinct into a future “ghetto “ not unlike the Department of Housing high rise apartment complexes in the Waterloo and Redfern areas.

Council Comment: The site was never earmarked for public open space in the Mascot Station Master Plan and has long been anticipated for redevelopment. It is unreasonable to request the owners of the sites to develop a park in this manner or for Council to purchase the site. Furthermore, Linear Park is located two sites over to the east and provides for open space in the area, even though there are no facilities within its length. There are a number of small parks scattered around Mascot Station which are available to all. Conditions have been imposed so that a greater amount of trees are provided on the site and within the public domain to soften the built form.

- *Lack of infrastructure*

Objector Comment: Concern is raised that there is a lack of infrastructure to accommodate extra residents into the area in addition to Mascot Station being already crowded and at capacity. Other concerns relate to WestConnex works and traffic, and extra load on train lines. The area is already significant densely populated - the infrastructure, traffic management, community management, services and safety is a major issue thus being student

accommodation would exacerbate these issues significantly. The fact it is over 400 bedrooms in one development is major for such a small site with minimal if any additional services being added to manage such a significant increase in an already challenged population that requires significant services.

Council Comment: Scope for better road network and services is being undertaken by Council, particularly relating to two way roads, road widening, cycle lanes and less traffic generation. Mascot Train Station falls outside of Council's jurisdiction and is within the scope of State Government review. Greater discussion within the parking section of the report goes into details about the general behaviour of students and their use of transport in the general Sydney Basin.

- *Rubbish*

Objector Comment: Concern is raised that there is a lot of rubbish currently and that workers on the site would generate additional rubbish that would take longer to clean. Additionally, once occupied, the students will have no regard to the cleanliness of John Street and Church Avenue. Additionally, added illegal dumping and waste as well as dog feces would be provided on the street.

Council Comment: Maintenance of rubbish from the development site and during occupation will be required to be managed by the developers. The site and the immediate surrounding area should be kept clean and tidy.

- *View Loss*

Objector Comment: A number of submissions raised concern that the proposed development would obstruct views of the city skyline, particularly from the neighbouring properties on the southern side of John Street opposite the site. To address view loss, it is recommended that the development be no more than 4 storeys in height

Council Comment: An analysis of view loss has been carried out in the report above. The view loss presented is acceptable in this instance as the built form proposed is less of an impact than the current approved development on the site. Additionally, the approved development at 13A Church Avenue has been approved at a height close to 44 metres which does contribute to some view loss already approved.

- *Number of people staying on the site would be double or triple the estimated population*

Objector Comment: The proposal will house 435 bedrooms, this could consist of double or even triple the number of students living at the premises due to unapproved room sharing and there may be a strong possibility of up to 1000 students could be living at the premises.

Council Comment: The development provides single beds within each room however concern is raised with the number of people staying on the premises therefore a condition has been included to limit the amount of students staying on the premises to 435.

- *The use as student accommodation in an area which is surrounded by residential*

Objector Comment: The approval of the student accommodation is not warranted as its location is nowhere near any universities, TAFEs or colleges. This type of development is not viable in the area.

Council Comment: The site is located within a B4 Mixed Use zone which permits boarding house developments to be built. While it is not technically a boarding house, the student accommodation is of a similar nature. The location of the site in close proximity to Mascot Train Station and bus services that go to tertiary establishments is ideal for its nature. It is not considered that students residing on the campus would cause grievances to neighbouring residential development and this is demonstrated within other examples of the developers' buildings across Sydney.

- *Local Character and demographic of the area*

Objector Comment: The Mascot Station Precinct Area especially John Street and Church Avenue consists of families and young couples and should not entertain students. By allowing this development to be approved, Mascot Station area will further become a 'party central area' with all the hotels and serviced apartments. Guests abuse our area by treating it with disrespect, destroying property and yelling and screaming at all hours of the night. Additionally, the development is not in character with the area with regard to built form.

Council Comment: The Mascot Station Precinct is a mixed use zone and is characterized by commercial and residential development including retail shops. The hub is centred around the Train Station. The area is ideal for a mix of uses and the proposal has been assessed in detail regarding impacts onto the residential premises. Appropriate conditions have been imposed to mitigate any issues from the development. An assessment on built form and local character is discussed above in the report.

- *Devalue the area and neighbouring properties*

Objectors Comment: The proposal will devalue the whole Mascot Station precinct area.

Council Comment: The devaluation of the area does not fall within the scope of assessment in this application.

- *Noise from students and from the development*

Objector Comment: The noise factor due to students living on the premises having parties and large get-togethers will become unbearable for the families and couples living within the vicinity of the intended site.

Council Comment: Conditions of consent have been imposed to place hours of operation of all the communal open space areas as well as limit the amount of students within anyone one space. The hours that have been conditioned are reasonable and will not impact on the amenity of the residential properties.

- *Mascot Train Station at capacity*

Objectors Comment: Concern is raised that Mascot Station is already at full capacity, with trains currently unable to cope with more people travelling. NSW Transport have admitted that they 'skip' some of the stations after Airport stops (Mascot Station and Green Square) to the city due to the amount of people that need to get on the trains. Mascot train station is already wearing the brunt of the increased apartments from merition and the station and train frequency cannot handle the commuter load. Platforms are packed and often commuter are awaiting following train to travel. I'm concerned that the concierge will not be able to control more than 435 resident student and the excessive noise and loitering in the streets.

Council Comment: Unfortunately Mascot Train Station does not fall under Council jurisdiction and is that of the state government. An assessment is carried out in the report under car parking. All students generally do not utilize the train or bus network at peak hours and would be likely to travel after or before these times. Discussions with the state government in providing more trains and buses on the network is ongoing.

- *Congested Streets*

Objectors Comment: John Street and Church Avenue are already a carpark and it is nearly impossible to get in and out of the existing car parks that belong to the apartments that are existing along the street. Their concerns is that with a provision of 94 bicycle slots and no parking on the site the development will then cause visual pollution on already compact streets for both cars and bicycles. Also access for all trucks and cars on Church Avenue would be causing even more congestion which will only become worse once the right turn from Bourke Rd into Coward is no longer allowed forcing all traffic down Church Avenue and John Street.

Council Comment: The proposal retains all the bicycle parking within the site therefore there is no visual clutter along the street. As discussed in the report above, the large proportion of students do not own vehicles and are more likely to use public transport. Parking along John Street and Church Avenue are restricted therefore students with a car cannot park all day within these spaces. The development will not be allowed to have car parking permits for on street parking. The developer and operator has provided background research and surveys which demonstrate the percentage of students that use vehicles in their other developments across Sydney, which is very low. It has been conditioned that trucks will enter the site off John Street as this is the wider of the two streets, away from the child care centre and allows traffic in both directions.

- *Overdevelopment, overpopulation and Mascot Station has become into a concrete jungle*

Objector Comment: We have become a concrete jungle and Bayside Council have no regard to providing what the owners of the property in the area need such as infrastructure. The area is of a high density and is currently overpopulated. It is not warranted to approve more development when half of the approved units sit empty.

We have received notification that another Development Application at 23 Church Avenue is waiting for approval. This will add even more congestion to the area and to both John Street and Church Avenue.

Council Comment: The area is zoned for mixed use development. The proposal is not excessive in size and is consistent with Councils controls and the ARHSEPP FSR bonus control. The site was always earmarked for high density development. An assessment of the neighbouring development application will be carried out in its own respective report to the Panel.

- *Sun loss and overshadowing onto neighbouring properties*

Objector Comments: The building obstructs critical sunlight to almost all surrounding buildings given its towering height of over 12 stories and being build up to every border. This will especially impact Rina Apartments dramatically - 3-9 Church Ave Mascot. Sunlight access requirements in existence would be completely detrimented for a significant number of existing residents and properties. This is not acceptable. The new building may meet its own sunlight access requirements but only by destroying that of many surrounding buildings. The design should be changed significantly to reduce the level of sunlight access/shadowing impact.

Council Comments: An assessment on solar diagrams, sun loss and solar analysis has been carried out in the report above. Due to the location and orientation of the site, the development would impact on the neighbouring properties to the east in the afternoon hours. In the morning and midday hours, these properties would receive the minimum 2 hours of sunlight that is required. There is an appropriate distance between the tallest building on the site (central tower) and the buildings located at 3-9 Church Avenue which is at least 25 metres away. This also applies to the solar panels on the neighbouring site. Analysis of the western and southern neighbours has also been carried out.

- *Public benefit to the community*

Objectors Comment: What is the development contributing to the existing community like Mascot square at 619-629 Gardeners Road was required to provide. i.e. it contributed Stansfield park. The student accommodation developer should be required to deliver such open community space for the development itself and the close community as a minimum.

Council Comment: The examples provided by the objector are sites where Council had earmarked open space to be provided and dedicated to Council within the Mascot Station Precinct within the DCP. The subject site does not require any part of it to be open space dedicated to Council or for use to the community. The developer is required to pay development contributions which will contribute to providing Council built infrastructure, community facilities and open space.

- *Built form and scale is not consistent or characteristic of the neighbouring properties*

Objectors Comment: The size and excess of the building is not in keeping with the existing mascot station precinct master plan or any of the existing buildings. The building being 12 or more stories is out of step with the buildings either side and across the road.

Council Comment: The desired future character of Urban Block 4 states that developments could achieve a height of 13 storeys. The proposal does not go above the maximum LEP height and has a similar street wall along John Street and similar building height to recently approved and constructed development fronting Church Avenue. It is considered the character is maintained.

- *Materiality and Design inconsistent with the area*

Objector Comment: The design, colour etc should be improved - given the massive imposing structure that it is and the fact it wipes out views of the city, sky, greenery for many it should be required to make the area somewhat better not worse. There appears to be minimal design flair despite Iglus other developments. The colours are dark, old office building like with minimal aesthetics. It is surrounded by residential buildings - existing residents that will no longer have access to sunlight/natural light and will be forced to look upon a building built to house as many bedrooms as possible rather than a balance of aesthetics, space, sustainability and profit

Council Comment: The application was presented to a Design Review Panel who supported the colour scheme of the building. The colour and materials proposed are more subdued than those provided in the previous approved development on the site which has not been constructed.

- *Notification of Application not carried out appropriately*

Objector Comment: Many of the neighbouring residents did not receive notification of the development application at lodgement.

Council Comment: As explained above, the application underwent two rounds of notification therefore all immediate surrounding residents were notified of the application. Additional time was also provided to the second round to allow residents to provide another submission should they wish it.

- *Use as a boarding house not for students*

Objector Comment: What guarantee would the residents in the surrounding area be given that this development does not become a boarding house or cheap accommodation for the homeless, ex prisoners and other undesirable people that should NOT be located near our vulnerable children and elderly citizens?

Council Comment: The operators of the development are student accommodation operators. This is also demonstrated within their operation management plan. The development will only house students and not members of the general community.

- *The proposed development is not good urban planning*

Objector Comment: The objectors do not consider this development as an example of good urban planning. Bringing hundreds more student residents into this already highly congested area around Church Ave, O'Riordan St, John St and Coward streets in Mascot would negatively and significantly affect the well-being and liveability of the existing law abiding residents such as ourselves. Where is the evidence of planning for and factoring in the additional demand on facilities such as waste water, roads, public transport etc that will further be burdened by this development.

Council Comment: Appropriate conditions regarding water, and electricity have been provided by external agencies to accommodate the additional people within the area. Regarding to population, the site is located within a mixed use zone which was always earmarked for high density development. A thorough assessment within the report demonstrates the impact of the development to the area.

- *Fears for additional crime to the area*

Objector Comment: "Student" housing is known to be linked to drugs, alcohol and/or antisocial behaviour. This could increase crime rates in the area and lead to families leaving the area

Council Comment: This issue is unsubstantiated. Irrespective of this, crime prevention has been addressed in the report above. Advisory conditions have been imposed by NSW Police as well as additional lighting to be installed. A complaints register will be provided in the instance that there are complaints from the neighbouring properties.

- *Contamination located on the site and site suitability*

Objector Comment: The proposal is not environmentally suitable as contaminated land is present and therefore can adversely impact the health of people living there. The Preliminary Site Investigation (PSI) and Detailed Environmental Site Investigation (DESI) has recommended an Acid Sulfate Soil Management Plan (ASSMP), however the ASSMP clearly advises that additional testing within the proposed excavation area is required as brown clayey sand natural material identified as Potential Acid Sulfate Soil (PASS) was found above the water table in other areas of the site; and only limited field and lab assessment of PASS

conditions and testing within the proposed excavation area has been undertaken and that further investigations should be conducted. If this development is approved and the ASSMP is conditioned, there will be no way for Council to check who if the plan is actually being implemented – there are no regulations for this, therefore the ASSMP is not effective to ensure the health of people that will live there is protected. If this development is approved and the ASSMP is conditioned, there will be no way for Council to check who if the plan is actually being implemented – there are no regulations for this, therefore the ASSMP is not effective to ensure the health of people that will live there is protected.

Council Comment: The contamination and acid sulfate soils reports have been reviewed by Council's Environmental Scientist who has no objections to the proposal being suitable to the site subject to appropriate remediation occurring. Additional conditions in addition to the reports have been imposed within the consent.

- *Rear (northern) setbacks of the development are inappropriate*

Objectors Comment: The subject development application proposes a zero rear setback to the northern boundary abutting 13A Church Avenue. As a result of this setback, the loading dock is situated on the common boundary. Above the lower ground floor, the proposal maintains a 6m setback to the rear boundary for 11 storeys and a basketball court. The setback between the building and the rear boundary is inappropriate and we should defer to the minimum separation distances from buildings to side and rear boundaries under the Apartment Design Guide which sets out meaningful setbacks to ensure privacy and separation between built forms. A 6m setback to the rear of the building does not result in a built form that responds to the character of high density residential buildings taking place in the neighbourhood. In the event that the development approved for 13A Church Avenue does not proceed, any alternative scheme on that site would be required to adopt a larger setback to meet the building separation provisions of the Apartment Design Guide, particularly for levels above 4 storeys.

Council Comment: An assessment against the rear setback has been addressed in the report above. The loading dock is open form however is restricted in its hours of use. The ground floor is the only portion of the development which is on the boundary with the remainder set back

- *No articulation or relief in the building*

Objectors Comment: The northern elevation at the 6m setback features 110 windows in a "grid" pattern with no articulation or relief. This elevation is unimaginative in its execution. There is opportunity for this elevation to be greatly improved so that it has a better relationship to other sites in terms of its presentation and built form.

Council Comment: The application was referred to the Design Review Panel who commended the design and form of the building and presented design excellence.

- *Lack of Visual Privacy*

Objectors Comment: The proposal seeks to place 110 windows to the northern elevation on the 6m setback for 11 storeys. Concern is raised about privacy impacts of those windows overlooking into the communal open space area as well as across to a future development on 13A Church Avenue especially given there is no relief in the separation for floors above the 4th storey.

Council Comment: Assessment is carried out within the setback section of the report. The proposal does not include any balconies within the development and contains small windows within each room to comply with the BCA. It is not considered that there will be significant visual privacy concerns from the development.

- *Restrictions of use of the easement*

Objectors Comment: Legal issues exist as the proposed amalgamation of the lots comprising the site cannot give the land at 6-8 John Street all the benefits and rights benefits of the easements currently registered on the title for 13B Church Avenue.

Council Comment: Noted. Informal legal advice has been sought regarding this issue. The easement is included within the site area and GFA calculations.

- *Impacts from the rooftop facilities*

Objectors Comment: The basketball court and exercise area on the roof top will cause noise and disturbance to surrounding developments. If a basketball court is to be provided, it should be provided within the building or on the front setback to John Street with appropriate screening. While a passive recreation area on the rooftop is supported there needs to be a management regime in place to ensure it is used appropriately in terms of activities, hours of use and maximum number of persons at any one time.

Council Comment: The applicant has provided acoustic screening around the basketball court, particularly to the north elevation to prevent excessive noise being transmitted to the neighbouring residences. Additionally, conditions have been imposed limiting the hours and number that use the court.

- *The development provides no car parking*

Objectors Comment: The application proposes to provide no car parking, no motorcycle parking, no visitor parking, no staff parking and no disabled parking spaces for the development. While it is acknowledged that council are empowered to *slightly* vary controls, eliminating the controls to NIL car spaces is in contravention of those controls. This will place an enormous amount of pressure on the, already, scarce amount of car parking around the Mascot Precinct area.

Councils Comment: Discussion relating to car parking is provided above in the report under ARHSEPP heading and Part 3A of the DCP.

- *Cross Ventilation*

Objectors Comment: Out of the 435 units proposed, the majority do not provide any natural cross flow ventilation. The proposed CGI's indicate an awning type window system, which is usually not sufficient for cooling of rooms.

Council Comment: The proposal is for student accommodation and does not require compliance with a minimum cross ventilation control. The development will be fully air conditioned.

- *Through Site Link*

Objectors Comment: The proposed through site link is a shared zone with cars and service vehicles. It does not propose any pedestrian protection or any other measure to separate

pedestrians and traffic. The proposed through site link is not wheelchair accessible for non-residents. This can't be seen as a through site link.

Council Comment: As discussed in the report, the through site link has not been resolved with regard to safety and consent. This is deleted from the application and plans.

- *Construction Process*

Objectors Comments: The objector raises concerns regarding the construction process to reduce damage from construction or any works carried out on site. They have requested that the following be carried out at a minimum:

Constant monitoring and checking of building foundations and structure is made and reported to each of the surrounding strata bodies of each of their building that is directly adjacent to the development, to ensure that there are no adverse movement or issues that goes unnoticed during construction, and there to be a full time qualified geotechnical supervision for any works done below the street level....

Ground water expert advice on dewatering works during foundation/basement excavation to ensure that the surrounding ground condition won't cause differential settlement that will adversely impact the surrounding structure foundation...

Council to take traffic management action to alleviate the congestion within the Church/John/Bourke st area which flows into O'riordan St during peak times - it has become very unbearable and have taken me 15 mins or more to travel 200 m to try get into our apartment. With additional traffic due to the remaining development, it's only going to get worse. Council need to take action prior to any development finishing and people moving in/out.

Councils Comments: Appropriate conditions have been imposed in the consent regarding dilapidation report, groundwater removal and vibration. The points raised in the objectors submission are specific and are generally covered by condition by requiring certain testing and documentation to be provided to Council or the private certifier. The proposal does not include basement excavation therefore the degree of groundwater be removed will be minimal, if not nil. The CTMP has been conditioned so access is off John Street.

- *The development is inconsistent with the Mascot Station Town Centre Precinct Masterplan*

Objectors Comments: Submissions have been received that state that the proposal is inconsistent with the masterplan which was done in 2012 and has a different storey height and character of the surrounding developments which did take into consideration the masterplan.

Councils Comments: The proposal has addressed the LEP and DCP as well as other critical EPIs. The masterplan was carried out prior to 2013 and was done to help form the DCP, in particular Part 9A relating to Mascot Station. The masterplan does not specifically provide much feedback on the site itself however provides testing of certain FSR and heights. The masterplan states that developments upper levels should be setback away from the street and be under the LEP height. The developer has carried this out.

- *Profits for the developer*

Objectors Comments: There is only loss for residents and potential gain for the developer with this site particularly relating to open space, overshadowing, destabilization.....

Council Comments: Profit and loss fall outside the scope of assessment.

- *Increased pressure on public services*

Objectors Comments: The following comments have been raised:

- *The volume of available living spaces means that there will be increased pressure on the local power grid due to lack of cross ventilation as the design alone will have minimal impact*
- *In a COVID safe environment, how is sharing with up to 6 people safe and this will increase risk for the local community*
- *Increase load on sewerage and water supplies, which can cause further detriment to existing ratepayers.*

Councils Comments: The application was referred to Sydney Water and Ausgrid. Appropriate conditions have been imposed relating to stormwater, sewerage and electricity loads to be satisfied by the external agencies. Safety protocols within the premises regarding cleanliness and COVID is to be determined by the operators of the development, not Council. However, Council's Environmental Health Officer has included appropriate conditions regarding this issue.

- *Hours of sunlight being assessed*

Objectors Comments: *Daylight obstruction for building 2 in 3-9 Church Avenue will in reality be a much more negative result, if the report went to 5pm (which would be more realistic) instead of finishing at 3pm. So the report does not cater for the true detriment to residents in these apartments.*

Councils Comments: Council assessment of solar access is between 9am to 3pm in mid-winter and spring-equinox and is commonly assessed in this manner in the building and planning industry.

- *Bicycle infrastructure*

Objectors Comments: *Bike shares get littered everywhere and cause mess for residents, a hassle for council and owners with clean up and safety risks due to no helmets. Footpaths in these streets cannot accommodate cyclist and roads are already exceptionally narrow so will be increased risk of pedestrian and cyclist injuries.*

Despite the fact that the preferred way for students to travel to their universities is cycling, the expected use and parking requirement is 2.5%-5% and only 88 bicycle racks are available. This shows that in reality, students will be taking other modes of transportation whichever easier for them, especially when the three identified universities (UNSW, UTS and University of Sydney) are at least 20 minutes away. Assuming this is used at maximum capacity, the remaining 347 students will have to either take public transport which is either the bus or the train, or alternatively drive to school. This is in contrary to the claim that bicycle usage is supported as alternative mode of transport when not all students are using bicycles.

Council Comments: The proposal is not relying on bike share as the site has bicycle parking provided. John Street and Church Avenue are proposing to widen the road to achieve consistency with the remainder of the street. The footpaths are appropriate and consistent

with Council's public domain requirement. An assessment regarding parking and the green travel plan has been provided in the report above.

- *Rental costs for the rooms within the student accommodation*

Objectors Comments: *Rental cost for the average Mascot property sits at \$700 per week. The proposed plan explicitly calls for the construction of student housing – typically one bedroom only. The intention of the developer needs to be explored, with explicit reference to, and a legal bind of, the prices for which property purchases prices and rent will be set. It is absolute necessary to confirm with the developers of this proposed project – with a legal bind - the scale of individual apartments, the number of occupants hospitable to ensure quality of life (i.e. not packing sardines), and cost of rent, at a minimum. Should a student apartment comprise one bedroom, cost \$700 per week, and practically require 3 or 4 students' financial contribution to get by – it will be clear to any rational human that the interest of the developer is in lining their pockets, taking advantage of an economic depression, and with deliberate intention to molest the notion of humanitarianism in their brazen attempt to do so.*

Councils' Comments: The rental costs charged by the developer on students falls outside the scope of Councils assessment.

- *Easement*

Objectors Comment: The objector has proposed the following points regarding the easement/driveway that runs along the western side of the site:

- *The proposed development unlawfully seeks to extend the use of an easement which is only for the benefit of one of the lots (13B Church Avenue)- for the benefit of three lots. This can result in only 2 possible outcomes: either (a) the easement being used unlawfully by 6-8 John Street or (b) 6-8 John Street not having any access for waste and garbage collection and loading and unloading of goods and people. In short, no access would be legitimately available for 1,125sqm of the proposed combined site....*
- *Proposed through site link- the applicant has proposed an unlawful method of providing this and needs to be removed and re-notified to the public. The term through site link is misleading as no members of the public can use it as they have no right to use the right of way which only benefits 13B, 13A and 19-21 Church Avenue. Part of the subject site at 6-8 John Street does not even have the right to use it.*
- *A revised waste management plan will need to be provided to Council with design changes so that a separate off street loading area will be provided on John Street that can accommodate medium rigid trucks, so that the entire proposed boarding house would have access to garbage removal services. The entire boarding house cannot lawfully have all of its garbage collected through the right of way/loading dock/ driveway off Church Avenue as referred to in the waste management plan which is from Church Avenue and which is limited to the portion of land of 13B Church Avenue.*
- *The variety of commercial vehicles cannot lawfully service the entire proposed development, so an alternate plan for all service vehicles will have to be provided so all the development can be adequately serviced for commercial deliveries, drop off and pick up. The access will have to be from John Street as it cannot be through the right of way*

Councils Comment: The waste area and loading bay are located within 13B Church Avenue section of the site and the site had always had legal access from the driveway. Regardless of if the waste is generated within the 6-8 John Street portion of the site or the 13B Church Avenue portion of the site, the collection is carried out from one point on the site. The through site link has been deleted through a condition of consent as it is agreed that legally pedestrian access through to Church Avenue has not been explored amongst the beneficiaries. The proposal, while separated into three sites, is one development. A condition has been imposed

that the three sites are consolidated into one. Site area has not been assessed as separate sites, but as a whole.

- *Road widening of Church Avenue*

Objectors Comments: The objector is surprised that the applicant has not provided details of any proposed road widening on Church Avenue. They have spoken to Council who advised that detailed plans of any proposed road widening must be submitted with any development application. Detailed plans of the applicants' site should clearly show all existing details of the driveway and any proposed changes to the entry mouth of the right of way on Church Avenue.

Councils Comments: The plans show the degree of road widening that would be carried out as part of this development application. This has been assessed by Council's Development Engineer who has imposed appropriate conditions requiring the road widening to be carried out prior to the occupation of the development.

- *Multiple construction projects creating adverse impacts to neighbouring sites and community*

Objectors Comments: *Multiple construction projects in Mascot have been in stasis for months on end, with no indication of resumed progress or expected completion date. One need only observe the unsightly barriers littering surrounding streets – within but a 1km radius – and the absolute absence of construction lying within their confines to reasonably conclude that time, resources, and public trust are greatly mismanaged by Council and developers alike. Perpetual obstructions - and the seemingly never-ending projects contained within - impede pedestrian manoeuvrability, obstruct cyclist and motorist fields of vision (introducing safety hazards), contribute to greater congestion, and impact upon residential quality of life.*

The time to complete each of these projects lapsed well beyond their projected completion by developer and council standards, instilling uncertainty and anxiety in existing residents and hopeful new occupants alike. Communication- from Council and developers alike- was minimal at best, and misleading when present.

Councils Comments: The timing of projects from developers is not within the scope of assessment however approvals of development have conditions that the developer will need to abide by regarding to minimize any impacts to neighbours including barriers and fencing not causing nuisance. Unfortunately, construction sites do have their share of issues and there may be instances where the cleanliness of the street directly outside a construction site is not applied.

- *Truck Loading Dock*

Objectors Comments: The proposed truck loading dock is proposed with a 3m clearance. This does not meet Australian Standards.

Council Comments: The proposal was referred to Council's Engineer who inspected this aspect and found that the head clearance of the loading bay allowed for an MRV to access.

- *Mass, scale and built form*

Objectors Comments: The proposed 3 tower design is out of proportion to adjoining buildings. Additionally, the development does not preserve the open space view corridor running east to west between Linear Park and Bourke Street. The size of the land is too small to accommodate this development.

Councils' Comments: The height and FSR of the development are compliant with the LEP and the ARHSEPP provisions. A discussion relating to setbacks has been assessed in the report above. The open space corridor is not something that is outlined within the DCP nor in any other document. The site is unique as there are four sites that run between Church Avenue and John Street with separate ownership. The other developments to the east and west of the site are single ownership sites which when designed, approved and built had the capacity to provide greater setbacks. The mass and scale when viewed from John Street and elsewhere is consistent with the surrounding existing and approved development.

- *The amended documentation is incorrect*

Objectors Comments: *The additional documents and resubmission of the amended DA does not sufficiently address the significant concerns validly raised by many in the community and the table presented does not address the queries/concerns raised by the community in any substance. The package also includes misleading documents, contradictory and inaccurate information and is not clear as to what has changed in its amended form. It is recommended that Council should add a column to the responses table to concerns presented by IGLU and note their view on the concerns and responses set out by analysis each one. The process is made challenging with the volume of content and the transparency. Examples of inconsistencies or misleading statements are further elaborated within the objectors' letters should the Panel wish to review.*

Councils Comments: Council does not rely on the response to submission documentation and carries out their own assessment regarding the issues raised by objectors. This is covered under this section of the report. It is noted that there are some inconsistencies within the documentation provided by the applicant however these documents are not stamped by Council but rather imposed as reference documents. The documents that are tied into conditions of consent are conditioned in a way that is acceptable to Council. Alternatively if there is an issue raised in the documentation that Council is not satisfied with, additional conditions have been imposed in the consent i.e. number of bicycle spaces, hours of operation for different uses, dilapidation reports and vibration monitoring etc.

- *Conduct of the developer*

Objectors Comments: The conduct of the developer thus far provides significant concerns for their level of integrity on managing a large scale construction and ongoing operation of an accommodation facility with the interests of community and human health/safety at the forefront.

Councils Comments: The conduct of the developer is noted by Council however Council cannot enforce any measures without any substantiated evidence that they are not carrying out proper procedures or abiding by their consent. Should there be issues after determination and they purposefully are not following Councils conditions, this results in a compliance issue. The development has been regulated with a larger number of conditions which they will need to meet and follow. The operations plan has been reviewed by Council and has been found generally acceptable however additional conditions have been imposed to further regulate the use and to minimize the amount of impact the development will have on the neighbouring residents and community.

- *Minimum requirements to be considered should the application be determined*

Objectors Comments: A large number of submitters has required the following to be provided as consideration should the Panel determine approval of the development:

- *A Community Liaison Officer and Forum put in place by Council/IGLU to consult with the Community more efficiently and effectively.*
- *Protection for neighbouring properties and additional monitoring and supervision by independent professionals should be required in light of the Mascot Tower situation. Nothing is being done differently yet there is a major risk here and duty of care. There should be a specific plan that is overseen by an independent specialist onsite to ensure conduct is as it should be (funded by Council if necessary, given the rates and contribution to be received). It should cover as a minimum*
 - o *Mascot Towers concerns re destabilization of surrounding buildings*
 - o *Asbestos removal and management*
 - o *Noise and traffic management*
 - o *Pollution*
 - o *Acid Sulfate*
 - o *Any other community concerns*
- *Balance the site to be in keeping with the area and Mascot master plan by reducing heights and bulk of the building, providing a dedicated public park for the community from the site.*
- *Design and flair to be more sophisticated and in keeping, meet design excellence requirements and be iconic (in a positive, not infamous way)– incorporating the living building concept through more gardening/plants/foliage for the building, like a small scale “one central park” building at Central/Chippendale concept. The large majority of people who have provided submissions have issue with having no sunlight, no view and rather are looking at a “ very close” double the height, arguably ugly building. There are also heavy comments re the lack of parks space and greenery/trees. The site should more heavily bring in greenery like “one central park” to the existing building as a minimum. This is a premier site and opportunity to make the building a delight to look upon, it will be there a long time. This is in the interest of all parties if there will be a building on site (and not made into public land as otherwise raised).*
- *IGLU should provide more positive amenity to the area. The themes in a number of submissions are – greenery, space, lower rise. Make a positive difference to our area that is struggling with mismanaged density issues and build on your brand in a positive way, rather than a negative way on so many levels. What would you like to look at if you are forced to look upon a building such as this, every day, sometimes all day ? You have the means to make a better name for yourself, a blank canvas that could lift your image to new heights if you are fair and reasonable and aim high on design, amenity and bring heavier greenery that is in desperate short supply in this area Mascot. We have seen the amended plans – but this it not enough it is token only and needs to go further.*
- *Lobby government to widen footpaths, spend money on the area from the cash contributions received from developments via contributions and rates and sell that to the community of what you have agreed and negotiated, increase train and bus services that this development will put load onto. Get more bus services to the beach for students. Currently there are none/rare.*
- *The community cannot understand why Student Accommodation is being put smack bang in a residential area – all you have put forward has been considered in detail and this is still the sentiment and view of the Community based on all the submissions and discussions locally. There is absolute outrage. The case needs to be reconsidered by Council/IGLU and any new presentation needs to be a marked change and compelling.*

Councils Comments: The developers had not carried out community consultation nor did Council formally carry one out. However all notification letters had details in the instance where residents required additional information to contact the assessing planner. Appropriate contact details and communication during the second round of notification was carried out.

With regard to protection, Council has imposed conditions regarding dilapidation reports on the immediately adjoining properties, construction and traffic management, vibration monitoring to be in place before and during works, acid sulfate soil management, asbestos management conditions, groundwater conditions (if necessary) as well as noise restrictions and dust and pollution mitigation.

In Council's opinion, the bulk and scale of the proposal is consistent with John Street frontage and the recently approved developments along Church Avenue. Bulk and scale has been discussed previously in the report above.

The proposal achieves design excellence which was agreed upon and provided in the minutes by the independent Design Review Panel. Details of the minutes are further expanded upon in the report above.

Greater landscaping with more mature trees have been proposed by condition across the site and in the public domain. This is in excess to the amount of landscaping already provided by the developer.

The width of the footpaths is standard to Councils requirements. Larger footpaths may reduce the landscape/street verges provided and further reduce the amount of greenery in the area. Larger footpaths may also have implications with the road carriageway. Contributions that are applicable within this DA will assist in providing greater amount of infrastructure for the road network in Mascot Station as well as community facilities and assist in maintaining and possibly providing more open space. Trains and bus services are under the state government jurisdiction.

The use of student accommodation within Mascot Station has been considered in the report above. It is a permissible use within the zone.

- *Construction and Traffic Management Plan*

Objectors Comment: All construction vehicle access should be carried out through John Street to prevent any disturbances and safety issues from occurring with the child care centre at Church Avenue. The construction management plan should also detail dust and soil mitigation.

Councils Comment: The applicant has provided documentation regarding construction and traffic management. It is agreed that to mitigate any issues with vehicle access through the easement to the neighbouring sites and the location of the child care centre, all construction vehicle access will be off John Street. This is provided as a condition of consent within the Traffic Management Plan.

- *Dedicated bike lane*

Objectors Comment: Dedicated bike lanes should be provided along John Street and Church Avenue to accommodate the additional bicycle usage generated from the development and ensure the safety of the pedestrians using the footpath. Bike users will congest the streets, safety and running into children from the child care centre as there is no bike lane.

Councils Comment: At this stage, there is no proposal from Council to include bike lanes along John Street and Church Avenue between Bourke Street and O'Riordan Street. There are

existing bike paths located along Church Avenue to the west and on Bourke Street. Council is also investigating at a cycle lane along Coward Street. It is considered that there will be no issues with bicycles along these two streets, particularly to how close they are located to the existing cycle lanes.

- *Footpath is not of an adequate size*

Objectors Comment: Concern is raised that the footpath is not large enough to accommodate the amount of people within the area.

Council Comment: The size of the footpath is in accordance with Council's requirements stipulated by Public Domain department. The applicant is required to reconstruct the footpath which is required due to road widening at both John Street and Church Avenue. Appropriate conditions of consent have been imposed.

- *Duty of care of council, state government, independent and regional planning panels is not being adhered to in anyway*

Objector Comment: Concern is raised that governing bodies are not adhering to or providing a duty of care to the residents in the area by allowing for unreasonable development to occur.

Council Comment: The determining body for this application is the Sydney Eastern City Planning Panel who will consider Council's report at the meeting. All submissions that have been sent in for this application has been considered in the report above and have been passed onto the Panel for consideration.

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

It is considered that granting approval to the proposed development will not have significant adverse impact on the public interest.

OTHER MATTERS

Section 7.11 Contributions

In accordance with the former City of Botany Bay 7.11 Development Contributions Plan 2016, the Section 7.11 Contributions for the proposed development are calculated as follows:

Student Accommodation

As Council does not have specific contribution rates for student accommodation, the most similar assessment against a boarding house development has been carried out. The contribution has been provided at the following rate:

$$435 \times \$18,054.08 = \mathbf{\$7,853,524.80}$$

The following is broken down further within the condition:

Breakdown

Community Facilities	\$642,873.99
Recreation and Open Space	\$6,632,629.17

Transport
Administration

\$520,838.63
\$57,183.01

Total: \$7,853,524.80

No credit for workers is permitted under the Plan as the site is replacing industrial with residential.

Referrals

The Development Application was referred to Council's internal and external departments for comment. Appropriate conditions have been recommended to address the relevant issues raised. The following table is a brief summary of the comments raised by each referral department.

Referral Agency	Response Date	Comments
External Referrals		
SACL	6/11/19	No objections. The conditions have been included in the Schedule of Consent Conditions.
Sydney Water	-	No comments have been received however standard Sydney Water conditions have been imposed in the Schedule of Consent.
NSW Police	10/12/19	No objections. Advisory Conditions have been provided.
RMS	16/12/19	No objections. The conditions have been included in the Schedule of Consent Conditions.
Ausgrid	13/11/9	No objections. The conditions have been included in the Schedule of Consent Conditions.
Internal Referrals		
Landscape Architect	2/6/20	Conditions have been incorporated into the Schedule of Consent Conditions.
Development Engineer	2/6/20	Conditions have been incorporated into the Schedule of Consent Conditions.
Environmental Scientist	31/1/20	Conditions have been incorporated into the Schedule of Consent Conditions.
Environmental Health	14/5/20	Conditions have been incorporated into the Schedule of Consent Conditions.
Tree Management Officer	19/5/20	Conditions have been incorporated into the Schedule of Consent Conditions.
Waste Officer	29/4/20	Conditions have been incorporated into the Schedule of Consent Conditions.
Traffic Advisory Committee	6/11/19	Recommendations have been provided from the Panel which were considered in the report.
Address and Road Naming Officer	18/11/19	Conditions have been incorporated into the Schedule of Consent Conditions.
Development Contribution Planner	29/10/19	Conditions have been incorporated into the Schedule of Consent Conditions.
Design Review Panel	12/12/19	Comments provided to Council for consideration.

Conclusion

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

The non-compliance in the motorcycle parking under the ARHSEPP 2009 has been considered as part of the Clause 4.6 variation submitted by the applicant. Council is of the opinion that the Clause 4.6 variation demonstrates that the proposal is not unreasonable or unnecessary in this instance and should be supported.

The departure in the setbacks has been justified and it is considered that the non-compliant setback will not adversely impact on the visual privacy or solar amenity of the neighbouring properties. With regard to solar access, there is a degree of overshadowing that is presented by the development however the adjoining properties maintain the minimum requirement of sunlight that is required under the ADG. The discussion regarding view loss has been carried out and considering the width of the site, the development being lower than the maximum building height permissible within the BBLEP 2013 as well as the impact of the approved development to the north would contribute, the view loss assessment is accepted.

Finally, the fact that there is no car parking provided on the site has been assessed in detail after the applicant had provided surveys of other developments of theirs which operate in a similar manner. The site is located within 200 metres of Mascot Train Station and the development does provide for a number of bicycle spaces for its students which would be the two main forms of transport to tertiary establishments. The lack of parking is not considered to create any traffic generation into the area but would rather alleviate it as should the development have complied with the amount required under the ARHSEPP 2009, would put more cars onto the road network. Additionally, the lack of car parking results in there being no basement levels which would impact on the ground water and possibly the structural stability of the area.

The issues that were raised within the submissions received during the notification period have been considered in the report and have been provided to the Panel for further assessment should it be required. A number of issues have been resolved by the imposition of conditions within the consent.

The proposal has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposal is permissible within the B4 Mixed Use zone and is considered to result in a development which is suitable in the context. Therefore, the proposal is recommended for approval subject to the conditions of consent in the attached Schedule.

Attachment

Schedule 1 – Conditions of Consent

Premises: 6-8 John Street and 13B Church Avenue Mascot

DA No.: DA-2019/385

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

Drawing No.	Author	Date Received
DA01.001- Site Plan- Rev A	Bates Smart	Dated 22 October 2019; Received 28 April 2020
DA-01.001- Demolition Plan- Rev G		Dated 11 March 2020; Received 28 April 2020
DA03.0G1- Lower Ground Floor Plan (Church Avenue)- Rev B		Dated 31 March 2020; Received 28 April 2020
DA03.0G2- Upper Ground Floor Plan (John Street)- Rev B		Dated 31 March 2020; Received 28 April 2020
DA03.0G3- Upper Ground Floor Mezzanine Plan- Rev B		Dated 31 March 2020; Received 28 April 2020
DA03.001- Typical Low Floor Plan (L01-L06)- Rev B		Dated 31 March 2020; Received 28 April 2020
DA03.007- Level 07 Plan- Rev B		Dated 31 March 2020; Received 28 April 2020
DA03.008- Level 08-09 Plan- Rev B		Dated 31 March 2020; Received 28 April 2020
DA03.010- Level 10 Plan – Rev B		Dated 28 April 2020; Received 28 April 2020
DA03.011- Level 11 Plan- Rev B		Dated 31 March 2020; Received 28 April 2020
DA03.012- Roof Plan- Rev B		Dated 28 April 2020; Received 28 April 2020
DA07.001- John Street Elevation- Rev B		Dated 28 April 2020; Received 28 April 2020
DA07.002- West Elevation- Rev B		Dated 28 April 2020; Received 28 April 2020
DA07.003- Church Avenue Elevation (Boundary 13A Church Avenue)- Rev B		Dated 28 April 2020; Received 28 April 2020
DA07.004- East Elevation- Rev B		Dated 28 April 2020; Received 28 April 2020
DA08.001- Section AA- Rev B		Dated 28 April 2020; Received 28 April 2020
DA08.002- Section BB- Rev B		Dated 28 April 2020; Received 28 April 2020
DA08.003- Section CC- Rev B		Dated 28 April 2020; Received 28 April 2020
DA08.004- Section DD- Rev B		Dated 28 April 2020; Received 28 April 2020

DA09.001- GFA Diagrams- Rev B		Dated 31 March 2020; Received 28 April 2020
DA11.000- External Finishes – Rev A		Dated 19 September 2019; Received 28 April 2020
DA-201 – Signage Details 1		Received 28 April 2020
DA-202 – Signage Details 2		Received 28 April 2020
Landscape Plans- Rev E	RPS Group	Dated 2 April 2020; Received 28 April 2020

Reference Document(s)	Author	Date Received
Preliminary Site Investigation and Detailed Site Investigation	JBS&G Australia Pty Ltd	Dated 8 October 2019; Received 25 October 2019
Geotechnical Investigation	JK Geotechnics	Dated 30 August 2019; Received 25 October 2019
Demolition Construction Pedestrian Traffic Management Plan	Varga Traffic Planning Pty Ltd	Dated 27 September 2019; Received 25 October 2019
Construction and Traffic Management Plan	Iglu	Dated 2 September 2019; Received 25 October 2019
DA Design Report	Bates Smart	Dated October 2019; Received 25 October 2019
Civil DA Report	Enstruct Group Pty Ltd	Dated March 2020; Received 28 April 2020
Civil Drawings- Rev 3	Enstruct Group Pty Ltd	Dated 8 April 2020; Received 28 April 2020
Asbestos Management Plan	JBS&G Australia Pty Ltd	Dated 8 October 2019; Received 25 October 2019
Acid Sulfate Soil Management Plan	JBS&G Australia Pty Ltd	Dated 8 October 2019; Received 25 October 2019
Survey Plan- Sheet 1-6	LTS Lockley	Dated 25 March 2019; Received 25 October 2019
Remedial Action Plan	JBS&G Australia Pty Ltd	Dated 8 October 2019; Received 25 October 2019
BASIX Report	IGS Integrated Group Services	Dated October 2019; Received 25 October 2019
DA10.001 and DA10.002- Perspectives	Bates Smart	Dated 19 September 2019; Received 28 April 2020
Green Travel Plan	The Transport Planning Partnership	Dated 8 April 2020; Received 28 April 2020
Acoustic Assessment	Acoustic Logic	Dated 9 April 2020; Received 28 April 2020
Operations Management Plan	Iglu	Received 28 April 2020
Waste Management Plan	Iglu	Dated 14 April 2020; Received 28 April 2020
Traffic and Parking Assessment Report	Varga Traffic Planning Pty Ltd	Dated 1 October 2019; Received 28 April 2020
View Impact Analysis	Bates Smart	Received 28 April 2020

Access Report	Architecture and Access Pty Ltd	Dated 7 October 2019; Received 25 October 2019
Access Strategy- Hotel-Student Accommodation SOU Provisions	Architecture and Access Pty Ltd	Dated 11 September 2019; Received 25 October 2019
BCA Assessment Report	Steve Watson and Partners	Dated October 2019; Received 25 October 2019
Clause 4.6 variation-motorcycle parking	Mecone	Dated October 2019; Received 25 October 2019
Fire Engineering Report	Innova Services	Dated 1 October 2019; Received 25 October 2019
Pedestrian Wind Environment Study	Windtech	Dated 20 September 2019; Received 25 October 2019
Solar Light Reflectivity Study	Windtech	Dated 23 September 2019; Received 25 October 2019

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

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

7. The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 “Design, Construction and Fit out of Food Premises”.
8. The building shall be designed, constructed and maintained to comply with the requirements of the Local Government Act 1993, as amended and the Regulations there under.
9. The use of charcoal or wood as fuel for cooking is not permitted unless with the prior approval of Council.
10. The proprietor of the premises places of shared accommodation shall provide Council with details for Council’s Environmental Health Unit register by completing the Registration form available on request from the customer service centre.
11. Trading shall not commence until a final inspection has been carried out by Councils Environmental Health Officer and all health (boarding house) related requirements have been complied with.
12. No further signage, other than signage permitted as exempt or complying development, shall be installed or displayed at the premises without a development application being lodged with Council and consent thereto being given by Council in accordance with Councils guidelines and *State Environmental Planning Policy No. 64 – Advertising and Signage*.
13. To offset the removal of this significant tree the applicant is to incorporate a replacement Cook Pine of 100 litre bag size in the landscaping design and will be planted within the deep soil zone of the proposed development. The developer is to supply Council with one Cook Pine of similar size which will be planted in the Public Domain at a location to be determined by Council.
14. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - a) Ensure soil depths in accordance with Council’s Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer’s directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.

- e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
- f) All planter boxes shall be irrigated, and shall have the required depth to sustain the proposed planting, as detail:
 - (i) Trees over 8 meters: Minimum soil depth 1.3 metre
 - (ii) Medium trees (8 metre canopy diameter at maturity): Minimum soil depth 1 metre
 - (iii) Small trees (4 metre canopy diameter at maturity): Minimum soil depth 800mm
 - (iv) Shrubs: Minimum soil depths 500-600mm
 - (v) Groundcover: Minimum soil depths 300-450mm
- g) Any subsurface drainage requirements are in addition to the minimum soil depths quoted above

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

15. The following conditions are imposed by **Sydney Airport Corporation Limited (SACL)**:
 - a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
 - b) The application sought approval for the PROPERTY DEVELOPMENT to a height of 49.1 metres Australian Height Datum (AHD).
 - c) In my capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, I have no objection to the erection of this development to a maximum height of 49.1 metres AHD.
 - d) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
 - e) Should you wish to exceed this height a new application must be submitted.
 - f) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
 - g) Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

- h) Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.
 - i) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)).
 - j) The height of the prescribed airspace at this location is 51 metres above AHD.
 - k) Planning for Aircraft Noise and Public Safety Zones
 - l) Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF).
 - m) Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.
16. The following conditions are imposed by **Transport for NSW (TfNSW)**:
- a) All vehicles shall enter and exit the site in a forward direction.
 - b) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018.
 - c) A Construction Traffic Management Plan (CTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control shall be submitted to Council for approval prior to the issue of a Construction Certificate.
 - d) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on the surrounding state road network during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
17. The following advisory conditions are imposed by **NSW Police**:
- a) CCTV should be installed at entry / exit points, to building, surrounding building and isolated areas.
 - b) Adequate lighting should be positioned in surrounding areas of building to create visibility at night and to reduce opportunity for hidden areas.
 - c) Clear signage on Buildings (John Street and Church Ave) number and building name, should be clearly displayed, with light shining on signs at night to allow clear visibility for Police.

- d) All shrubs to be no higher than 1 metre, so visibility and clear sight lines can be maintained onto the premise.
- e) Security may be needed to monitor entry/exit points and or anti-social behaviour.
- f) Information for International Students should be provided regarding Local Police station / contact numbers. Information also containing personal safety and awareness.

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

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

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

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

PRIOR TO COMMENCEMENT OF DEMOLITION WORKS OR ANY DEVELOPMENT OR WORK

19. Before commencement of demolition works, the applicant must undertake the following notifications:-

- a) Notify adjoining residents two (2) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority.
- b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the

Safe Work NSW licensed asbestos demolisher and the list of residents advised of the demolition;

- c) Five (5) working days prior to licensed asbestos removal work is commenced to Safe Work NSW;
 - d) Notice to Public Authorities - the demolisher shall give notice to other statutory authorities, such as Sydney Water Corporation and Safe Work NSW, in relation to service disconnection.
20. Prior to the commencement of any work, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
21. A professional engineer specialising in structural engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises, a photographic survey, and including buildings, foundations and structures likely to be affected by the site works as determined by the consulting engineer. This shall include, but not limited to:
- a) 13A Church Avenue Mascot
 - b) 3-9 Church Avenue Mascot
 - c) 10-14 John Street and 19-21 Church Avenue Mascot

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

A copy of the pre-construction dilapidation report is to be provided to the adjoining properties (subject of the dilapidation report), a minimum of 5 working days prior to the commencement of work. Evidence confirming that a copy of the dilapidation report was delivered to the adjoining properties must be provided to the PCA.

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

22. Prior to commencement of any works, a Safe Work Method Statement shall be prepared by a licensed demolisher who is registered with the Safe Work NSW to the satisfaction of the Principal Certifying Authority and a copy sent to Council (if it is not the PCA) and Safe Work NSW. The statement must be in compliance with *AS 2601-1991 Demolition of Structures*, the requirements of Safe Work NSW and conditions of this approval. This Plan must include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
 - b) Induction training for on-site personnel;
 - c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors under Work Health & Safety Act 2011(NSW) and the Work Health & Safety Regulation 2011 (NSW) unless specified in the Act and/or Regulation that a license is not required). Any asbestos removal work shall be undertaken in accordance with the How to Safely Remove Asbestos: Code of Practice published by Safe Work Australia;
 - d) Dust control – dust emission must be minimised for the full height of the building. A minimum requirement is that the perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
 - e) Disconnection of relevant utility services, including Gas and Electrical Supply;
 - f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
 - g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
 - h) Waterproofing of any exposed surfaces of adjoining buildings;
 - i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the Protection of the Environmental Operations Act 1997;
 - j) Working hours, in accordance with this Development Consent;
 - k) Confinement of demolished materials in transit;
 - l) Proposed truck routes, in accordance with this Development Consent (where applicable);
 - m) Location and method of waste disposal and recycling in accordance with the Waste Minimisation and Management Act 1995;
 - n) Sewer – common sewerage system;
 - o) On site monitoring both during asbestos removal and the remainder of demolition activities.
 - p) Identification of any hazardous materials including surfaces coated with lead paint, method of demolition, and the disposal methods for hazardous materials.
 - q) Erosion and Sedimentation Controls are in place and in accordance with the approved plan.
23. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a) Showing the name, address and telephone number of the principal certifying authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

- c) stating that unauthorised entry to the work site is prohibited.
 - d) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
24. If a Construction Certificate is required, a copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
25. Prior to the commencement of any works, the applicant must inform Council, in writing, of:
- (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - (b) The name and permit number of the owner-builder who intends to do the work;
 - (c) The Council also must be informed if: -
 - (i) A contract is entered into for the work to be done by a different licensee; or
 - (ii) Arrangements for the doing of the work are otherwise changed.
26. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - c) Permit to install temporary ground anchors in public land,
 - d) Permit to discharge ground water to Council's stormwater drainage system,
 - e) Permit for roads and footways occupancy (long term/ short term),
 - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - h) Permit to place skip/waste bin on footpath and/or nature strip, and
 - i) Permit to use any part of Council's road reserve or other Council lands.
 - j) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area. It should be noted that the issue of such permits may

involve approval from RMS and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.

27. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - e) If the soil conditions required it:
 - (i) Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-
 - (ii) Adequate provision must be made for drainage.
28. Prior to the commencement of any works, a Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
 - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,

- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
 - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
 - i) Proposed protection for Council and adjoining properties, and
 - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
 - k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
 - l) Obtain Permits required under this consent.
29. Prior to the commencement of any works, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the Principal Certifier for approval. The plan shall:
- a) be prepared by a RMS accredited consultant,
 - (i) address, but not be limited to, the following matters:
 - (ii) ingress and egress of vehicles to the site;
 - (iii) loading and unloading, including construction zones;
 - (iv) predicted traffic volumes, types and routes; and
 - (v) pedestrian and traffic management methods.
 - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
 - c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.
 - d) demonstrate all construction vehicle access be contained from John Street and not from Church Avenue. This is to reduce any impacts onto the neighbouring properties.

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.

30. A Noise and Vibration Management Plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation or construction works. The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards and *Assessing Vibration: A technical guideline* (available www.environment.nsw.gov.au). The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.
31. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary
32. All contractors shall comply with the following during all stages of demolition and construction:
 - a) A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - b) A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - c) A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - d) A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
 - e) A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
33. A Soil and Water Management Plan shall be prepared in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern

Sydney Region Organization of Councils. A copy of the plan must be submitted to Council. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

34. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
35. Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction. The controls are to be designed and installed in accordance with the Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Regional Organisation of Council. Copies of the guidelines are available from Council.
36. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
37. Should any hazardous materials be identified a Work Management Plan completed in accordance with AS2601 – Demolition of Buildings shall be submitted to the Principal Certifying Authority prior to the any works for the building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.
38. Prior to commencement of any works, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
39. Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of Safe Work Australia and the Department of Environment and Climate Change and Water and with the provisions of:
 - a) New South Wales Occupational Health and Safety Act, 2000;
 - b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
 - c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
 - d) Protection Of the Environment Operations Act 1997 (NSW); and
 - e) Department of Environment and Climate Change Waste Classification Guidelines (2008).
40. Prior to the commencement of any work the applicant is to submit payment for a Tree Planting Bond of \$2,000.00 to ensure protection of the planted tree. The duration of the Bond shall be limited to a period of 12 months after the occupation certificate is issued. At completion of the bond period of twelve months (12 months) the Bond shall

be refunded pending an inspection of the tree by council. If a tree is found to be dead, pruned or dying and will not recover the applicant will forfeit all or part of the bond to replace or maintain the tree.

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

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

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

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

42. The applicant must prior to the commencement of any works, pay the following fees:
- | | | |
|----|----------------------------|----------------|
| a) | Development Control Fee | \$3,174.00 |
| b) | Footpath Crossing Deposit | \$133,414.00 |
| c) | Section 7.11 Contributions | \$7,853,524.80 |
43. The required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
44. Prior to the commencement of any work, the applicant shall lodge a Builder's Damage Deposit of **\$133,414.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council after the completion of all works relating to the proposed development have been completed.
45. Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans, a contribution of **\$7,853,524.80** is payable as calculated below:

City of Botany Bay Section 7.11 Contributions Plan 2016

The 7.11 contributions for the development is as follows:

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

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

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

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

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

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

48. A detailed Public Domain Frontage Design must be prepared by suitably qualified professionals for assessment and approval by Council's Public Domain Team for all frontage works that are required to be constructed within the public domain and which

are subject to approval pursuant to Section 138 of the Roads Act 1993. All frontage works shall be in accordance with development consent conditions, Council technical manuals, master plans, town centre plans, Australian standards and standard design drawings and specifications.

Public domain frontage works shall include, but not be limited to, civil, drainage, landscaping, undergrounding of services, lighting, traffic signage, line marking, parking and traffic devices. The plans prepared are to detail compliance with all external works required under this development consent and must be submitted to Council with the frontage works application for assessment.

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

Note: Preliminary consultation with Council's Public Domain team is highly recommended.

49. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate, the Principal Certifying Authority and Principal Certifying Authority must:
 - a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
50. Prior to the issue of any Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. Sydney Water's Tap in™ online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>
51. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.
 - i) Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design. The Section 73 Notice of Requirements must be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.
52. Plans and cross sections showing the compliance of the recommendations of Part J BCA assessment report issued by Steve Watson and Partners on October 2019 to be submitted with the application for the issue of the Construction Certificate.

53. A copy of Permission to Discharge Trade Waste Water shall be obtained from Sydney Water prior to the discharge of trade waste water to the sewer system. A copy shall be provided to Principal Certifying Authority (PCA) prior to issuing the Construction Certificate. A copy shall also be provided to Council if Council is not the PCA.
54. All walls within the kitchen, food preparation, storage and display areas shall be of solid construction. Walls in food preparation areas shall be finished with one or a combination of glazed tiles, stainless steel, aluminium sheeting, laminated thermosetting plastic sheeting, polyvinyl sheeting with welded seams or similar impervious material which is adhered directly to the wall. The finishing materials of the wall surfaces shall provide a smooth even surface free from buckles, ledges, fixing screws, picture rails, open joint spaces, cracks or crevices.
55. The intersection of walls and plinths with floors in the kitchen, food preparation, storage and display areas shall be coved with a minimal 25mm radius.
56. The floors within the kitchen, food preparation, storage and display areas shall be constructed of a suitable material which is nonslip, durable, resistant to corrosion, nontoxic, non-absorbent and impervious to moisture. Floors which drain to a floor waste shall be evenly graded (at least 1:100) so that water falls to the floor waste.
57. The surface finish of the ceiling shall not be perforated and shall be finished in an impervious material which is free from open joints, cracks, crevices, (in accordance with AS 46742004, acoustic and decorative panels are not to be used in wet areas, food preparation areas, bin storage areas or other areas where open food is displayed or served). The ceiling over the food preparation, storage and display areas shall be painted with a washable paint of a light colour. The intersection of walls and the ceiling shall be tight jointed, sealed and dustproof.
58. All surfaces of counters, bars, food display units, window display, self –service displays and bainmaries shall be smooth, durable, impervious and free from cracks, crevices and cavities. The underside shall have an impervious finish. Window displays for wet foods shall be coved at all intersections and installed in accordance with AS/NZS 3500.2.2003.
59. A double bowl sink or two compartment tub which is of a size capable of fully immersing the largest piece of equipment shall be provided with hot and cold water supplied through a single spout in the kitchen/food preparation area. Double bowl sink or tubs shall be supplied with water of at least 45 o C in one bowl for washing purposes; and 80 o C in the other bowl for sanitising purposes if hot water sanitising occurs at the sink.
60. Hand wash basins shall be located so that they are not obstructed, are at bench height either permanently fixed to a wall, supporting frame or sunk into the bench top, accessible and no further than 5 metres (excluding toilet hand basins) from any place where food handlers are handling open food, in the parts of the premises where open food is handled, in utensil/equipment washing areas, in staff entrance to areas where open food is handled and in toilet cubicles or immediately adjacent to toilets. Hand basins shall have a permanent supply of warm running potable water delivered through a single outlet and taps which operate hands free shall be provided at all hand basins with sufficient space between the spout and base of basin for the washing of hands and arms.
61. All hand basins shall be provided with soap and a towel dispenser for dispensing transfer of pathogenic microorganisms to the hands or arms (air dryers as the only means of drying hands shall not be permitted). A receptacle for used towels shall be provided at the hand wash basin.

62. Rooms and areas designated for the storage and washing of garbage receptacles shall be designed and constructed in accordance with the following requirements;
- a) The floors and walls shall be constructed of a suitable material which is durable, smooth, resistant to corrosion, impervious to moisture and coved with a minimum radius of 25mm at the intersection of walls with floors
 - b) The floor shall be graded and drained to a floor waste gully connected to the sewerage system and traps of the premises in accordance with all Sydney Water requirements
 - c) Provide a hose tap connected to the water supply. Water used for cleaning garbage receptacles may be either potable or non potable water.
 - d) The room shall be ventilated with either natural ventilation or alternatively mechanically ventilated in accordance with the requirements of Australian Standards AS 1668.
63. The Accredited Certifier shall not issue a Construction Certificate until all structural or equipment requirements for food premises specified in the conditions of development consent, the structural requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 “Design, Construction and Fitout of Food Premises” have been incorporated in the plans and specifications for the Construction Certificate.
64. A sign indicating the permissible maximum length of time during which a person may board or lodge in the premises must be conspicuously displayed to public view outside the premises.
65. A schedule showing the numeral designating each bedroom and dormitory and the number of persons permitted to be accommodated in each must be conspicuously displayed on the premises.
66. Each bedroom must be numbered in accordance with the schedule and there must be displayed clearly on the door of or in each bedroom the maximum number of persons allowed to be accommodated in the bedroom.
67. All fixtures, fittings, furniture, shall be constructed of durable, smooth, impervious materials capable of being easily cleaned. All parts of the premises and all appurtenances (including furniture, fittings, bedsteads, beds and bed linen) must be kept in a clean and healthy condition, and free from vermin.
68. If the place is one in which persons may board or lodge for 7 days or longer, an adequate number of beds (each provided with a mattress and pillow and an adequate supply of clean blankets or equivalent bed clothing), adequate storage space and blinds, curtains or similar devices to screen bedroom and dormitory windows for privacy must be provided for the occupants.
69. The Principal Certifying Authority shall not issue a Construction Certificate until a detailed acoustic assessment /report of all mechanical plants (ventilation systems, exhaust fans, ventilation fans and condenser units) and equipment including airconditioners which meet the NSW EPA Noise Policy for Industry (2017) and Protection Of Environment Operations Act 1997 noise emission criteria for residential air conditioners as specified in Development Application Acoustic Assessment for 68 John Street & 13B Church Avenue, Mascot by Acoustic Logic – Project ID 20191049.1 Document Reference 20191049.1/0904B/R1/JM dated the 9 April 2020 has been carried out.

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

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

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

- 70. A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed, a NSW Environment Authority (EPA) Accredited Site Auditor must be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor must review and endorse any additional investigation and remediation proposed prior to the commencement of any works. Evidence of this appointment must be provided to council prior to the issue of any construction certificate.
- 71. To ensure that the Remedial Action Plan (RAP) proposed for the site are sufficient to enable the site to be made suitable for the proposed student accommodation development, an Interim Site Audit Advice must be completed by the accredited site auditor under the Contaminated Land Management Act 1997 and must be submitted to Council clearly demonstrating that any proposed remediation and management is appropriate to make the development suitable for the proposed uses. This must be provided prior to the issue of any construction certificate for excavation or construction.
- 72. Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to the Principal Accredited Certifier for assessment and approval. Design certification and drainage design calculations are to be submitted with the plans. Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines (SMTG) sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the site, including

the final discharge/end connection point, must comply with Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines. All drawings shall correspond with the approved architectural plans.

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

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

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

along with the provisions/documentation/revisions detailed below:

- b) All detailed stormwater drawings shall be updated to correspond with the approved architectural plans and other relevant conditions of consent, and
- c) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the “State of Nature” condition (i.e. the site is totally grassed/turfed), rather than pre-development condition, and
- d) Emergency overflow shall be provided for within the OSD design, and
- e) The stormwater discharge from the site shall connect via gravity discharge to a new junction pit on Church Avenue to Council infrastructure specifications as part of the development, and
- f) Heavy duty drainage grates shall be provided on the driveway at the boundary, and
- g) A minimum capacity 10000L of Rainwater Tank(s) shall be provided for the site. Only roof water shall be directed to the rainwater tank. Overflow from the rainwater tank shall be directed to the site drainage system. The rainwater tank(s) must be designed to be connected to all outdoor landscape irrigation along with all lower ground floor & upper ground floor toilets within the development, and

- h) All subsurface structures must be designed in accordance with Botany Bay DCP part 10 stormwater management technical guidelines section 7. No groundwater seepage is permitted be drained from the subsurface structure out of the site, and
 - i) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG, and
 - j) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site, and
 - k) A WSUD Strategy and MUSIC model must be prepared and submitted for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
 - l) Detailed calculations including computer modelling supporting the proposal.
73. Prior to the issue of any Construction Certificate, a qualified practicing chartered professional geotechnical engineer registered with the NER must:
- a) Review the recommendations and assessment in the geotechnical investigation report prepared by JKGeotechnics, ref 32293LJrpt2Rev1, dated 30 August 2019, conduct any further geotechnical testing and assessment of the site as required and ensure the appropriate recommendations are implemented into the construction certificate plans and documentation,
 - b) Provide detailed recommendations to allow the satisfactory implementation of the works:
 - (i) The appropriate means of excavation/shoring in light of proximity to adjacent property and structures is to be detailed,
 - (ii) Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated,
 - (iii) Review the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site),
 - (iv) An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages, and
 - c) Provide a certificate that the construction certificate plans and documentation are satisfactory from a geotechnical perspective, and

- d) Certify the proposed method to temporarily and permanently support any excavation adjacent to adjoining property, structures and road reserve,
- e) Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works, and
- f) Inspect the works as they progress at frequencies determined by the geotechnical engineer, an inspection schedule is to be prepared.

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

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

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

75. Prior to the issue of the Construction Certificate, if neighbouring properties or roadway are to be utilised for excavation support, the legal rights of any adjoining properties must be respected including for permanent and temporary excavation supports. In this regard, the written permission of the affected property owners must be obtained and a copy of the owner's consent for excavation support or other material in adjacent lands must be lodged to the principal certifier.

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

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

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

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

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

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

- a) Provision of photovoltaic cell systems on the rooftop. Detailed design for the photovoltaic cells systems is to be provided, the provision of photovoltaic cells is to be at a rate that maximises the use of available space on the rooftop. The cells shall not exceed the applicable height limit for the site as prescribed by the Botany Bay LEP 2013.
- b) Sensor controlled and zoned internal lighting and air conditioning.
- c) Maximisation of non-potable stormwater re-use throughout the development.

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

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

- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS2890.2:2018 along the travel path of the service vehicles, and
- b) All service vehicles shall enter the property front in front out, and
- c) A longitudinal section plotting headroom clearance along the travel path is to be provided for assessment, and
- d) Demonstrate safe headroom clearance of 4.5m is achieved along the along the entire travel path, parking and manoeuvring areas of the Medium Rigid Vehicle (MRV) within the development, and
- e) Swept path analysis shall be provided for manoeuvring of MRV commercial vehicles, depicting a reverse entry and forward exit manoeuvre to/from the loading dock proposed within the development, and
- f) Sight distances throughout the development must be in accordance with Australian standards, and
- g) Certification of the above requirements and strict compliance with AS2890.2:2018 is to be provided by a suitably qualified engineer experienced in traffic & parking design.

79. A suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of the construction certificate.
80. Prior to the issue of the Construction Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer, must be provided for the development. The flood impacts on the site and surrounding area shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The Plan must make provision for the following:
- a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development.
 - b) Flood warning signs/depth indicators for areas that may be inundated.
 - c) A flood evacuation strategy.
 - d) A flood awareness strategy.
 - e) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
81. Adequate ambient lighting is to be provided along the western side of the proposed development (through site link) to provide improved safety and illumination for residents and pedestrians traversing through the development, designed in accordance with the AS/NZS 1158 lighting series and AS 4282-1997 "Control of the Obtrusive Effects of Outdoor Lighting". Lighting is also to be installed into all steps that form part of the through site link to a high quality level of design prepared by a suitably qualified urban designer. All lighting shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads. The construction certificate plans and documentation shall reflect these requirements.
82. The Final Landscape Plan shall be generally in accordance with the approved Landscape Plan (Refer to Condition 1) and comprise detailed landscape construction documentation (plans and specifications) to be submitted to, and approved by Bayside Council's Landscape Architect prior to the issue of the Construction Certificate. The landscape documentation shall include, but not be limited to:
- a) *Landscape treatment within central courtyard and eastern boundary:*
 - (i) A 3 to 4 meters wide landscape setback shall be allowed along the eastern boundary with buffer planting. Pedestrian circulation and stairs shall be shifted to the central courtyard to allow for the planting along this boundary. Pedestrian link to the gym courtyard shall be deleted and replaced with deep soil planting with trees and groundcovers, and gym courtyard shall be access from gym only. Soil levels along boundary shall seek to retain the natural ground level, if levels are required to be changed details and sections of treatments shall be provided for assessment.

- (ii) A minimum of two large canopy trees to reach a minimum mature size of 15 meters shall be included within the site, and a minimum of 10 medium trees to reach a minimum mature size of 8 meters shall be included in the courtyard and eastern buffer planting area. Other small trees can also be included to provide amenity for users of courtyard if required.
 - (iii) In this area a minimum of 12 trees capable of reaching at least eight (8) meters high in local conditions shall be planted, at least 6 of these shall be supplied and planted at 200 Litres port size, and all other trees shall be planted at minimum 100 litres pot size.
- b) *John Street landscape setback*
 - (i) From the 34 m meters long and 3 meters wide landscape setback along John Street, at least 17 meters of frontage shall include the full width of setback as deep soil planting provision with a minimum measurement of three meters. To reduce the hardstand areas within the deep soil entry access stairs and landing to lounge area shall be reduced.
 - (ii) The landscape treatment of this setback shall include canopy trees and understorey maximum height of 900mm to comply with CPTED principles. At the moment the landscape plan shows some kind of tree in the graphics, but is not indicating which tree species is proposed. This setback shall include a minimum of four (4) canopy trees capable to reaching a minimum mature height of 6 meters in local conditions.
 - (iii) Planter along the frontage setback shall reach the boundary line. In general a clear definition of private and public land shall be define in the interface with public domain. Approved plans present 500mm of the setback to be public domain footpath, this is not desirable, clear delineation of public and private areas is desirable.
- c) *Include relevant details to the development:*
 - (i) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape handworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictions, tree pits, tree grates, tree guards, tree pit treat, tactile and sectional construction details.
 - (ii) Details of all fences and retaining walls in particular when located along boundaries, or when impacting or visible to public domain areas.
 - (iii) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, bins, bollards.
- d) *A Landscape Maintenance Schedule* shall be submitted that covers a 12 month period to provide a guide to the landowner or occupier on how to best maintain the constructed landscaped areas; and include the following information: shrub pruning/trimming (frequency, plant requirements); Fertilising and pest control (soil testing, types, rate, frequency); Mulching, weeding and soil improvement (frequency, materials); Irrigation (checks, adjustments); tree maintenance (fertilising, mulching, tree stakes adjustments, special tree requirements); Maintenance of hard landscape elements (paving, edges, walls, pergolas, seats, and planter box walls); and planter boxes/roof gardens/green wall (specialised maintenance requirements).

- e) Irrigation. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
 - f) All areas to be used at night shall be well lit (including pedestrian pathways, laneways, access routes and entrances).
83. Prior to the issue of a Construction certificate, the applicant shall submit a Frontage Works Application. Public domain landscape improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan.
- a) John Street, shall include new street trees: *Corymbia maculata* along verge, between parking lane and footpath, and *Ulmus parvifolia* "Todd" within road blisters, located in line with parking lane. Pot size supplied shall be not less than 200 Litre. Height above container 3.5meters, calliper at 300mm greater than 60mm, with a clear trunk height of 1.5 meters.
 - b) Each new Street tree shall include a 50mm diameter slotted watering pipe with geotextile sleeve around rootball connected to watering grate (or kerb hole if WSUD option used) Root Rain Urban or equivalent
 - c) An experienced Landscape Contractor shall be engaged to undertake all landscaping public domain work and shall be provided with a copy of both the approved CC landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
 - d) New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, biannual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.

DURING WORKS

84. The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.
85. During demolition and construction works, the applicant/builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
86. The Applicant shall conduct all demolition, construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
87. Dewatering is not permitted on this site without NSW-EPA approval.
88. Construction Operations:
 - a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
 - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
89. Demolition is to be carried out in the accordance with the following:-
 - a) The approved Safe Work Method Statement required by this consent:
 - b) Demolition is to be carried out in accordance with Australian Standard 2601:2001: Demolition of structures, Work Health & Safety Act 2011 (NSW), Work Health & Safety Regulation 2011 (NSW) and the requirements of the Safe Work NSW.
 - c) The hours of demolition work are limited to between 7:00am and 6.00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
 - d) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of Safe Work NSW and the Environmental Protection Authority.
 - e) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.

- f) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- g) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- h) The burning of any demolished material on site is not permitted and offenders will be prosecuted. The demolition by induced collapse and the use of explosives is not permitted.
- i) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig www.1100.com.au should be contacted prior to works commencing.
- j) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- k) Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with Safe Work NSW requirements. Protection of the Environment Operations Act 1997, Protection of the Environment Operation (Waste) Regulation and 'Waste Classification Guidelines 2008' prepared by the NSW Office of Environment and Heritage. Following completion, an Asbestos Clearance Certificate is to be provided to Council following the final asbestos clearance inspection.

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

- a) Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Council's stormwater pollution control requirements. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
- b) Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
- c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- d) Building and demolition operations such as brick cutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.

- e) Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
 - f) Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - i. spraying water in dry windy weather
 - ii. cover stockpiles
 - iii. fabric fences
 - g) All vehicles transporting soil, sand or similar materials and demolition material to or from the site shall cover their loads at all times.
 - h) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site.
 - i) During the construction works, the Council nature strip shall be maintained in a clean and tidy state at all times and shall be suitably repaired and/or replaced in accordance with Council Specifications at the completion of construction works.
 - j) Access to the site shall be restricted to no more than two 3m driveways off John Street. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.
 - k) An all weather drive system or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.
91. Separate permits are required to be obtained and approved by Council for all works including but not limited to road and footpath closure, stand and operate a registered vehicle or plant, occupy road with unregistered item, work zone, hoarding, shoring support (anchoring), tower crane operation, public land access, temporary dewatering, and any excavation and works proposed to be undertaken on public land.
92. In order to ensure the design quality excellence of the development is retained:
- a) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - b) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - c) Evidence of the design architect's commission is to be provided to Bayside Council prior to the issue of the Construction Certificate.

- d) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
93. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
 94. 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.
 95. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the Safe Work NSW.
 96. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
 97. During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
 98. If the work involved in the construction of a building:
 - a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
 - b) involves the enclosure of a public place:
 - (i) a hoarding or fence must be erected between the work site and the public place.
 - (ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
 - (iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
 - (iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
 - c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
 99. Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain.
 100. Consent is granted for the removal of one (1) *Araucaria columnaris* (Cook Pine). Replacement trees are to be planted on the site within the deep soil area.

101. To ensure that relevant engineering and water quality provisions are met during the period of any temporary dewatering associated with construction, a permit must be obtained from Council to permit discharge to the stormwater system. Temporary dewatering shall not commence until this permit is issued by Council. The permit must be current and valid at all times during dewatering operations. The water quality must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to Council prior to discharge of any groundwater to the stormwater system.
102. Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during site works and during the removal of any excavated material from the land being developed.

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

Where any such alarm triggers all site works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice. A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

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

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

structures Table 12-7. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.

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

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

a) Level Restrictions

Construction period of 4 weeks and under:

the L_{10} sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).

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

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

b) Time Restrictions

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

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

Saturday: 08:00 am to 01:00 pm

No Construction to take place on Sundays or Public Holidays.

c) Silencing

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

105. 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.

106.

- a) Existing building elements such as steel framed windows, cast zinc letters, doors and equipment should be salvaged as far as possible and consideration given to reuse for interpretation purposes or these elements being offered for sale or reuse.
- b) Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- c) Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- d) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- e) The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
- f) During 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, such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.

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

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

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

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

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

108. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to council, the appointed Site Auditor (Contaminated Land) and the accredited certifier immediately. All work on site must cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant and reviewed and approved by the Site Auditor (Contaminated Land).
109. All remediation work must be carried out in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
 - d) 'Remedial Action Plan, 13B Church Avenue and 6-8 John Street, Mascot, NSW', (Report 56108/125048 Rev 0), by JBS&G, dated 8 October 2019, or as amended.
 - e) 'Asbestos Management Plan, Redevelopment of 13B Church Avenue and 6-8 John Street, Mascot, NSW', (Report 56108/125046 Rev 0), by JBS&G, dated 8 October 2019, or as amended.
110. For any water from temporary site dewatering to be permitted to go to the stormwater system, the water must meet the relevant default guideline values (DGVs) in Australian & New Zealand Guidelines for Fresh & Marine Water Quality (ANZG 2018). All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
111. To ensure that relevant engineering and water quality provisions are met during the period of temporary dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from council. Temporary dewatering must not commence until this is issued by council. Permanent dewatering is not permitted.
112. All materials excavated from the site (fill or natural) must be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site. Appropriate records must be retained to support this.
113. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill must be appropriately certified material and must be validated in accordance with the:
- a) NSW Environmental Protection Authority (EPA) approved guidelines; and

- b) Protection of the Environment Operations Act 1997; and
- c) Protection of the Environment Operations (Waste) Regulation 2014.

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

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

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

- 116. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 117. All applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
- 118. 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.
- 119. Prior to the issue of an Occupation Certificate, the underground placement of any low and/or high voltage street electrical mains in the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner. Appropriate and suitable street lighting shall be provided in accordance with Council's Specification to the Church Ave and John Street frontage of the site as necessary, so as to provide safety and illumination for residents of the development and pedestrians in the area. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.
- 120. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works, at no cost or expense to Council:
 - a) On John Street and Church Avenue, adjacent to development, remove redundant driveway crossovers and provide required tree planting and public domain improvements as specified by Council in accordance with Council's Landscape Architect, Mascot Station Precinct Masterplan and Council Infrastructure Specifications, and
 - b) On John Street and Church Avenue, adjacent to development, demolish existing kerb and gutter and construct new kerb & gutter for the full length of the property in accordance with the Mascot Station Precinct Masterplan and Council Infrastructure Specifications, and

- c) On John Street and Church Avenue, adjacent to development, demolish existing footpath and construct new paved footpath as per Council's Infrastructure, Landscape Architect and Mascot Station Precinct Public Domain Specifications, and
- d) On John Street and Church Avenue, adjacent to development, construct new asphalt sheeting of half road width including construction of new road pavement and reconstruction of any damaged road pavement along the entire frontages of the development site in accordance with Council's Infrastructure specifications, and
- e) On John Street, adjacent to development, construct new underground supplied Ausgrid lighting poles to provide suitable street lighting to the frontages of the site, so as to provide safety and illumination for residents of the development and pedestrians in the area (this shall include the Church Avenue frontage of the site if deemed necessary by council). All street lighting shall comply with relevant electricity authority guidelines and requirements, and
- f) On Church Avenue, adjacent to development, construct new junction pit and associated stormwater pipe, connecting to existing stormwater infrastructure in Church Avenue to Council infrastructure specifications, and
- g) On Church Avenue, adjacent to development, construct new 6m wide access driveway crossing layback to Council infrastructure specifications, and

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

- 121. The public footpaths on John Street and Church Avenue shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
- 122. Prior to completion of the building works, a new full width vehicular entry is to be constructed to service the property. All obsolete vehicular entries are to be removed and reconstructed as per Council requirements.
- 123. The applicant is responsible for the protection of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
- 124. Prior to the issue of any Occupation Certificate(s), inspection reports for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
- 125. Prior to the issue of any Occupation Certificate, at no expense to the Council and generally in accordance with approved plans (refer to Condition 1), dedicate the portion of land to Bayside Council for the purpose of widening John Street and Church Avenue. The areas of the land to be dedicated shall be the full length of the John Street

and Church Avenue frontages of the development site and as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Bayside Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. Bayside Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land Titles Office. A copy of the registered document must be submitted to Bayside Council for record purposes prior to occupation.

126. Prior to the issue of any Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
127. Prior to the issue of any Occupation Certificate, the Principal Certifier must ensure that the vehicular access and off street parking facilities have been constructed in accordance with the approved construction plans, AS2890.2 and AS2890.3 line marked and all signage erected. The car parking area is to be clearly and appropriately marked/signposted indicating all the vehicular movements on the site.
128. Prior to the issue of any Occupation Certificate, a registered plumber's certification that the Rainwater Tank Re-use system(s) have connected for non-potable stormwater re-use including all toilet flushing and landscape irrigations on the lower and upper ground floors must be provided.
129. Prior to the issue of any Occupation Certificate, a Chartered Professional Engineer competent in geotechnics shall certify that the construction works have been constructed in accordance with the approved geotechnical report/recommendations and include an evaluation of the completed works. A copy of the certificate shall be supplied to the Principal Certifying Authority.
130. Prior to the issue of any Occupation Certificate, a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Botany Bay DCP Part 10 Stormwater Management Technical Guidelines. The certificate shall include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
131. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
 - a) Positive Covenant for on-site waste collection by private commercial waste collection service.
 - b) Positive Covenant and Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and

- c) Positive Covenant and Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

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

132. Prior to the issue of the Occupation Certificate, the approved Green Travel Plan and Transport Access Guides (TAGs) must be prominently displayed within the communal areas within the development. Details & evidence are to be provided to the satisfaction of the principal certifier prior to occupation.
133. All vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to a prominent place near the loading dock on the site, approved by the principal certifier, warning pedestrians of the dangers associated with truck and passenger vehicular movements in the driveway access to Church Avenue. Another plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to a prominent place within the loading dock stating the following "All vehicles (including deliveries and garbage collection) shall enter the loading bay utilising a reverse manoeuvre and exit the loading bay in a forward direction".
134. Prior to the issue of an Occupation Certificate, the applicant shall prepare a detailed loading and servicing management plan for the development which includes, but shall not be limited to, operation hours, use of off-peak/night-time deliveries, methods to avoid congestion of service vehicles, how the vicinity will be managed, driver safety training, pedestrian safety management, safe vehicular manoeuvres for the loading dock, forward entry and exit requirement for the site and general mitigation measures to prevent amenity impacts to neighbouring properties. The plan shall be prepared by a suitably qualified professional traffic engineer and shall be submitted to the Principal Accredited Certifier for assessment and approval.
135. Waste and recycling must be collected by a private waste contractor within the site. A contract for waste and recycling collection must be entered into prior to issue of the Occupation Certificate and the maximum size of the waste collection vehicle shall be equal to or smaller than a MRV vehicle for the serviced apartments and a HRV vehicle for the Hotel and shops (as denoted by AS2890.2:2018). The company engaged must ensure that all recycling is collected separately from waste. Council must be advised in writing within seven (7) days of a private contractor being engaged for waste collection services.
136. The approved flood risk management plan and all recommendations from the flood awareness strategy are to be implemented within the development prior to the issue of the Occupation Certificate. A copy of the flood risk management plan is to be kept in the lobby. Details & evidence are to be provided to the satisfaction of the principal certifier prior to occupation.
137. Prior to release of the any Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

138. Prior to the issue of the Occupation Certificate, at least 145 bicycle spaces are to be provided at the lower ground floor level.
139. Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval.
140. Written Council approval of completed public domain works is required prior issue of any Occupation Certificate for the development.
141. Trading shall not commence until a final fit out inspection has been carried out by Council's Environmental Health Officer and all health (food) related conditions of consent have been complied with. Council's Environmental Health Officer shall be given 2 business days advance notice of an inspection.
142. Prior to issue of Occupation Certificate the applicant shall submit to the Principal Certifying Authority (PCA) an acoustic compliance report to verify that the measures stated in the 'Development Application Acoustic Assessment for 68 John Street & 13B Church Avenue, Mascot by Acoustic Logic – Project ID 20191049.1 Document Reference 20191049.1/0904B/R1/JM dated the 9 April 2020' and all other noise mitigation measures associated with the mechanical plants (ventilation systems, exhaust fans, ventilation fans and condenser units) and equipment including airconditioners have been carried out and certify that the construction meets the above requirements. If Council is not the PCA, a copy shall be submitted to Council concurrently. The report shall be prepared by a suitably qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
143. The premises shall be registered with Councils Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.
144. The occupier of the food premises shall provide a Food Safety Supervisor (FSS) for the business. The original FSS Certificate must be kept on the premises. For further information regarding FSS, visit the NSW Food Authority website at www.foodauthority.nsw.gov.au.
145. A Stage 4 – Site Validation Report (SVR) must be prepared by a suitably qualified contaminated land consultant and must be in accordance with:
 - a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.The site validation report must provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report must be submitted to the Principal Certifying Authority, and the council if the council is not the Principal Certifying Authority. The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.
146. To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* must be submitted to council clearly demonstrating that the site is suitable for the proposed development. This must be provided prior to the release of any Occupation Certificate. Any conditions imposed on the SAS shall form part of this

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

147. Prior to issue of an Occupation Certificate for the development an application for Property Address Allocation and associated fee are required to be submitted to Council. All determination of address numbers are in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and NSW Address Policy and User Manual. The form is available for download at Bayside Council website.
148. Prior to issue of any Occupation Certificate, the following must be complied with:
 - a) All landscape works are to be carried out in accordance with the approved Construction Certificate landscape plans by Council for the approved development. The landscaping is to be maintained to the approved standard at all times.
149. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifier) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
150. Prior to the issue of the Occupation Certificate, a positive covenant shall be registered on the Title of the site which acknowledges that:
 - a) The development is restricted to student accommodation.
 - b) The terms of such positive covenant shall be provided that it can only be varied by Bayside Council.
151. A separate application must be made for a subdivision certificate to consolidate Lot 2 in DP 547700, Lot 8 in DP 939729, Lot 9 in DP 939729. The application is to be accompanied by:
 - a) Linen plans with six (6) copies and appropriate fees. The linen plans must include details of any easement or encroachments and include a Section 88B Instrument under the Conveyancing Act, 1919.
 - b) Documentary evidence demonstrating full compliance with all conditions of this Development Consent No.2019/385 and all pertinent Development Consent(s) and Section 4.55 Application(s) related to the subject allotment.
152. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

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

153. The proposed student boarding rooms shall accommodated a maximum 435 rooms and a maximum of 435 single beds and a maximum of 435 students (including guest) at any one time for the premises.
154. Adopt and implement all recommendations contained in the acoustic report prepared by Acoustic Logic – Project ID 20191049.1 Document Reference

20191049.1/0904B/R1/JM, 'Iglu Mascot, 68 John Street & 13B Church Avenue, Mascot Development Application Acoustic Assessment' dated the 9 April 2020.

155. The outdoor terrace (North and South including areas Roof Garden, Central Garden (Events Space and Courtyard forest), Garden Lane and Active Roof areas), Barbeque area, multipurpose sports area outdoor areas and all other external areas is only permitted to be used during the following conditions:
 - a) During 9am to 6pm, 7 days a week
 - b) A maximum of fifty (50) persons (including students or guest or employees) are permitted at any one time.
156. All students, student guest or employees must not congregate outside the front entry on John Street Mascot or at the rear of 13B Church Avenue Mascot.
157. No amplified/ stereo/music/ speakers/ assembly speeches are permitted in all outdoor terrace (North and South including areas Roof Garden, Central Garden (Events Space and Courtyard forest), Garden Lane and Active Roof areas), Barbeque area, multipurpose sports area outdoor areas and all other external areas.
158. No parties are allowed in any external areas after 6pm.
159. All signs are not to be flashing or create any adverse impacts onto the neighbouring residential developments.
160. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking, the rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed: Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.
161. The operation of the development and movements of vehicles shall comply with the following requirements:
 - a) All vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction;
 - b) All commercial vehicles (including deliveries and garbage collection) shall enter the loading bay utilising a reverse manoeuvre and exit the loading bay in a forward direction;
 - c) Loading and unloading activities associated with the delivery shall take place wholly within the dedicated loading areas;
 - d) All garbage collection activities shall take place and be wholly undertaken within the site in the dedicated loading areas by a private commercial waste collection service;
 - e) All manoeuvring movements of vehicles shall be carried out wholly within the site and vehicle manoeuvring area shall be kept clear at all times;
 - f) The maximum size of vehicle accessing the site shall be limited to an 8.8m long Medium Rigid Vehicle (MRV) (as denoted in AS2890.2:2018).
162. The Green Travel Plan and Transport Access Guide shall be monitored and reviewed annually in order to revise and improve the plan to achieve the targets on the number

of occupants to travel by public transport, cycling and walking. Copy of the annual review shall be submitted to Council. In order to ensure the certainty to implement green travel plan for all future tenants of the site, a copy of the green travel plan and transport access guide shall be part of the lease agreement for all tenants.

163.

- a) That before entering a lease/occupancy agreement, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
- b) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a notice board in the communal room, where it can easily be observed and read by persons entering the building

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

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

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

The operation of the Licensed Premises shall comply with the following:

- a) Hours of operation of areas, and
- b) Amenity of Neighbourhood, and
- c) Complaints Management:
 - (i) Complaints Log - The Hotel manager is to keep a log of the premises hours of operation, and details of complaints and incidents associated with the hotel operations, and
 - (ii) Managing Complaints - The Licensee or Duty manager is the responsible person for the communication with any resident's complaints. All residents shall be notified of the telephone number to call in the event of any complaint.

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

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

169. 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.
170. 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*.
171. The use of the premises shall not give rise to any of the following when measured or assessed at “sensitive” positions within any other property. These “sensitive” positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.