

## **GENERAL CONDITIONS**

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

<b><i>Plans</i></b>	<b><i>Author</i></b>	<b><i>Dated / Received by Council</i></b>
<b><i>1200 Rev 7 – Site plan</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 18 July 2023 Received 19 July 2023</i></b>
<b><i>2000 Rev 7 – Level 00 Ground Floor Plan – Mixed Use</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 18 July 2023 Received 19 July 2023</i></b>
<b><i>2001 Rev 7 – Level 01 Floor Plan – Carpark</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 18 July 2023 Received 19 July 2023</i></b>
<b><i>2002 Rev 7 – Level 02 Floor Plan – Carpark</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 18 July 2023 Received 19 July 2023</i></b>
<b><i>2003 Rev 7 – Level 03 Floor Plan – Carpark</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 18 July 2023 Received 19 July 2023</i></b>
<b><i>2004 Rev 7 – Level 04 &amp; 09 Floor Plan – Commercial</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 18 July 2023 Received 19 July 2023</i></b>
<b><i>2008 Rev 7 – Level 05-08 – Typical Commercial</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 18 July 2023 Received 19 July 2023</i></b>
<b><i>2010 Rev 7 – Level 10 Floor Plan – Plant / Terrace</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 18 July 2023 Received 19 July 2023</i></b>
<b><i>2011 Rev 7 – Level 11 Floor Plan – Roof</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 18 July 2023 Received 19 July 2023</i></b>
<b><i>3000 Rev 7 – Elevations – Sheet 1</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 18 July 2023 Received 19 July 2023</i></b>
<b><i>3001 Rev 7 – Elevations – Sheet 2</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 18 July 2023 Received 19 July 2023</i></b>
<b><i>4000 Rev 7 – Sections – Sheet 1</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 18 July 2023 Received 19 July 2023</i></b>
<b><i>9001 Rev 7 – Digital Materials Board</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 18 July 2023 Received 19 July 2023</i></b>
<b><i>8002 Rev 4 – Landscape Plan – Ground Floor</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 25 May 2023 Received 29 May 2023</i></b>
<b><i>8003 Rev 4 – Landscape Plan – Ground Floor</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 25 May 2023 Received 29 May 2023</i></b>
<b><i>8003 Rev 4 – Landscape Plan – Level 10</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 25 May 2023 Received 29 May 2023</i></b>
<b><i>8053 Rev 3 – Landscape Sections</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 25 May 2023 Received 29 May 2023</i></b>
<b><i>8006 Rev 3 – Landscape Hardscape</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 25 May 2023 Received 29 May 2023</i></b>
<b><i>8007 Rev 4 – Landscape Softscape</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 25 May 2023 Received 29 May 2023</i></b>
<b><i>8008 Rev 3 – Landscape Deep Soil Diagram</i></b>	<b><i>fjcstudio</i></b>	<b><i>Dated 25 May 2023 Received 29 May 2023</i></b>

Reference Document(s)	Author	Dated / Received by Council
<b>Design Report</b>	<b>fjmtstudio</b>	<b>Dated 14 December 2022 Received 19 December 2022</b>
Amended Statement of Environmental Effects and Clause 4.6 variation	Sutherland and Associates Planning	Dated April 2020; Received 22 April 2020
Accessibility Review Report	BCA Logic	Dated 5 February 2019; Received 12 February 2019
Acid Sulfate Soil Management Plan	Aargus	Dated 29 July 2019; Received 13 August 2019
Acoustic Assessment Report	Acoustic Logic	Dated 5 August 2019; Received 13 August 2019
<b>Section 4.55(2) Acoustic Statement</b>	<b>E-LAB Consulting</b>	<b>Dated 14 December 2022 Received 19 December 2022</b>
Addendum to Traffic and parking assessment	McLaren Traffic Engineering	Dated 8 May 2020; Received on 8 May 2020
<b>Transport Assessment</b>	<b>JMT Consulting</b>	<b>Dated 12 December 2022 Received 19 December 2022</b>
<b>Landscape Design Report</b>	<b>fjmtstudio</b>	<b>Dated 14 December 2022 Received 19 December 2022</b>
Arboricultural Impact Report	Landscape Matrix	Dated 14 August 2019; Received 14 August 2019
<b>Aboricultural Impact Assessment -</b>	<b>Redgum Horticultural</b>	<b>Dated 16 May 2023 Received 29 May 2023</b>
Envelope Study (for site isolation)	Bates Smart	Dates 13 March 2020; Received 20 March 2020
BCA and Access 2016 A1 – Indicative Compliance Report	BCA Logic	Dated 26 July 2019; Received 13 August 2019
<b>253 Coward Street, Mascot S4.55 Application</b>	<b>Jensen Hughes</b>	<b>Dated 14 December 2022 Received 19 December 2022</b>
Construction Management Plan	DEWCAPE	Dated 6 August 2019; Received 13 August 2019
<b>Pedestrian Wind Environment Statement</b>	<b>Windtech</b>	<b>Dated 14 December 2022 Received 19 December 2022</b>
Geotechnical Assessment Report	El Australia	Dated 31 July 2019; Received 13 August 2019
Detailed Site Investigation	Aargus	Dated 9 March 2020; Received 20 March 2020
<b>S4.55 Sustainability Report</b>	<b>E-LAB Consulting</b>	<b>Dated 14 December 2022 Received 19 December 2022</b>
<b>Operational Waste</b>	<b>Elephants Foot</b>	<b>Dated 13 December 2022</b>

<b>Management Plan</b>		<b>Received 19 December 2022</b>
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No construction works (including excavation) shall be undertaken prior to the issue of the relevant Construction Certificate.

***[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]***

2. This Consent relates to land in Lot 1 DP 104795, as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The consent given does not imply that works can commence until such time that:
  - (a) Detailed plans and specifications of the building have been endorsed with *the relevant* 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.

***[MDA-2022/190 – Section 4.55(1A) – Amended on 18 July 2023]***

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

**CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY**

Where relevant, the following external authority conditions apply:

5. 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 51 metres Australian Height Datum (AHD).
  - (c) In the capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, the Airfield Manager has no objection to the erection of this development to a maximum height of 51 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.

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

- (k) 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).
  - (l) 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.
6. The following conditions are imposed by **Telstra**:
- (a) Telstra requests the developer to make contact with Telstra prior to demolition of the site to ensure existing cables are removed from the Telstra site to avoid damage in the street; and to make arrangement for any future pit adjustments applicable during the footpath works.
  - (b) Telstra requests Bayside Council not to accept the footpath until both the council and Telstra are satisfied that the appropriate works have been undertaken.
  - (c) The applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property as Telstra and NBN have network in this location. 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.

7. ***If any groundwater is intersected and requires extraction (dewatering) as part of the construction of this development, approval must be obtained pursuant to S90(2) of the Water Management Act 2000 for the extraction of groundwater from the aquifer (Water Supply Work approval).***

***An authorisation under the relevant water legislation, such as a Water Access Licence (WAL), shall be obtained for the take of groundwater as part of the activity.***

***Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site.***

*[MDA-2022/190 – Section 4.55(1A) – Amended on 18 July 2023]*

***[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]***

8. The following conditions are imposed by **Roads and Maritime Services (RMS)**:

- (a) All buildings and structures together with any improvements integral to the future use of the site shall be wholly within the freehold property (unlimited in height or depth), along the Coward Street boundary.
- (b) The removal of the redundant vehicular crossing on Coward Street shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained by email at [DeveloperWorks.Sydney@rms.nsw.gov.au](mailto:DeveloperWorks.Sydney@rms.nsw.gov.au).

Detailed design plans of the proposed works are to be submitted to Roads and Maritime for approval prior to the issue of the relevant Construction Certificate and commencement of any road works. Please send all documentation to [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au).

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

- (c) All vehicles shall enter and exit the site in a forward direction.
- (d) If not already in place, "No Stopping" restrictions shall be implemented along the full Coward Street frontage of the development site at no cost to Roads and Maritime.
- (e) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018. 6.
- (f) The proposed development will generate additional pedestrian movements in the area. Pedestrian safety is to be considered in the vicinity.

- (g) 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 *the relevant* Construction Certificate.
- (h) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.
- (i) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Coward Street during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

*[MDA-2022/190 – Amended on 18 July 2023]*

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

- (a) CCTV should be installed and operational internal and external to entry / exit points, internal and external of building, retail shops and basement carpark.
- (b) CTV to be positioned in foyer, lifts and common areas of premise.
- (c) Adequate lighting should be positioned covering premise and surrounding areas of building to create visibility at night and to reduce opportunity for hidden areas.
- (d) Mailbox area to be internal of building, with swipe access only and CCTV positioned covering this area.
- (e) Clear signage of Building number, building name and shops should be clearly displayed, with light shining on signs at night to allow clear visibility for Police.
- (f) Warning signs “No cash left on premise, CCTV in use at all times, lock your vehicle, take your valuables, Trespassers will be prosecuted” to be clearly displayed external / internal to building and throughout carpark.
- (g) All shrubs to be no higher than 1 metre, so visibility and clear sight lines can be maintained onto the premise.

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

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

The Sydney Water Tap in TM online self-service replaces our Quick Check Agents as of 30 November 2015.

The Tap in™ service provides 24/7 access to a range of services, including:

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

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

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

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

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

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

- 11. The applicant must prior to the issue of any Construction Certificate, pay the following fees:

- (a) *Deleted.*
- (b) **Builders Damage Deposit**      **\$183,417.50 (See condition 13 below)**
- (c) **Section 7.11 Contributions**      **\$5,416,111.09 (See condition 14 below)**
- (d) **Street Tree Protection Bond**      **\$15,000.00 (see condition 42 below)**

*[MDA-2022/190 – Section 4.55(1A) – deleted on 18 July 2023]*

***[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]***

- 12. Prior to the issue of the relevant Construction Certificate, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 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.

*[MDA-2022/190 – Amended on 18 July 2023]*

13. Prior to the issue of any Construction Certificate, the applicant shall lodge a **Builders Damage Deposit of \$183,417.50** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Bayside Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Bayside Council after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

**[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]**

14. 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 **\$5,416,111.09** 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:

<b>(a) Community Facilities</b>	<b>\$498,075.81</b>
<b>(b) Recreation and Open Space</b>	<b>\$3,974,859.70</b>
<b>(c) Transport Facilities</b>	<b>\$903,792.40</b>
<b>(d) Administration</b>	<b>\$39,383.18</b>

The total Section 7.11 Contribution of **\$5,416,111.09** 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.

**[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]**

15. Prior to the issue of the Construction Certificate, a dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.
16. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92.



- i) Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design. The Section 73 Notice of Requirements must be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.
17. Plans and cross sections showing the compliance of the recommendations of Part J BCA assessment report issued by BCA Logic on 2 July 2019 to be submitted with the application for the issue of the Construction Certificate.

*[MDA-2022/190 – Section 4.55(1A) – Amended on 18 July 2023]*

18. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
19. ***The construction certificate plans are to detail a provision of land to be dedicated to council (at no cost to Council) at the corners of the site at the intersection of Kent Road & Chalmers Crescent (4x4m splay) and Kent Road and Coward Street (3x3m splay) as per the approved plans. This is to provide adequate provision of public footpath.***

*[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]*

20. ***Prior to the issue of the relevant Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Bayside Council for assessment and approval. Engineering design certification and drainage design calculations are to be submitted with the plans. Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines 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.***
- (a) ***Councils first preference is for an on-site infiltration system to be provided for the development designed in accordance with section 5 of Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines. A geotechnical engineer shall be engaged to determine the infiltration rate and groundwater table level of the site in accordance with section 5.2 of Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines. Further information regarding the sites contamination and remediation measures is to be provided for review.***

- (b) ***If an on-site infiltration system cannot be provided on the site (which is agreed to by Bayside Council), then an on-site detention system (OSD) shall be provided for the site. The OSD system shall be designed according to Part 6 of Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines. 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. The following design matters need to be addressed:***
- (i) ***Provide the DRAINS model and calculations of the OSD system storage & PSD for assessment, the applicant is to justify that the design complies with Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines.***
  - (ii) ***If the invert of the orifice cannot be set at least 300mm above the gutter/ top of the grated pit level at the point of connection to the public stormwater system, a submerged outlet condition shall be considered to determine the OSD storage requirements. The downstream water level in this instance shall be based on 1% AEP water level or assumed to be the top of kerb if the downstream water level is unknown.***
  - (iii) ***A discharge control pit and overflow pit to be designed in the OSD design as per section 6.2 of the Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines.***
  - (iv) ***A DRAINS Model is to be submitted for the HGL analysis of the internal drainage system and is to include a tailwater condition as per Botany Bay Stormwater Management Technical Guidelines. A DRAINS catchment plan is to be provided which provides a breakdown of the catchment areas and types of each catchment on the site draining to the OSD and bypassing the site. A maximum of 15% of the site area can bypass the OSD system and the OSD design will need to be revised to comply with section 6.1 (vi) of BBDCP part 10.***
  - (v) ***An OSD base plan is to be provided for the OSD, showing all base levels and minimum 1% fall. The OSD base plan is also to include weir RL's and overall dimensions of the tank.***
  - (vi) ***An OSD lid plan to be submitted for the OSD; showing the distance from pit centre to centre.***
  - (vii) ***Design the emergency overflow in accordance with section 6.5.***
  - (viii) ***Top Water Level (TWL) to be detailed in the OSD design.***
- (c) ***The development shall incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay DCP Part 10 - Stormwater Management Technical Guidelines and Botany Bay DCP part 3G.3 and 3G.4. A WSUD Strategy and MUSIC model must be prepared and submitted for the development. The MUSIC model must be prepared in line with the NSW MUSIC Modelling Guidelines. A WSUD catchment plan is to be provided showing both impervious and pervious areas being treated including bypass areas. A WSUD catchment plan is***

***to show the survey and architectural plan in the background. MUSIC Model to reflect the catchment areas in the WSUD catchment plan including the bypass areas.***

- (d) A minimum capacity 10,000L of Rainwater Tank(s) shall be provided for the development. Only non-trafficable roof areas shall be directed to the rainwater tank. The rainwater tank(s) must be connected to the landscape irrigation system and all ground floor toilet flushing within the development. The rainwater tank is to be modelled into MUSIC. The MUSIC Model is to be submitted to Council for assessment.***
- (e) A full set of drainage plans covering each level are to be provided. A roof drainage plan is to be with provided overflows.***
- (f) Manufacturer details is to be provided for the proprietary products for stormwater treatment.***
- (g) All surface runoff in the car park and internal driveways/loading dock shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted.***
- (h) An adequate provision for emergency overflow shall be provided for in the design of the stormwater system.***
- (i) The stormwater system design is not to impact the existing street trees to be retained and the existing trees to be retained on-site. The location of stormwater systems is not to impact any proposed landscaping.***
- (j) A minimum cover of 0.3m in pits and 20mm drop is to be provided in pits (both surface and junction) between the inlet pipe and outlet pipe.***

***[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]***

21. ***[MDA-2022/216 – Section 4.55 (2) – Deleted \*date to be confirmed\*]***

22. ***[MDA-2022/216 – Section 4.55 (2) – Deleted \*date to be confirmed\*]***

23. ***Prior to the issue of the relevant Construction Certificate, a qualified practicing chartered professional geotechnical engineer registered with the NER must:***

- (a) Undertake a geotechnical investigation of the site and provide recommendations to allow the satisfactory implementation of the works.***
- (b) Certify that the relevant construction certificate plans and documentation are satisfactory from a geotechnical perspective.***
- (c) Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any***

**surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.**

- (d) Inspect the works as they progress at frequencies determined by the geotechnical engineer (if necessary).**

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

**[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]**

24. **[MDA-2022/216 – Deleted \*date to be confirmed\*]**
25. 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) day's notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
26. **[MDA-2022/216 – Section 4.55 (2) – Deleted \*date to be confirmed\*]**
27. **[MDA-2022/216 – Section 4.55 (2) – Deleted \*date to be confirmed\*]**
- 27A. **A longitudinal driveway profile shall be submitted to Bayside Council for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with AS2890.2:2018. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%), headroom clearances and lengths. The existing boundary levels shall be clearly shown on the profile. Any change to the existing boundary levels requires approval from Bayside Council.**

**[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]**

28. Prior to the release of the Construction Certificate, the following points are to be submitted to and approved by the Principal Certifier:
- (a) Parking facilities (including parking spaces, ramps, aisles etc.) designed to facilitate access only to passenger vehicles smaller than a SRV vehicle (as denoted by AS2890.2:2018) must comply in full with AS/NZS 2890.1:2004 for the applicable user class, and
- (b) **A minimum of 110 bicycle parking spaces are to be provided for the development on the ground floor and designed in accordance with AS2890.3:2015. Adequate end of trip facilities must be provided adjacent**

*to the bicycle parking spaces (which must include toilets, showers, change rooms, lockers etc.), and*

- (c) Sightlines are to comply with AS2890.1 and convex mirrors and/or splay shall be provided at blind corners within, and leading to, the car parking levels to provide increased sight distance for vehicles, and*
- (d) The design of the car parking facility is to be certified by a suitably qualified engineer experienced in traffic & parking design as being strictly in accordance with Australian Standard 2890 parking series.*
- (e) A maximum of one driveway crossing is permitted for the site to Kent Road, Council will not permit an additional driveway crossing to Chalmers Crescent for the purpose of servicing the substations.*

*[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]*

29. *Prior to the issue of the relevant Construction Certificate, the applicant is to demonstrate the implementation of the following sustainability measures on the construction certificate plans to the satisfaction of the Principal Certifier:*

- (a) Any recommendations contained within the S4.55 Sustainability Report referenced in Condition 1.*
- (b) A minimum of ten (10) car parking spaces shall be designed to be 'EV-Equipped'. An 'EV-Equipped' car space is a car space equipped with EV charger that is ready to use on completion of the development (i.e., the space shall be fully equipped with the circuitry and charger directly for use). At minimum, the EV chargers will need to be 'Level 2' slow charger – single-phase with 7kW power as defined by NSW Electric and Hybrid Vehicle Plan.*
- (c) Car pool priority parking spaces are to be provided and detailed on the plans.*
- (d) Detailed design for the photovoltaic cells systems on the roof level is to be provided. The extent of PV solar panels is to maximise the coverage of the non-trafficable roof area.*
- (e) A minimum capacity 10,000L of Rainwater Tank(s) shall be provided for the development. Only non-trafficable roof areas shall be directed to the rainwater tank. The rainwater tank(s) must be connected to the landscape irrigation system and all ground floor toilet flushing within the development.*

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

*[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]*

30. 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 SRV & MRV commercial vehicles, depicting a forward 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.
31. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- (a) Accessible car parking spaces shall be provided in accordance with the relevant legislation and designed as specified in Australian Standard 2890.6, and
  - (b) All off street accessible parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements, and
  - (c) All accessible parking spaces shall be located within close proximity and easy access to the lift systems proposed for the building as per AS2890.6 and AS4299.
32. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- (a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
  - (b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers) and Council in connection with:

- (i) The additional load on the system, and
  - (ii) The relocation and/or adjustment of the services affected by the construction.
- (c) The Ausgrid lighting poles 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, RMS and any other service provider,
  - (d) All 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.

All 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.

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

***Prior to the commencement of the public domain works, a Public Domain Frontage Design package must be prepared by suitably qualified professionals for all frontage works that are required to be constructed within the public domain that are subject to assessment and approval pursuant to Section 138 of the Roads Act 1993. Public domain frontage works can include, but not be limited to, civil, drainage, landscaping, undergrounding of services, lighting, traffic signage, line marking, parking, and traffic devices to address and satisfy relevant development consent conditions. All frontage works shall be in accordance with Bayside Council technical manuals, specifications, master plans, town centre plans, Australian Standards, and standard design drawings.***

***A public domain performance bond is to be provided to Bayside Council prior to the issue of the Final Occupation Certificate. The performance bond is calculated by Bayside Council as part of the frontage works process as per Bayside Council's adopted fees and charges. The performance bond will be kept for a period of 12 months after the completion of all external works and***

***the issuing of a Final Occupation Certificate (defects liability/street tree maintenance period). The bond may be applied by Bayside Council to rectify defective/non-conforming public domain works and the establishment and maintenance of landscaping & street trees. Bayside Council is entitled to recover any monies expended more than the bond amount in undertaking such works.***

***[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]***

34. Prior to the issue of any Construction Certificate, a Construction Management Program shall be submitted to, assessed and approved by the Principal Accredited Certifier prior to the issue of any Construction Certificate. The program must detail, but not be limited to, the following:
- (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 Work Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
  - (l) Obtain Permits required under this consent.
35. Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the Principal Accredited Certifier for assessment and approval. The plan shall:
- (a) be prepared by a RMS accredited consultant,
  - (b) address, but not be limited to, the following matters:
    - ingress and egress of vehicles to the site;
    - loading and unloading, including construction zones;
    - predicted traffic volumes, types and routes; and
    - pedestrian and traffic management methods.
  - (c) 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
  - (d) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

**Note:** Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's & RMS 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.

36. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
37. Prior to the issue of any Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. Sydney Water's Tap inTM online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

38. Prior to the issue of the relevant Construction Certificate, the Development is to be constructed to meet all recommendations and requirements that have been detailed in the acoustic report provided by Pulse Acoustic Consultancy dated 25 January 2019. The measures as detailed in the acoustic assessment report prepared by Acoustic Logic, shall be undertaken in accordance with the provisions of AS 2021 – 2000: *Acoustics - Aircraft Noise Intrusion – Building, Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000.

The work detailed in the report includes:

- (a) The roof/ceiling must be constructed as per Table 3 of the report,
- (b) All external walls need to be constructed as per Table 4 of the report,
- (c) Glazing to all windows and glazed door systems are to be as per Table 5 of the report.
- (d) Acoustically treated mechanical ventilation must be provided to this premise for it to comply with current guidelines.

**Note:** In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do, it will require consideration of the noise from the air conditioner (advice concerning noise from air conditioners is attached below).

*[MDA-2022/190 – Section 4.55(1A) – Amended on 18 July 2023]*

39. ***The Final Landscape Plan shall be generally in accordance with the approved Landscape Plan by FJMT Architects Revision 04 and dated 25th May 2023. (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) ***A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. Minimum 14% of the site area will be deep soil treated with soft landscape treatment.***
- (b) ***To allow a minimum 3.5 meters wide pedestrian circulation splayed corner minimum 3 meters by 3 meters shall be provided in both corners: Kent Street and Coward Street, and Kent Street and Chalmers Crescent.***
- (c) ***The Landscape Plan shall clearly show retention of Tree 11.***

***Note: Tree 11 is shown to be 'removed' on the landscape plans listed in Condition 1 however the tree was proposed to be retained in the original application and no additional information has been provided to request or justify its removal.***

- (d) ***Landscape plan shall be modified to achieve better amenity and planting in scale with the proposed built form. Landscape proposal is to maximise the number of large canopy trees, landscape setbacks to all three frontages around proposal shall include large native canopy trees to be supplied and planted at minimum 200 litres pot size.***
- ***Southern setback shall include at least 4 new large canopy trees capable to reach a minimum mature height of 12 meters in local conditions in the interface with public space and substation fronting 2 Chalmers Crescent. Recommended Melaleuca quinquinervia, Corymbia maculata, or other as approved by Bayside Council.***
  - ***Landscape setback to Kent Road shall replace proposed MI (Melaleuca linariifolia) and ME, (Melaleuca erecifolia) along the corner and north end with large canopy trees capable to reach at least 12 meters in local conditions. Recommended Melaleuca quinquinervia, Corymbia maculata, or other as approved by Bayside Council.***
  - ***Eastern 1 meter wide setback with planting shall be extended to Coward Street front boundary. Planting shall include at least one large canopy tree capable to reach 12 meters, tree is to be located close to the northern boundary to provide better amenity. Tree in the north eastern corner shall be planted in a planter bed of minimum 3 x 3 meters. Relocate bike racks in suitable and accessible area within the ground level.***
  - ***All planting in ground level shall follow CPTED principles.***
- (e) ***Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape handworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictions, tree pits, tree grates, tree guards, tree pit treat, areas of paving, schedule of materials, edge treatments, tactile and sectional construction details.***
- (f) ***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).***
- (g) ***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.**

- (h) All areas to be used at night shall be well lit (including pedestrian pathways, laneways, access routes and entrances).**

**[MDA-2022/216 – Section 4.55(2) – Amended on \*date to be confirmed\*]**

40. 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 screened 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.
41. ***Prior to the issue of any Construction Certificate, the applicant shall submit a Frontage Works Application to Bayside Council.***

***Prior to the commencement of any public domain works, a public domain landscape improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect***

**for further details of specific requirements in preparation of the plan. The following specific requirements are part of the landscape brief:**

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

**[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]**

- 42. Prior to the commencement of demolition works or the issue of any construction certificate, whichever occurs first, the applicant is to submit payment for a Tree Preservation Bond of \$15,000 to ensure protection of the street tree from damage during construction. The duration of the Bond shall be limited to a period of 12 months after issue of the Final Occupation Certificate. At the completion of the 12 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Councils arborist (tree officer). If the tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then all or part thereof of the bond shall be forfeited.**

**[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]**

- 43. [MDA-2022/216 – Section 4.55 (2) – Deleted \*date to be confirmed\*]**

**43A.**

- (a) The landscaped areas on the property / site shall be maintained in accordance with any approved landscape plans and Council's Development Control Plan. The landscaped areas shall be maintained in a clean and tidy state and with a dense, even coverage of plants to Council's satisfaction at all times, and**
- (b) Dead or declined trees shall be replaced with same trees as specified in approved plans. Replacement of planting material, including trees as indicated in approved landscape plan, with an alternative tree species shall be approved by the Director City Futures (or delegate) of Bayside Council. Maintenance tasks will include pruning to ensure CPTED principles are always met. All tree works must be done by a qualified**

***arborist with a minimum level 3 in arboriculture (AQF). Trees along frontages are not to be pruned in height, unless required for safety reasons or for better development of the tree.***

- (c) A landscape contractor shall be engaged weekly for a minimum period of 52 weeks from completion of the landscape installation to maintain the landscaping. After that time monthly maintenance is required, and***
- (d) An automatic drip irrigation system shall be installed and maintained in working order for all landscaped areas, and***
- (e) The Applicant / occupier is responsible for the maintenance of the new street trees for 12 months after planting. Such maintenance shall include watering, feeding, weed removal and adjustment of stakes and ties (any stakes and ties shall be removed at the expiration of the 12-month period). Any trimming or pruning shall require Council's approval under the Tree Preservation Order.***

***[MDA-2022/216 – Section 4.55 (2) – Added \*date to be confirmed\*]***

44. An amended Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, must be submitted to the Council and Principal Certifying Authority (if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate.

Specifically, the amended plan must provide the following additional information:

- (a) Procedures to screen for acid sulfate soils (including laboratory testing) and measures to trigger treatment of acid sulfate soils, if encountered, during basement excavation, piling and ground retention works (eg. secant pile or CSM wall constructions)
- (b) Measures to control/limit groundwater drawdown (temporary/permanent) to ensure acid sulfate soils are not exposed in neighbouring sites

This report must be provided prior to the issue of any construction certificate and all recommendations of the report must be implemented during works on site.

45. An amended Detailed Site Investigation to include all tables and appendices, and a justification of site suitability for zinc impact to remain at BH12 as shown in Figure 5 of the Detailed Site Investigation prepared by Aargus (Report ES7399-Rev 1, dated 9 March 2020) must be completed by a suitably qualified and experienced environmental consultant 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; and must be provided to the Site Auditor (Contaminated Land), the Council

and the Principal Certifying Authority (if the Council is not the Principal Certifying Authority) for approval prior to the issue of any Construction Certificate.

46. 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 Construction Certificate.

Any conditions imposed on the SAS must 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 Construction Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 4.55 application pursuant to the Environmental Planning & Assessment Act 1979 must be submitted to ensure that they form part of the consent conditions.

- 46A. ***Technical details, including plans and specifications, are required to be submitted to, and approved by, the Principal Certifier prior to issue of any Construction Certificate demonstrating that the commercial level slab construction has been designed to structurally withstand break throughs for future inter-floor stairs and other openings as shown in the approved plans listed in Condition 1.***

***[MDA-2022/216 – Section 4.55(2) – Added \*date to be confirmed\*]***

- 46B. ***A lighting plan is required for the extent of lighting on the retained Eucalyptus punctata (grey gum) along the Coward Street frontage to satisfy the recommendations of the Council's Design Review Panel who encouraged as follows:***

***"Landscape effect lighting opportunities are... to be integrated as part of the landscape design response within the public domain, noting this is an important consideration for not only AS standard lighting requirements but for the presentation of the space when viewed from the street".***

***Details satisfying the above must be submitted to, and approved by, the Principal Certifier (if the Council is not the Principal Certifier) prior to the issue of the relevant Construction Certificate.***

***[MDA-2022/216 – Section 4.55(2) – Added \*date to be confirmed\*]***

- 46C. ***Technical details are required on the layout of Level 3 that demonstrates a future capability of being converted to commercial floor space similar to Levels 4 to 9. This must be submitted to, and approved by, the Principal Certifier (if the Council is not the Principal Certifier) prior to the issue of any Construction Certificate.***

***[MDA-2022/216 – Section 4.55(2) – Added \*date to be confirmed\*]***

- 46D. ***Pedestrian Wind Environment Statement***

***Prior to issue of any Construction Certificate an amended Pedestrian Wind Environment Statement shall be prepared by a suitably qualified consultant to demonstrate the proposal as amended shall have minimised impacts on the users of the public domain in accordance with requirements of Part 3.14.4 of the Bayside DCP 2022. Any recommendations shall be implemented in the plans and specifications submitted with the Construction Certificate.***

**46E. Materials and Finishes – Design Excellence**

***The materials and façade details approved under condition 1 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S4.55 application and approval under the EP&A Act.***

***To ensure design excellence is achieved, as required by s6.10 of Bayside Local Environmental Plan 2021, prior to the issue of any construction certificate entailing any works above, the following must be prepared by the registered architect commissioned for the construction of the project :***

- 1. Two (2) sample boards containing original samples and swatches of all external materials and colours including:***
  - 1. wall and roof cladding;***
  - 2. columns located in front of the corner retail tenancy (including vertical elements attached to columns);***
  - 3. balustrading;***
  - 4. louvres;***
  - 5. glazing;***
  - 6. window edge treatments;***
  - 7. paving/surface in front setback areas;***
  - 8. driveway;***
  - 9. footpaths;***
  - 10. retaining wall details;***
  - 11. roof top garden (including all surface treatments.***
  - 12. Awning details***
  - 13. Underside of awnings and overhangs.***
- 2. Full coloured elevational details at a minimum scale of 1:50;***
- 3. Sections through relevant façade elements, public domain stairs, planter boxes at a minimum scale of 1:10.***

***The boards, elevations and sections are to be submitted and stamped as approved by the Director City Futures (or delegate) prior to the issue of any Construction Certificate entailing any works above basement levels. The Construction Certificate shall be precisely consistent with these approved materials.***

***Any modifications to the approved materials under this condition require***



***submission and approval of a S4.55 application.***

***[MDA-2022/216 – Section 4.55(2) – Added \*date to be confirmed\*]***

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

47. The proposed development shall comply with the following:
- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - (i) Stating that unauthorised entry to the work site is prohibited;
    - (ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
    - (iii) The Development Approval number; and
    - (iv) The name of the Principal Certifying Authority including an afterhours contact telephone number.
  - (b) Any such sign is to be removed when the work has been completed.
48. A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, shall be undertaken of all properties and Council infrastructure, including but not limited to all buildings, footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
49. 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.
50. Prior to the commencement of any demolition, excavation or remediation works, the applicant must inform Council, in writing, of:
- (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
  - (b) The name and permit number of the owner-builder who intends to do the work;
  - (c) The Council also must be informed if: -
    - (i) A contract is entered into for the work to be done by a different licensee; or
    - (ii) Arrangements for the doing of the work are otherwise changed.
51. ***[MDA-2022/216 – Section 4.55 (2) – Deleted \*date to be confirmed\*]***

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

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

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

53. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
54. 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:
    - ii) must be standard flushing toilet; and,
    - iii) must be connected:
    - iv) to a public sewer; or
    - v) if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
    - vi) 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.

The provisions of toilet facilities in accordance with this condition must be in place before work commences.

55. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
56. Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
57. 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.
58. 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 Organisation 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.

Sediment control devices shall not be located beneath the driplines of trees, which are to be retained.

59. 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.
60. If an excavation associated with the proposal extends below the level of the base of the footings of a building and/or structure and/or road on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- (a) Must preserve and protect the building/ fence from damage; and,
  - (b) If necessary, underpin and support such building in an approved manner;
  - (c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
  - (d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, 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:

Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-

    - i) Adequate provision must be made for drainage.
61. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practicing engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.

### **DURING WORKS**

62. 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.

63. 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.
64. 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.
65. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
66. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
67. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
68. 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.
- 69.
- (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.

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

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

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

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

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

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

73. As the development involves an excavation that extends below the level of the base of the footings of a building or road on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) Protect and support the adjoining premises from possible damage from the excavation, and

- (ii) Where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) Must at least 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 his 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.
74. 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.
75. 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.
76. 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.
77. ***[MDA-2022/216 – Section 4.55 (2) – Deleted \*date to be confirmed\*]***
- 77A. ***During all stages of demolition and construction, application(s) shall be made to Bayside Council (upon payment of a fee in accordance with Bayside Council's adopted fees and charges) to obtain the necessary approvals and permits for any and all works/activities on Bayside Council land or road reserve pursuant to the Roads Act 1993 and Local Government Act 1993. All applications associated with works and activities on Bayside Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Bayside Council. Refer to Bayside Council "Work Activities on Council Sites Application Form" and "Road Opening Application" to obtain permits/approvals for the following:***
- (a) ***Road, Footpath and Road Related Area Closure – To temporarily close any part of the road, footpath or car park to vehicle or pedestrian traffic. This permit is required to allow the Applicant to close a road or part of, footpath or car park to vehicle or pedestrian traffic.***
  - (b) ***Stand and Operate Registered Vehicle or Plant – To occupy any part of the road, footpath or car park to work from a vehicle parked on the street. This permit is required when construction activities involve working from a vehicle parked on the street including mobile crane, concrete truck, concrete pump or other similar vehicles.***
  - (c) ***Occupy Road with Unregistered Item – To place a waste container or other item within the roadway which is not a registered vehicle. This permit is required to allow the Applicant to place unregistered items within the roadway including waste containers and skip bins.***

- (d) **Erection of a Works Zone – To implement a statutory Work Zone for activities adjacent to the development site. These applications are assessed by Bayside Council officers and are referred to the Traffic Committee for approval. A Work Zone being that you must not stop or park in a work zone unless you are driving a vehicle that is engaged in construction work in or near the zone.**
- (e) **Placement of Scaffolding, Hoarding and Fencing – To erect a temporary structure in a public place to enclose a work area. This permit is required for all temporary structures to enclose a work area within the public domain. These include site fencing, types A & B hoarding, type A & B hoarding with scaffolding and type B hoarding plus site sheds.**
- (f) **Temporary Shoring/Support using Ground Anchors in Council Land – To install temporary ground anchors in public road to support excavation below the existing road surface level. This permit is required to allow the Applicant to install temporary support system in or under a public road to support excavation below the existing road surface level. The support systems include ground anchors and shoring.**
- (g) **Tower Crane – To swing or hoist over and across Council property (including roadway). This permit is required when tower crane(s) are used inside the work site and will swing, slew, or hoist over Council property or asset.**
- (h) **Public Land Access – To access through or occupy Council land. This permit is required by Applicants in order to access over or occupy Council land.**
- (i) **Temporary Dewatering – To pump out groundwater from the site and discharge into Council's drainage system including road gutter. This permit is required when temporary dewatering is required to pump out water from the construction site into Council stormwater drainage system including gutter, pits, and pipes. Dewatering management plan and water quality plan are required for this application.**
- (j) **Road Opening Application - Permit to open road reserve area including roads, footpaths, or nature strip for any purpose whatsoever, such as relocation / re-adjustments of utility services. This does not apply to public domain works that are approved through Bayside Council's permit for Driveway Works (Public Domain Construction – Vehicle Entrance / Driveway Application) / Frontage Works (Public Domain Construction – Frontage / Civil Works Application) under section 138 of the Roads Act.**

**A valid permit/approval to occupy Bayside Council land or road reserve to carry out any works or activities within the public domain must be obtained, and permit conditions complied with, during all stages of demolition and construction. Fines apply if an activity commences without a valid permit being issued. It shall be noted that any works/activities shown within Bayside**



***Council land or road on the DA consent plans are indicative only and no approval of this is given until this condition is satisfied.***

***[MDA-2022/216 – Section 4.55 (2) – Added \*date to be confirmed\*]***

78. 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.
- 79.
- (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.
80. During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles,

waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

81. During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
82. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
83. Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

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

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

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

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the 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.

84. **[MDA-2022/216 – Section 4.55 (2) – Deleted \*date to be confirmed\*]**

85. 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<sub>10</sub> 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<sub>10</sub> 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.

86. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

87. All remediation work must be carried out in accordance with:

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

- (d) The Remedial Action Plan (RAP) required to be submitted prior to the issue of the Construction Certificate.
88. 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).
89. 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.
90. 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.
91. 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
92. 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.
93. 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.

94. 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 construction works.
95. 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.
96. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
97. 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.
98. A Qualified Arborist, minimum level 2 (AQF 2) with their own public liability insurance must be engaged and undertaken all tree removal works as per Australian Standard 4373- Pruning of amenity trees.
99. In accordance with AS4970-2009 protective fences consisting of chain wire mesh temporary fence panels with a height 1.8m shall be erected outside the drip line. The fence panels must be securely mounted and braced to prevent movement. The area within the fenced area is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken.
100. The protective fence shall consist of para-webbing or chain wire mesh mounted on star pickets or similar metal posts, shall be placed prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction.
101. **[MDA-2022/216 – Section 4.55 (2) – Deleted \*date to be confirmed\*]**
102. Consent is granted for the removal of the following trees:
  - (a) Trees 1, 2 & 3. *Banksia integrifolia* located in the public domain have all been pruned by Ausgrid for line clearance and should be removed and replaced.
  - (b) **Deleted.**
  - (c) Tree 6. *Corymbia maculate*
  - (d) Tree 7. *Eucalyptus punctata*
  - (e) Tree 8. *Eucalyptus robusta*
  - (f) Tree 14. *Eucalyptus haemastoma*
  - (g) Tree 15. *Corymbia maculate*
  - (h) Tree 16. *Eucalyptus scoparia*
  - (i) Tree 17. *Eucalyptus microcorys*

- (j) Trees 18, 19, 20, 21 & 22. *Casuarina glauca* located in the public domain, each tree in this group have either significant defects, diseased or are suppressed and are to be removed and replaced.

- (k) Tree 23. *Robinia pseudoacaci*

Of the 17 trees, 8 trees are located in the Public Domain. These trees will be replaced with eight *Corymbia maculata* (Spotted Gum) specimens in the public domain along the three street frontages.

The following trees are to be retained and protected:

- (l) Tree 4. *Corymbia citriodora*

**(l)(a) Tree 5 – *Eucalyptus punctata***

- (m) Tree 9. *Eucalyptus microcorys*

- (n) Tree 10. *Eucalyptus punctata*

- (o) Tree 11. *Corymbia citriodora*

- (p) Tree 12. *Corymbia maculata*

- (q) Tree 13. *Corymbia maculata*

- (r) Tree 24. *Corymbia eximia*

The retained trees shall be mulched to a minimum depth of 75mm and have a temporary irrigation system installed.

Consent is granted to undertake minor canopy pruning to assist in the construction.

Note tree 9 requires weight reduction of the north co-dominant leader to reduce the incidence of failure as noted in the arborist report.

***[MDA-2022/216 – Section 4.55(2) – Deleted \*date to be confirmed\*]***

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

103. 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.
104. 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.

105. 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).
106. ***Prior to the issue of the whole of building Occupation Certificate, all overhead cables, including electricity and telecommunications cables, along the entire length of all frontages of the development site must be relocated underground to the satisfaction of Bayside Council. The Ausgrid lighting and power poles will need to be decommissioned and new underground supplied lighting columns shall be construction (where necessary) satisfying the applicable lighting requirements.***

***All works shall be carried out at the applicant's expense, to the satisfaction of the asset owner and Bayside Council. If further works are required beyond the frontages of the development site (e.g. across a road) to support the required works, these works must also be carried out at no cost or expense to Bayside Council. Bayside Council's Director of City Futures (or delegate) must advise in writing that the works have been completed to their satisfaction, prior to the issue of the Occupation Certificate.***

***[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]***

107. 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 Coward Street, Kent Road and Chalmers Crescent, 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, Masterplans and Infrastructure Specifications, and
  - (b) On Coward Street, Kent Road and Chalmers Crescent, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with the applicable Council and RMS Infrastructure Specifications, and
  - (c) On Kent Road and Chalmers Crescent, adjacent to development, demolish existing footpath and construct new paved footpath (full width) as per Council's Infrastructure, Landscape Architect and Mascot Station Precinct Public Domain Specifications, and
  - (d) On Coward Street, adjacent to development, demolish existing footpath and construct new shared footpath for pedestrians and bicyclists as per councils transport planner/engineer requirements and council infrastructure standards, and
  - (e) The dedicated splays at the corners of the site shall be paved to match the requirements of the Mascot Station Precinct Public Domain Plan and designed to council satisfaction (free of obstructions), and

- (f) On Kent Road, adjacent to development, demolish existing road pavement and reconstruct road pavement full width and re-sheet the damaged sections adjacent to new road pavement as per Council's Infrastructure and Pavement Engineer's specifications, and
- (g) On Kent Road, demolish existing kerb inlet pit within the road reserve and construct new 2.4m kerb inlet pit and pipe, connecting to existing stormwater infrastructure in Kent Road to Council infrastructure specifications.

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.

- 108. The public footpaths on Coward Street, Kent Road and Chalmers Crescent 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).
- 109. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. All obsolete vehicular entries are to be removed and reconstructed with kerb and gutter.
- 110. ***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.***

***[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]***

- 111. 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 providing a public footpath along the corners of the frontage of the property. The areas of the land to be dedicated shall be the corners of the site at the intersection of Kent Road & Chalmers Crescent (4x4m splay) and Kent Road and Coward Street (3x3m splay) as shown marked up in red on the approved plans. This is to provide adequate provision of public footpath. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land Titles Office. A copy of the registered document shall be submitted to Council for record purposes
- 112. Prior to the issue of any Occupation Certificate, the Principal Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved construction plans, AS/NZS 2890.1, AS2890.2, AS2890.3 and AS/NZS 2890.6, line marked and all signage relating to car parking erected. The car parking area is to be clearly and appropriately marked/signposted



indicating all the vehicular movements on the site. The internal road network, pedestrian facilities and parking facilities (including visitor parking and parking for persons with disabilities) shall be clearly designated, sign posted and line marked prior to the issuing of an Occupation Certificate. Signage and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999. Certification must be provided by a suitably qualified traffic engineer, certifying the design of the completed works.

113. 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.
114. 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 primary vehicular entrance to the site, approved by the principal certifier, stating the following: "All vehicles shall enter and exit the site in a forward direction at all times".
115. 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.
116. 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 and Restriction on Use of Land for On-Site Detention System/On-Site Infiltration System (as relevant).***
  - (b) ***Positive Covenant and Restriction on Use of Land for Stormwater Quality Improvement Device.***

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.

***[MDA-2022/216 – Section 4.55 (2) – Amended \*date to be confirmed\*]***

117. Prior to the issue of the Occupation Certificate, a Workplace "Green" Travel Plan shall be developed and submitted to Council for assessment and approval in order to encourage staff to make good use of public transport, cycling, walking and car sharing for commuting work related journeys and reduce car based travel demand

by staff. The Workplace Travel Plan shall be generally in accordance with NSW Premier's Council for Active Living's "Workplace Travel Plan Guidelines - Final Report (April 2010)". The plan shall include, but not be limited to, the following:

- (a) Encourage staff to cycle and/or walk to the workplace;
- (b) Encourage staff to use public transport to travel to workplace by providing financial incentive or shuttle bus services;
- (c) Adopt car sharing and /or car pool scheme;
- (d) Provide priority parking for staff with car pool;
- (e) Provide bike storage area and end-of-trip facilities in the convenient locations;
- (f) Include clear and time bound targets, actions, measurements and monitoring framework;
- (g) Develop Transport Access Guides (TAGs) to Roads and Maritime Services (RMS) requirements for staff and visitors about information on how to reach the site via public transport, walking or cycling.

The workplace travel plan and TAGs must be prominently displayed within the staff communal areas within the development.

118. 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 shared 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. The management plan is to be implemented for the lifetime of the use of the development and shall for part of any future subdivision of the site.

119. Waste and recycling must be collected by a private waste contractor within the site. A contract for waste and recycling collection must be entered into prior to issue of the Occupation Certificate and the maximum size of the waste collection vehicle shall be equal to or smaller than a MRV vehicle (as denoted by AS2890.2:2018). The company engaged must ensure that all recycling is collected separately from waste.

Council must be advised in writing within seven (7) days of a private contractor being engaged for waste collection services.

120. ***[MDA-2022/216 – Section 4.55 (2) – Deleted \*date to be confirmed\*]***

120A. ***Landscape Completion / Certification- 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 for the approved***

***development. The landscaping is to be maintained to the approved standard at all times.***

- (b) Trees required to be retained in accordance with Condition 102 shall be inspected by a suitably qualified arborist to confirm the health of the tree has not been compromised by the development.***
- (c) 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 conditions of consent.***

***[MDA-2022/216 – Section 4.55 (2) – Added \*date to be confirmed\*]***

121.

- (a) A notice of requirement shall be obtained from the Water Board;
- (b) A Certificate under Section 73 of the Water Board (Corporation) Act 1994 shall be obtained and submitted to Council for each stage of construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges.

Note: Immediate application should be made to Sydney Water for this Certificate to avoid problems in servicing the development.

- 122. The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
- 123. Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system complies in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
- 124. 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.
- 125. 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**

126. ***Operations of Ground Floor tenancies must comply with the following:***

- (a) The tenancies on ground floor are approved for the use as food and drink premises in accordance with the definition in the Standard***

***Instrument.***

- (b) The hours of operation of the approved use are limited to hours specified as Exempt Development in State Environmental Planning Policy (Exempt and Complying Development) 2009, unless otherwise approved; and,***
- (c) Materials, goods or machinery shall not be stored, placed or otherwise permitted to stand between the building line and the street alignment, or any other part of the public road at any time without Council's consent, and***
- (d) All loading, unloading and transfer of goods / waste to and from the loading bay and premises shall take place wholly within the property, and in accordance with any other relevant conditions of this Consent, and***
- (e) The front windows of the ground floor commercial / retail tenancies must be clear glazed, kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials, obscure glazing and/or other treatment to ensure passive surveillance is maintained to and from the tenancies, and***
- (f) Any proposed signs must, unless separately approved, comply with the requirements of the State Environmental Planning Policy (Exempt and Complying Development Code) 2008.***

***In addition, any signage cannot have / use:***

- i. flashing lights, and***
- ii. electronically changeable messages, and***
- iii. animated display, moving parts or simulated movement, or***
- iv. a method and level of illumination that distracts or dazzles.***
- v. all other relevant conditions of this consent.***

***[MDA-2022/216 – Section 4.55(2) – Amended on \*date to be confirmed\*]***

***127. [MDA-2022/216 – Section 4.55(2) – Deleted on \*date to be confirmed\*]***

- 128. The Workplace “Green” Travel Plan shall be monitored and reviewed annually in order to revise and improve the plan to achieve the targets on the number of staff travel to work by public transport, cycling and walking. Copy of the annual review shall be submitted to Council. In order to ensure the certainty to implement workplace travel plan for all future tenants of the site, preparation and implementation of workplace travel plan shall be part of the lease agreement for all tenants.
- 129. To reduce traffic impacts and promote sustainable transport, the office workers/employees in the commercial office component of the development, that are not provided/allocated a parking space within the car park on the premises, are not permitted to drive personal passenger vehicles to the workplace.

130. 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.
131. The operation of the development and movements of vehicles shall comply with the following requirements:
- (a) All vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction;
  - (b) Loading and unloading activities associated with the delivery shall take place wholly within the dedicated loading areas service bay;
  - (c) All garbage collection activities shall take place and be wholly undertaken within the site in the dedicated loading areas service bay;
  - (d) All manoeuvring movements of vehicles shall be carried out wholly within the site and vehicle manoeuvring area shall be kept clear at all times;
  - (e) The maximum size of vehicle accessing the service bay shall be limited to 8.8m long Medium Rigid Vehicle (MRV) (as denoted in AS2890.2).
132. In order to ensure the certainty to implement workplace travel plan for all future tenants of the site, preparation and implementation of workplace travel plan shall be part of the lease agreement for all tenants. The Workplace Travel Plan shall be monitored and reviewed annually in order to revise and improve the plan to achieve the targets on the number of staff travel to work by Public transport, cycling and walking.
133. Ongoing maintenance of the road verges and footpaths shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
134. All parking bays shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.
135. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property.
136. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system.

137. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
138. No garbage collection associated with the retail premises is permitted between 10pm and 6am.
139. 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.
140. 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*.
141. 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.
142. ***Lighting of Tree 5 shall be maintained in good working order for the lifetime of the development.***
- [MDA-2022/216 – Section 4.55(2) – Amended on \*date to be confirmed\*]***
143. ***Use of Level 10 outdoor landscape terrace shall be restricted to between the hours of 7:00am to 7:00pm Monday to Saturday and 9:00am to 5:00pm on Sundays and public holidays to minimise impacts to residential premises on the opposite side of Coward Street.***
- The use of Level 10 terrace shall be for office staff and visitors, and not for use by the general public.***

***[MDA-2022/216 – Section 4.55(2) - Amended on \*date to be confirmed\*]***

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