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**Bayside Planning Panel**

**14/12/2017**

Item No	6.3
Application Type	Section 96(2) Application – Modification to Residential Flat Building
Application Number	DA-2014/180/02
Lodgement Date	31 January 2017
Property	6-8 John Street, Mascot Lot 8 and 9 in DP 939729
Owner	Segnic Pty Ltd Bibil Pty Limited
Applicant	Edifice Design Pty Ltd
Proposal	Section 96(2) Application to modify Development Consent No. 14/180 to increase the number of residential apartments from 39 to 52 units and reduce the number of car parking from 70 spaces to 55 spaces to align the proposal with the Apartment Design Guide, increase the height of the development by 2.53 metres to 47.78 AHD and modifications to conditions.
No. of Submissions	Five objections
Cost of Development	N/A
Report by	Angela Lazaridis- Senior Development Assessment Officer

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**Officer Recommendation**

- 1 That Section 96(2) Application to modify Development Consent No. 14/180 to increase the number of residential apartments from 39 to 52 units and reduce the number of car parking from 70 spaces to 55 spaces to align the proposal with the Apartment Design Guide, increase the height of the development by 2.53 metres to 47.78 AHD and modifications to conditions at 6-8 John Street, Mascot, be determined in the following manner:
  - a. Amend Condition No. 1 to reference the amended plans and documents;
  - b. Amend Condition No. 5 to reference the BASIX Certificate now submitted for the development;
  - c. Amend Condition No. 16 (b) and (d) to update the maximum height permissible for the development as stipulated by SACL;
  - d. Amend Condition Nos. 26(d) and 27 to reflect the revised Section 94 Contributions as detailed above;
  - e. Amend Condition No. 28 to update the minimum unit size requirements within the development;
  - f. Amend Condition No. 32 to reflect the updated landscape plan for the site;
  - g. Amend Condition No. 43 to reflect the amended traffic and parking assessment report;

- h. Amend Condition No. 113 to update the car parking numbers proposed as part of this application.
- i. Amend Condition No. 119 to reflect the latest version of the plans;
- j. Add Condition No. 119A relating to the residential parking permit; and
- k. Amend Condition No. 143 to refer to the subject s.96 application.

2 That any objectors be notified of the determination made by the Planning Panel.

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## Attachments

- 1. Planning Assessment Report
  - 2. Site Analysis Plan
  - 3. Roof Plan
  - 4. North Elevation
  - 5. East Elevation
  - 6. South Elevation
  - 7. West Elevation
  - 8. Photomontage
  - 9. 3D Modelling
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## Location Plan



**Figure 1: Locality Plan**

# BAYSIDE COUNCIL

## Planning Assessment Report

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### Application Details

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<b>Application Number:</b>	14/180/02
<b>Date of Receipt:</b>	31 January 2017
<b>Property:</b>	6-8 John Street, Mascot Lot 8 and 9 in DP 939729
<b>Owners:</b>	Segnic Pty Ltd Bibil Pty Limited
<b>Applicant:</b>	Edifice Design Pty Ltd
<b>Proposal:</b>	Section 96(2) Application to modify Development Consent No. 14/180 to increase the number of residential apartments from 39 to 52 units and reduce the number of car parking from 70 spaces to 55 spaces to align the proposal with the Apartment Design Guide, increase the height of the development by 2.53 metres to 47.78 AHD and modifications to conditions.
<b>Recommendation:</b>	Approve the development, subject to conditions.
<b>Value:</b>	N/A
<b>No. of submissions:</b>	Five objections
<b>Author:</b>	Angela Lazaridis, Senior Development Assessment Planner
<b>Date of Report:</b>	23 November 2017

### Key Issues

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The former City of Botany Bay Council received Development Application No. 14/180 on 5 August 2014 for the demolition of the existing structures and construction of a part 10 and part 11 storey residential flat building with associated landscaping, basement car parking and strata title subdivision. The development will provide 39 apartments with parking for 70 vehicles at 6-8 John Street, Mascot. This was approved by Council on 5 August 2015.

The subject Section 96(2) Application No. 14/180/02 was received on 31 January 2017 seeking consent to modify Development Consent No. 14/180 to increase the number of residential apartments from 39 to 52 units and reduce the number of car parking from 70 spaces to 55 spaces to align the proposal with the Apartment Design Guide, increase the height of the development by 2.53 metres to 47.78 AHD and modifications to conditions at 6-8 John Street, Mascot.

The application was placed on public exhibition for a fourteen (14) day period from 10 May to 24 May 2017. Five objections were received during the notification period and have been discussed in greater detail in the report below.

Key issues in the assessment of the development application include the additional height proposed of 2.53 metres and its impacts on the surrounding development and the northern boundary setback proposed, particularly between Levels 1 and 3.

The additional height of the development proposed is 2.53 metres which will result in an amended height of 37.63 metres. While this remains compliant with the height of development as required under the BBLEP 2013 (44 metre requirement), the proposal is inconsistent with what has been approved to the properties at the east and west. The height of part 10 and 11 storeys was originally approved in the development application and the amended height will distribute the amount of GFA from the top level over two levels. The additional height will potentially have concerns relating to view loss which has been discussed in the report below. The additional height will not be visible from the ground level as it has been setback away from the side boundaries. Additionally, the proposed height is lower than the approved development at 214-220 Coward Street and 13A Church Avenue which have been approved with 12 storeys and higher. Therefore the height proposed is acceptable.

The northern setback of the development, particularly Levels 1 to 3 have been reduced from 5 metres to 4 metres at its balconies to provide flexibility in the unit sizes and orientation. While there is a reduction in the setbacks, the applicant has provided privacy screens which are to prevent any direct overlooking onto the northern site once it is redeveloped. This is discussed in greater detail in the report below.

The modification application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979 (EPA Act)* and is recommended for approval, subject to conditions of consent.

## Recommendation

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It is RECOMMENDED that the Bayside Planning Panel, resolve:

1. To approve Section 96(2) Application to modify Development Consent No. 14/180 to increase the number of residential apartments from 39 to 52 units and reduce the number of car parking from 70 spaces to 55 spaces to align the proposal with the Apartment Design Guide, increase the height of the development by 2.53 metres to 47.78 AHD and modifications to conditions at 6-8 John Street, Mascot.
2. To modify Development Consent No. 14/180 under Section 96(2) of the Environmental Planning and Assessment Act 1979 as follows:
  - Amend Condition No. 1 to reference the amended plans and documents;
  - Amend Condition No. 5 to reference the BASIX Certificate now submitted for the development;
  - Amend Condition No. 16 (b) and (d) to update the maximum height permissible for the development as stipulated by SACL;
  - Amend Condition Nos. 26(d) and 27 to reflect the revised Section 94 Contributions as detailed above;

- Amend Condition No. 28 to update the minimum unit size requirements within the development;
  - Amend Condition No. 32 to reflect the updated landscape plan for the site;
  - Amend Condition No. 43 to reflect the amended traffic and parking assessment report;
  - Amend Condition No. 113 to update the car parking numbers proposed as part of this application.
  - Amend Condition No. 119 to reflect the latest version of the plans;
  - Add Condition No. 119A relating to the residential parking permit; and
  - Amend Condition No. 143 to refer to the subject s.96 application.
3. That any objectors be notified of the determination made by the Planning Panel.

## Background

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### History

### Approved Development

In its approved form, the development included:

- Demolition of the existing two warehouses and construction of a part 10 and 11 storey residential flat building with associated landscaping, basement car parking with 70 car parking spaces and strata title subdivision.
- The development approved 39 units which comprise of the following:
  - 2 x Studio apartments
  - 8 x One bedroom apartments
  - 29 x Two bedroom apartments
- The approved 70 car parking spaces are allocated in the following manner:
  - One bed/studio apartments: 10 car spaces
  - Two bedroom apartments: 58 car spaces
  - Visitor spaces: 2 car spaces
  - Car Wash Bay: 1 space (shared with visitor space)
  - Loading Bay: 1 space (shared with visitor space)
  - Bicycle Parking: 8 spaces

The following table was the key controls assessed under the original DA that are relevant to the proposal:

Control	Required	Proposal	Complies
Site Area	N/A	The site has a total area of 1,125sqm.	N/A
GFA	3600sqm (max) calculated based on permissible FSR under BBLEP 2013	4383.98sqm	<b>No – Justified with Clause 4.6 variation</b>
FSR	3.2:1 under BBLEP 2013	3.9:1	
Site Coverage	45% (506.25sqm) under BBDCP 2013	504.88sqm (45%) (before public domain widening) 585sqm (52%) (after public domain widening)	Yes  No-Satisfactory
Car Parking	For multi-dwelling housing/ residential flat building- 1 space/studio or one bedroom dwelling (10 required); 2 spaces/ two (2) or more bedrooms dwelling (58 required); 1 designated visitor space/ 7 dwellings (6 required)  Required: 74 spaces	Total of 39 dwellings proposed – 10 car spaces provided (1 space per studio/one bedroom units) 58 car spaces provided (2 spaces per 2 bedroom units) 2 visitor car spaces provided (shared with car wash bay and loading bay)  Total: 70 spaces	<b>No – Satisfactory</b>
Deep Soil	25% (242.4sqm)	Nil, given basement car parking is proposed.	<b>No – Satisfactory</b>
Communal Open Space	25-30%	259.45sqm (23%)	<b>No - Satisfactory</b>
Height	44 metres (maximum)	Maximum height of 35.1m	Yes
Solar Access	70% of apartments to receive 3 hours midwinter reduced to 2 hours for higher densities (BBDCP 2013, RFDC)	77% of apartments will receive minimum 3 hours of solar access in mid-winter.	Yes
Building Depth	18 metres maximum (RFDC)	11-18.8 metres	Generally complies-Satisfactory
Building Separation	<u>One to four storeys/&lt;12m:</u>	<u>One to four storeys (between habitable rooms):</u>	<b>Acceptable</b>

Control	Required	Proposal	Complies
	<p>12 metres between habitable rooms</p> <p>9 metres between habitable/balconies and non-habitable rooms</p> <p>6 metres between non-habitable rooms</p> <p><u>Five to eight storeys/up to 25m height:</u></p> <p>18 metres between habitable rooms</p> <p>13 metres between habitable/balconies and non-habitable rooms</p> <p>9 metres between non-habitable rooms</p> <p><u>Nine storeys +/-25m height:</u></p> <p>24m between habitable rooms/balconies</p> <p>18m between habitable/balconies and non-habitable rooms</p> <p>12m between non-habitable rooms</p>	<ul style="list-style-type: none"> <li>• 22 metres from 3-9 Church Avenue;</li> <li>• Nil boundary setback along the western boundary (similar to 10-14 John Street);</li> <li>• 22 metres from 208-210 Coward Street;</li> <li>• 6m-8.1 metres from the northern boundary (13B Church Avenue building line).</li> </ul> <p><u>Five to eight storeys/up to 25m height (habitable rooms):</u></p> <ul style="list-style-type: none"> <li>• 22 metres from 3-9 Church Avenue;</li> <li>• Nil boundary setback along the western boundary (similar to 10-14 John Street);</li> <li>• 22 metres from 208-210 Coward Street;</li> <li>• 9m-11.6 metres from the northern boundary (13B Church Avenue building line).</li> </ul> <p><u>Nine storeys +/- 25m height (between habitable rooms):</u></p> <ul style="list-style-type: none"> <li>• 23-28.1 metres from 3-9 Church Avenue;</li> <li>• Nil-870mm from 10-14 John Street;</li> <li>• 22-26.5 metres from 208-210 Coward Street;</li> <li>• 12m-13.8 metres from northern boundary (13B Church Avenue building line).</li> </ul> <p><b>Note:</b> 13B Church Avenue is an existing industrial building which is highly likely to be developed and setback away from the common boundary alignment of their site and the subject development site.</p>	

Control	Required	Proposal	Complies
<b>Unit Mix</b>	Total number of studio/one bedroom = Maximum 25%	25.6% or 26% (rounded)	<b>No-Satisfactory</b>

The following montages and plans demonstrate the approved proposal.



**Figure 1. South West corner of 6-8 John Street**



**Figure 2. North East corner from the rear of the site**





**Figure 3. Approved Northern Elevation**



**Figure 4. Approved Southern Elevation**

### Description of the Proposed S96 Modifications

The Section 96(2) modification application was received on 31 January 2017 and seeks to modify Development Consent No. 14/180 in the following manner:

- A decrease in apartment sizes to align the proposal with the Apartment Design Guide, facilitating a total of 52 units;
- A minor height increase of 2.53 metres to 47.78m AHD;
- A reduction in car parking, providing a total of 55 car spaces; and
- Minor external façade changes.

In greater detail, the amended proposal includes the following:

Control	Approved Proposal	Amended Proposal
FSR (3.2:1 req.)	3.9:1	3.92:1
Number of units	39	52
Building height (44m max req.)	35.1m (45.25m AHD)	37.63m (47.78m AHD)
Parking spaces	70	55

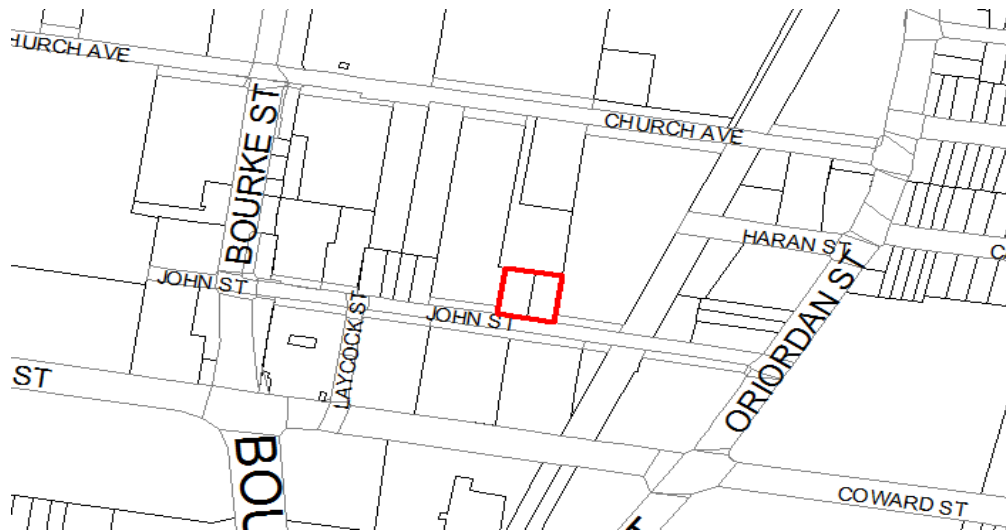
The amended proposal will include:

- 52 residential apartments across 11 storeys including:
  - 16 one bedroom units
  - 34 two bedroom units
  - 2 three bedroom units
  - Inclusive are 10 adaptable units

## Site Description

The subject site is made up of two individual lots (6 and 8 John Street) which are legally known as Lot 8 and 9 of DP 939729. The site is situated on the northern side of John Street between Bourke Street to the west and O’Riordan Street to the east. They both have a north-south orientation with north being the rear of the site and south being the front (John Street).

The site is rectangular in shape and is located within the B4 Mixed Use zone. The site (when amalgamated) has a street frontage of 34 metres along John Street, a 35 metre width along the northern boundary line, a western boundary depth of 33 metres and an eastern boundary depth of 32 metres. The site has a total site area of 1,125sqm.



**Figure 5. Locality Plan**



**Figure 6. Front elevation of subject sites**

Each site is currently occupied by an industrial building. 6 John Street comprises of a windscreen and car glass business while 8 John Street comprises of another commercial premise used as a warehouse/manufacture. Road widening has been undertaken along the northern side of John Street and allows for greater public domain works along the street frontage. The proposal involves a readjustment of the front boundary line to accommodate greater landscaping at the front of the site.

The site is located within the Mascot Station Town Centre Precinct, which is centred on Mascot Railway Station. This area has been earmarked for future population and employment growth in State and Local planning strategies and has been identified as a future town centre in the Metropolitan Plan for Sydney.



**Figure 7. Rear elevation of 8 John Street and 10-14 John Street**

### **Description of Surrounding Development**

The subject site is located approximately 1km from Sydney Domestic Airport Terminal and 3km from Sydney International Airport Terminal.

To the west of the site is Mascot Station Precinct Town Centre and Mascot underground Train Station. The precinct is located in close proximity to major regional road networks and Port Botany. As such, the site has excellent accessibility to major transport and employment opportunities.

Due to the past industrial uses of the majority of the land in the locality, land in the area is susceptible to contamination, resulting in the majority of sites requiring some level of remediation. In addition, shallow groundwater is present in this locality. These two factors alone contribute to the high cost associated with development in the locality.

The site is situated within the Mascot Station Town Centre Precinct, Urban Block 4, which is bounded by Gardeners Road to the north, O'Riordan Street to the east, Coward Street to the south and Bourke Street to the west. The precinct is comprised of a number of sites that have already been redeveloped or are currently at various stages of the construction process. The subject site is one of the few remaining undeveloped sites in the precinct.

The immediate adjoining premises to the west (10-14 John Street) is occupied by a six storey mixed residential and commercial development having frontage to both Church Avenue and John Street.

To the south on the opposite side of John Street, there are a number of six to eight storey residential flat buildings.

The site to the north towards the rear of the site (13B Church Avenue) is occupied by a single storey industrial building that is vacant.

The immediate adjoining property to the east (3-9 Church Avenue) comprises of the Rina Apartments which consist of three residential flat buildings which have a maximum height of eight storeys. Further east of the site, you can find Linear Park which runs diagonally from the northern to southern side of the block and is in line with the Southern Western Suburbs Ocean Outfall Sewer (SWSOOS).





**Figure 8. Adjoining property at 10-14 Coward Street**



**Figure 9. Adjoining property at 3-9 Church Avenue**



**Figure 10. 208-210 Coward Street which is directly opposite the site**

### **Assessment of the Proposed S96 Modifications**

Decrease in apartment sizes to align the proposal with the Apartment Design Guide, facilitating a total of 52 units

The approved unit sizes and apartment layouts were compliant with the larger DCP unit sizes in BBDCP 2013, prior to its amendment of the BBDCP 2013 to align unit sizes to be consistent with the ADG sizes.

The Section 96(2) application seeks to provide unit sizes that are a balance of the approved larger unit sizes and the new ADG sizes. The majority of the units have been amended to decrease the unit sizes slightly to accommodate the additional 13 units within the approved built form.

Other than modifications to the two top levels and minor changes to the northern facade, the approved built remains unaltered. The impact of the additional apartments is not considered to provide any adverse impact onto the surrounding residential development. There is a slight increase in the unit mix which has been approved and what now is proposed. The table below demonstrates the change in unit mix.

<b>Unit Mix</b>	<b>Approved units</b>	<b>Proposed Units</b>
1 bed units	10 (25.6%)	16 (31%)
2 bed units	29 (74%)	34 (65%)
3 bed units	Nil	2 (4%)
Total	39 units	52 units

As demonstrated, the amended plans have provided a greater range in units within the development, including three-bedroom units. While there is an increase in the number of one-bedroom units, the increase is not significant to contribute to additional traffic to the surrounding road network and is acceptable considering its proximity to Mascot Station and commercial development located to the south of Coward Street. Discussion relating to unit mix is provided in greater detail in the report below.

#### Minor height increase of 2.53 metres to 47.78m AHD

The modification proposes to increase the height of the development from 35.1m to 37.63m to accommodate an additional part level for the penthouse three-bedroom units. The GFA of the approved 10<sup>th</sup> level has been distributed to these two levels by setting in Level 9 from the eastern and western side boundaries to reduce the bulk of the development when viewed from the street. The approved development had also been approved with a setback from the northern and southern boundary so that the top floors are located centralised to the development.

As the additional level is located to the centre, the degree of overshadowing onto the surrounding development is miniscule as the majority of the overshadowing would fall onto the rooftop and slightly on the street. Also, the applicant has provided an amended streetscape montage (Figure 11) demonstrating that at street level, the additional level and extra height is not visible therefore the visual bulk of the development when viewed from the street is insignificant.



**Figure 11. Proposed photomontage demonstrating the proposed bulk and additional level from streetscape level**

As a result of the additional height, view loss has been taken into consideration, particularly the impact that it would have when viewed from the development to the south at 214-220 Coward Street.

In consideration of the planning principle relating to view loss, in particular to *Tenacity Consulting v Waringah [2004] NSW LEC 140*, Council requested that the applicant address the view loss issue. The applicant has provided the following commentary in regard to view loss:

*“Any purported loss of views from nearby properties would need to be on the basis of the additional form of development which is proposed to be added as part of this S96 application. It is clear from the information submitted with the application that the modified scheme simply seeks an additional 2.5m in height on the uppermost floor of the building (level 11). This element of the proposal is set back from the east / west boundaries more than 6m, and from the John Street frontage by approximately 10m.*



Furthermore, the upper levels of the buildings on Coward Street, and in particular the levels 11 and 12 of the building which you refer to, are set back significantly from John Street. When scaled from the plans, these properties appear to be between 30-40m set back from the road frontage, meaning that they are up to 60m away from the part of the proposal which contributes to the additional height of the scheme.

Given this distance between units, when the proposal is viewed from northern aspect windows of properties on Coward Street, it is clear that only direct and longer distance views will be affected by the proposal, and any impacts will not result in a complete loss of view from any of the units.

When considering the loss of views northwards, it is also important to understand the changing nature of the local area, where a significant amount of development is being brought forward given the proximity of the location to existing infrastructure and services, including the Mascot Railway Station. It is notable that the building to the north of the application site at No.13 Church Avenue has an extant development consent for a new residential flat building of 12 storeys in height (Ref 10/2013/56).

It is evident that this consented proposal at No.13 Church Avenue will serve to impact the views northwards from the properties on Coward Street. This means that even without the limited additional height as part of this S96 proposal, the northern views from the properties on Coward Street will be inhibited as a result of an approved scheme. This clearly reduces the extent of any view loss which is purported to occur as a result of the S96 application at the subject site. The factors outlined above are illustrated in Figure 1 below.

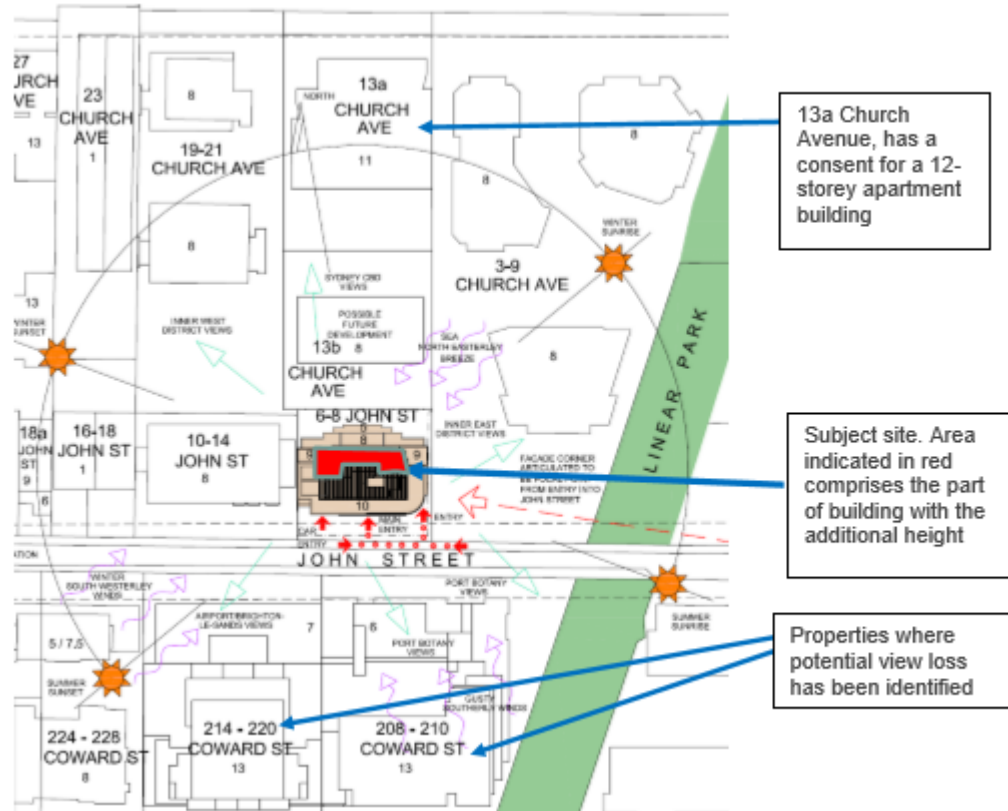


Figure 1 – Location of Proposal and Surrounding Buildings

It is clear from the Figure 1 and the information above that any view loss arising from the proposed S96 application will be minimal given the small scale of the intrusion above the



*approved envelope, the limited floor area of the upper floor and the distance between the properties.*

*A high-level assessment of these matters is set out below.*

- The view to be affected – The S96 scheme proposes a limited amount of additional height on the building, to the north of properties on Coward Street. The views from these properties are likely to be longer district views which will be impacted by other taller developments in the vicinity such as the proposed 12-storey residential flat building at No13a Church Avenue.*
- Part of the property from which views are obtained – It is difficult to determine the parts of the properties affected, however it is considered that these are likely to include living rooms and balconies. Views from balconies can often be up to 180 degrees in viewing angle, so even if direct views are affected, more oblique view can still be achieved.*
- The extent of the impact – The extent of the impact is likely to be minimal given the limited height increase (c2.5m), the setbacks of the upper floor from the building and to the site boundaries, the distance between the proposal and the receptors and the presence of other existing and proposed tall buildings in the locality.*
- The reasonableness of the proposal – The S96 proposal remains below the 44m overall height restriction in the locality as identified in the Botany Bay LEP 2013. It proposes a limited increase in height which will provide a beneficial outcome for the site, delivering enhanced residential amenity within the new building. The application scheme is inherently reasonable.*

*In summary, it is considered that the proposed development will result in a minimal and reasonable level of view impact on the nearby receptors. As a result, the proposal is considered to be fully justified and should be supported by the Council.”*

Consideration of the applicant's justification has been taken into account with regard to view loss. It is acknowledged that the development was approved with a height that was greater than the maximum storeys approved on development in the immediate west and east to the site. The assessment of the application will consider the additional storey and not the approved development. The application was amended so that the approved top storey now redistributes the floor space of the development by increasing the side setbacks from the edge of the building on Level 9. The increase in the side setbacks allow for a greater presentation of the city skyline than what was originally approved.

While the amended application will increase the height of development by 2.53 metres to 37.63m, the proposed height is significantly lower than the maximum applicable height for the site as stipulated within the BBLEP 2013 which is 44m. Therefore when the BBLEP and BBDCP was being written, consideration of the type of development that Council envisaged was for high density development. Reference is made to the John Street Mascot Design Guideline which was prepared in 2009 in assisting in preparing a strategy for the Mascot Station Town Centre Precinct and subsequent MSP Masterplan 2012. The guide assisted in the writing of the BBDCP 2013, however when you assess the controls of Part 9A of the BBDCP, the specific site does not have a specified storey height or maximum height that has been envisaged by Council within the BBDCP 2013. Therefore the maximum height that is established is 44 metres.

Additionally, the site is one of the last sites to be redeveloped therefore the height of the development, while not consistent with the sites to the east and west, is less in height than the approved development at 13A Church Avenue which has a height of 12 storeys and the property to the south which has a maximum height of 14 storeys. Therefore, the site is not the

only site that extends beyond the other developments in the immediate areas. As discussed correctly by the applicant above, the development at 13A Church Avenue has been approved with a higher height than the proposed development therefore will contribute to the view loss experienced at 214-220 Coward Street. While there may be slight loss of view to some of the units from Levels 11 and below, the proposed bulk and scale of the development has considered the surrounding amenity of existing development. Overall, the additional height is supportable due to the above factors.

#### Reduction in car parking, providing a total of 55 car spaces

The modification proposes to reduce the amount of approved car parking spaces from 70 spaces to 55 spaces to align with the controls under the ADG. Previously the development was approved with 1 car space per one-bedroom unit, two car spaces per two/three bedroom units and 1 visitor car space per 7 units. The amended proposal demonstrates compliance with the requirement under the ADG which requires 0.6 car spaces per one-bedroom unit, 0.9 car spaces per two-bedroom units and 1.4 car spaces per three-bedroom units. The amount of visitor car parking spaces has not changed. The change in the car parking is resultant to the location of the subject site being within 800m of Mascot Station. The proposed rates are acceptable. Greater discussion relating to the car parking is provided under Part 3A of the report below.

#### Minor external façade changes

Other than what has already been discussed above relating to the built form and proposed new height of the development, the proposal has slightly modified the external facades of the eastern and northern side of the building. Along the eastern side, the approved development comprised of a majority of facebrick with a strip of rendered brick running down from the top to bottom floor. This has been amended slightly in which the rendered portion stops midway. Another noticeable change along the eastern elevation includes the addition of windows to allow greater amenity to the units as well as additional solar amenity during the morning hours. The windows are not considered to create any visual privacy concerns as the plans demonstrate that they are highlight windows. The figures below show the approved and proposed external façade treatment along the eastern elevation when viewed from the street.



**Figure 12. Approved photomontage of the development**



**Figure 13. Proposed photomontage of the development**

A minor change is proposed on the ground floor relating to Unit G02 which increases the size and location of the balcony as originally approved. The location and size of the balcony will not alter the front building setback as it aligns with the setback that has been approved.

There is minor changes to the northern boundary setbacks that were approved, particularly on Levels 1 to 4. The approved development had approved a northern boundary setback to these balconies of 5 metres. This was a departure from the building separation control of 6 metres under the RFDC. The proposed modification will further reduce the building setback of these balconies to be located 4 metres from the boundary setback. This is to allow flexibility in the unit sizes and orientation as a result of the extra units while maintaining the required private open space for each unit. Currently on the site to the north, there consists a single storey industrial building that is located on the boundary. Should this proposal be redeveloped, the proposed development will require a setback from their southern boundary. To address visual privacy concerns from these levels, the plans demonstrate that operable privacy screens are proposed to reduce the amount of overlooking onto the adjoining site and vice versa. This is demonstrated in Figure 14 below. The levels above 4 storeys remain unaltered as they were originally approved with a slight non-compliance. Building setback and separation is discussed in greater detail in the report below.



**Figure 14. Proposed Northern elevation of the development**

## Modification to Conditions

### Condition Nos. 26(d) and 27

Condition Nos. 26(d) and 27 relate to the Section 94 Contributions that are applicable to the site. The original development application was calculated under the Section 94 Contributions Plan 2005-2010 and the Mascot Station Plan. The wording of the condition has been provided below:

The City of Botany Bay 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 listed below a contribution of **\$556,009.00** is required to be paid to Council prior to the release of the Construction Certificate.

The above is broken down as follows:

### **Section 94 Development Contributions Plan 2005-2010**

#### Residential

Community Facilities:	\$133,872.00
Open Space and Recreation:	\$142,979.00
Administration:	\$4,748.00
Transport:	\$61,342.00
<b>Section 94 2005/2010 Total</b>	<b>\$342,941.00</b>

#### **Mascot Station Precinct Plan**

2 x Studio, 8 x One Bedroom, 29 x Two Bedroom	\$213,068.00
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**Grand total** **\$556,009.00**

Note: The Section 94 Contribution fees 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 fees applicable at that time.

However, as the application is submitted under Section 96 and proposes additional dwellings, the application must be considered under the Botany Bay Section 94 Contributions Plan 2016. The Section 94 calculated for the entire development as indexed to November 2017 results in a total contribution of **\$733,906.36**. The revised condition is worded as follows:

***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 \$733,906.36 is payable as calculated below:***

**City of Botany Bay Section 94 Contributions Plan 2016**

***The s94 contributions (as indexed at November 2017) for residential are as follows:***

a) Community Facilities- Citywide	\$112,833.40
b) Recreation Facilities- Mascot Precinct	\$11,447.75
c) Recreation Facilities- Citywide	\$490,125.30
d) Transport Management- Citywide	\$46,180.81
e) Transport Management- Mascot	\$64,910.20
f) Administration	\$8,408.90

***TOTAL:*** ***\$733,906.36***

***The total Section 94 Contribution of \$319,100.50 is to be paid to Council prior to the issue of any Construction Certificate.***

***Note: The Section 94 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.***

On this basis, Condition Nos. 26(d) and 27 is recommended to be updated to reflect the revised contribution amount.

**Other Minor Condition Changes**

- Amend Condition No. 1 to reference the amended plans and documents;
- Amend Condition No. 5 to reference the BASIX Certificate now submitted for the development;
- Amend Condition No. 16(b) and (d) to update the maximum height permissible for the development as stipulated by SACL;
- Amend Condition Nos. 26(d) and 27 to reflect the revised Section 94 Contributions as detailed above;

- Amend Condition No. 28 to update the minimum unit size requirements within the development;
- Amend Condition No. 32 to reflect the updated landscape plan for the site;
- Amend Condition No. 43 to reflect the amended traffic and parking assessment report;
- Amend Condition No. 113 to update the car parking numbers proposed as part of this application.
- Amend Condition No. 119 to reflect the latest version of the plans;
- Add Condition No. 119A relating to the residential parking permit; and
- Amend Condition No. 143 to refer to the subject s.96 application.

## Statutory Considerations

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### Section 96(2) Modification Considerations

Section 96(2) of the *Environmental Planning & Assessment Act 1979* states that “a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:”

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

The Section 96(2) modification application relates to amendments predominantly to an additional level on the building, increase in the number of units from 39 to 52 and a reduction in car parking from 70 spaces to 55 spaces, minor reconfiguration of the approved units and basement level and communal open space and modification to conditions, and as such, the modifications will result in substantially the same development as approved under DA-14/180 and then subsequently modified. It is considered that the proposed amendments are suitable in the context of the site and the locality.

- b) ***It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and***

The modification does not require consultation with the Minister.

- c) ***It has notified the application in accordance with (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent***

***authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the development application was notified and advertised for 14 days from 10 May to 24 May 2017.

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

The modification application received a total of 5 objections. The key issues that were raised in the objections are as follows:

- *View loss resultant from the proposed development*

Comment: A number of the objections raised concerns relating to the view loss from the approved development as well as from the additional level. This has been considered in the assessment of the proposed changes above.

- *Incorrect FSR is proposed within the development, closer to 4.7:1*

Comment: Concern is raised that the proposed and approved development was incorrectly calculated in regard to FSR. Council's officers have recalculated the FSR based on a site area of 1,112sqm and the amended FSR proposed is 3.92:1 which is consistent with the FSR that was provided by the applicant.

- *Setback from the street is insufficient*

Comment: Concern is raised regarding to the development being close to the street. There is no change to the street setback of the development. The proposal will continue to maintain a setback which also includes the proposed road widening along John Street. No additional impact will occur from the development relating to streetscape.

- *Additional overshadowing which is contributed from the development onto the lower levels of the neighbouring properties living areas and communal open space and block out view of the sky*

Comment: The additional height of the development will not create any additional overshadowing impacts on the surrounding developments. The additional height has been contained to the centre of the development therefore the majority of the overshadowing will fall onto the rooftop and onto the street. This has been demonstrated in amended shadow diagrams which were submitted with the s.96 application. The impact onto the southern property remains substantially the same to what was approved. In regards to overshadowing from the development itself to the lower levels of the southern property, this impact was considered as part of the development application. While some of the lower levels will be overshadowed, this was anticipated, particularly as the site and surrounding sites are located in a transitioning area. The proposal should not impact on the sunlight that is received to units at 3-9 Church Avenue as the development is located to the south west of the buildings. There is partial overshadowing in the afternoon hours to the open

space located to the south of 3-9 Church Avenue however considering the size of the space, this is acceptable.

The point raised that the development will be blocking views of the sky has been noted however as the area is undergoing redevelopment, it was anticipated that high density development was to replace the existing industrial stock therefore retention of sky views cannot be accommodated.

- *The proposed development is not consistent with the immediate surrounding development*

Comment: Concern is raised that the approved and amended proposal is not consistent with the immediate surrounding development, particularly related to storey height. The immediate surrounding development to the east and west has a maximum storey height of 7-9 metres however the approved development approved a storey height of 10 and 11 storeys. While this is not consistent with the direct neighbouring sites, the proposal continues to be lower than the maximum building height of 44 metres for this area as well as is lower than the approved development at 13A Church Avenue and at 214-220 Coward Street. The size of the site has placed constraints on the development therefore the need to go higher and have reduced setbacks.

- *Loss of privacy from the development*

Comment: The amended proposal has made a few modifications to the eastern and northern facades. The eastern façade now includes smaller window sizes while the north-facing units on Levels 1 to 3 have incorporated privacy screens to prevent any direct overlooking into the neighbouring properties. The overall visual privacy concerns were addressed as part of the original development application.

- *Car parking and traffic generation as a result of the development and the number of people moving into Mascot*

Comment: The amended proposal will reduce the number of vehicles accommodated on the site from 70 cars to 55 cars. This is to comply with the ADG and RMS rates that are applicable to the site. The site is in close proximity to Mascot Station and to commercial development therefore it is anticipated that some of the residents of the development would walk or utilise public transport. It is acknowledged that there will be more people moving into the area however this was anticipated when Council set its density controls for the precinct.

- *Boundary impact between the subject site and the site to the east*

Comment: Concern is raised in regard to the side setback along the eastern side of the development. The objector has requested that the side setback be expanded greater as the additional size creates compounding issues. Other than material change and window changes, the eastern elevation has not been modified and retains its approved built form. The impacts from the reduced side setbacks were originally assessed in the development application and therefore the impacts are acceptable. The amended proposal demonstrates reduced window sizes to prevent any overlooking onto the neighbouring property while still maintaining appropriate solar amenity.

- *Impact of construction onto surrounding properties- asbestos and vibration*



Comment: Concern is raised that during construction, the existing building may contain asbestos. Additionally, the construction and excavation of the development will cause nuisance to the surrounding development. Appropriate conditions had been included in the original consent relating to appropriate disposal of asbestos and construction management of the site. The consent also includes conditions relating to dilapidation reports.

- *Demographic of people moving into the area will create crime*

Comment: The demographic of the people moving into the area and the crime involved is outside the scope of this application.

- *Reduction in property values*

Comment: Concern is raised that the approved and proposed development will reduce the property value of the surrounding development. This is initially as a result of the height and potential view loss proposed. Property values fall outside the scope of the development however the height and view loss implications have been discussed in greater detail in the report.

- *Insufficient infrastructure to manage increase*

Comment: This issue was considered as part of the original development application. Council has plans to widen John Street along its northern side therefore this was considered in the original development application. Mascot Station is an important infrastructure addition to the area and is heavily utilised by the general public. Additionally, works are being undertaken along Bourke Street and Gardeners Road relating to WestConnex which will provide infrastructure improvements in the area.

- *Lack of green space requirement within Mascot Station Precinct*

Comment: The amount of green space within the Mascot Station Precinct falls outside the scope of this application however the site is in close proximity to the proposed Linear Park which is to be an open space area for the residents and workers to enjoy.

## **Section 96(2)(3) Modification Considerations**

*Section 96(2)(3) of the Environmental Planning and Assessment Act 1979 states that "In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application."*

An assessment of the application has been carried out under the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered.

- a) ***Section 79(C)(1)(a) the provisions of any Environmental Planning Instrument and Development Control Plan and any other matters prescribed by the Regulations.***

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by an amended BASIX Certificate No. 788903M prepared by Certified Energy committing to environmental sustainable measures.

#### State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land

The provisions of SEPP No. 55 were considered within the original development application. There is no change to the excavation and remediation on the site and therefore SEPP No. 55 has been satisfied.

#### State Environmental Planning Policy No. 65 – Quality Design for Residential Apartment Buildings

The original development application was approved under State Environmental Planning Policy 65- Design Quality of Residential Flat Development and the Residential Flat Design Code (RFDC) and the proposal was considered satisfactory. The SEPP was amended on 17 July 2015 and applied to applications to modify a development consent. An assessment of the proposed modification against the ADG requirements are provided below.

#### **Apartment Design Guide**

The proposal has now been assessed against the Apartment Design Guide (ADG). An assessment against the SEPP and ADG provisions has been prepared by Edifice Design. The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

Clause	Design Criteria	Comments	Complies
3B Orientation	<p><b>Objective 3B-1</b> Building types and layouts respond to the streetscape and site while optimising solar access within the development</p> <p><b>Objective 3B-2</b> Overshadowing of neighbouring properties is minimised during mid winter</p>	<p>The approved development is slightly higher than the surrounding sites which have a 8-9 storey height limit. The site to the south has a 14 storey height limit which is significantly higher the subject development. Overshadowing of the approved and proposed development onto the southern property has been considered and is still compliant.</p>	Yes
3C Public Domain	<p><b>Objective 3C-1</b> Transition between private and public domain is achieved without compromising safety and security</p> <p><b>Objective 3C-2</b> Amenity of the public domain is retained and enhanced</p>	<p>The entrance lobby off John Street remains unaltered.</p> <p>The amenity of the public Domain to the south of the site along John Street remains unaltered from the approved</p>	Yes

		development. Road widening of John Street continues to apply.							
3D- Communal and Public Open Space	<p><b>Objective 3D-1</b> An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping</p> <p><u>Design Criteria:</u></p> <ul style="list-style-type: none"> <li>• Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)</li> <li>• Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)</li> </ul> <p><b>Objective 3D-2</b> Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p> <p><b>Objective 3D-3</b> Communal open space is designed to maximise safety</p> <p><b>Objective 3D-4</b> Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood</p>	The amended proposal provides a total of 308.98sqm which equates to 27.4% which is compliant with the minimum requirement under the ADG. The communal open space continues to be distributed on the ground and rooftop area. The communal open space on the rooftop will receive direct sunlight for a minimum of 2 hours.	Yes						
3E- Deep Soil zones	<p><b>Objective 3E-1</b> Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality</p> <p><u>Design Criteria:</u></p> <ul style="list-style-type: none"> <li>• Deep soil zones are to meet the following minimum requirements:</li> </ul> <table border="1"> <tr> <td>Site area</td> <td>Minimum dimension s</td> <td>Deep soil zone (% of site area)</td> </tr> <tr> <td>less than 650m2</td> <td>-</td> <td></td> </tr> </table>	Site area	Minimum dimension s	Deep soil zone (% of site area)	less than 650m2	-		The amount of deep soil proposed has not been modified from the approved development. The basement continues to be located to the edge of the boundaries. Therefore this is an existing non-compliance.	Existing non-compliance
Site area	Minimum dimension s	Deep soil zone (% of site area)							
less than 650m2	-								

	<table><tr><td>650m2 - 1,500m2</td><td>3m</td><td rowspan="3">7%</td></tr><tr><td>greater than 1,500m2</td><td>6m</td></tr><tr><td>greater than 1,500m2 with significant existing tree cover</td><td>6m</td></tr></table>	650m2 - 1,500m2	3m	7%	greater than 1,500m2	6m	greater than 1,500m2 with significant existing tree cover	6m							
650m2 - 1,500m2	3m	7%													
greater than 1,500m2	6m														
greater than 1,500m2 with significant existing tree cover	6m														
3F- Visual Privacy	<p><b>Objective 3F-1</b></p> <p>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy</p> <p><u>Design Criteria</u></p> <p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><td>Building height</td><td>Habitable rooms and balconies</td><td>Non-habitable rooms</td></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p> <p><b>Objective 3F-2</b></p> <p>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<p>The amended proposal has provided the following setbacks along the northern side of the site. The western, southern and eastern boundary setbacks have not changed from the approved development.</p> <p>The northern setbacks have been reduced and now proposes the following:</p> <ul style="list-style-type: none"><li>• Ground: 8.2m to 11.1m</li><li>• 1<sup>st</sup>-3<sup>rd</sup> level: 4m-7.5m (balconies); 6.127m to 10.163m (units)</li><li>• 4<sup>th</sup> to 7<sup>th</sup> level: 6.127m- 7.5m (balconies); 9.58m- 10.163m (units)</li><li>• 8<sup>th</sup> level: 9.58m (balcony); 11m- 14.5m (units)</li><li>• 9<sup>th</sup> level: 10.63m (balcony); 10.63m to 14.51m (units)</li><li>• 10<sup>th</sup> level: 10.63m- 11.44m (unit)</li></ul>	<b>No – Refer to Note 1</b>
Building height	Habitable rooms and balconies	Non-habitable rooms													
up to 12m (4 storeys)	6m	3m													
up to 25m (5-8 storeys)	9m	4.5m													
over 25m (9+ storeys)	12m	6m													

	from habitable rooms and private open space		
3H- Vehicle Access	<b>Objective 3H-1</b> Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	Vehicular access has not been modified from the approved development.	N/A
3J- Bicycle and Car Parking	<b>Objective 3J-1</b> Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas	The car parking rates are in accordance with the RMS Guide to Traffic Generating Developments due to its proximity to Mascot Station. The proposed 55 car parking spaces comply with the required amount of spaces and this is further discussed in Part 3A below.	Yes
4A- Solar and daylight access	<b>Objective 4A-1</b> To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space  <u>Design Criteria</u> <ul style="list-style-type: none"> <li>• Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter</li> <li>• In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter</li> <li>• A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter</li> </ul>	The amended proposal will result in a total of 39 of the 52 apartments receiving at least 2 hours of sunlight. This equates to 75% therefore continues to comply with the minimum number of units requiring sunlight at mid-winter. The POS of all these units receive direct sunlight.  14 of the 52 units receive no direct sunlight at mid-winter which results in 12%. This is consistent with the ADG requirement.	Yes
4B- Natural Ventilation	<b>Objective 4B-1</b> All habitable rooms are naturally ventilated  <b>Objective 4B-3</b> The number of apartments with natural cross ventilation is Maximised to create a	33 out of the 52 apartments receive natural ventilation which results in 63%.	Yes

	<p>comfortable indoor environment for residents</p> <p><u>Design Criteria:</u></p> <ul style="list-style-type: none"><li>• At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</li><li>• Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</li></ul>														
4C- Ceiling Heights	<p><b>Objective 4C-1</b> Ceiling height achieves sufficient natural ventilation and daylight access</p> <p><u>Design Criteria:</u> Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1"><tr><td colspan="2">Minimum ceiling height for apartment and mixed use buildings</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table> <p>These minimums do not preclude higher ceilings if desired</p>	Minimum ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<p>The development proposes 3.05m FFL to FFL to allow for 2.7m height FFL to FCL and room for services. The ceiling height is acceptable. There is no retail proposed.</p>	Yes
Minimum ceiling height for apartment and mixed use buildings															
Habitable rooms	2.7m														
Non-habitable	2.4m														
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area														
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope														
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use														

4D- Apartment Size and Layout	<p><b>Objective 4D-1</b> The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</p> <p><u>Design Criteria:</u></p> <ul style="list-style-type: none"><li>• Apartments are required to have the following minimum internal areas</li></ul> <table><tr><td>Apartment type</td><td>Minimum internal area</td></tr><tr><td>Studio</td><td>35m2</td></tr><tr><td>1 bedroom</td><td>50m2</td></tr><tr><td>2 bedroom</td><td>70m2</td></tr><tr><td>3 bedroom</td><td>90m2</td></tr></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m2 each A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m2 each</p> <ul style="list-style-type: none"><li>• Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</li><li>• Habitable room depths are limited to a maximum of 2.5 x the ceiling height</li><li>• In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</li></ul> <p><b>Objective 4D-3</b> Apartment layouts are designed to accommodate a variety of household activities and needs</p> <p><u>Design Criteria:</u></p> <ul style="list-style-type: none"><li>• Master bedrooms have a minimum area of 10m<sup>2</sup> and</li></ul>	Apartment type	Minimum internal area	Studio	35m2	1 bedroom	50m2	2 bedroom	70m2	3 bedroom	90m2	<p>The proposed unit sizes range from the following:</p> <p>1 bed unit: 50.02sqm to 70.8sqm 2 bed unit: 75sqm to 88.82sqm 3 bed unit: 103.71sqm to 103.74sqm</p> <p>The two and three-bedroom units accommodate the additional floor area as they include a secondary bathroom.</p> <p>All habitable rooms continue to have a window that is not less than 10% and all kitchens continue to be located within 8 metres from a window or POS.</p> <p>The dimensions of the bedrooms for both master and regular comply with the sizes provided within the ADG and the width of the apartments are acceptable.</p>	Yes
Apartment type	Minimum internal area												
Studio	35m2												
1 bedroom	50m2												
2 bedroom	70m2												
3 bedroom	90m2												

	<p>other bedrooms 9m<sup>2</sup> (excluding wardrobe space)</p> <ul style="list-style-type: none"><li>• Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</li><li>• Living rooms or combined living/dining rooms have a minimum width of:<ul style="list-style-type: none"><li>▪ 3.6m for studio and 1 bedroom apartments</li><li>▪ 4m for 2 and 3 bedroom apartments</li></ul></li></ul>																	
4E- Private Open Space and Balconies	<p><b>Objective 4E-1</b> Apartments provide appropriately sized private open space and balconies to enhance residential amenity</p> <p><u>Design Criteria:</u></p> <p>All apartments are required to have primary balconies as follows</p> <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio apartments</td><td>4m2</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m2</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m2</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m2</td><td>2.4m</td></tr></table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p>	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m2	-	1 bedroom apartments	8m2	2m	2 bedroom apartments	10m2	2m	3+ bedroom apartments	12m2	2.4m	<p>All private open space areas continue to comply with the ADG regulations as the following sizes apply:</p> <p>1 bed unit: 12.09sqm-42.3sqm 2 bed unit: 10sqm-32.17sqm 3 bed unit:13.24sqm</p>	Yes
Dwelling type	Minimum area	Minimum depth																
Studio apartments	4m2	-																
1 bedroom apartments	8m2	2m																
2 bedroom apartments	10m2	2m																
3+ bedroom apartments	12m2	2.4m																
4F- Common circulation spaces	<p><b>Objective 4F-1</b> <i>Common circulation spaces achieve good amenity and properly service the number of apartments</i></p> <p><u>Design Criteria:</u></p> <ul style="list-style-type: none"><li>• 10 storeys and over, Maximum apartments sharing a single lift is 40.</li></ul>	<p>The development continues to have two lifts to accommodate the development therefore it complies.</p>	Yes															
4G- Storage	<p><b>Objective 4G-1</b></p> <p>Adequate, well designed storage is provided in each apartment</p>	<p>All units continue to have storage within the units and within the basement. Condition No. 141(c) continues to comply in regards to allocation of storage within the</p>	Yes, conditioned															



	<p><u>Design Criteria:</u></p> <table><tr><td>Dwelling type</td><td>Minimum area</td></tr><tr><td>Studio apartments</td><td>4m2</td></tr><tr><td>1 bedroom apartments</td><td>8m2</td></tr><tr><td>2 bedroom apartments</td><td>10m2</td></tr><tr><td>3+ bedroom apartments</td><td>12m2</td></tr></table> <p>This is in addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>At least 50% of the required storage is located within apartment</p>	Dwelling type	Minimum area	Studio apartments	4m2	1 bedroom apartments	8m2	2 bedroom apartments	10m2	3+ bedroom apartments	12m2	basement. The condition has been amended to ensure that compliance with the minimum storage areas has been met.	
Dwelling type	Minimum area												
Studio apartments	4m2												
1 bedroom apartments	8m2												
2 bedroom apartments	10m2												
3+ bedroom apartments	12m2												
4H- Acoustic Privacy	<p><b>Objective 4H-1</b></p> <p>Noise transfer is minimised through the siting of buildings and building layout</p>	Acoustic privacy continues to be similar to approved development. Amended acoustic report has been provided.	N/A										
4K- Apartment Mix	<p><b>Objective 4K-1</b></p> <p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p> <p>The apartment mix is appropriate, taking into consideration:</p> <ul style="list-style-type: none"><li>the distance to public transport, employment and education centres</li><li>the current market demands and projected future demographic trends</li><li>the demand for social and affordable housing different cultural and socioeconomic groups</li></ul>	<p>The amended proposal now includes a unit mix breakdown as follows:</p> <p>1 bed unit: 16/52 = 31%</p> <p>2 bed unit: 34/52 = 65%</p> <p>3 bed unit: 2/52 = 4%</p> <p>The unit mix breakdown is appropriate as it provides a mixture of primary one and two-bedroom units with the two highest levels being three-bedroom. The apartment is in close proximity to Mascot Station and employment land and therefore the unit mix is appropriate.</p>	Acceptable										
4L- Ground Floor Apartments	<p><b>Objective 4L-1</b></p> <p>Street frontage activity is maximised where ground floor apartments are located</p>	There is no change to the ground floor street frontage.	N/A										
4M- Facades	<p><b>Objective 4M-1</b></p> <p>Building facades provide visual interest along the street while respecting the character of the local area</p>	The approved façade has been maintained with minor changes to the material and setbacks along the eastern and northern sides of the buildings. The material	Yes										

		and colours proposed continue to be appropriate with the general streetscape.	
4O- Landscape Design	<p><b>Objective 4O-1</b> Landscape design is viable and sustainable</p> <p><b>Objective 4O-2</b> Landscape design contributes to the streetscape and amenity</p>	<p>The landscaped area has not been significantly altered from the approved development. Amended landscape plans have been provided demonstrating the minor modifications to the ground floor and communal rooftop area.</p> <p>The landscaped area located at the front of the site is not proposed to be modified as part of this application.</p>	Yes
4Q- Universal Design	<p><b>Objective 4Q-1</b> Universal design features are included in apartment design to promote flexible housing for all community members</p> <p><b>Objective 4Q-2</b> A variety of apartments with adaptable designs are provided</p> <p><b>Objective 4Q-3</b> Apartment layouts are flexible and accommodate a range of lifestyle needs</p>	<p>10 of the units will be adaptable units to cater for disabled persons.</p> <p>There is a good unit mix proposed of 1 and 2-bedroom units with two 3 bedroom units also proposed.</p> <p>All units provide storage and some of the units provide bathtubs. Family friendly units are provided in the BBDCP 2013 section below.</p>	Yes
4U- Energy Efficiency	<p><b>Objective 4U-1</b> Development incorporates passive environmental design</p> <p><b>Objective 4U-2</b> Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer</p> <p><b>Objective 4U-3</b> Adequate natural ventilation minimises the need for mechanical ventilation</p>	<p>A majority of the apartments are either north or east facing to allow for adequate solar access to be received to the units.</p> <p>The amended proposal provides natural ventilation that is compliant.</p>	Acceptable
4W- Waste Management	<p><b>Objective 4W-1</b> Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents</p>	<p>The location of the off-street garbage and waste holding rooms continue to be maintained and is</p>	Yes

		appropriate for the development.	
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### **Note 1 – Setbacks and Building Separation**

Part 3F- Visual Privacy of the ADG specifies controls relating to the setback and building separation for developments over certain storeys. The amended development provides the following breakdown of distance from the northern boundary:

- Ground: 8.2m to 11.1m
- 1st-3rd level: 4m-7.5m (balconies); 6.127m to 10.163m (units)
- 4th to 7th level: 6.127m- 7.5m (balconies); 9.58m-10.163m (units)
- 8th level: 9.58m (balcony); 11m- 14.5m (units)
- 9th level: 10.63m (balcony); 10.63m to 14.51m (units)
- 10th level: 10.63m- 11.44m (unit)

The approved development originally approved amended plans that were submitted as part of the application requiring greater private open space. This resulted in balcony depths being extended by 1 metre to the northern boundary. The site has a 5 metre separation between the balconies on Level 1 to 4 and the northern boundary line. This was acceptable as the site to the north (13B Church Avenue) was currently undeveloped and will be redeveloped in the future to comprise of greater setbacks between the common boundary between the two sites.

This continues to be the case as the development to the north remains undeveloped. The reduction in the northern boundary setback predominantly relates to the location of the balconies. This is to allow flexibility in the unit sizes and orientation as a result of the extra units while maintaining the required private open space for each unit. To address visual privacy concerns from these levels onto the northern site, the plans demonstrate that operable privacy screens are proposed on Levels 1-3 to reduce the amount of overlooking onto the adjoining site and vice versa. Therefore the building separation and setbacks proposed are acceptable.

### **Botany Bay Local Environmental Plan 2013**

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

<b>Principal Provisions of BBLEP 2013</b>	<b>Compliance Yes/No</b>	<b>Comment</b>
Landuse Zone	Yes	The site is zoned B4 Mixed Use zone.
Is the proposed use/works permitted with development consent?	Yes	The application for a residential flat building and basement car park is permissible subject to Council's consent.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives of the B4 Mixed Use zone:

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		<ul style="list-style-type: none"> <li>- To provide a mixture of compatible land uses;</li> <li>- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</li> </ul>
<p>What is the height of the building?</p> <p>Does the height of the building comply with the maximum building height?</p>	Yes	<p>The maximum permissible height is 44 metres in accordance with the BBLEP 2013.</p> <p>The development application approved a height of 35.1m.</p> <p>The amended proposal will have a maximum height of 37.63m.</p> <p>The amended height continues to comply with the maximum LEP height requirement.</p>
<p>What is the proposed FSR?</p> <p>Does the FSR of the building comply with the maximum FSR?</p>	<b>No – Refer to Note 2</b>	<p>The maximum permissible FSR for the subject site is 3.2:1 (3600sqm).</p> <p>The development approved a departure to the FSR with 3.9:1 (4,383.98sqm).</p> <p>The amended proposal will slightly increase the overall FSR by 17.04sqm to have a total FSR of 3.92:1 (4,401.02sqm).</p> <p>A justification of the departure in the FSR has been provided with the application and is discussed in detail below.</p>
<p>Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m<sup>2</sup> min and maximum height of 22 metres and maximum FSR of 1.5:1?</p>	N/A	<p>The subject site is not located within an R3 or R4 zone.</p>
<p>Is the site within land marked “Area 3” on the FSR Map?</p> <p>If so, does it comply with the sliding scale for FSR in Clause 4.4A?</p>	N/A	<p>The subject site is not located within Area 3 of the FSR map.</p>

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Is the land affected by road widening? (Clause 5.1 – Relevant Acquisition)	Yes	Road widening has been considered in the original application. There is no change to this.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not heritage listed nor is it within a heritage conservation area.
The following provisions in Part 6 of BBLEP apply– <ul style="list-style-type: none"> <li>• 6.1 – Acid Sulfate Soils</li> <li>• 6.2 – Earthworks</li> <li>• 6.3 – Stormwater Management</li> <li>• 6.8 – Airspace Operations</li> <li>• 6.9 – Development in areas subject to aircraft noise</li> <li>• 6.16 – Design Excellence</li> </ul>	N/A	<p>Clauses 6.1, 6.2, 6.3, 6.8 and 6.9 have been considered in the original report and there are no changes proposed as part of the modifications.</p> <p>In regards to Clause 6.16, the proposal is similar in design excellence to what was approved in the original proposal with some slight modifications to the external façade.</p>

## Note 2 – Departure to the FSR development standard

The proposed modification seeks to increase the FSR of the development by 17.04sqm which will increase the approved FSR from 3.9:1 (4,383.98sqm) to 3.92:1 (4,401.02sqm). As the application is a modification application, the applicant was not required to provide a Clause 4.6 variation to justify the FSR of the development, however the applicant has provided justification to argue the additional bulk of the development. The justification is provided below:

*'In the NSW Land and Environment Court case of Gann & Anor v Sutherland Shire Council [2008], the Court held that there is power to modify a development application where the modification would result in the breach of development standards.*

*The Court took the view that development standards within an LEP did not operate to prohibit the grant of consent if they were not complied with (and no objection pursuant to SEPP No. 1 had been lodged). Indeed, the Courts have stated that SEPP 1 cannot ever be used at Section 96 stage, as SEPP 1 expressly only applies 'where a development application is made', not when a modification application is made. The same would apply to Clause 4.6 variations, which expressly only regulates whether 'development consent' may be granted, not whether an existing consent may be modified. Notwithstanding, the Court has consistently held that despite a SEPP No. 1 Objection not being required (or Clause 4.6 justification under BBLEP 2013) Section 96(3) of the EP&A Act still requires the consent authority to take into consideration those matters referred to in Section 79C.*

*Therefore, while a clause 4.6 variation is not required, we consider that the minor increase of 17.04sqm being less than 0.02:1 in FSR results in no additional considerations or material matters. As such we consider the variation request which was granted as part of approval for DA14/180 to have addressed all relevant concerns and matters.'*

In the original assessment of the proposal for FSR, it was found that the proposal is consistent with the underlying objectives of the standard which identified that:

- *The proposal will create an appropriate built form which is consistent with surrounding high density residential/mixed use developments whilst the proposal meets Council's height control;*
- *The overshadowing created by the development still maintains at least three hours of sunlight to neighbouring properties on June 21;*
- *The apartments will comprise of high internal amenity with large room sizes, sufficient solar access and natural ventilation, privacy and access to communal areas;*
- *The building addresses the desired future character of the Mascot Station Town Centre Precinct and the B4 Mixed Use zone; and*
- *The site is ideally located to accommodate the proposed development as it has excellent access to public transport, is located in a position that encourages walking and cycling to surrounding employment, educational, entertainment and open space.*

It is considered that the increase in FSR and the modification of the proposal continues to be consistent with the objectives of the B4 Mixed Use zone and the development standard. The additional 17.04sqm is miniscule considering the size of the site and will not detract from the visual amenity of the streetscape. The proposed FSR is consistent with surrounding development within Mascot Station which have been approved with an FSR ranging from 2.08:1 to 4.5:1. As the proposed modification does not surpass the maximum height requirement of 44 metres within the BBLEP 2013 and distributes the amount of FSR within the top two levels of the development, the proposed modifications are acceptable.

### Botany Bay Development Control Plan 2013

The applicable sections of the BBDCP 2013 that relate to the proposed modification to the approved development are provided below:

#### *Part 3A – Car Parking and Access*

Control C2 of Part 3A.2 of the BBDCP 2013 requires that any development comply with the car parking rates. The approved development approved a total of 70 car parking spaces. The amended proposal has reduced that figure to 55 car parking spaces to comply with the parking rates under the ADG as the original proposal was approved under the RFDC and BBDCP 2013 car parking rates at the time. The table below demonstrates a breakdown of the approved and proposed car parking rates applicable for this proposal:

<b>BBDCP car parking rate (BBDCP 2013) (at time of approval)</b>	<b>Approved car parking</b>	<b>ADG car parking rate</b>	<b>Proposed car parking</b>

<b>C2</b> Multi dwelling housing/residential flat building <ul style="list-style-type: none"> <li>• 1 space/studio or one bedroom dwelling (10 required);</li> <li>• 2 spaces/two (2) or more bedroom dwellings (58 required);</li> <li>• 1 designated visitor parking space/7 dwellings (MSP) (6 required)</li> </ul> <p>Total required: 74 car spaces</p>	A total of 70 car parking spaces were approved as follows: <ul style="list-style-type: none"> <li>• 10 x studio/one bedroom = 10 parking spaces</li> <li>• 29 x 2 bedroom = 58 parking spaces</li> <li>• 2 x visitor spaces (1 shared visitor/car wash bay parking space, 1 shared visitor/loading bay) provided.</li> </ul>	Car parking is based on the RMS Traffic Generating Guide <p><u>Residential</u></p> <ul style="list-style-type: none"> <li>• 0.6 space x 16 1 bed unit = 9.6</li> <li>• 0.9 space x 34 2 bed unit = 30.6</li> <li>• 1.4 space x 5 3 bed unit = 7</li> <li>• Sub-total: 47.2</li> <li>• 1 visitor space / 7 dwellings = 7.8</li> </ul> <p>Total Residential: 55</p>	The two basement levels provide 55 car parking spaces which complies with the ADG requirements. The car parking spaces have been allocated to units, as demonstrated on the plans, and must comply with the car parking conditions within the consent.
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In addition to the breakdown that has been provided above, the applicant has provided a traffic report as well as a travel plan report that has been prepared by ML Traffic Engineers. The impact of traffic generation has not been increased as a result of the amended proposal but rather has been reduced. The travel plan concludes that the proposed development has 'excellent access to public transport and pedestrian links with close proximity to bus and train services and that the site is easily accessible by sustainable public transport modes, especially for visitors.'

A carpark certification report also accompanies the application which demonstrates that the car park area, driveway into and out of the site and internal ramps continue to be compliant with the requirements under the Australian Standards.

As the proposal complies with the car parking rate required under the ADG and continues to have appropriate vehicular access into and within the basement car parking levels, the amended proposal is acceptable.

#### *Part 3N – Waste Minimisation and Management*

The waste management plan that was submitted with the original development application continues to comply as there is no changes proposed with the waste generated on site and the process of removal and maintenance during the ongoing use of the residential development.

#### *Part 4C – Residential Flat Building*

The modifications to the approved development have been assessed against Part 4C of the BBDCP. The relevant controls within this chapter have been elaborated upon in the table below:

4C.2.2 Streetscape Presentation	Compatible with bulk & scale of adjoining residential developments; Max building length 24m; Walls >12m must be articulated; Street presentation.	The height of the development is inconsistent with what has been approved to the east and the west which is approximately 7-9 storeys, however the	Acceptable
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		<p>development is consistent with what has been approved at 214-220 Coward Street and at 13A Church Avenue. The additional height has been explored and discussed in the report above.</p> <p>The building length of the development remains unaltered.</p> <p>Street presentation has been retained.</p>	
4C.2.4 Landscaped Area and Deep Soil Planting	<p>Min Landscaped Area: 35%</p> <p>Max hard landscaped area: 20%</p>	<p>Landscaped area = 391.5m<sup>2</sup> (40%)</p> <p>Hard Landscaped area = 68m<sup>2</sup> (7%)</p>	N/A
4C.2.6 Setbacks	<p>Front setback: Match setback of adjoining, but must be minimum of 3m or 4m to classified road</p>	<p>The front setback along John Street is not being modified as part of this application. The front setback is as per approval.</p>	N/A
4C.4.1 Dwelling Mix & layout	<p>C1 Developments with 10 or more apartments to provide a range of sizes including studio, 1, 2, 3 bedrooms</p> <p>C2 Developments with more than 10 apartments, 25% max no. of combined studio and 1bed units</p> <p>C1 Dwellings with 3 or more bedrooms are to have two separate living spaces.</p>	<p>The amended development includes 52 apartments with a mix of one, two and three-bedroom units. The amended unit mix has been broken down as follows:</p> <p>1 bed unit: 16/52 = 31%</p> <p>2 bed unit: 34/52 = 65%</p> <p>3 bed unit: 2/52 = 4%</p> <p>The original development included two, three-bedroom apartments. Neither of these apartments have two separate living spaces however it was considered that the units were acceptable.</p>	<p>Yes</p> <p><b>No – Refer to Note 3</b></p> <p><b>Existing non-compliance</b></p>



4C.4.2 Family Friendly Apartment Buildings	<p>C1 Family apartments are apartments with 2 or more bedrooms.</p> <p>C2 Family apartments are to include a study.</p> <p>C3 Bedrooms are to be large enough for a single bed, desk, and space for playing.</p> <p>C4 Floor surface of entry, dining and kitchen are to be water-resistant. No carpet.</p> <p>C5 Two bathrooms required. Bathtub to be provided in one bathroom.</p> <p>C6 Private open space to be visible from kitchen.</p> <p>C7 Entry and corridors to permit room for toys etc.</p> <p>C8 ADG sets out storage rates. Storage room is to be located near the entry.</p>	The original approval did not approve units with the Family Friendly controls as these were considered and adopted at a later amendment to the DCP. However, as the proposal does carry out significant internal changes to the units to reduce the unit size, a number of the family friendly controls could be utilised such as water-resistant surfaces, POS to be visible from the kitchen, and storage rates. This has been conditioned in the consent.	Yes, conditioned
4C.4.3 Internal Circulation	<p>Provide multiple cores.</p> <p>More than 4 storeys require elevators.</p>	The development continues to have one core with two lifts to service the 52 apartments.	Yes

### Note 3 – Unit Mix

In accordance with Part 4C.4.1 and 9A.4.4.7 of the BBDCP 2013, the total number of studio and one-bedroom apartments must not exceed 25% of total apartments within the development. The amended proposal increases the number of one-bedroom units from 25.6% (as approved) to 31% with the number of two-bedroom units at 65% and three-bedroom units at 4%. The modification is a result of an overall increase in the number of units that can be accommodated within the existing bulk of the development by reducing the unit sizes to align with the ADG. The result is a minor increase in one-bedroom units which is acceptable considering the location of the site to Mascot Station and the neighbouring commercial centre to the south of Coward Street. The original development was approved with a total of one-bedroom units and the amended proposal will have a total of 16 one-bedroom units. The additional units and the unit mix will not have a significant impact on the surrounding development.

### S.79C(1)(a)(iv) - Provisions of regulations

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

### **S.79C(1)(b) - Likely Impacts of Development**

The proposed modification relates to increase the number of residential apartments, reduce the number of car parking to align the proposal with the ADG, increase the height of the development by 2.53 metres and modifications to conditions, and as such, it is considered that the proposed amendments will have no significant adverse environmental, social or economic impacts on the locality. The original application addressed any impact to the natural and built form and the social and economic impact to the Botany area. The additional height in regard to solar amenity and view loss has been considered in the report above. The proposed changes to the approved development will not result in a significant change to the intensity of the site, from that which was originally envisaged by Council in the approved development and the BBDCP 2013 controls.

### **S.79C(1)(c) - Suitability of the site**

The proposed modifications do not alter previous conclusions regarding site suitability.

### **S.79C(1)(d) - Public Submissions**

In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the development application was notified and advertised for 14 days from 10 May to 24 May 2017. Five (5) objections were received and these have been discussed in greater detail in the report above.

### **S.79C(1)(e) - Public interest**

The proposed amendment will have no significant adverse impact upon the public interest, streetscape or onto adjoining properties. Initially concerns relating to the height of the development in contrast to the surrounding approved residential flat buildings was considered in the original development application and the bulk of the approved development was in consideration to the size of the site and the inability for the applicant/owner to acquire the site to the north which remains isolated. The feasibility of the development relied on the additional height and FSR. While the height remains compliant, the additional 17.04sqm is not considered to create any negative impact.

### **Section 94 Contributions**

The Section 94 Contributions, as calculated within the Section 94 Contributions Plan 2016, for the proposed three new units are calculated as follows:

PROPOSED	Proposed	Contribution per dwelling	Total payable
1 bed	16	\$9,645.44	\$154,327.04
2 bed	34	\$15,869.98	\$539,579.32
3 bed	2	\$20,740.15 (capped at \$20,000)	\$40,000.00

TOTAL	13		\$733,906.36
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Therefore, the Section 94 Contributions for the amended development is **\$733,906.36**. A breakdown of the figure is provided in the condition of consent. The applicant is to pay an indexed rate of the contribution based on the timing of the payment.

## Conclusion

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The Section 96(2) Application seeks to modify Development Consent No. 14/180 to increase the number of residential apartments from 39 to 52 units and reduce the number of car parking from 70 spaces to 55 spaces to align the proposal with the Apartment Design Guide, increase the height of the development by 2.53 metres to 47.78 AHD and modifications to conditions at 6-8 John Street, Mascot.

On balance, the proposed changes will not result in any adverse impacts on the local road network or on adjoining development other than a slight view loss. The increased population of the site results in a minor increase in GFA of 17.04sqm and results in the reduction of some of the units to accommodate the 13 additional units. The bulk of the development remains substantially the same with the exception of the height and reduced building setback along the northern boundary which have been justified in the report above.

On this basis, the proposed modifications are acceptable and the application is recommended for approval.

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## Attachment

### Schedule 1 – Conditions of Consent

Premises: 6-8 John Street, Mascot

DA No: DA-14/180/02

### SCHEDULE OF CONSENT CONDITIONS

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

Drawing No.	Author	Date Received
DA01 Rev <del>A</del> <b>B</b> - Aerial 3D Modelling		<del>Dated 21 July 2014;</del> <del>Received 5 August 2014</del> Dated 20 January 2017; Received 31 January 2017
DA02 Rev A- 3D Modelling		<del>Dated 21 July 2014;</del> <del>Received 5 August 2014</del> Dated 20 January 2017; Received 31 January 2017

DA03 Rev <del>A B</del> Site Analysis Plan	Edifice Design Pty Ltd	<del>Dated 21 July 2014;</del> <del>Received 5 August 2014</del> Dated 20 January 2017; Received 31 January 2017
DA04 Rev <del>A B</del> Design Concepts		<del>Dated 21 July 2014;</del> <del>Received 5 August 2014</del> Dated 20 January 2017; Received 31 January 2017
DA05 Rev <del>A B</del> Site Elevation and Site Section		<del>Dated 21 July 2014;</del> <del>Received 5 August 2014</del> Dated 20 January 2017; Received 31 January 2017
DA06 Rev <del>B E</del> Basement Level 2 Floor Plan		<del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017
DA07 Rev <del>A E</del> Basement Level 1 Floor Plan		<del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017
DA08 Rev <del>B E</del> Lower Ground Level (Car Park) Floor Plan		<del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017
DA09 Rev <del>B E</del> Ground Level (Podium) Floor Plan		<del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017
DA10 Rev <del>B E</del> Level 1, 2, and 3 (Typical) Floor Plan		<del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017
DA11 Rev <del>A E</del> Level 4 Floor Plan		<del>Dated 21 July 2014;</del> <del>Received 5 August 2014</del> Dated 20 January 2017; Received 31 January 2017
DA12 Rev <del>B C</del> Level 5 Floor Plan		<del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017
DA13 Rev <del>B C</del> Level 6 Floor Plan		<del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017
DA14 Rev <del>B C</del> Level 7 Floor Plan		<del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017
DA15 Rev <del>A D</del> Level 8 Floor Plan		<del>Dated 21 July 2014;</del> <del>Received 5 August 2014</del> Dated 20 January 2017; Received 31 January 2017
DA16 Rev <del>B E</del> Level 9 Floor Plan		<del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del>

		<i>Dated 20 January 2017; Received 31 January 2017</i>
<b>DA16a Rev C- Level 10 Floor Plan</b>		<i>Dated 20 January 2017; Received 31 January 2017</i>
DA17 Rev <b>A C-</b> Roof Plan		<i><del>Dated 21 July 2014;</del> <del>Received 5 August 2014</del> Dated 20 January 2017; Received 31 January 2017</i>
DA18 Rev <b>B E-</b> South Elevation		<i><del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017</i>
DA19 Rev <b>B E-</b> East Elevation		<i><del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017</i>
DA20 Rev <b>B E-</b> North Elevation		<i><del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017</i>
DA21 Rev <b>B E-</b> West Elevation		<i><del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017</i>
DA22 Rev <b>B E-</b> Section A-A		<i><del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017</i>
DA23 Rev <b>A C-</b> Section B-B		<i><del>Dated 21 July 2014;</del> <del>Received 5 August 2014</del> Dated 20 January 2017; Received 31 January 2017</i>
DA24 Rev <b>B D-</b> Section C-C		<i><del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017</i>
DA25 Rev <b>B D-</b> Section D-D		<i><del>Dated 3 July 2015;</del> <del>Received 3 July 2015</del> Dated 20 January 2017; Received 31 January 2017</i>
DA26 Rev <b>A B-</b> Schedule of Colour and Materials		<i><del>Dated 21 July 2014;</del> <del>Received 5 August 2014</del> Dated 20 January 2017; Received 31 January 2017</i>
DA27 Rev <b>A B-</b> Calculation Plan Sheet 1		<i><del>Dated 21 July 2014;</del> <del>Received 5 August 2014</del> Dated 20 January 2017; Received 31 January 2017</i>
DA28 Rev <b>A B-</b> Calculation Plan Sheet 2		<i><del>Dated 21 July 2014;</del> <del>Received 5 August 2014</del> Dated 20 January 2017; Received 31 January 2017</i>
DA43 Rev A - Demolition Plan		<i>Dated 21 July 2014; Received 5 August 2014</i>

L/01 Proposed Landscape Plan (Lower Ground)	A Total Concept Landscape Architects and Swimming Pool Designers	<b><i>Dated 11 June 2014; Received 5 August 2014 Dated 21 December 2016; Received 31 January 2017</i></b>
L/02 Proposed Landscape Plan (Ground/Podium)		
L/03 Proposed Landscape Plan (Level 4)		
L/04 Proposed Landscape Plan (Level 9)		
Ref: 30154- Survey Plan 1/2	Ballenden Surveyors	Dated 3 June 2013; Received 5 August 2014
Ref: 30154- Survey Plan 2/2		

***(DA-14/180/02)***

Reference Document Name	Author	Date Received
Statement of Environmental Effects	Damian O'Toole Town Planning Pty Ltd	Dated July 2014; Received 5 August 2014
<b><i>Statement of Environmental Effects-s.96 application</i></b>	<b><i>Urbis</i></b>	<b><i>Dated 30 January 2017; Received 31 January 2017</i></b>
Clause 4.6 Variation	-	Received 5 August 2014
BASIX Certificate No. <b><i>555575M 788903M</i></b>	<del><b><i>Planning and Infrastructure – NSW Government</i></b></del> <b><i>Certified Energy</i></b>	<del><b><i>Dated 3 July 2014; Received 5 August 2014</i></b></del> <b><i>Dated 13 January 2017; Received 31 January 2017</i></b>
Disability Access Report	Cheung Access	<del><b><i>Dated 23 July 2014; Received 5 August 2014</i></b></del> <b><i>Dated 18 January 2017; Received 31 January 2017</i></b>
Aircraft Noise Impact Assessment	Rodney Stevens Acoustics	Dated 4 July 2014; Received 5 August 2014
<b><i>Acoustic Addendum letter</i></b>	<b><i>Rodney Stevens Acoustics</i></b>	<b><i>Dated 10 January 2017; Received 31 January 2017</i></b>
SEPP 65 – Design Verification Statement	Edifice Design	Dated August 2014; Received 5 August 2014

Carpark, ramp and driveway certification of a proposed mixed use development – <b>Version 1c</b>	ML Traffic Engineers	<del><b>Dated June 2014;</b></del> <del><b>Received 5 August 2014</b></del> <b>Dated December 2016;</b> <b>Received 31 January 2017</b>
Traffic Impact Assessment- <b>Version 2a</b>	ML Traffic Engineers	<del><b>Dated July 2014;</b></del> <del><b>Received 5 August 2014</b></del> <b>Dated December 2016;</b> <b>Received 31 January 2017</b>
Detailed Site Investigation	ESP Environmental Safety Professionals	Dated May 2015; Received 29 May 2015
Preliminary Geotechnical Report	D Katauskas	Dated 8 July 2014; Received 5 August 2014
Registered Quantity Surveyors Cost Report	Washington Brown Quantity Surveyors	Dated 16 June 2014; Received 5 August 2014
Waste Management Plan	Edifice Design	Dated 1 August 2014; Received 5 August 2014
Pedestrian Wind Environment Statement, Ref No. WC024-01F02	Windtech Consultants Pty Ltd	Dated 20 June 2014; Received 5 August 2014
Building Code of Australia Compliance Assessment Report	Peter Dix	<del><b>Dated 16 July 2014;</b></del> <del><b>Received 5 August 2014</b></del> <b>Dated 19 January 2017;</b> <b>Received 31 January 2017</b>
<b>Travel Plan</b>	<b>ML Traffic Engineers</b>	<b>Dated December 2016;</b> <b>Received 31 January 2017</b>

**(DA-14/180/02)**

2. This Consent relates to land in Lot 8 and 9 DP 939729, and as such, building works must not encroach on to adjoining lands or other public places, except as otherwise permitted by this consent.
3.
  - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
  - b) All plumbing stacks, vent pipes and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level;
  - c) All air conditioning units shall be appropriately treated to ensure that they are concealed from view and compliant with Australian Standard AS1668.2;

- d) The basement of the building must be designed and built so that on completion, the basement is a “fully tanked” structure, i.e. it is designed and built to prevent the entry of ground water / ground moisture into the inner parts of the basement car park;
  - e) The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 “Access for People with Disabilities” and Australian Standard AS1428.1 (2001) – Design for Access and Mobility – Part 1 General Requirements for Access – Buildings. This requirement shall be reflected on the Construction Certificate plans; and
  - f) Windows located on the eastern and western elevation of the building are to comply with Part C3 of the BCA.
4. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these conditions Council’s solicitor is required to act on behalf of Council, then Council’s solicitor’s fees and charges shall also be borne by the Applicant.
5. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. **555575M 788903M** dated **3 July 2014 13 January 2017** and received **5 August 2014 31 January 2017** for the development are fulfilled. **(DA-14/180/02)**
- a) Relevant BASIX Certificate means:
    - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
    - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
  - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
6. The consent given does not imply that works can commence until such time that: -
- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
    - i) The consent authority; or,
    - ii) An accredited certifier; and,
  - b) The person having the benefit of the development consent: -
    - i) Has appointed a principal certifying authority; and,
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,



- iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.
7. An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
  8. 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.
  9. New street trees at the pot size specified shall be installed in accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.
  10. Rigid polyethylene sheet type tree root barriers shall be installed alongside the kerb and footpath edge for all new street trees for a depth of 900mm, for 3 metres each side of the tree centre and shall be located 150mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the rootball are not permissible. The Applicant is required to contact Council's Landscape Architect for an inspection of root barriers located within the public domain prior to backfilling and turfing.
  11. Any sub-surface OSD tank or infiltration trench is required to be partially or wholly located underneath the driveway or paved areas to maximize the area available for deep soil, effective and site responsive tree planting and landscaping on the property. If this cannot be achieved the OSD shall cover no more than 50% of the landscape area, be appropriately located to allow effective tree planting and be constructed so that the top of the structure is 1.2m below final surface levels.
  12. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
    - a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
    - b) A concrete hob or haunch shall be constructed at the internal 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.

13. It is a condition of approval that the Applicant must, at no cost or expense to Council:

- a) Dedicate the portion of land for the purpose of John Street road widening. The areas of the land to be dedicated shall be the full length of John Street frontage of the development site and the width measuring from the centreline of John Street, a horizontal distance of 10 metres and as detailed in the Mascot Station Precinct Development Control Plan. The Plan of Dedication shall be lodged with Council prior to the issue of the Construction Certificate and registered with the Department of Lands prior to the issue of the Occupation Certificate. A copy of the registered document shall be submitted for record purposes;
- b) Upgrade the public domain by construction and reconstruction of road pavement, kerb and gutter, footpath, drainage system, street trees, landscaping and any associated works for the John Street frontage of the site at the applicant's expense. All improvements shall be in accordance with specifications and requirements from Council's landscape and engineering sections and the approved civil works shall be constructed and completed to Council's satisfaction prior to the issue of the Occupation Certificate;
- c) Replace all the existing above ground electricity and telecommunication cables to underground cables within the site and road reserve area fronting the site in accordance with the guidelines and requirements of the relevant utility authorities. The applicant shall bear all the cost of the construction and installation of the cables and any necessary adjustment works. These works and payments shall be completed prior to the issue of the Occupation Certificate;
- d) Construct the drainage system from the property to the existing pit in John Street. The construction shall include a new kerb inlet grated pit and all associated works within the road reserve area; and
- e) Provide appropriate and suitable street lighting to a high decorative standard to the street frontage of the site, so to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements.

#### **CONDITIONS IMPOSED BY EXTERNAL AUTHORITIES**

14. The following conditions imposed by Ausgrid are as follows:

- a) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow

Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (eg. whether a substation is required on site).

- b) In general, works to be considered by Ausgrid include, but are not limited to, the following:
  - i) Changes in electrical load requirements
  - ii) Changes to Ausgrid's infrastructure (ie. asset relocations, decommissioning substations etc.)
  - iii) Works affecting Ausgrid's easements, leases and/ or right of ways
  - iv) Changing the gradients of any roads or paths
  - v) Changing the level of roads or foot paths
  - vi) Widening or narrowing of roads
  - vii) Closing roads or laneways to vehicles
  - viii) In all cases Ausgrid is to have 24 hour access to all its assets
- c) The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.

15. The following conditions imposed by Sydney Water are as follows:

Water

- a) The proposed development is located in the Mascot Station Urban Activation precinct;
- b) The 100mm drinking water main in John Street does not comply with the Water Supply Code of Australia (Sydney Water Edition- WSA 03-2002) requirement for minimum sized mains for the scope of development.
- c) The drinking water main needs to be amplified to a 200mm main from point 'A' to point 'B'.
- d) Detailed requirements will be provided at Section 73 phase.

Wastewater

- a) The proposed development is available to connect to the 225mm wastewater main located in John Street

Sydney Water E-Planning

- a) Sydney Water has an email address for planning authorities to submit statutory or strategic planning documents for review. The email address is [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au).

### Sydney Water Servicing

- a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. Make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs. Applications must be made through an authorised Water Servicing Coordinator. For help, either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Land development or telephone 132092.
16. The following conditions have been imposed by Sydney Airport Corporation Limited (SACL). The proposed development is to comply with the following requirements issued by (SACL) dated 4 November 2014. The conditions are as follows:

### Height Restrictions

- a) The property development at 6-8 John Street Mascot, lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulation, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority;
- b) In this instance, Peter Bleasdale, an authorised person of the Civil Aviation Safety Authority (CASA), under Instrument Number: CASA 229/11 in the capacity as Airfield Design Manager has advised that he has “no objection to the erection of the proposed development to a maximum height of ~~45.25~~ **47.78** metres above Australian Height Datum (AHD)”; **(DA-14/180/02)**
- c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc;
- d) Should you wish to exceed ~~45.25~~ **47.78** metres above Australian Height Datum (AHD), a new application must be submitted;
- e) Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the *Civil Aviation (Buildings Control) Regulations Statutory Rules 1988*, No.161;
- f) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations;
- g) SACL advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct;
- h) Information required by Sydney Airport prior to any approval is to include:
  - i) the location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994;
  - ii) the swing circle of any temporary structure/equipment used during construction;

- iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment i.e. construction cranes, intended to be used in the erection of the proposed structure/activity;
- iv) the period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.
- i) Any application for approval containing the above information, should be submitted to SACL at least 35 days prior to commencement of works in accordance with the *Airports (Protection of Airspace) Regulations Statutory Rules 1996*, No.293, which now apply to this Airport;
- j) Under Section 186 of the *Airports Act 1996*, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by up to 50 penalty units;
- k) The height of the prescribed airspace at the site is approximately 51.0 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the *Airports (Protection of Airspace) Regulations Statutory Rules 1996*, No. 293, “a thing to be used in erecting the building, structure or thing would, during the erection of the building, structure or thing, intrude into PANS OPS airspace for the Airport, cannot be approved.”

#### Bird and Obstacle Hazard Management

- l) To minimise the potential for bird habitation and roosting, the applicant must ensure that non-bird attracting plant species are used in any landscape design;
- m) Any landscaping design must minimise the attractiveness for foraging birds i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted.
- n) All trees to be planted shall not be capable of intruding in to the Obstacle Limitation Surface when mature.

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

- o) 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 and for Sydney Airport was endorsed by Air services Australia on 13 March 2009 (Sydney Airport 2029 ANEF).
- p) 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.

17. The following conditions are imposed by the NSW Office of Water and must be complied with:

#### General

- a) An authorisation shall be obtained from NSW Office of Water 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 identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified in the authorisation.

- b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be in contact with groundwater watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for reasonably foreseeable high water table elevations to prevent potential future inundation.
- c) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

#### Prior to excavation

- d) Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken. These measurements should be included in a report provided to the NSW Office of Water in support of the dewatering licence application, along with a schedule and indicative level predictions for the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.
- e) An acid sulfate soil management plan shall be produced in accordance with the ASSMAC Guidelines manual to adequately address any likely risk from the proposal with respect to the disturbance these soils and provided to the NSW Office of Water in support of the dewatering licence application.
- f) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the parameters (e.g. permeability predicted by slug-testing, pump-testing or other means) and calculation method shall be included in the report submitted to the NSW Office of Water in support of the dewatering licence.
- g) A copy of a valid development consent for the project shall be provided in the report to the NSW Office of Water.
- h) Groundwater quality testing shall be conducted on a suitable number of samples using a suitable suite of analytes and completed by a NATA-certified laboratory, with the results collated and certificates appended to a report supplied to the NSW Office of Water. Samples must be taken prior to the substantial commencement of dewatering, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
- i) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (sometimes referred to as "tailwater") must comply with the provisions of the

*Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.

- j) Contaminated groundwater (i.e. above appropriate NEPM 2013 investigation thresholds) shall not be reinjected into any aquifer without the specific authorisation of the NSW Environment Protection Authority (any such discharge would be regulated through a licence issued under the Protection of the Environment Operations Act 1997 [POEO Act]). The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### During excavation

- k) Engineering measures designed to transfer groundwater around the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- l) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- m) Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.
- n) Pumped groundwater shall not be allowed to discharge off-site (e.g. stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- o) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- p) The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.
- q) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety procedures.

#### Following excavation

- r) All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.
18. The following conditions are imposed by the NSW Police and must be complied with. The conditions are outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:
- a) Passive Surveillance
    - i) As the proposed development may be exposed to Break Enter and Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit television system (CCTV) which complies with the Australian Standard — Closed Circuit Television System (CCTV) AS:4806:2006 needs to be implemented to receive, hold or process data for the identification of people involved in anti-social or criminal behaviour. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation.
    - ii) This system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas which are difficult to supervise.
      - 1 Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas.
      - 2 One or more cameras should be positioned at the entry and exit points to monitor these areas (underground car park, foyer entrance).
    - iii) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.

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

19. Where not already provided, a Section 73 Certificate under the Sydney Water Act 1994 must be obtained prior to the issue of the Subdivision Certificate. Application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website as [www.sydneywater.com.au](http://www.sydneywater.com.au) then “e-develop” icon or telephone 132092.

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 coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of the linen plan or occupation of the development.

20. Prior to the issue of Subdivision Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority showing all the structures are wholly located within the property boundary.



21.

- a) Positive Covenant and Restriction on Use of the land shall be created to all proposed lots to ensure that car parking for the residential part is not to be sublet or used for any other purposes;
- b) Additional Easements benefiting the proposed townhouse allotments shall be created pursuant to Section 88B of the Conveyancing Act 1919, that provide direct access to the basement lifts, garbage rooms, car wash bays, building services and fire exits.

22. In order to ensure that the required on-site detention system will be adequately maintained, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built on-site detention system on proposed Lots 1, 2 and 3.

23. A copy of the Building Management Statement and By-Laws for each of the proposed lots shall be submitted to Council for approval prior to the issue of the Subdivision Certificate. The Building Management Statement and By-Laws shall address all conditions associated with the ongoing use of the development within this consent and include:

- a) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under this Development Consent;
- b) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under this Development Consent;
- c) Responsibilities regarding the maintenance of the car wash bay the Owners Corporation / building owner;
- d) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste sterile, disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times;
- e) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises before 12.00 noon;
- f) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000;
- g) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997;

- h) The linen plan must include details of any easements, encroachments, rights of way, including right of footway, restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
- i) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
- j) 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;
- k) CCTV surveillance of all public areas within the development site; and
- l) Maintenance of inbuilt acoustic measures for aircraft noise.
- m) The Owners Corporation/Executive Committee obligations to ensure the ongoing maintenance of traffic light system and any repair works needed will be required to be carried out as soon as possible.

24. Consolidation of Lot 8 and 9 DP 939729 into one (1) allotment.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE FOR EXCAVATION AND BUILDING WORKS**

25. Prior to the release of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.

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

- a) Builders Security Deposit \$102,000.00;
- b) Development Control \$5,000.00;
- c) Waste Levy \$2,000.00;
- d) Section 94 Contributions \$556,009.00
- e) ***Section 94 Contributions for additional units \$733,906.36 (DA-14/180/02)***

27. ~~***The City of Botany Bay 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 listed below a contribution of***~~

~~\$556,009.00 is required to be paid to Council prior to the release of the Construction Certificate.~~

~~The above is broken down as follows:~~

~~Section 94 Development Contributions Plan 2005-2010~~

~~Residential~~

<del>Community Facilities:</del>	<del>\$133,872.00</del>
<del>Open Space and Recreation:</del>	<del>\$142,979.00</del>
<del>Administration:</del>	<del>\$4,748.00</del>
<del>Transport:</del>	<del>\$61,342.00</del>
<del>Section 94 2005/2010 Total</del>	<del>\$342,941.00</del>

~~Mascot Station Precinct Plan~~

~~2 x Studio, 8 x One Bedroom, 29 x Two Bedroom \$213,068.00~~

~~Grand total \$556,009.00~~

~~Note: The Section 94 Contribution fees 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 fees applicable at that time.~~

~~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 \$733,906.36 is payable as calculated below:~~

~~City of Botany Bay Section 94 Contributions Plan 2016~~

~~The s94 contributions (as indexed at November 2017) for residential are as follows:~~

<del>a) Community Facilities- Citywide</del>	<del>\$112,833.40</del>
<del>b) Recreation Facilities- Mascot Precinct</del>	<del>\$11,447.75</del>
<del>c) Recreation Facilities- Citywide</del>	<del>\$490,125.30</del>
<del>d) Transport Management- Citywide</del>	<del>\$46,180.81</del>
<del>e) Transport Management- Mascot</del>	<del>\$64,910.20</del>
<del>f) Administration</del>	<del>\$8,408.90</del>
<del>TOTAL:</del>	<del>\$733,906.36</del>

~~The total Section 94 Contribution of \$319,100.50 is to be paid to Council prior to the issue of any Construction Certificate.~~

~~Note: The Section 94 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.~~

28. Plans submitted with the Construction Certificate shall demonstrate compliance with the following:

a) All residential unit sizes excluding balconies as a minimum must be as follows:

i) Studio = ~~60m<sup>2</sup>~~ **35m<sup>2</sup>**

ii) 1 bedroom = ~~75m<sup>2</sup>~~ **50m<sup>2</sup>**

iii) 2 bedroom = ~~100m<sup>2</sup>~~ **70m<sup>2</sup>**

iv) 3 Bedroom = ~~130m<sup>2</sup>~~ **90m<sup>2</sup>**

**(DA-14/180/02)**

29. All plumbing stacks, vent pipes and the like shall be kept within the building and suitably concealed from view. This condition does not apply to the venting to atmosphere of the stack above roof level. Details shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

30. The applicant is to submit payment for a Tree Preservation Bond of \$1500 to ensure protection of two (2) Council street trees (*Corymbia maculata*) in the nature strip either side of 6-8 John Street from damage during construction. The duration of the Bond shall be limited to a period of 24 months after issue of the Occupation Certificate. At the completion of the 24 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by a qualified Arborist and a report to Council. If a tree was found to be in decline, damaged (including roots), dead or pruned without Council permission or, if tree protection measures were not satisfied at any time during construction, then Council will forfeit all, or part thereof, of the bond. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.

31. Fire booster assemblies and electrical kiosks are to be housed within the building structure. All above-ground utilities must be appropriately sited and located in unobtrusive locations away from pedestrian entrances to the site and public spaces. These items reduce the visual amenity of the development, public spaces or the public domain. The location of these utilities is to be approved by Council's Landscape Architect prior to their installation

32. The Landscape Concept Plan by *A Total Concept* (Drawings L/01 to L/04, dated ~~11/06/2014~~ **(21/12/2016)**) shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to Issue of Construction Certificate. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP and include the following amendments: **(DA-14/180/02)**

a) Substitute *Banksia* 'Birthday Candles' within communal areas on the podium plan (drawing #L/02) for *Hymenosporum flavum* 75L pot size, to provide improved amelioration of the development.

b) Substitute 1 x *Magnolia* 'Little Gem' beside the wall within the garden bed on the western side of the podium level communal area (Drawing #L/02) with 2 x *Waterhousia floribunda* 'Sweeper' to provide a taller screen to the adjacent building façade and improve amenity to the communal area.

- c) Substitute *Melaleuca* 'Claret Top' within communal areas on the podium plan (drawing #L/02) for *Metrosideros cultivars* 25L pot size, to provide a more layered landscape and improve amenity within the communal area.
  - d) Substitute 6 x *Melaleuca* 'Claret Top' within landscaped areas on the ground floor plan near the proposed hydrant booster (drawing #L/01) for 3 x *Eleocarpus eumundi* 75L pot size under planted with 8 x *Liriope* 'Evergreen Giant' 2.5L pot size, to provide more effective amelioration of the building and improve amenity to the streetscape.
  - e) Substitute 7 x *Dracaena marginata* in the south eastern corner of the site (drawing #L/01) for 5 x *Eleocarpus reticulatus* 75L pot size to provide improved amelioration of the building and amenity to the streetscape.
  - f) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. Increase planting densities of ground covers and shrubs. Incorporate additional medium to large shrubs within landscape areas to ensure there is a dense layered planting scheme consisting of trees, shrubs and groundcovers in all landscape areas.
  - g) Include elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium to large trees.
  - h) Include detailed site sections through communal open space, showing the relationship of the basement structure on soil depths and level changes.
  - i) Indicate areas of paving, amenity/pedestrian lighting, furniture and fences. Include a schedule of materials.
  - j) Indicate the method of irrigation to communal areas. i.e. recycled or potable.
  - k) Indicate the location of all basement structures relative to the landscape areas.
  - l) Indicate existing trees in the John Street nature-strip and vegetation along the western boundary of property No. 3-9 Church avenue to be retained and protected on plans.
33. A Public Domain Landscape Plan is required for John Street. The plan shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to Issue of Construction Certificate. The landscape plan shall include the following amendments:
- a) Treatment of the nature strip and footpath to CoBB specification (Mascot Station Precinct, John Street JOHNRR/SS1 – REV 3). Location of any above ground electrical pillars needs to be considered and shown on plan.
  - b) Four (4) *Corymbia maculata* (Spotted Gum) tree, pot size 400 litre, shall be installed in the John Street turf nature strip.
34. An Erosion and Sediment Soil and Water Management Plan (ESCP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004) and submitted to the Principal Certifying Authority prior to the release of any Construction Certificate. This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times

during the construction works. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.

35. Prior to the issue of the Construction Certificate, the measures required in the acoustical assessment report prepared by Rodney Stevens Acoustics, dated 4 July 2014 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 shall be incorporated into the construction of the building.
36. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to the release of any construction certificate. This plan shall incorporate and reference the construction environmental management plan and address site limitations.
37. An Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:
  - a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
  - b) Management of acid sulfate affected excavated material;
  - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
  - d) Run-off control measures for the acid sulfate affected soil.

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

38. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$102,000.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
39. 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.

40. A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:

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

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

41. A detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:

- a) be prepared by a RMS accredited consultant,
- b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police,

- c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee

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

- 42. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
  - a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
  - b) A minimum of one (1), 3.5m wide carwash bay with the appropriate drainage systems shall be provided for resident use,
  - c) A traffic control system shall be installed on all ramps between car park levels. It should include stop-go traffic light features and all associated infrastructure, and
  - d) For multi-unit developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 43. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
  - a) Disabled car parking spaces shall be provided and clearly marked as per the Traffic & Parking Impact Assessment report by ML Traffic Engineers, dated **July 2014 December 2016**, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and **(DA-14/180/02)**
  - b) All off street disabled 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.
- 44. Prior to the release of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Engineering and Regulatory Services Department, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.
- 45. 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.



46. Prior to issue of any Construction Certificate, a Dilapidation Report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a Practising Structural / Geotechnical Engineer and submitted to Council. The report shall include records and photographs of the following area that will be impacted by the development.

- a) All properties immediately adjoining the site;
- b) John Street

The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course the demolition, site clearing and site remediation works. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer's expense. In addition, the following issues shall also be complied with: -

- c) A copy of the dilapidation report together with the accompanying photographs shall also be given to all immediately adjoining properties owners and public utility authorities, and a copy lodged with Principal Certifying Authority and the Council. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works.
- d) A second Dilapidation Report, including a photographic survey shall then be submitted at least one month after the completion of construction works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all immediate adjoining properties owners, and a copy lodged with Principal Certifying Authority.
- e) Any damage to buildings, structures, public infrastructure, lawns, trees, gardens and the like shall be fully rectified by the applicant or owner of the development, at no cost to Council and the affected property owner. The applicant or owner of the development shall bear the cost of all restoration works to any damage during the course of this development.
- f) It is a condition of consent that should construction works cause rise to public safety and/or workplace safety; works shall halt until absolute safety is restored.

**(Note:** Prior to commencement of the surveys, the applicant/ owner of the development shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information shall be submitted to Council.)

47. Prior to issue of any Construction Certificate, the applicant shall lodge a further Development Application to Council for the civil works associated with the development to be carried out in public domain area (including road reserve area). Details of the civil works shall be submitted to Council as part of the documentation of Development Application and all costs associated with the design and construction shall be borne by the applicant. The civil works in public domain area shall include the following: -

- a) Replace the existing above ground electricity and telecommunication cables in John Street fronting the site and Lot 8 and 9 DP 939729, with underground cables to relevant authorities requirements;

- b) Design and construct kerb and gutter for the full John Street frontage of the site after the dedication of road;
- c) Design and reconstruct road pavement directly in front of the site along the John Street frontage. The area of construction shall extend from the lip of the new kerb and gutter to the centreline of the road;
- d) Design and construct footpath paving and the landscaping in the road reserve area for the John Street frontages in accordance with the current Council's approved public domain landscape plans;
- e) Design and provide line marking and all necessary signage on John Street to RMS's requirements;
- f) Design and construct stormwater drainage system from the site to the existing Council's drainage pit in John Street;
- g) Design and provide appropriate street lighting to the street frontage of the site to cables to relevant authorities requirements;
- h)
  - i) Landscaping and civil works on Lot 8 and 9 DP 939729; and,
  - ii) Landscaping and embellishment of the proposed public parkland area in the southern section of the site. A detailed landscape construction plan should be submitted and shall include, but not be limited to, areas of paving, landscaping and tree planting utilising a variety of decorative plans as well as large canopy trees, furniture and lighting and shall address the interface and connection with the residential development to the west, the future linear park to the east and the John Street public domain. Landscaping and embellishment shall be installed by the Applicant at their expense and in accordance with the Council approved landscape plan.
- i) After the approval has been obtained from the responsible utility for street lighting, detailed street lighting design and construction plans, prepared by a suitably qualified person, shall be submitted to Council for approval. The design shall be in accordance with AS 1158 and to Ausgrid's requirements. Alterations/additions to street lighting shall be carried out by the responsible utility authority for lighting, or to the satisfaction of that authority, and all capital contributions associated with the installation of the lighting shall be borne by the applicant. The proposal shall include details of all fixtures being proposed and underground power reticulation shall be allowed for in the design.

48. All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:

- (a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
- (b) Prior to placement of concrete (kerb and gutter and footpath);

- (c) Prior to construction and placement of road pavement materials; and
- (d) Final inspection.

**Note:** Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.

- 49. As part of this development, the Ausgrid power pole at the front of the property will need to be decommissioned and new lighting pole(s) shall be constructed satisfying V2 lighting requirements and any other requirements as specified by Council and any other service provider,
- 50. Any above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
- 51. All underground and above ground infrastructure shall be constructed as specified by Ausgrid, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

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

- 52. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.) The plans shall incorporate but not be limited to the following:
  - a) Provision of an On-site Detention system (OSD) in accordance with but not limited to Part 6 of the SMTG,
  - b) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
  - c) Maximum stormwater discharge to Council's Kerb and Gutter is 10L/s. If higher discharge rates are proposed, the discharge pipe shall be connected to Council's pit and pipe system,
  - d) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of Botany Bay's SMTG,
  - e) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,

- f) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
  - g) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
  - h) If an OSD system is proposed, incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
  - i) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
  - j) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
  - k) The submission of detailed calculations including computer modelling where required to support the proposal.
53. A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the basement car parking area to ensure any visitors to the site can gain access to the visitor parking located within the basement car park. The details of the intercom system shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.
54. 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.

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

55. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- a) A minimum 1 disabled car parking space shall be provided and clearly marked as per Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements; and

- b) All off street disabled 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.

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

- 56. Prior to the commencement of 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.
- 57. 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.
- 58. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 59. 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.
- 60. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work:-
  - a) Written notice, indicating the date when demolition of the building is to commence.
  - b) This persons full name and address.
  - c) Details of Public Liability Insurance.
- 61. In order to ensure that two (2) Council street trees (*Corymbia maculata*) in the John Street nature strip either side of the site, and the mixed planting along the western boundary of No. 3-9 Church avenue (*Banksia integrifolia* and *Elaeocarpus sp.*) are retained and protected during construction, and their health and structural stability ensured, the following is required:
  - a) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.

- b) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.
- c) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.
- d) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
- e) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
- f) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- g) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
- h) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- i) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
- j) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
- k) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- l) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
- m) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or

impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.

- n) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

- 62. An Erosion and Sediment Control Plan (ESCP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). All management measures recommended and contained within the Erosion and Sediment Control Plan (ESCP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). This plan shall be implemented prior to the commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.
- 63. Erosion and sediment control devices shall be installed and functioning prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines including the *Protection of the Environment Operations Act 1997*. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 64. 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.
- 65. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 66. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
  - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,

- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
- c) Permit for roads and footways occupancy (long term/ short term),
- d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
- f) Permit to place skip/waste bin on footpath and/or nature strip, and
- g) Permit to use any part of Council's road reserve or other Council lands.

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

The statement must be in compliance with: AS2601-1991 Demolition of Structures," the requirements of WorkCover Authority and conditions of the Development Approval, and must include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
- b) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- c) 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;
- d) Disconnection of Gas and Electrical Supply;
- e) 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;
- f) No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- g) Waterproofing of any exposed surfaces of adjoining buildings;
- h) Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";
- i) Working hours, in accordance with this Development Consent;
- j) Confinement of demolished materials in transit;
- k) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995";



- l) On site monitoring both during asbestos removal and the remainder of demolition activities.
- 68. 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.
- 69. The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.

### **DURING WORKS**

- 70. 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.
- 71. 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.

72.

- a) Any new information that comes to light during demolition, excavation, remediation and or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council;
- b) Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

73. 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.

74. Throughout the demolition and construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.

75. 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.

76. 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.

77. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.

78.

- a) Existing structures and or services on this and adjoining properties shall not be endangered during any demolition associated with the above project. The Applicant is to provide details of any stabilisation works required to adjacent developments to Council.

- b) 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.
79. 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.
80. The operation shall not give rise to offensive odour or other air impurities in contravention of the Protection of the Environment Operations Act 1997. The Principle contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- a) Covering excavated areas and stockpiles,
  - b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
  - c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,
  - d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
  - e) All loads entering or leaving the site are to be covered,
  - f) The use of water sprays to maintain dust suppression,
  - g) Keeping excavated surfaces moist.
- 81.
- a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion;
  - b) Concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. 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 enter Council's land;

- c) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;
- d) 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.
- e) During construction works the area in front of the premises and for the full width of the site, be maintained at all times and kept clean and tidy.
- f) The operations of the site 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, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
- g) 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.

82. The Development is to be constructed to meet the following construction noise requirements:

a) Construction Noise

- i) 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.

b) Level Restrictions

- i) Construction period of 4 weeks and under:

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

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

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

c) Time Restrictions

- i) Monday to Friday 07:00am to 05:00pm;
- ii) Saturday 08:00am to 04:00pm;

- iii) No Construction to take place on Sundays or Public Holidays.
  - d) Silencing
    - i) All possible steps should be taken to silence construction site equipment.
- 83. During demolition, excavation, remediation 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 construction. The area fronting the site and in the vicinity of the development shall also be 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.
- 84.
  - a) All imported fill shall be validated in accordance with Department of Environment and Conservation approved guidelines to ensure that it is suitable for the proposed development from a contamination perspective. Imported fill shall be accompanied by documentation from the supplier, which certifies that the material is suitable for the proposed residential/recreational land use and not contaminated based upon analyses of the material.
  - b) To prevent contaminated soil being used onsite, all imported fill shall be certified VENM material and shall be validated in accordance with the Office of Environment and Heritage (OEH) approved guidelines to ensure that it is suitable for the proposed development. Imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
  - c) Any soil disposed of offsite shall be classified in accordance with the procedures in the Department of Environment and Climate Change Waste Classification Guidelines (2008).
- 85. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
  - a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation 2014;
  - d) DECC Waste Classification Guidelines 2008.
  - e) NSW Environment Protection Authority Waste Classification Guidelines 2014
  - f) No demolition materials shall be burnt or buried on the site.

86. Following the completion of the removal of asbestos from the site, an Asbestos Clearance Certificate is to be provided to Council following the final asbestos clearance inspection by a licensed inspector.
- a) Demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 Demolition of Structures and the requirements of the NSW WorkCover Authority; and
  - b) The demolisher shall comply with Australian Standard 2601 - 1993 "*Demolition of Structures*".
87. Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment and Climate Change and Water and with the provisions of:
- a) New South Wales Occupational Health and Safety Act, 2000;
  - b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
  - c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
  - d) Protection Of the Environment Operations Act 1997 (NSW); and
  - e) Department of Environment and Climate Change Waste Classification Guidelines (2008).
88. The following shall be complied with:
- a) The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW Environmental Noise Control Manual;
  - b) Vibration levels induced by the demolition and construction activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
  - c) Vibration levels induced by the demolition and construction activities shall not exceed 3mm/sec peak particle velocity (ppv) when measured at the footing of any unoccupied building.
  - d) The upper noise level from the demolition and construction operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).
89. The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the site during construction. Any damaged or missing street signs as a consequence of the construction works associated with the development shall be replaced at full cost to the applicant.
90. During Construction and any associated deliveries activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:
- a) Approved Erosion and Sediment Control Plan;
  - b) Approved Construction Traffic Management Plan;

- c) Approved Construction Management Plan; and
  - d) Approved Waste Management Plan.
91. 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.
92. Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
  - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
  - c) Formwork inspection of Council's footpath prior to laying of concrete,
  - d) Final inspection of driveway layback and adjacent kerb and gutter,
  - e) Final inspection of Council's kerb and gutter, and
  - f) Final inspection of Council's footpath.
93. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
  - b) If necessary, underpin and support such building in an approved manner;
  - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
  - d) Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
  - e) 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 where necessary, and
  - f) Adequate provision must be made for drainage.
- 94.
- 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.
95. 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.
96. 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;
97. The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Acid Sulfate Soil Management Plan required to be submitted prior to any construction certificate including:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil; and
  - b) Management of acid sulfate affected excavated material;
  - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
  - d) Run-off control measures for the acid sulfate affected soil.
98. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
99. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.



100. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:

- a) Office of Environment and Heritage (OEH) approved guidelines; and
- b) Protection of the Environment Operations Act 1997; and
- c) Protection of the Environment Operations (Waste) Regulation 2014.

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

101. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Erosion and Sediment Control Plan;
- b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
- c) Protection of the Environment Operations Act 1997.

102. During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.

103. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

104.

- 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.

105. 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.
106. 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.
107. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
  - b) Each toilet provided:
    - i) must be standard flushing toilet; and,
    - ii) must be connected:
      - 1 to a public sewer; or
      - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
      - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
    - iii) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

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

108. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the issue of an Occupation Certificate.
109. Prior to the issue of the Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

**Note:** Make an early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

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

110. Prior to the issue of an Occupation Certificate, the fencing adjacent to the site vehicular entrance shall be designed and constructed to ensure there is adequate sight distance between the pedestrians and the vehicles leaving the site. In addition, it shall be ensured that all access gates swing into the site and not out onto the streets.
111. The applicant is to submit payment of a Tree Maintenance Bond of \$2000.00. The duration of the Bond shall be limited to a period of 6 months after planting of the new street trees and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.
112. The John Street public footpath shall be constructed in accordance with Council specifications Mascot Station Precinct, John Street (JOHNRW/SS1 – REV 3). The footpath dimensions, location, paver type and construction methods shall be in accordance with this specification only. Pavers shall be ordered accounting for adequate lead time for manufacture. Construction hold points and Council inspections are required at the following points :
- a) after formwork installation and to prior pouring the concrete blinding slab,
  - b) at the commencement of paving works, and
  - a) at final completion.

Council approval of public domain works is required prior to the issue of the Occupation Certificate.

113. Prior to the issue of the Occupation Certificate, **~~seventy-fifty-five (70-55)~~** off-street car parking bays shall be provided to the development as shown on the approved architectural plans. All parking bays and loading bays shall be line marked. The allocation of parking bays shall be in accordance with the following:

<del>a) Studio/1-bedroom unit</del>	<del>One (1) parking space/unit;</del>
<del>b) 2/3 bedroom unit</del>	<del>Two (2) parking spaces/unit;</del>
<del>c) Visitor parking</del>	<del>Two (2) parking spaces.</del>
d) Studio/1 bedroom unit	0.6 parking space/unit;
e) 2 bedroom unit	0.9 parking space/unit;
f) 3 bedroom unit	1.4 parking space/unit;
g) Visitor parking	2 parking spaces

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114. 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.

115. Prior to the issue of the Occupation Certificates, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
116. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
  - a) On John Street, adjacent to development, demolish existing kerb and gutter and construct new kerb and gutter to new location for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction,
  - b) On John Street, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications, and
  - c) On John Street, adjacent to development, reconstruct the road pavement, half width by milling 50mm of the existing asphalt and lay new asphalt paving, AC14, 50mm thick in accordance with all relevant RMS and Australian Standards.
117. Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
118. 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) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
  - a) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

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

119. Prior to the issue of any Occupation Certificate, the following is to be complied with:
  - a) Dedicate to Council and at no expense to the Council and generally in accordance with the Architectural Plans, job no. 13241 by Edifice Design, dated 20 January 2017 and the following:
    - i) Dedicate the portion of land to Council for the purpose of widening John Street. The areas of the land to be dedicated shall be the full length of John Street frontage of the development site and as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged

with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes.

**119A.**

- a) ***That before entering a lease/occupancy agreement, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.***
- b) ***Prior to the issue of the relevant Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a notice board in the communal lobby, where it can easily be observed and read by persons entering the building.***
- c) ***Prior to the issue of the relevant Occupation Certificate, where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.***

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- 120. Prior to the issue of any Occupation Certificate, 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.
- 121. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification 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).
- 122. Prior to the issue of the Final Occupation Certificate, the Principal Certifying Authority is to ensure all units within the development are connected to an intercom system located at the vehicle entrance to the car parking area to ensure visitors to the site can access the visitor parking.
- 123.
  - a) The property shall be serviced by underground supply of electricity, telecommunications and any other current above ground service supply from the appropriate authorities main street supply system.
  - b) Prior to the issuing of an Occupation Certificate, the existing above ground electricity, telecommunications, and any other cables in the street adjoining the site shall be replaced at the applicant's expense by underground cables to the relevant Energy Australia and other standards. The applicant shall also be responsible for the replacement of existing street lights with new standards in accordance with Council's and Energy Australia's guidelines.
- 124. Prior to the issue of the Occupation Certificate, upgrade of the public domain by construction and reconstruction of road pavement, kerb and gutter, footpath, drainage system, street trees, landscaping and any associated works for the John Street frontage of the site must be carried out at the applicant's expense. All improvements shall be in

accordance with specifications and requirements from Council's landscape and engineering sections and the approved civil works shall be constructed and completed to Council's satisfaction prior to the issue of the Occupation Certificate;

125. 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 and unit numbering shall be submitted to Council for approval prior to the issue of the Occupation Certificate.
126. The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.

#### **CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE**

127.
  - a) That before entering a lease/occupancy agreement, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
  - b) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building.
128. 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*.
129. Roof terraces are to be protected by shade cloths and plantings.
130.
  - a) That before entering a lease/occupancy agreement, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
  - b) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building.
131. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
132. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
133. Ongoing maintenance of the road verges, footpaths and nature strips in John Street shall be undertaken by the owner/body corporate/strata corporation. Maintenance

includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.

134. 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 in accordance with the maintenance schedule submitted to Council 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.
135. The Protection of the Environment Operations (Noise Control) Regulation 2000, restricts the times that air conditioners can be used as follows:
  - a) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
    - i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
    - ii) Before 7 am or after 10 pm on any other day.
136. The operation of the site and movements of vehicles shall comply with the following requirements:
  - a) All vehicles (including deliveries) shall enter and exit the premises to the public road in a forward direction;
  - b) Vehicular manoeuvring area shall be kept clear at all times. All vehicles shall be parked in the marked parking bays;
  - c) All parking bays shown on the approved architectural plans shall be allocated and set aside for parking and loading/unloading purpose only and shall not be used for other purposes, e.g. storage of goods;
  - d) Any deliveries to the premises or loading and unloading activities associated with the site shall occur via John Street access driveway and are not to interfere with pedestrian and vehicular movements on John Street, public places and road related areas (eg. footpath, nature strip, road shoulder, road reserve, public carpark, service station etc).
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. The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.
139.
  - a) The operation of all plant and equipment associated with any of the commercial premises 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 associated with any of the commercial premises 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 associated with any of the commercial premises 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.
- e) All mechanical ventilation extraction systems associated with the commercial premises shall be provided with adequate filters that are regularly maintained.
- f) The use of any of the commercial premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997 and shall be controlled in accordance with the requirements of this Act.
- g) The operation of any of the commercial 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.
- h) The use of any of the commercial premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997. Waste gases released from the premises shall not cause a public nuisance nor be hazardous or harmful to human health or the environment.
- i) No offensive odour from any trade, industry or process shall be detected outside the premises by an authorised Council Officer as defined in the Protection of the Environment Operations Act 1997.
- j) Noise controls specific to the amenity of the residential neighbourhood:
  - i) The La10 noise level emitted from any of the commercial premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5 dB between 6:00pm one day and 8:00am the day following Monday to Sunday when measured at the boundary of any residential property; and,
  - ii) Notwithstanding compliance with the above (Condition No. 106(j)(i)), the noise from any of the commercial premises shall not be audible within any habitable room in any residential premises between the hours of 6:00pm one day and 8:00am the day following Monday to Sunday.

140. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction at all times. The automatic drip irrigation system shall be maintained in working order plan at all times.



141.

- a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
- b) The adaptable apartments approved under this development consent are to remain unaltered at all times; and
- c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces identified by the NSW Police in Condition 12, shall be monitored by CCTV cameras at all times.

142. Any BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.

143. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No.14/180 received on 5 August 2014 **and as further amended by Section 96(2) Application dated 31 January 2017** and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council. **(DA-14/180/02)**

### **ADVISORY NOTES**

144. The following advisory notes are imposed by the NSW Police:

- a) Surveillance
  - i) Digital technology should be used to receive, store and process data recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis.
  - ii) It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.
  - iii) Any proposed landscaping and vegetation should adhere to the following principles:
    - 1 Shrubs, bushes, plants should remain under 900mm in height.
    - 2 Branches of large trees should start at a height of two (2) metres and higher. This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
  - iv) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.

- v) Any proposed seating area, playground or grass area should be positioned somewhere which can be viewed easily by the community. Consider whether the area will be used enough to warrant its development. Areas which are isolated, unused and maintained poorly become a breeding ground for anti social behaviour.
- vi) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external lighting.
- vii) The configuration of car parking spaces can impact the risk to car thieves. Grid rows increase natural surveillance. Avoid dark spots, corners and isolated car spaces.
- viii) Public laundries, garbage disposal areas and other communal spaces should not be located in a buildings 'leftover space'. Poor supervision of communal facilities can greatly increase the risk of predatory crime, theft and vandalism. Areas that are unused or sporadically used after hours and unsupervised should not be accessible to the public.
- ix) Uneven building alignments, inset doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.
- x) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime.

b) Lighting

- i) Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens).
- ii) The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis.
- iii) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.
- iv) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.

c) Territorial Reinforcement

- i) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section

628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (currently \$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.

- ii) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.

1 Warning, trespasser will be prosecuted

2 Warning, these premises are under electronic surveillance

- iii) Directional signage should be posted at decision making points (e.g. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
- iv) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.
- v) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
- vi) Signage needs to be provided to assist occupants to identify fire suppression equipment, e.g. extinguishers, fire hoses etc.
- vii) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours.
- viii) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development.

d) Space Management

- i) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.
- ii) It is not advised to install storage cages or similar for the residents in the underground car park. If it is required, consider that they should not be constructed in an isolated area. The cages are easy targets when they have little supervision. CCTV cameras must cover this area if they are

constructed. Solid steel housing and quality key locks should be used to prevent access.

e) Access Control

- i) The door and door frames to these premises should be of solid construction.
- ii) Doors should be fitted with locks that comply with the Australian Standard – Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are recommended for residential units.
- iii) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space. The doors in the required exits must be readily open-able without a key from inside that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor.
- iv) Any sliding doors must be fitted with lockable bolts in the bottom and top of the door frame.
- v) The windows and window-frames to these premises should be of solid construction. These windows should be fitted with locks with comply with the Australian Standard — Mechanical Locksets for windows in buildings, AS:4145 <http://www.standards.org.au> to restrict unauthorised access. This standard specifies the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical windows, such a wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses and factories. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms).
- vi) The main access to the underground car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering.

- vii) The main entry/egress doors to the development should have an electronically operated lock which require security swipe pass for entry. The lifts operating in the building should have the same security swipe pass technology. When an occupant buzzes in a visitor the lift should recognise the floor the occupant resides and only allow the visitor access to that floor in the lift.



REV.	DATE	DESCRIPTION
A	21.07.16	ISSUE FOR DA
B	20.01.17	ISSUE FOR S96

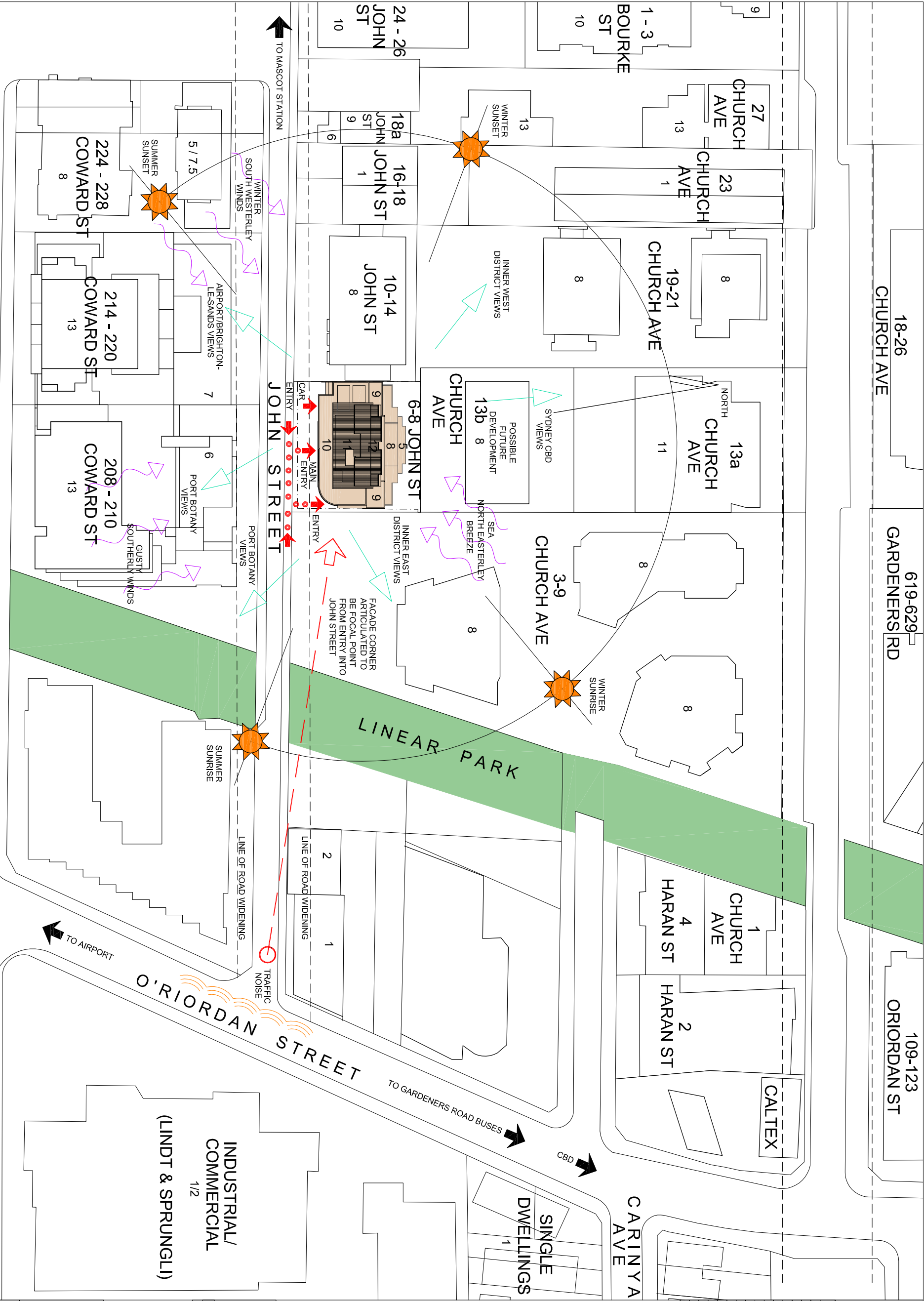
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FOR: **SEGMC PTY LTD & 6/5 MASCOT**  
PROPERTY PTY LTD  
OF:  
8 JOHN STREET  
MASCOT 2020  
TELE: 04.07 646 668

JOB: **JOHN STREET APARTMENTS**  
UNIT DEVELOPMENT  
6 - 8 JOHN STREET  
MASCOT 2020

DWG TITLE:  
**SITE ANALYSIS PLAN**

SCALE: 1:500@A1, 1:1000@A3	JOB NO: 132/L1	
DATE: 20.01.17	REV: B	DWG NO: DA03
FOR: DEVELOPMENT APPLICATION		



**LEGEND:**

- 6** BUILDING/DEVELOPMENT SHOWING
- 6** SHOWING RISE IN STOREY
- 6** WIND/BREEZE
- 6** VIEW
- 6** TRAFFIC NOISE
- 6** PEDESTRIAN MOVEMENT/ENTRY
- 6** PLACE DIRECTION / ENTRY
- 6** SUNRISE / SUNSET
- 6** COUNCIL PROPOSED LINEAR PARK



[illegible]

DWG TITLE	
NORTH ELEVATION	
SCALE	1:100@A1, 1:200@A3
DATE	20.01.17
REV.	E
DWG NO.	DA20
FOR	
DEVELOPMENT APPLICATION	







REV.	DATE	DESCRIPTION
A	21.07.16	ISSUE FOR DA
B	03.07.15	AMENDED P.O.S
C	12.10.16	ISSUE FOR PRE-S96
D	16.12.16	ISSUE FOR CONSULTATION
E	20.01.17	ISSUE FOR S96

**LEGEND:**

- AB DECORATIVE VERTICAL
- ALUMINUM BEAMS
- AW LOUVRED STEEL AWNING
- B GLASS BALUSTRADE
- CMR CORRUGATED METAL ROOF SHEETING
- CR CEMENT RENDER - OFF WHITE
- FA FIRE ATTENUATION SCREEN
- FB1 FACE BRICK TYPE 1
- FB2 RED / BROWN
- FACE BRICK TYPE 2
- (SLATE GREY)
- HMC HORIZONTAL METAL SHEET WALL CLADDING
- TC HORIZONTAL TIMBER BLADE PANEL
- VMC VERTICAL METAL SHEET WALL CLADDING

Scale bar

0 1 2 4 6 8m

BY: **office design**  
Architects (Australia) Pty Ltd  
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FOR: SEGMC PTY LTD & 6/5 MASCOT  
OF: PROPERTY PTY LTD  
8 JOHN STREET  
MASCOT 2020  
TELE: 04.07 646 668

JOB: JOHN STREET APARTMENTS  
UNIT DEVELOPMENT  
6 - 8 JOHN STREET  
MASCOT 2020

DWG TITLE: SOUTH ELEVATION

SCALE: 1:100@A1, 1:200@A3

DATE: 20.01.17

REV: E

DWG NO: DA18

FOR: DEVELOPMENT APPLICATION





# PROPOSED MULTI-UNIT DEVELOPMENT

## 6 - 8 JOHN STREET, MASCOT

### Drawing List

#### Architectural

DA01	Cover sheet, drawing list & Basic commitments
DA02	3d modelling
DA03	Site Analysis plan
DA04	Design concepts
DA05	Street Elevation and Site section
DA06	Basement level 2 floor plan
DA07	Basement level 1 floor plan
DA08	Lower ground level (Car park) floor plan
DA09	Ground level (Podium) floor plan
DA10	Level 3 Floor Plan (Level 1, 2 & 3 Typical)
DA11	Level 4 Floor plan (Level 4, 5, 6 & 7 Typical)
DA12	Level 5 Floor plan (Level 4, 5, 6 & 7 Typical)
DA13	Level 6 Floor plan (Level 4, 5, 6 & 7 Typical)
DA14	Level 7 Floor plan (Level 4, 5, 6 & 7 Typical)
DA15	Level 8 Floor plan
DA16	Level 9 Floor plan
DA16d	Level 10 Floor plan
DA17	Roof plan
DA18	South elevation
DA19	East elevation
DA20	North elevation
DA21	West elevation
DA22	Section A - A
DA23	Section B - B
DA24	Section C - C
DA25	Section D - D
DA26	Schedule of Colours and Materials
DA27	GFA calculation plan sheet 1
DA28	GFA calculation plan sheet 2
DA29	Shadow diagram 9am 22 Jun
DA30	Shadow diagram 10am 22 Jun
DA31	Shadow diagram 11am 22 Jun
DA32	Shadow diagram 12noon 22 Jun
DA33	Shadow diagram 1pm 22 Jun
DA34	Shadow diagram 2pm 22 Jun
DA35	Shadow diagram 3pm 22 June
DA36	Shadow diagram calculation plan
DA37	Shadow diagrams 9am & 10am 22 Jun (Future rear development)
DA38	Shadow diagrams 11am & 12noon 22 Jun (Future rear development)
DA39	Shadow diagrams 1pm & 2pm 22 Jun (Future rear development)
DA40	Shadow diagram 3pm 22 June and calculation plan (Future rear development)
DA41	Shadow diagram 9am to 2pm 22 Sep
DA42	Shadow diagram 3pm 22 Sep and Elevation shadows



PHOTOMONTAGE OF 6-8 JOHN STREET, MASCOT

### SCHEDULE OF BASIX COMMITMENTS

#### WATER

##### Fixtures:

- Shower head rating - 3 star (>4.5 but <=6L/min)

- Toilets rating - 3 star

- Kitchen taps rating - 3 star

- Bathroom taps rating - 3 star

- Cloth washer - Not specified

- Dishwasher - 3 star

- Common toilets - 3 star

- Common taps - 3 star

- Alternative water details

- Rainwater tank size - N/A

- Garden and lawn areas - No

- All toilets - No

- Laundry - No

#### THERMAL COMFORT

##### External walls:

- Cavity brick (Unit G01, G02, G03, G04, 403, 503, 505, 603, 605, 703, 705 & 804) - Medium colour, R2 bulk insulation

- Cavity brick (All other units) - Medium Colour - no insulation

##### Internal walls:

- Cavity wall, direct fix plasterboard, single gap - No insulation

##### Partition walls:

- AAC, Plaster on studs - No insulation

##### Ceiling

- External ceiling: concrete, plasterboard (Unit 804 only) - Bulk insulation R4

- External ceiling: Concrete, Plasterboard (All other exposed areas) - Bulk insulation R1 (Units 801, 803, 901, 902)

- Internal ceiling: Rendered Concrete - No insulation

##### Roof:

- Concrete (Level 8 exposed roof areas) - Light colour, no insulation

- Metal roofing (Top floor) - Corrugated Iron; light colour; R2.5 Anticon 100HP (Bulk, Reflective side down, anti-glare Up)

##### Floors:

- Suspended concrete slab (Ground floor units above car park) - R0.5 bulk insulation (R1.0 shown on certificate, however R0.5 can be deducted as per Basic Thermal comfort protocol clause 4.16)

- Suspended concrete slab (All units) - No insulation

##### Windows:

- Aluminium frame ALUM-001-01 (All units excl 502, 505, 602, 605, 702 & 705) - Single glazed, clear with U-value 6.7 and SHGC 0.57 for Group A windows (awning, bifold, casement and tilt n turn type windows/doors)

- Aluminium frame ALUM-002-01 (All units excl 502, 505, 602, 605, 702 & 705) - Single glazed, clear with U-value 6.7 and SHGC 0.7 for group B windows (double hung, fixed louvers and sliding type windows/doors)

- Aluminium frame ALUM-001-03 (Units 502, 505, 602, 605, 702 & 705) - Single glazed, high solar gain Low-E with U-value 5.4 and SHGC 0.47 for group A windows (awning, bi-fold, casement and tilt n turn type windows/doors)

- Aluminium frame ALUM-002-03 (Units 502, 505, 602, 605, 702 & 705) - Single glazed, high solar gain Low-E with U-value 5.4 and SHGC 0.58 for Group B windows (double hung, fixed, louvers and sliding type windows/doors).

- External shading - Adjoining units calculated into thermal model calculations

##### Site

- Orientation of nominal north elevation - As shown on plans



REV.	DATE	DESCRIPTION
A	21.07.16	ISSUE FOR DA
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FOR: SEGMC PTY LTD & 6/5 MASCOT  
OF: PROPERTY PTY LTD  
8 JOHN STREET  
MASCOT 2020  
TELE: 04.07 646 668

JOB: JOHN STREET APARTMENTS  
UNIT DEVELOPMENT  
6 - 8 JOHN STREET  
MASCOT 2020

DWG TITLE:  
COVER SHEET, DRAWING  
LIST & BASIX COMMITMENTS

SCALE: NTS @ A1 or A3	JOB NO: 1327.1
DATE: 20.01.17	REV: B
	DWG NO: DA01

FOR: DEVELOPMENT APPLICATION





REV.	DATE	DESCRIPTION
A	21.07.16	ISSUE FOR DA
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3D MODEL - SOUTH WEST CORNER OF 6-8 JOHN STREET, MASCO



3D MODEL - NORTH WEST CORNER FROM THE REAR OF THE SITE

BY: Edrice Group Pty Ltd  
ABN 39 888 536 275  
22 Joseph St W  
Mascot NSW 2033

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Axiomatics | Jamwell | Industrial | Residential | Office.com.au  
Michael Gormley, Director & Technical Architect, Reg 85792  
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FOR: SEGMC PTY LTD & 6/5 MASCO  
OF: PROPERTY PTY LTD  
8 JOHN STREET  
MASCO 2020  
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JOB: JOHN STREET APARTMENTS  
UNIT DEVELOPMENT  
6 - 8 JOHN STREET  
MASCO 2020

DWG TITLE:  
3D MODELING

SCALE: NTS @ A1 or A3	JOB NO: 1324.1	
DATE: 20.01.17	REV: A	DWG NO: DA02

FOR: DEVELOPMENT APPLICATION