

**JOINT REGIONAL PLANNING PANEL
(East Region)**

JRPP No	2011SYE071
DA Number	DA 11/121
Local Government Area	City of Botany Bay
Proposed Development	<p>Development Application for the construction of:</p> <ul style="list-style-type: none"> • a 12 storey (321 room), 4 star hotel with ancillary facilities plus basement level; • multi-storey commercial carpark containing a total of 1622 parking spaces comprising: <ul style="list-style-type: none"> ○ 80 spaces allocated to the hotel; ○ 1542 spaces allocated as a long-term public carpark (including 40 accessible parking spaces, 3 courier vehicle spaces and 49 secure bicycle spaces); and • Associated landscaping and public domain works.
Street Address	342 King Street, Mascot
Applicant/Owner	Evenas Pty Ltd
Number of Submissions	Two (2) submissions
Recommendation	Conditional Consent
Report by	Rodger Dowsett, Director Planning and Development

THE DIRECTOR OF PLANNING AND DEVELOPMENT REPORTS:

PRECIS

Background

The Application was received by Council on 29 June 2011 seeking consent for a “staged development application” (comprised of three (3) stages) being for the construction of a ten (10) storey commercial building fronting King Street, a seven (7) storey commercial building fronting Ewan Street (with a combined gross floor area of 14,623m²) and a nine (9) storey carpark for 2,054 vehicles located between the two commercial buildings at 342 King Street Mascot.

The development application originally requested approval for a floor space ratio (FSR) of 5.3:1 (54,747m²). The proposed commercial building fronting King Street was subsequently reduced from ten storeys (50.5m to AHD) to nine storeys (48.06m to AHD) to satisfy Sydney Airports Corporation (SACL) height restrictions. This resulted in a reduction in the FSR for the proposal to 5.19:1.

The application is identified as ‘Traffic Generating Development’ under SEPP (Infrastructure) 2007 and was therefore referred to the NSW Roads and Maritime Services (RMS) for consideration. The original application (including minor amendments and additional information) was considered by the Sydney Regional Development Advisory Committee (SRDAC) and/or RMS on three (3) occasions. The key concerns raised include the design of the facility, the adopted vehicular trip generation rate, the proposed traffic distribution and assignment, and the resulting adverse impacts to the intersection performance of King Street and O’Riordan Street (the latter is a Classified Road).

Significant modifications were subsequently made to the proposed development to minimise traffic impacts to the intersection of King Street and O’Riordan Street. The amendments were also made to reduce the floor space ratio (FSR) of the proposed development to address the maximum FSR of 3.0:1 permitted for the subject site under Council’s draft BBLEP 2012 (which is now considered to be ‘imminent and certain’).

Amended Proposal

The amended application deleted the rear commercial building fronting Ewan Street and changed the use of the proposed nine (9) storey commercial building fronting King Street to a twelve (12) storey plus basement level hotel with ancillary facilities. The amended application being reported to the JRPP requests approval for the following:

- a 12 storey (321 room), 4 star hotel with ancillary facilities (including a restaurant and bar) plus basement level;
- multi-storey commercial carpark containing a total of 1622 parking spaces comprising:
 - 80 spaces allocated to the hotel;

- 1542 spaces allocated as a long-term public carpark (including 40 accessible parking spaces, 3 courier vehicle spaces and 49 secure bicycle spaces); and
- Associated landscaping and public domain works.

In Council's view there are three (3) main issues for consideration with the amended proposal. These include traffic generation, floor space ratio (FSR) and design considerations, as discussed below.

Traffic

The amended application was considered by the SRDAC on 12 September 2012 and a subsequent meeting was held between Council Officers and RMS to determine whether any improvements could be made to the intersection of King Street and O'Riordan Street. Based on the amended information, the SRDAC confirmed that the intersection is currently at capacity during peak times, particularly on the King Street approaches. The RMS noted the existence of the road widening reservation along O'Riordan Street and confirmed that once constructed (in the future) it will provide additional storage, however no funding is allocated to this road widening and this is a long term infrastructure project which is unlikely to occur in the short to medium term.

RMS also noted that the traffic generation rate for the proposed carpark was based on a survey undertaken of the nearby '*Park and Fly*' - a similar commercial public carpark located nearby to the subject site (1008 Botany Road, Mascot) which is used primarily by patrons of Sydney Airport. This public carpark contains 1,200 car spaces and operates between the hours of 6am – 11pm, seven days.

RMS concluded that, if the proposed public carpark is primarily used for airport patrons then the traffic generation will be relatively evenly spread throughout the day and not necessarily have a peak which correlate with the weekday road commuter peak periods. RMS therefore suggested that a similar fee structure to the existing "*Park and Fly*" be sought for the proposed carpark.

In order to address RMS requirements, that the carpark be restricted primarily to airport patrons, Council requested the Applicant to submit an Operational Management Plan for the proposed carpark on 28 November 2012. The Plan was prepared by John Coady Consulting and proposes, amongst other matters, that parking be charged at a "one day" flat rate minimum. This accords with the payment structure applied by the existing "*Park and Fly*" carpark on Botany Road and, accompanied by other proposed measures in the Operational Management Plan, this flat rate will deter short term parkers from using the facility. The use of the carpark is therefore expected to be used by hotel visitors (and staff) and long-term parking associated with patrons of Sydney Airport only and thus satisfies the RMS / SRDAC recommendations.

A condition is proposed requiring that the traffic surveys be carried out at six (6) months and again at twelve (12) months after the issue of any occupation certificate for the proposed carpark to demonstrate that the intersection performance at O'Riordan Street/King Street will not be significantly worse than the Level of Service stated in the submitted traffic report. In addition, a condition is proposed restricting operation of the carpark to a maximum of 18 months from the date of issue of the

Occupation Certificate to allow the applicant to demonstrate that the resulting traffic impacts to the road network are acceptable.

Floor Space Ratio

The amended application proposes a floor space ratio (FSR) of 4.74:1 (50,121m²) under Botany Local Environmental Plan 1995 (BLEP 1995) which exceeds the maximum 1.5:1 permitted for the site. Legal advice submitted by the applicant advises that the carpark does not contain any '*external enclosing walls*' at 1,400 millimetres above each floor level and that the ground level and levels 1-8 of the carpark building may therefore be excluded from the GFA calculations resulting in an FSR of 1.15:1. Council does not concur with the applicant's interpretation of the FSR definition.

Notwithstanding, the SEPP 1 objection to FSR submitted by the applicant demonstrates that the proposal with an FSR of 4.74:1 is similar in height, bulk and scale to existing and recently approved developments in the area. In Council's view the maximum FSR standard should be varied in the circumstances as the proposal satisfies the underlying objectives of the FSR control and the proposal will result in the orderly and economic development of the land. The SEPP 1 is considered to be well founded and the variation to the FSR control is supported in this case.

Draft BBLEP 2012

The draft Botany Local Environmental Plan 2012 (draft BBLEP) is a matter for consideration under the *Environmental Planning and Assessment Act 1979* (EP&A Act) and has therefore been considered in the assessment of the application. The draft BBLEP 2012 is now considered to be '*imminent and certain*' and should be given substantial weight.

The proposed development is permissible in the B5 – Business Development zone under the draft BBLEP 2012, and it also satisfies the objective of the zone.

The Panel is advised that throughout the report there is lengthy discussion on the calculation of the applicable FSR, particularly in regard to the public carpark and its assessment against the GFA definition under the Standard Template. In this regard, the most logical argument put forward is that areas of the carpark that consist of vertical circulation are excluded from the GFA calculations. If the vertical circulation for vehicles entering the carpark were also to be excluded from the GFA then the maximum FSR under the draft BBLEP 2012 would be 3.99:1.

In addition to the above, the definition of GFA in the draft BBLEP 2012 is not considered to adequately deal with a proposed carpark which has significantly lower floor to ceiling heights to other forms of commercial or industrial development. The applicant has demonstrated that the proposal will have a height, bulk and scale similar to that of a compliant commercial building with an FSR of 3:1. The applicant's justification for the departure to the FSR control is considered reasonable in this case and the variation to the draft BBLEP 2012 is supported.

Design

The amended application for a hotel and public carpark was originally received by Council on 3 August 2012 and was considered by the Council's Design Review Panel (DRP) on 13 August 2012. In their report dated 20 August 2012 the DRP considered

that the proposal for a hotel and public carpark generally accords with Council's Planning Strategy and that it is acceptable in principle subject to satisfactory resolution of the design issues raised in the report to Council satisfaction. The proposal has been the subject of several modifications to demonstrate compliance with the DRP (and Council) design requirements. The final plans provided further clarification of the proposed glazing at the upper three (3) levels and proposed amended glazing and a winter garden located centrally at each floor level from level 2 – 12 to better integrated the different components of the building. These plans were submitted to Council on 26 November 2012 and are considered to adequately address the DRP and Council requirements.

The applicant has advised that the carpark building may be constructed before the hotel building, however the amended application is no longer 'staged development' as defined by the *Environmental Planning and Assessment Act 1979* (EP&A Act). The applicant has therefore provided plans to demonstrate that the appearance of the carpark building before the hotel building is constructed will provide a satisfactory outcome for the site.

Public Exhibition

The amended proposal was publicly exhibited for a period of fourteen (14) days between 11 September 2012 and 25 September 2012 in accordance with Council's Notification DCP, including an advertisement in the newspaper and site notices. Two (2) submissions were received in response to the amended proposal. The issues raised in the submissions relate to the proposed height of the development, the proximity of the development to the site's boundary, solar access impacts, traffic generation potential, omissions from the traffic report and lack of consideration of another proposed development. These issues have been addressed and are discussed in detail further in this report.

Local Government Act Approval

The Applicant has also requested that approval be issued under the Local Government Act 1993 for approval to operate a public carpark. A 'public carpark' is defined under this Act as follows:

"public car park" means any premises used for the purpose of accommodating vehicles of members of the public on payment of a fee, but does not include a pay parking space under the Road Transport (Safety and Traffic Management) Act 1999 prescribed by the regulations.

Officer Recommendation

The application is referred to the Joint Regional Planning Panel (JRPP) for determination pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act as the Capital Investment Value of the proposed development exceeds \$20 million.

The recommendation is for approval, in accordance with the recommendation provided below:

It is recommended that the Joint Regional Planning Panel (JRPP), as the determining Authority in this instance, resolve to:

- (a) *Grant consent to the objection submitted under the provisions of State Environmental Planning Policy No. 1 – Development Standards to vary the provisions of Clause 12(3) of Botany Local Environmental Plan 1995 relating to maximum floor space ratio of 4.74:1 applied under this clause on the basis that:*
 - (i) *Clause 12(3) of Botany Local Environmental Plan 1995 is a development standard; and*
 - (ii) *The objection lodged by the applicant is well founded; and*
- (b) *Approve Development Application No. 11/121 for construction of a 12 storey (321 room), 4 star hotel with ancillary facilities plus basement level, a multi-storey carpark containing a total of 1622 parking spaces (comprising 80 spaces allocated to the hotel and 1542 spaces allocated as a long-term public parking associated with Sydney Airport), and associated landscaping and public domain works at 342 King Street Mascot, Mascot, subject to the Conditions imposed in the attached schedule.*

1.0 BACKGROUND

1.1 Site Description

The subject site to which the application relates is formed by the following twelve (12) allotments which are commonly known as 342 King Street (Aka 5-11 Ewan Street), and are legally described as follows:

- Lot 15, 16, & 17 in DP 9142;
- Lot M in DP 356032;
- Lot F in DP 396672;
- Lot A in DP 407002;
- Lot 1 & 2 in DP 387285;
- Lot B in DP 310256;
- Lot A in DP 341081;
- Lot C in DP 348169; and,
- Lot D in DP 370269.

The site has frontage to King Street to the north and Ewan Street to the south, and is located approximately 48m to the west of O’Riordan Street, approximately 1km from Sydney Domestic Airport Terminal and 3km from Sydney International Airport Terminal (See *Location Plan – Figure 1*).

The subject site is generally rectangular in shape and has an 85.18 metre frontage to King Street, a 56.185 metre frontage to Ewan Street and a site area of 10,548sq.m. The site is currently vacant, and contains no significant vegetation.

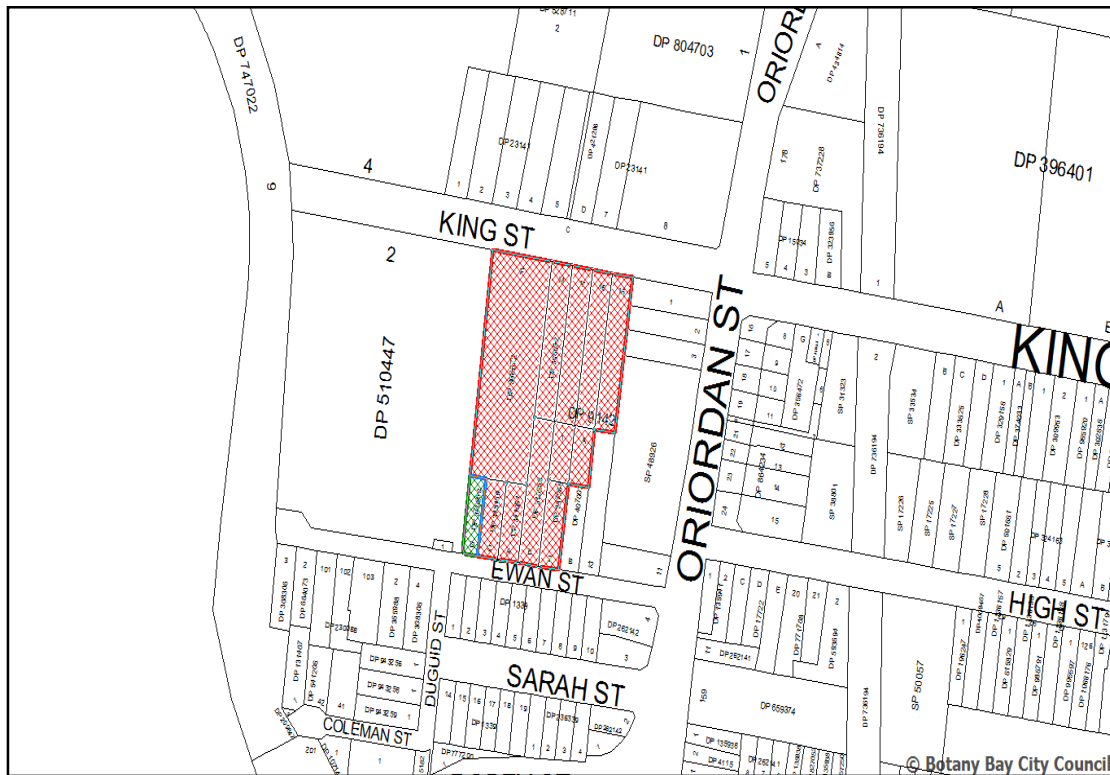
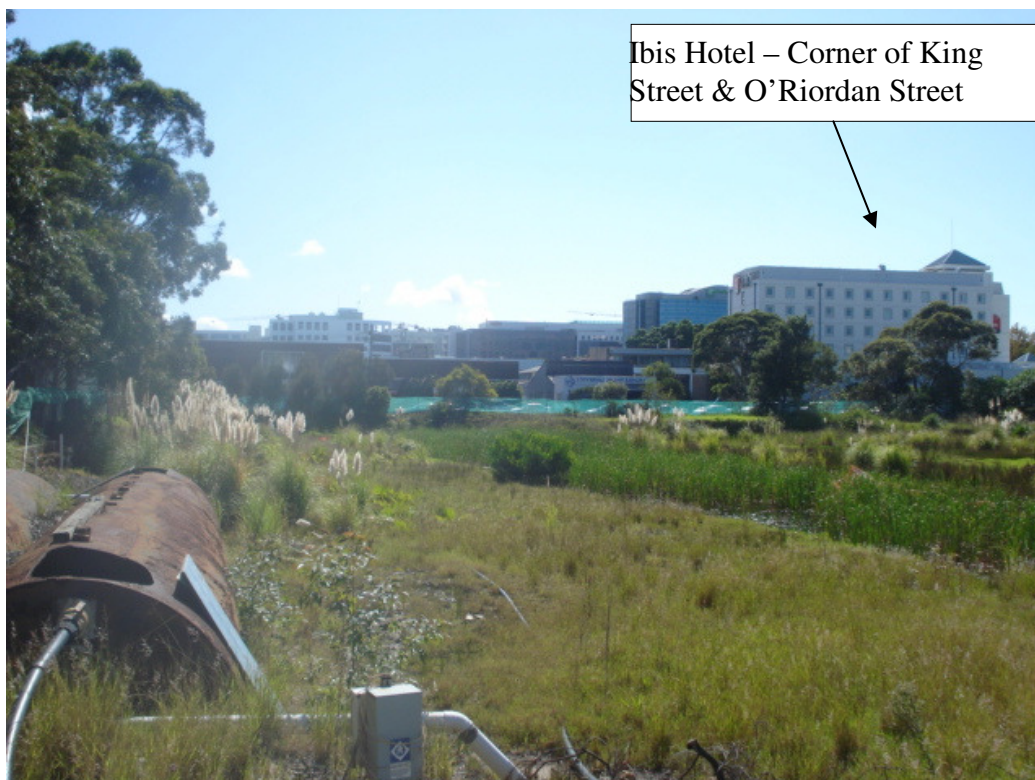


Figure 1 – Site Location Plan

The site is located within the 4(c2) Airport Related – Restricted zone and is currently vacant. It was most recently occupied by a metal galvanising plant ('Mascot Galvanising') and buildings associated with that use were approved for demolition on 21 March 2003 (DA-03/448)

The existing ground levels at the site vary between 3.50m (to AHD) near the sites north-western corner, 5.84m (to AHD) at the sites south-eastern corner and 6.33 (to AHD) at the sites north-eastern corner. The difference in levels is generally the result of excavation works which have been carried out to remove contaminated soil from the site as part of the remediation works.



*Photo 1 – View of the subject site (looking north). The Ibis Hotel is in the background
The tanks used for groundwater treatment are in the foreground.*

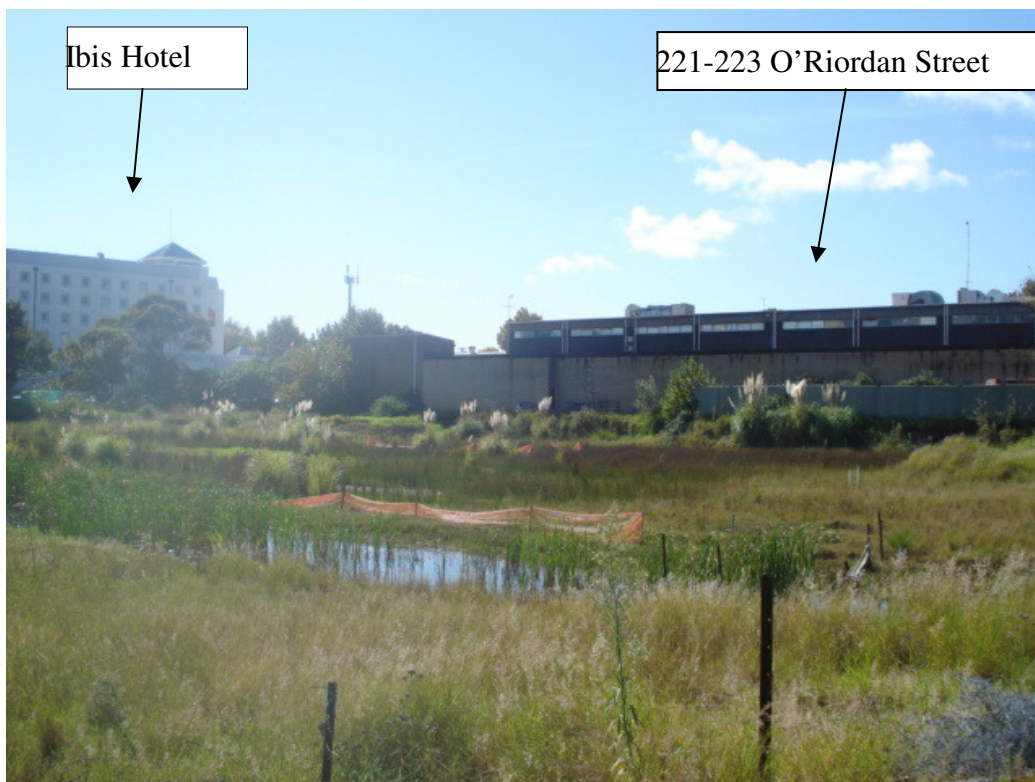


Photo 2 – View of the subject site (looking toward the north-east).



Photo 3 – View of the subject site (looking south across site). The buildings in the foreground front Ewan Street. The Coates Hire & Stamford Hotel in the background have a maximum height of 51.0m (to AHD).



Photo 4- Existing monitoring wells. The building beyond is located on the adjoining (Qanats) site. Level difference from excavation for site remediation works.

1.2 Description of the Locality

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

The site is situated within the Mascot Industrial Precinct which is a large consolidated industrial area immediately north of Sydney (Kingsford Smith) Airport and provides the main area for uses related to the airport. This area is divided into three sub-precincts and the subject site is situated in the area south of Coward Street to Qantas Drive which contains a number of high-rise and high standard airport-related developments. These are mainly office and hotel development related to the airport. Landholdings are generally large and developments vary considerably in height and architectural character. The relatively flat topography results in the visual prominence of tall buildings and structures from a large visual catchment area.

The site is immediately surrounded by a mix of small scale industrial and commercial developments of varying size, scale and density. Residential dwellings and a recently approved mixed development are however located on the opposite (eastern) side of O’Riordan Street. A single residential dwelling is located approximately 80m to the west of the subject site at No. 32 Ewan Street.

Immediately to the north of the site is located an older style industrial building recently approved for car parking and storage purposes. The Ibis Hotel containing approximately 200 beds is located on the northern side of King Street at the north-western intersection with O’Riordan Street (*See Photos 1 & 2*). Other sites located along the northern side of King Street are used for motor vehicle smash repairs and at grade car parking associated with Qantas land uses in the area.

Immediately to the east of the subject site is No. 3 Ewan Street. The building on this site was constructed for residential purposes however is currently used for commercial purposes (i.e. a freight forwarding business). Refer to Photo 5 below.



Photo 5 – No. 3 Ewan Street (commercial premises) – adjoins site to the east.

Further to the east and on the opposite side of O’Riordan Street is located 182-196 O’Riordan Street. The structures on this site have recently been demolished following approval of Development Application No. 11/274 being for the demolition of existing structures and construction of 113 residential apartments, retail / commercial show rooms, associated car parking, loading facilities and landscape treatment. The Application was considered by the JRPP (Sydney East Region) at their meeting of 11 October 2012.

Also to the east on the opposite side of O’Riordan Street are generally located residential dwellings, including residential flat buildings, multi-dwelling housing and single detached dwellings.

To the south of the subject site are located a mix of commercial premises. These premises are generally small in scale and used for airport related land uses such as car parking, taxi services and freight forwarding. Further to the south are located the Coates Hire, Stamford Hotel and the domestic airport. The two prominent commercial buildings have a maximum height of 51.0m to AHD (*See Photo 3*).

To the west of the subject site is land owned by Qantas. The land is currently used for car parking purposes only. Further to the west is Qantas Drive and Sydney Airport.

1.3 Site and Development History

A search of Council’s records identified numerous development applications between 1975 and 1995 for the metal galvanising business (“Mascot Galvanising”) which operated at the subject. According to information contained in the ‘Site History; section of the Site Audit Statement (SAS) submitted with the Application, the site operated as a zinc galvanising plant between 1948 and 2000. Before this time the site was low-lying swampland and possibly used for market gardening until the land was filled. The SAS confirms that the Qantas carpark adjoining the site to the west was similarly low-lying and that filling of that site most likely occurred at the same time as this site.

The most recent record for the subject site is Development Consent No. 03/448 for the demolition of all existing buildings and structures on site at 342 King Street, Mascot, which was approved by Council on 21 March 2003.

Remediation works, including removal of contaminated soil and groundwater treatment, have been undertaken at the site. The site is still the subject of a court order and five (5) current remediation notices issued by the NSW EPA, however Site Audit Statements have been issued which confirm that the site is suitable for commercial or industrial land uses subject to conditions. These matters are considered to have been satisfactorily addressed and are discussed in more detail later in the report under consideration of SEPP 55.

1.4 The Proposal

The development application originally sought consent for a staged development for the construction of a new commercial complex and a multi storey public carpark comprised of a ten (10) storey commercial building fronting King Street, a seven (7) storey commercial building fronting Ewan Street (comprising a total 14,623m² of commercial floor space) and a public car park for 2054 vehicles at 342 King Street Mascot. The original proposal had a floor space ratio (FSR) of 5.3:1 (under BLEP 1995) and was to be constructed in three (3) stages.

The current (amended) Application has been significantly modified and requests approval for the construction of:

- a 12 storey (321 room), 4 star hotel with ancillary facilities including a restaurant and bar, plus basement level (10,627m² GFA);
- a multi-storey commercial carpark containing a total of 1622 parking spaces comprising:
 - 80 spaces allocated to the hotel;
 - 1542 spaces allocated as a long-term public carpark (including 40 accessible parking spaces, 3 courier vehicle spaces and 49 secure bicycle spaces);
- A FSR of 4.74:1 (as defined under BLEP 1995); and,
- Associated landscaping and public domain works.

Some plans of the proposed development are provided below (Figures 2 & 3):

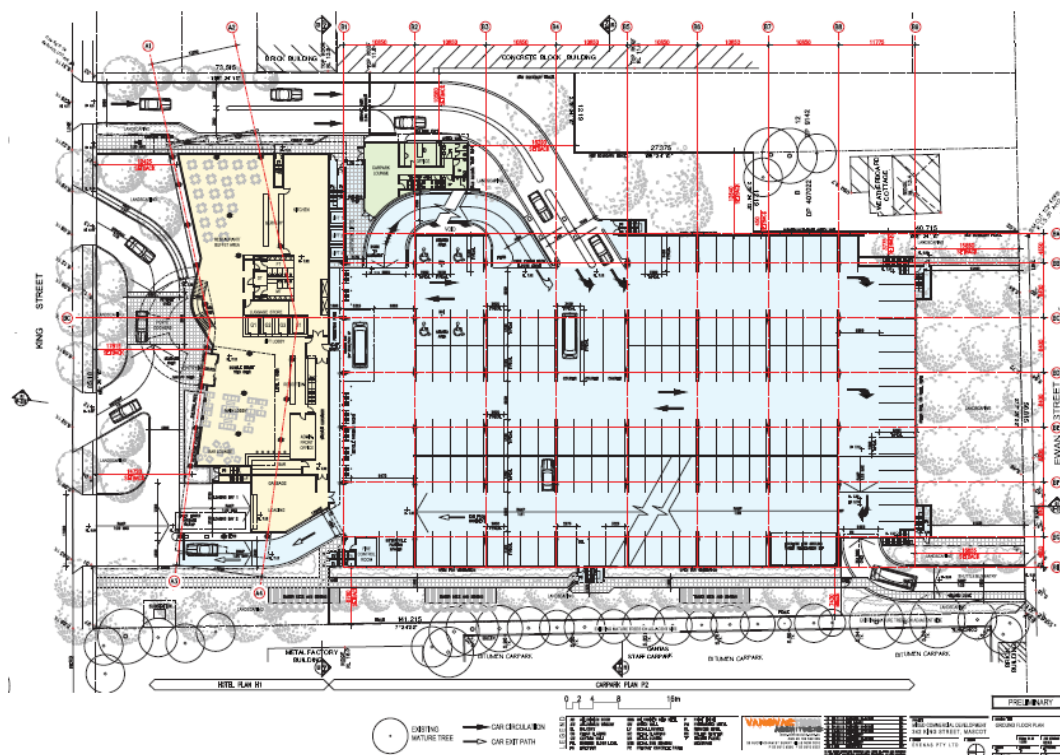


Figure 2: Ground Floor Plan of proposed hotel and carpark.

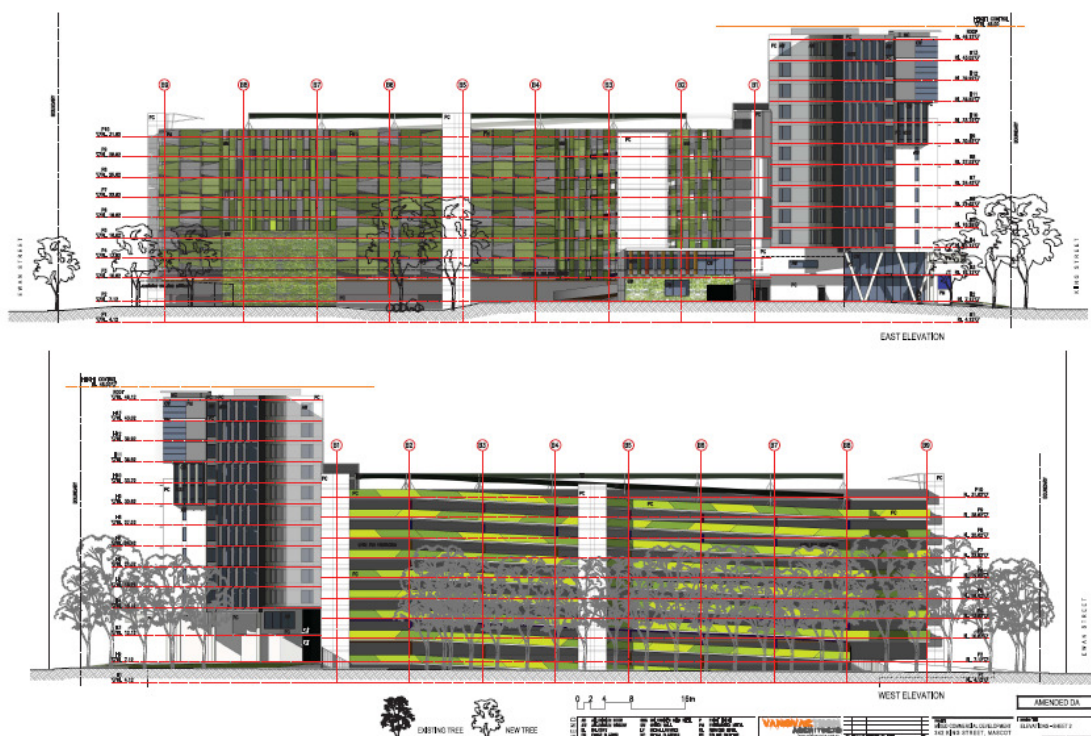


Figure 3: Eastern and Western elevations of proposed hotel and carpark.

The key statistics for the proposed development are summarised in Table 1 & Table 2 below:

Table 1 – Gross Floor Area (GFA) and Floor Space Ratio (FSR)

Botany LEP 1995		Draft Botany LEP 2012		
Requirement under Clause 12A(3) of Botany LEP 1995	Proposed FSR under BLEP 1995	Requirement under Clause 4.4 of draft BLEP 2012	Proposed FSR Draft BBLEP 2012 Applicant's Calculations	Proposed FSR Draft Botany 2012 Council's Calculations
1.5:1 (15,822m ²)	4.74:1 (50,121m ²)	3.0:1 (31,644m ²)	4.23:1 (44,665m ²)	3.99:1 (42,126m ²)

Table 2 – Landscape Area Calculations

Landscaping	Area (m2) & (% of site area)	
Soft Landscaping (without pavement & deck)	2,526m ²	(24%)
Landscaped Area (including pavement & deck)	2,855m ²	(27%)
Deep Soil Planting	2,454m ²	(23%)
Soft Landscaping – Front Setback	343m ²	(3.2%)
East Boundary Landscaping	498m ²	(5%)
Building Footprint	6,219m ²	(59%)

The applicant has confirmed that the carpark building may be constructed prior to the hotel building, however the amended application is no longer ‘staged development’ as defined by the *Environmental Planning and Assessment Act 1979* (EP&A Act). The applicant has therefore provided plans to demonstrate that the appearance of the carpark before the hotel building is constructed will provide a satisfactory outcome for the site, as demonstrated in Figure 3 below:

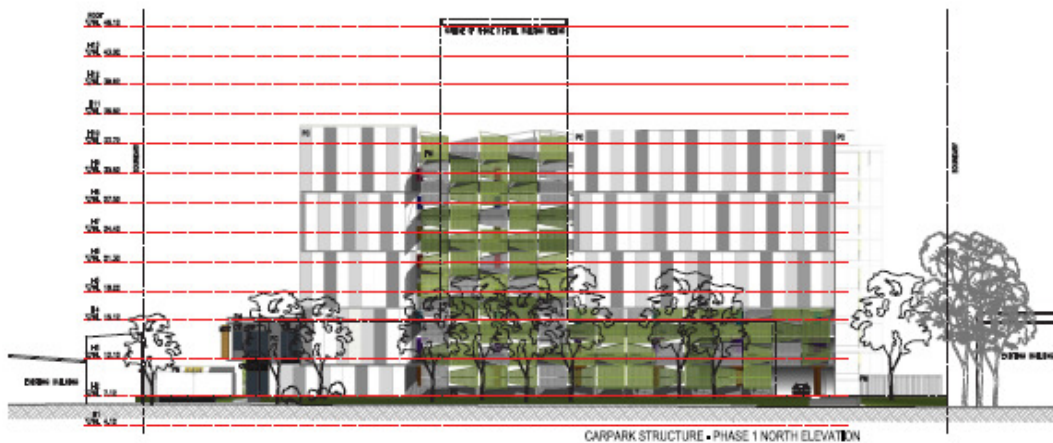


Figure 4: Northern elevation of the proposed carpark.

The proposed development is described in further detail below under the following six (6) headings – “Site Works”, “hotel”, “carpark”, “vehicular access”, “landscaping” and “public domain works”:

1. Site Works

The Application requires some site clearing and preparation works, including some additional excavation (and some filling) works to allow construction of the basement level, which has a finished floor level of 4.12m to Australian Height Datum (AHD).

The applicant has confirmed that the proposal will not transect the groundwater table which is found between 3.04m and 3.1m to AHD.

2. Hotel

The proposed 4 star hotel will contain 321 bedrooms and ancillary facilities (including bar, restaurant and meeting rooms) which the Applicant expects will be utilised predominantly by hotel guests.

The hotel will have a gross floor area (GFA) of 10,627m² when calculated in accordance with the current Botany Local Environmental Plan 1995 (BLEP 1995), resulting in an FSR of 1:1.

The target market for the hotel is airline passengers and staff passing through the nearby Sydney Airport, most of whom they expect will travel to or from the hotel by shuttle bus.

The fit-out of the hotel is proposed as follows:

- *Basement Level* - The basement level is proposed to be utilised for hotel technical services, rainwater tank, sprinkler tank and pump room, distribution and switch rooms, hotel storage and hotel housekeeping.
- *Ground Floor Level* - The ground floor level of the hotel building will contain normal ancillary facilities including:
 - Main lobby / Lift lobby;
 - Reception desk;
 - Front Administration office;
 - Kitchen;
 - Restaurant/Buffer area (including servery);
 - Bar; and
 - Loading bay.
- *First Floor Level* - The first floor level of the proposed hotel building will contain a void to the hotel lobby below, and will also include the following ancillary facilities:
 - Administration offices;
 - Back of House & Staff amenities;
 - Guest laundry;
 - Plant room; and,
 - Three (3) meeting rooms and associated meeting room store and breakout area.
- *Levels 2 to 11* - The hotel rooms will be provided over eleven (11) levels, from Level 2 to Level 12. Levels 3-8 and 10-12 are proposed to contain 33 rooms each, while Level 9 will contain 24 rooms.
- The *roof level* is proposed to contain solar panels which will be used for hot water heating. Sydney Airports Corporation (SACL) has not yet approved the solar panels as they require additional information relating to their levels (at AHD), and approval from SACL will therefore be required prior to issue of the Construction Certificate.

3. Multi-Storey Commercial Carpark

The proposed carpark contains a basement level and nine (9) levels above, and comprises an FSR of 3.74:1 (39,494m²) in accordance with BLEP 1995.

The carpark will contain a total of 1622 parking spaces to be allocated as follows:

- 80 spaces allocated to the hotel. These spaces are proposed at basement level;
- 1542 spaces allocated as a long-term public carpark, including
 - 40 accessible parking spaces;
 - 3 courier vehicle spaces; and
 - 49 secure bicycle spaces.

Car parking for the hotel will be managed to cater for any overflow of parking associated with the hotel (i.e. any parking exceeding the 80 spaces).

The bicycle and courier spaces may also be utilised by the hotel.

The Applicant originally requested approval for use of the carpark for the hotel, for users of Sydney Airport and also for use by office workers and other members of the general public. Given the existing peak traffic congestion, the concerns with impacts to the nearby intersection and the applicant's use of the existing '*Park and Fly*' carpark as a guide for their traffic generation, the applicant has now submitted an Operational Management Plan (prepared by John Coady Consulting, dated 28 November 2012) which demonstrates that the facility should be used for long term parking associated with Sydney Airport only.

Vehicular access arrangements to the carpark are discussed in detail below under Item 4.

4. Vehicular Access and Deliveries

Vehicular access for the proposed development is as follows:

- The main entry driveway to the carpark is off King Street. The entry is single lane expanding to dual lanes within the site. It is located to the north-eastern corner of the site;
- The main exit driveway from the carpark is to King Street. It is a single lane exit located to the north-western corner of the site.
- A supplementary driveway to the carpark is provided from Ewan Street. It is single lane and located near the south-western corner of the site. This entry is proposed to be used by mini-buses and hire cars (or the like) used to transport airline passengers and crew from Sydney Airport to the hotel or public carpark. This entry will also be used by some service vehicles (i.e. tradesmen visiting either the hotel or the carpark for service/maintenance work).
- A porte-cochere is proposed off King Street. It will be located in front of the hotel building and will be able to cater for coaches, taxis and other vehicles. It contains separate entry and exit driveways to ensure one-way movement through the sites frontage.

Deliveries and waste removal are proposed to be undertaken off King Street to the north-western corner of the site. Delivery and waste vehicles will utilise the porte-cochere to enter the site in a forward direction. The vehicles will then reverse into the loading bay to allow them to subsequently exit the site in a forward direction. The awning has been designed at an appropriate height, and swept path templates have been submitted to demonstrate that the movement of delivery and waste vehicles can be undertaken wholly within the site.

5. Site Landscaping

The proposed development includes the provision of landscape works within the sites frontages and side boundaries, summarised in Table 2 above.

A landscaped setback of between 7.43m and 8.46m exists between the carpark building and the sites western side boundary. This setback has been provided to ensure that the existing monitoring wells can be retained to allow continued monitoring of the groundwater as required by the Environmental Site

Management Plan (EMP) and Site Audit Statements. This area is proposed to be landscaped and includes a public footpath linking Ewan Street and King Street (which will be dedicated to Council as a right of way). This will facilitate pedestrian movements to/from the Mascot Railway Station located approximately 600 metres to the north of the subject site.

Landscaping is also proposed between the carpark and hotel buildings at first floor roof level as recommended by the Design Review Panel to improve the amenity and outlook for customers of the hotel building.

Adequate soft landscaping is also proposed within the sites southern and eastern setback areas.

6. Public Domain Works

The application proposes the provision of a public footway linking Ewan Street with King Street along the western boundary of the site. This land is proposed to be dedicated to Council as a right of way.

Other public domain works include the standard requirements for replacement of relevant kerb and gutter surrounding the site, street tree planting, the placement of existing overhead electricity cables underground and the replacement of street lighting.

2.0 PLANNING CONSIDERATIONS

2.1 Section 79C(1) - Matters for Consideration

In considering the Development Application, the matters listed in Section 79C of the Environmental Planning and Assessment Act 1979 have been taken into consideration in the preparation of this report and are as follows:

(a) **Provisions of any Environmental Planning Instrument (EPI), draft EPI and Development Control Plan (DCP)**

Environmental Planning and Assessment Act – Schedule 4A

The application is required to be determined by the Joint Regional Planning Panel pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act as the Capital Investment Value of the proposed development exceeds \$20 million.

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 - Traffic Generating Development

The proposed development is identified as Traffic Generating Development in accordance with the provisions of Clause 104 and Schedule 3 of SEPP (Infrastructure) 2007. The proposal was therefore referred to the NSW Roads and Maritime Services (RMS) for consideration.

On 7 September 2011 the original proposal for two (2) commercial buildings and the public carpark was considered by the Sydney Regional Development

Advisory Committee (SRDAC). Under letter dated 29 September 2011 the SRDAC raised concerns with road safety, internal traffic flow arrangements, the adopted traffic generation rate, access arrangements for vehicles travelling south along O’Riordan Street, intersection performance and the swept path analysis.

On 28 November 2011 the SRDAC / RMS provided a response to amended plans and documentation.

On 3 August 2012 the Applicant submitted the current (amended) proposal for a hotel and public carpark. The amended application aimed to significantly reduce and modify the traffic generation rates and peak times of the facility to address RMS and Council concerns. The amended proposal was accompanied by a “Traffic and Parking Assessment” Report prepared by John Coady Consulting Pty Ltd (dated 8 August 2012) and a Letter Report addressing the RMS / SRDAC issues titled “Traffic and Parking Issues” prepared by John Coady Consulting Pty Ltd (dated 8 August 2012).

The amended application was referred to RMS for consideration on 24 August 2012. On 11 September 2012 a meeting was convened between Council and RMS Officers to discuss possible improvements to the intersection at King Street and O’Riordan Street. The meeting was arranged due to the number of development applications that were then under assessment by Council in the vicinity of the intersection of King Street and O’Riordan Street.

At the meeting RMS confirmed that no improvements were possible at the current time as funding for the proposed road widening to O’Riordan Street was not available. In addition, they confirmed that no changes would be allowed to the existing traffic light phasing for O’Riordan Street, and that the traffic issues are a regional network problem and that localised improvements would not result in significant improvements.

The amended application was considered by the SRDAC on 12 September 2012, who by way of letter dated 19 September 2012 provided comments to Council for its consideration in the determination of the Application. The response was forwarded to the Applicant and the issues raised by RMS are summarised and considered below:

1. Intersection Performance - The RMS advised that the intersection is currently at capacity during peak times, particularly on the King Street approaches, and that there is limited vehicular storage within O’Riordan Street to cater for existing turning movements from King Street and any additional traffic on the King Street approaches will add to the existing delays experienced by motorists in the peak periods. The RMS noted the existence of the road widening reservation along O’Riordan Street and confirmed that once constructed (in the future) it will provide additional storage, however no funding is allocated to this road widening and this is a long term infrastructure project which is unlikely to occur in the short to medium term.

2. **Traffic Generation** - The traffic generation of the proposed car park is based on the existing “Park and Fly” carpark which is currently operating at 1008 Botany Road (corner of General Holmes Drive and Joyce Drive) and will therefore only have a similar traffic generation to the existing ‘Park and Fly’ if their parking fee structures are similar. RMS suggested that Council request evidence of the “Park and Fly” traffic generation characteristics.

The submitted Operational Management Plan proposes that the carpark be operated as follows:

- After payment has been made, the parking ticket will be endorsed for departure by the automatic parking payment machine.*

- *Any ticket submitted to the parking payment machine which is not validated by the hotel or by the “park and fly” operator will attract the following parking fee:*

<i>Up to 1 day</i>	<i>2 x \$Y</i>
<i>More than 1 day or part thereof</i>	<i>2 x \$Y per day or part thereof</i>

Subject to a condition requiring that the carpark be operated in accordance with the submitted Operational Management Plan, it is considered that the traffic generation from the carparking facility will be similar to that of the existing “Park and Fly” carpark on Botany Road and will therefore be relatively evenly spread across the day, rather than being concentrated in the morning and afternoon peak periods, the proposal is therefore considered to satisfactorily address this matter.

The potential impacts resulting from the traffic generation associated with the proposed land uses has also been discussed in further detail in response to Clause 17(c) of the BLEP 1995.

3. Traffic Generation – If the carpark is primarily used for airport patrons RMS considers that the traffic generation will be relatively evenly spread throughout the day (with the exception of the flight curfew period) and not necessarily have a peak which correlates with the weekday road commuter peak periods.

Officer’s Comment: This matter has been addressed in response to Item 2 above. Subject to operation in accordance with the submitted Operational Management Plan, the traffic generation is considered to be relatively evenly spread throughout the day and not concentrated at peak times.

4. Extension of the ‘No Parking’ restriction – The RMS advises that the proposed extension of the ‘No Parking’ restriction along King Street should be referred to Council’s Local Traffic Committee for consideration (and should include community consultation).

Officer’s Comment: Council agrees with the recommendations of the RMS.

5. Any modification to the current Traffic Control Signal (TCS) plan of O’Riordan Street and King Street intersection shall be referred to RMS for approval.

Officer’s Comment: No modifications are currently proposed, however this matter is proposed to be dealt with by way of condition of consent.

- 6 – 10. The remaining matters raised in Items 6-10 of the SRDAC’s letter relate to swept paths, submission of a Construction Traffic Management Plan, compliance with the Australian Standards, entry and exit of vehicles in a forward direction and costs.

Officer's Comment: The matters raised in Item 6 – 10 of the SRDAC response have been adequately addressed through submission of additional information and/or by way of proposed conditions of consent.

State Environmental Planning Policy No 1 – Development Standards

The provisions of SEPP No. 1 have been considered in the assessment of the application. The policy aims to introduce flexibility in the application of development standards where it can be shown that strict compliance is unreasonable or unnecessary in the circumstances of the case.

Under the provisions of the Botany LEP 1995 the site is zoned 4(c2) Airport Related – Restricted, and Council may only consent to the erection of a building if the floor space ratio (FSR) does not exceed 1.5:1 in accordance with Clause 12(3) of the Botany LEP 1995.

The site has an area of 10,548m² and the proposed development is considered to have an FSR of 4.74:1 (50,121m²) pursuant to BLEP 1995 and a summary of the FSR under the existing and draft BBLEP 2012 is provided below:

Table 3 – FSR Comparisons (BLEP 1995 & draft BBLEP 2012)

Botany LEP 1995		Draft BBLEP 2012		
Requirement under Clause 12A(3) of Botany LEP 1995	Proposed FSR under BLEP 1995	Requirement under Clause 4.4 of draft BLEP 2012	Proposed FSR Applicant's Calculations	Proposed FSR Council Calculations
1.5:1 (15,822m ²)	4.74:1 (50,121m ²)	3.0:1 (31,644m ²)	4.23:1 (44,665m ²)	3.99:1 (42,126m ²)

The definition of Gross Floor Area in Council's LEP 1995 is provided below:

"gross floor area" means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1,400 millimetres above each floor level excluding the following:

- (a) columns, fin walls, sun control devices and any other elements, projections or works outside the general line of the outer face of the external walls,*
- (b) lift towers, cooling towers, machinery and plant rooms and ancillary storage space and vertical air-conditioning ducts,*
- (c) car parking at basement and at grade (ground level) and 50% of the car parking area provided at first floor level (and any internal access to that car parking), being car parking that is needed to meet any requirements of the Council,*
- (d) space for the loading and unloading of goods,*
- (e) designated storage spaces (if any) designated for personal items associated with multi unit housing, residential flat buildings and mixed development.*

While Clause 12(4) permits the development of hotels, motels and freestanding office complexes with a maximum FSR of 2.5:1 on land within zone 4(c2), this is subject to the allotment exceeding 4,000 sq.m on 7 May 1993. Clause 12(4) does not apply to the proposed carpark, as the site area proposed to be developed for the hotel did not comprise an allotment with an area in excess of 4,000 sq.m. on 7 May 1993. It is therefore considered that Clause 12(4) is not applicable to this application.

The Applicant also provided legal advice which considers that the proposal may be considered to comply with the maximum 1.5:1 FSR permitted by Clause 12(3) of the Botany LEP 1995 as it proposes an FSR of 1:15:1 (i.e. 12,109m²). The legal advice concludes that a SEPP 1 is not required for the proposed development as it is open for the consent authority to interpret the definition of gross floor area under the BLEP 1995 such that ground floor level and level 1-8 of the proposed carpark are not included as GFA.

The applicants rationale is that GFA is measured at “*a height of 1,400 millimetres above each floor level*”, and the carpark does not contain any ‘*external enclosing walls*’ at this height. An extract from the legal advice is provided below:

“With regard to ground level to level 8 of the proposal, it may be argued, based upon the plans provided to the writer for review, that the masonry 1 metre safety upturn at the edge of each carparking floor plate does not comprise an “enclosing external wall” and thus that the area within those levels does not comprise GFA, as defined”.

The Applicant’s rationale is not agreed with and it is considered that carpark should be included as GFA (except for those areas specifically excluded by the definition listed above).

The applicant therefore submitted an objection under State Environmental Planning Policy No. 1 – Development Standards (SEPP 1) on 26 November 2012 which has been relied upon in the assessment of the application. The SEPP 1 seeks to vary Clause 12(3) of the Botany Local Environmental Plan 1995 in relation to the permitted floor space ratio (FSR) for the site, being 1.5:1 to permit an FSR of 4.74:1.

The applicant’s GFA calculations under the BLEP 1995 are agreed with, however it is considered that significant weight should also be given to the FSR permitted under the draft BBLEP 2012 as the draft policy is now considered to be “*imminent and certain*”. This is based on the fact that Council at its meeting of 28 November 2012 resolved to adopt the Draft BBLEP (subject to some minor exclusions not relevant to this application) and forward it to the Department of Planning and Infrastructure for gazettal under Section 68. This is dealt with in more detail later in the report in response to the draft BBLEP 2012.

More detailed consideration is given to the FSR calculations resulting from the draft BBLEP 2012 later in the report, however in summary the GFA calculations for public carparks under the draft instrument are extremely difficult to ascertain. The applicant has provided legal advice which confirms

that the spiral down ramp may be excluded from the GFA calculations given that this area may be considered as “vertical circulation”, and it is Council’s position that the vertical circulation required to access the upper levels may also be excluded from the GFA calculations as this is also “vertical circulation”.

Notwithstanding the above, the applicable control in this case remains Clause 12(3) and the SEPP 1 Objection relates to this clause, however some consideration is also provided to the draft BBLEP 2012 here below (with more detailed consideration later in the report):

1. Is the requirement a development standard?

Clause 12(3) of the Botany LEP 1995 is considered to be a development standard. It reads as follows:

“Notwithstanding the provisions of subclause (1), the Council may consent to the carrying out of commercial development (other than that referred to in subclause (4)) and airport related development, but not including industry, on land within Zone No 4 (c1) or 4 (c2) to a maximum floor space ratio of 1.5:1”.

2. What is the underlying object or purpose of the standard?

Clause 12 of the Botany LEP 1995 does not expressly state the objectives for the FSR development standard. The purpose in setting development standards is to achieve local and regional planning objectives through economic and orderly development of the land.

The applicant has therefore identified other objectives contained in Council’s LEP 1995 and Industrial DCP 33 which they consider establish the underlying purposes of the standard. The 23 objectives listed in the SEPP 1 objection include two (2) objectives from Council’s DCP 33 and all of the objectives set out in Clause 5(1), Clause 5(3) and Clause 17(2) of BLEP 1995. The 23 objectives are too numerous to list, however the key objectives may be broadly be summarised as follows:

- To ensure that the development is of an appropriate height, bulk and scale,
- to protect areas from inappropriate development and adverse impacts to the road network and public domain resulting from the operation of the proposal (including traffic impacts, loading and unloading, storage of goods and materials, emissions, waste storage, hours of operation and the like);
- to minimise overshadowing, noise and other amenity impacts to adjoining properties;
- to ensure that the design and finishes of the proposal is appropriate;
- to improve the image of the local government area and recognise its importance as a gateway function to Sydney Airport; and

- to encourage developments which will contribute to the economic growth and employment opportunities within the commercial and neighbourhood centres.

3. *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*

Council's policy lists four separate tests for reasonableness and necessity, and these will be examined separately.

(a) *The proposal meets the objectives of the development standard notwithstanding its non-compliance with the standard. In this instance one must determine the objectives of the standard and if not expressly stated in the LEP what are the inferred objectives?*

The applicant has addressed each of the 23 objectives identified in Item 2 above to demonstrate that the proposal can meet the stated objectives notwithstanding the non-compliance with the FSR requirement. The applicant's justification is too extensive to reproduce verbatim, and the key matters are therefore provided (by quote or summary) below:

- *“The proposed building height, scale and mass is consistent with the evolving scale and height in this gateway location... The built form and scale, as defined by its envelope, is as anticipated by Councils existing and draft controls. Contextually, the envelope and massing of the building is consistent with surrounding developments and approvals including:*
 - *Development Approval for 51m to AHD (12 storeys) and FSR of 4.46:1 at 185-189 O’Riordan Street;*
 - *Development Approval to AHD 51.0m at 241A O’Riordan street (Coates Hire);*
 - *Development Approval to 50.9m to AHD at 210 O’Riordan Street;*
 - *Ibis Hotel at 205-213 O’Riordan Street, 8-9 storeys (opposite the subject site);*
 - *Stamford Hotel, 14+ storeys, Joyce Drive;*
 - *Airport Central, 14+ storeys, Joyce Drive;*
 - *Holiday Inn, 19 Bourke Road, 12-13 storeys, 250m from the site;*
 - *Corporate Express, 163-175 O’Riordan Street, 9-10 storeys, 400m from site;*
 - *Qantas Drive, 14 storeys, 100m from site.*
- The bulk and scale of the proposal is supported by Council's Design Review Panel;

- Traffic impacts and movements, deliveries and carpark design are all found to be satisfactory, as addressed in the reports prepared by John Coady Consulting Traffic Engineers;
- Landscaping has been provided which is *‘integral to the design and function of the hotel and carpark buildings’*, and that will *‘improve the appearance of the development, but will also enhance the streetscape and significantly improve the amenity of the adjoining area’*;
- *‘The design of the hotel building and carpark structure are exceptional in terms of aesthetic quality and level of architectural finish. The design detail is the result of extensive consultation with Council’s Design Review Panel and their endorsement of the scheme’*;
- The proposal *‘ensures a positive contribution to the public domain’*.
- *‘The proposed land uses are permissible, consistent with the zone and its objectives, providing an airport related service and actively contributing to the economic vitality and viability of the municipality’*;
- Noise, overshadowing and other impacts will be minimised;
- *“The proposal will contribute to the economic growth and employment opportunities, providing a new and high quality hotel development”*

Comment:

The applicant’s justification is generally agreed with. The proposal is considered to be of an appropriate bulk and scale for the subject site (as agreed with by Council’s Design Review Panel), and a suitable amount of soft landscaping is proposed for the development (i.e. approximately 24% of the overall site area, being 2,526m², of which 2,454m² is deep soil planting and 343m² is provided in the front setback area).

The applicant has now modified the carpark to be for long-term parking only and they have submitted adequate information to demonstrate that the traffic impacts associated with the use should be spread throughout the day. The traffic generation resulting from the amended proposal is significantly reduced from the original proposal and is considered to be satisfactory in this case.

The overall impacts from the proposed development have been minimised and the built form combined with the proposed landscape treatment is considered to improve the public domain and gateway function of the locality.

The additional floor space attributable to the public carpark supports and reinforces all relevant objectives for commercial development identified in Item 2 above. The development will

enhance economic growth in the local precinct and significantly improve pedestrian environment and streetscape.

The proposal is therefore considered to satisfy the underlying objectives for the FSR control.

(b) The underlying objective or purpose is not relevant to the development;

This SEPP 1 test is not relevant to the development as the underlying objectives are relevant to the development.

(c) The underlying objective or purpose would be defeated or thwarted if compliance was required with the standard;

The applicant has provided the following justification to demonstrate that the underlying objectives of the FSR control (i.e. Clause 12(3) of BLEP 1995) would be thwarted or defeated if compliance were required:

- *“Compliance with the standard would require a reduction in car parking provision. This proposal is responding to an identified demand and, as has been demonstrated throughout this report, this has been achieved with no adverse impact and with demonstrated environmental benefit.*
- *It has been demonstrated above that were a commercial building of the same height and envelope be constructed on this site it could be designed to compliance with the draft BBLEP FSR of 3:1 on this site.*
- *The car park structure is 24.5m high but includes 8 roofed storeys levels, each level being calculated as Gross Floor Area. However a commercial building of the same height could only include a maximum of 6 levels;*
- *Such a building would be solid however and would appear to be more bulky, as it would be a solid building as opposed to an open structure with lightweight panels, as currently proposed. It would also have greater impacts in terms of parking requirements and privacy impacts on adjoining*
- *The hotel building complies with the height limit and the car park structure is below the height limit, therefore meeting the desired future building context for the locality.*
- *This has been confirmed by Council’s Design Review Panel, acknowledging its appropriateness to the site and the locality generally.*
- *A smaller development on this site would tender to hinder the achievement or the broader objectives of the locality and zone namely to*
 - *Provide development of an appropriate bulk and scale*
 - *Provided development to complement the airport”*

Comment:

The applicant's justification is generally agreed with. The application has undergone rigorous assessment and it is considered that strict compliance with the 1.5:1 FSR would hinder attainment of the underlying objectives identified in Item 2 above. Most notably:

- The applicant has demonstrated that the proposed development will be similar in height, bulk and scale to existing and proposed development in the vicinity and surrounding area. Therefore, a compliant development with an FSR of 1.5:1 would be out of scale and character with surrounding development if compliance were required.
- The applicant has shown that the proposal could have a similar massing to that of a compliant building with an FSR of 3.0:1 under the draft Botany LEP 2012. Assessment against the draft policy is considered more relevant in this case as it is now considered 'imminent and certain' (refer to assessment of the draft BBLEP 2012 later in the report). Therefore, compliance with the 1.5:1 FSR required under BLEP 1995 would unreasonably restrict the development and prevent compliance with the objectives.

(d) The development standard has been virtually abandoned or destroyed by Council's own actions.

The applicant's rationale, being that the development standard has been virtually abandoned or destroyed by Council's own actions, is generally agreed with. Their key rationale includes:

- Council on 28 November 2012 resolved to adopt an FSR for the site of 3:1 in accordance with the draft BBLEP 2012;
- Other developments have been approved in the area which exceed the current FSR controls. Most notably, in the immediate vicinity of the subject site, Development Approvals DA-08/287 & DA-08/289 for a commercial development at 185-189 O'Riordan Street accepted a SEPP1 objection for an FSR of 4.46:1 (Note: This FSR is based on the existing definition of GFA contained in BLEP 1995 and, as discussed previously, the FSR for these applications included seven (7) levels of above ground carparking which comprised approximately 30% of the total GFA / FSR for the development.

4. Is the objection well founded?

The applicant provides the following justification to demonstrate that the SEPP 1 objection is well founded:

"The above detailed analysis has demonstrated that the proposal is consistent with the broader planning objectives for the locality and that the application of the provisions of SEPP 1 would allow for the orderly and economic use and development of the land.

Strict compliance would therefore prevent the promotion of the social and economic welfare of the community and a better environment. This is because the proposal complies with the underlying purpose of the development standard, results in no adverse amenity impacts and represents the most effective method of undertaking the development with the least resultant environmental impact.

The over-arching objectives of the LEP 1995 and of Clause 12 (and also Draft BBLEP 2012) are not undermined by this non-compliance. The LEP objectives are supported and enhanced as a result of the non-compliance, particularly as they relate to economic and social benefits arising from provision of efficient and readily accessible public car parking and active hotel and restaurant uses on the ground floor.

The application of LEP Clause 12 development standards is neither necessary nor reasonable in this case because the following requirements are satisfied:

- (a) the proposed departure from the development standard will result in a better environmental planning outcome than that which could have been achieved on the site had the standard been complied with, and*
- (b) the proposed development will be in the public interest by being consistent with any aims and objectives expressed in, or implied from:*
 - (i) the zone in which the development is proposed to be carried out,*
 - (ii) the development standard, or in any relevant environmental planning instrument.*

The variance from the floor space control does not affect the potential of the site to achieve the concise and clear objectives of the standard. The objection under SEPP1 is therefore well founded in this instance”.

Comment:

The applicant has demonstrated that the variance from the floor space control does not affect the potential of the site to achieve the concise and clear objectives of the standard. Indeed, the LEP objectives, and the objectives of the EP&A Act, are considered to be supported by the proposal as the floor space for the intended development are encouraged by the controls, as is evident by the scale, height and location of similar high development forms on nearby lands. Additionally, the proposal is considered to result in a development that would have a similar height, bulk and scale to that of a compliant commercial development with the maximum 3:1 FSR permitted by Council’s draft BBLEP 2012 (now considered to be both ‘imminent and certain’).

Consideration has also been given to the impacts from the proposed facility which are considered to be suitably dealt with.

The applicant's rational is generally agreed with and the SEPP 1 objection is considered to be well founded.

5. *Is the granting of consent consistent with the aims and objectives of SEPP 1 policy, namely:*

- (a) *To provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance in any particular case would be unreasonable and unnecessary***

As noted elsewhere, the additional floor space created is a product of considered site analysis and careful spatial arrangement of built and landscape elements across the site. Full numerical compliance in this instance would not provide any additional benefit to the locality.

- (b) *Will strict compliance with the development standard tend to hinder the objects of the Act, namely:***

- (i) *the proper management of development and conservation of natural and artificial resources, including agricultural land, natural forest, forest, minerals, water, cities, town and villages for the purposes of promoting the social and economic welfare of the community and a better environment; and***
- (ii) *promotion and co-ordination of orderly and economic use and development of land.***

The applicant is of the opinion that strict compliance with the FSR control would hinder attainment of the abovementioned objects of the Act.

The applicant's rational is as follows:

"The proposal demonstrates that the floor space achieved will not alter the intended development form encouraged by the controls, as is evident by the scale, height and location of similar high density mixed use development forms on nearby lands.

The proposal satisfies all other objectives of the Council's controls in relation to this site. The scale of the development accords with the form of development envisaged for the area, reflected in the spatial arrangement of structures within the precinct, and the height of development proximate to core routes and the perimeter of the precinct.

The additional floor space will not be out of scale or character with the locality. The development will enjoy high standards of amenity, comprising well designed hotel accommodation and high quality open landscaped spaces around the building.

The scale of the development responds to the generous proportions of the site, and its location adjacent to an arterial road that functions as the gateway to Sydney Airport.

Any alternative scheme, such that it would:

- *remove hotel accommodation*
- *remove public car parking spaces, or*
- *provide a commercial building with 2 fewer levels in place of the public car park to the same height as the car park structure, with greater bulk but a lower FSR,*

would not provide any additional planning benefit. There are no identified impacts arising from the development attributable to its floor space, being a car park structure, not a building, there would be no increase in amenity to neighbouring land that would be addressed by a reduction in its total accommodation.

To apply the development standard strictly would be unreasonable in this instance, as it would provide no additional planning benefit. Likewise, its application in this instance would be unnecessary, as it does not result in a scale of development that would undermine future planning outcomes for the locality.

The achievement of additional floor space on the site, with a high level of internal and external amenity, demonstrates that the site's development is economical and orderly, responding to the intent of the controls and Councils envisaged form of development in this evolving commercial and hotel precinct.

Strict application of the development standard in this instance would restrict the objects of the Act to achieve the highest and best economic development of the land”.

Comment:

The applicant's rationale is generally agreed with as the proposed development is considered to result in the proper management of, and the orderly and economic use of, the land. This is demonstrated through compliance with the underlying objectives of the control and provision of a development with an FSR that is equivalent to a compliant 3.0:1 commercial building permitted under Council's draft BBLEP 2012 (which is now 'imminent and certain').

6(a) Whether or not non-compliance with the development standard raises any matter of significance for State or Regional environmental planning;

Sydney Airport is a state significant site and airport related development assists the strategic needs of the State as well as the municipality. The development of the site for a hotel and public carpark associated with the airport is, considered to satisfy the objectives of development in the area.

6(b) The public benefit of maintaining the planning controls adopted by the environmental planning instrument.

The applicant provides the following position:

“Departure from the development standard results in a better environmental planning outcome than can be achieved had the standard been complied with.

Development will be in the public interest by being consistent with the aims and objectives expressed in, or implied from, the development standard and the zone in which the development is to be carried out. There is no public benefit in maintaining the FSR control in the circumstances of this case”.

Officer’s Comment:

The applicant’s justification for the variation to the FSR Control under Clause 12(3) of the BLEP 1995 is generally agreed with. The proposal is considered to satisfy the underlying objectives of the FSR control, is considered to result in the orderly and economic development of the land, will result in a proposal that enhances the streetscape amenity and adequately minimises impacts to the locality. There is considered to be no significant public benefit in maintaining the FSR control in the circumstances of this case and the SEPP 1 objection is considered to be well founded.

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

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

The site most recently operated as a metal galvanising plant between approximately 1948 and 2000. Before this time the site was low-lying swampland and possibly used for market gardening until the land was filled and developed as a metal galvanising plant (Mascot Galvanising (Holdings) Pty Limited).

The land filling and practices associated with the industrial land use resulted in contamination of soil and groundwater with heavy metals (predominantly zinc, lead and chromium, and groundwater had a low pH in some parts of the site).

On 18 December 1999 the Supreme Court of NSW issued order No. 3610 of 1996 which required Mascot Galvanising to limit groundwater contamination from entering adjoining properties after 4 March 1999. The site was subsequently declared as a ‘Remediation Site’ by the NSW Environment Protection Authority on 24 January 2000, and four (4) other current remediation orders issued by the EPA relate to the site.

The nature of the harm that the substance may cause was summarised in the initial declaration as follows:

- *“The high concentrations of zinc, lead and chromium in soil and groundwater and the high acidity levels of groundwater would not be expected to occur naturally at this site.*
- *Applicable guidance levels, particularly for zinc and acidic water, have been markedly exceeded.*
- *Zinc is persistent, phytotoxic, and toxic to aquatic ecosystems.*
- *Groundwater contaminated with elevated levels of zinc and of low pH is migrating off-site causing contamination of the local groundwater which ultimately discharges into Botany Bay”.*

Furthermore, the EPA found that the site and groundwater contamination presented a significant risk of harm to the groundwater system as follows:

- *“Harm is being caused to the fresh and marine water biota that is in contact with the contaminated groundwater.*
- *Harm may be caused to humans from the increased risk associated with the use or consumption of the contaminated groundwater.*
- *Use of the groundwater is restricted from any beneficial use due to its contaminated state”.*

Site remediation works, including removal of contaminated soil and the treatment of groundwater below the site, has largely been completed. Two site Audit Statements (SAS's) have now been issued for the site, the first by HLA Envirosciences Pty Ltd on 19 July 2007 (for the eastern part of the site) and the second by ENSR Australia Pty Ltd on 28 July 2008 (for the western part of the site).

The SAS's together cover the whole of the development site and conclude that the site can be made suitable for industrial / commercial development subject to management in accordance with an Environmental Management Plan and compliance with the following conditions:

Site Audit Statement (Eastern Part of the Site):

1. *Preparation of a revised Environmental Management Plan following completion of the redevelopment works on the eastern part of the former Mascot Galvanising site and its review by a site auditor accredited under the Contaminated Land Management Act.*
2. *Continuing operation of the groundwater remediation system on the western half of the former Mascot Galvanising site until approval is obtained from NSW EPA that remediation of groundwater is completed in satisfaction of the Remediation Order.*
3. *Protection and on-going monitoring of all groundwater wells until the remediation works are completed on both the eastern and western parts of the former Mascot Galvanising site.*

Site Audit Statement (Western Part of the Site):

- 1. Continuing operation of the groundwater treatment system on the Site until groundwater remediation goals have been achieved to the satisfaction of NSW EPA;*
- 2. Protection of groundwater wells MW510S, MW510D, MW800S, MW800D, MW801S and MW810D, RW2-5, MW507S, MW507D, MW508S, MW508D, MW509S, MW509D and MW23 and ongoing monitoring in accordance with the current monitoring and analytical regime, until groundwater remediation goals have been achieved to the satisfaction of the EPA;*
- 3. Capping of the entire site with a permanent seal, such as concrete slabs, pavements or landscaping to minimise exposure to residual contaminants in the soil and groundwater;*
- 4. Provision of access along the western boundary of the Site sufficient to allow installation of groundwater recovery wells in the event that NSW EPA or some other government authority requires prevention of migration of contaminated groundwater from the site. The access should not be within a building but may be used for the purposes of a driveway, for parking of vehicles, for temporary storage of materials or for landscaping;*
- 5. Design of buildings and services to address groundwater beneath the Site being slightly to moderately acidic, which may be aggressive to sub-surface building structures and services;*
- 6. Identification and remediation of any significant contamination beneath the DAF water treatment system following relocation or removal of the system; and*
- 7. Preparation and implementation of a long-term Environmental Management Plan if contaminated soil or groundwater remains on the Site after completion of development works. The long-term Environmental Management Plan is required to be prepared to detail the conditions under which residual soil and/or groundwater containing contaminants should be managed if excavation or other works are undertaken.*

The Auditor has not endorsed validation criteria for groundwater, and has stated that the remediation of groundwater can be considered complete only when NSW EPA has agreed that remediation of groundwater has been completed in satisfaction of the Remediation Order.

The Application was referred to the NSW EPA who by email dated 4 April 2012 confirmed that they would like to complete their regulatory involvement in the site. To allow this to occur, the EPA requested confirmation of the following:

- (i) The remediation works have complied with the court order;
- (ii) The site and groundwater contamination no longer pose an unacceptable risk to the offsite environment; and
- (iii) The site is compatible with the proposed site redevelopment (which they considered to be more of Council's requirement under SEPP 55)

On 7 November 2012 the applicant confirmed by email that the proposed development could satisfy the conditions in the Site Audit Statements, and on 21 November 2012 an additional report titled "Targeted Groundwater and Soil Contamination Assessment" prepared by Pacific Environmental (dated 19th November 2012) was submitted to Council. The report also confirms that relevant conditions can be achieved.

The additional information was referred to the NSW EPA who confirmed by email dated 22 November 2012 that the amended information was satisfactory and that they raise no objection to the proposed development subject to compliance with the conditions contained within the Site Audit Statements. Additionally, a meeting has now been arranged between the Applicant and the EPA on 3 December 2012 to resolve outstanding matters associated with the Remediation Orders.

Council's Environmental Scientist has confirmed that the proposal can satisfy the conditions contained in the Site Audit Statements and has recommended conditions of consent to address these matters.

Subject to imposition of recommended conditions and based on the above assessment, it is therefore considered that the subject site can be made suitable for the proposed development and is therefore satisfactory with regards to the requirements of SEPP 55.

Botany Local Environmental Plan (LEP) 1995

Clause 10 – Zoning

The subject site is zoned 4(c2) Airport Related – Restricted under the provisions of the BLEP 1995. The proposed development, is for construction of a 12 storey (321 bedroom), 4 star hotel with ancillary facilities plus basement level, a multi storey commercial carpark containing 1622 parking spaces (comprising 80 spaces allocated to the hotel and 1542 spaces as a long-term carpark), and associated landscaping and public domain works. The proposed development is defined as a "hotel" and "car park" and is permissible in the 4(c2) zone with the appropriate consent of Council.

The primary objective of the 4(c2) zone is as follows:

"To provide for a wide range of development and land use activities that predominantly have a relationship with Sydney (Kingsford Smith) Airport, together with encouraging other non airport-related uses."

It is considered that the proposed development is consistent with this primary objective. The development has a direct relationship to Kingsford Smith

Airport in that it provides for hotel accommodation and a public carpark for persons to store their vehicles whilst using the airport.

The secondary objectives of the zone are as follows:

- “(a) to encourage airport-related land uses,*
- (b) to permit the development of commercial premises and non airport-related uses,*
- (c) to provide for industrial land uses which are related to airport-related development,*
- (d) to improve the appearance of buildings and works in an endeavour to enhance the gateway function of this area to Sydney (Kingsford-Smith) Airport,*
- (e) to prohibit some types of traffic-generating development which would adversely affect the gateway function of those major roads,*
- (f) to permit general advertising structures only when they significantly enhance the environment and do not create a clutter of signages in the locality, and*
- (g) to encourage energy efficiency and energy conservation in all forms of development permissible within the zone.”*

It is considered that the proposed development is consistent with the secondary objectives for the 4(c2) Airport Related – Restricted zone as:

- the development provides commercial land uses associated with Sydney Airport;
- the proposal will result in a built form which is suitable in its context and will enhance the appearance of the area;
- traffic impacts have been appropriately considered and minimised, and
- energy and water savings measures have been incorporated into the design and operation of the development to meet the requirements of Council’s Energy Efficiency DCP and Clause 22 of the BLEP 1995.

The proposed development is therefore considered to adequately address the requirements of Clause 10 of the BLEP 1995.

Clause 12(3) – Floor space ratio

The requirements of Clause 12(3) have been considered in the assessment of the development application. The maximum FSR permitted for the subject site is 1.5:1.

As discussed previously under consideration of SEPP 1, the proposal cannot benefit from the maximum 2.5:1 FSR permitted under Clause 12(4) of the BLEP 1995 given that most of the allotments which form the subject site were less than 4,000m² in area on the appointed day (i.e. 7 May 1993).

The applicant's legal advice (dated 19 November 2012) concludes that, in their opinion, Council can exclude the ground level and levels 1-8 of the carpark from the GFA calculations in their entirety. This would result in a proposal with an FSR of 1.15:1.

It is Council's opinion that the public carpark (excluding the hotel parking) is considered as GFA and the proposal will therefore have an FSR of 4.74:1 under BLEP 1995.

As discussed earlier in the report, the SEPP 1 Objection prepared by aSquare Planning and submitted to Council on 26 November 2012 is considered to be well founded and strict compliance with the development standard is considered unreasonable and unnecessary in this case.

Clause 13 & 13A – Aircraft Noise / Noise and Vibration

Clause 13 and 13A of the LEP have been considered in the assessment of the Development Application as the site is located within the 25-30 contour on the Aircraft Noise Exposure Forecast (ANEF) 2029 chart, and due to potential noise impacts resulting from use of the proposed carpark.

In accordance with Table 2.1 in *AS2021:2000*, the proposed hotel building is permissible in the 25-30 ANEF contour subject to a condition requiring compliance with the requirements of *AS2021:2000*.

An Aircraft Noise Assessment Report prepared by Acoustic Consulting Engineers Pty Ltd (dated 25 July 2012), was submitted with the amended application. The report concluded that the proposed hotel can achieve the indoor noise levels recommended in *AS2021-2000* with the provision of acoustic treatment devices within the development as detailed in the report.

With regards to noise impacts that may result from the proposed carpark, a condition is proposed requiring submission of an acoustic report prior to issue of the construction certificate to demonstrate how noise impacts will be appropriately minimised.

It is therefore considered that Clauses 13 and 13A of the BLEP 1995 have been addressed.

Clause 13B – Development and Obstacle Limitation Surfaces (OLS)

The subject site lies within an area defined in the schedules of the Civil Aviation (Buildings Control) Regulations that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority.

The original proposal for two (2) commercial buildings and a public carpark was amended to satisfy Sydney Airports Corporation Limited (SACL) requirements. The amendment included a reduction in the overall height of the commercial tower fronting King Street from ten (10) storeys (RL 50.50) to nine (9) storeys (RL 48.06)

SACL under letter dated 27 September 2011 approved the development, on the following basis:

- Building height permitted to a maximum AHD of 48.06; and,
- Solar panels shown on the plans do not form part of the approval and that further approval shall be sought from CASA for the installation of any solar panels to the roof of the development.

The current (amended) Application for the proposed hotel and carpark has a maximum height of 48.0 to AHD. The amended application was referred to SACL who confirmed by email dated 18 October 2012 that the earlier approval issued on 27 September 2011 remains valid given that it provided concurrence to a maximum height of 48.06m to AHD.

As such, subject to a condition restricting the maximum height of the building to 48.06m and requiring further approval from SACL and the Civil Aviation Safety Authority for the solar panels, the development is considered to satisfy the requirements of Clause 13B.

Clause 17 – Development in industrial zones

Clause 17(3) requires that “*before granting consent to any development to be carried out on land within zone No. 4(c1) or 4(c2), the Council must be satisfied that*”:

- (a) *the development provides adequate off-street parking,*

Comment: There are no parking requirements for a public carpark, and eighty (80) car spaces have been allocated to the hotel use. These spaces are located within the basement level of the carpark building and can be accessed using the entrances on both King Street and Ewan Street. The proposed parking provision does not comply with the parking requirements contained in Council’s Off-Street Parking DCP.

The parking provision for the hotel has been based on the RTA Guidelines and on the parking provision for the nearby Ibis Hotel. The Applicant’s Traffic Consultant (John Coady Pty Ltd) also confirmed by letter dated 13 November 2012 that parking for the hotel will be managed so that any overflow parking can be facilitated within the adjoining public carpark (i.e. any parking exceeding the 80 spaces allocated to the hotel). The provision for the hotel of parking is therefore considered to be satisfactory in this case, and this matter is addressed in further detail in the assessment against Council’s Off Street Parking DCP later in the report.

- (b) *the development provides an efficient and safe system for the manoeuvring, loading and unloading of vehicles,*

Comment: The application has been modified to reduce the widths of the entry and exit driveways from King Street to single lane to improve pedestrian safety. The internal circulation has been modified and improved to allow queuing within the site and rectify inconsistencies with the proposed circulation within the carpark. Provision has also

been made for the loading and unloading wholly within the site which is located in a position which is adequately separated from the entrance to the hotel. Waste is proposed to be collected outside of normal business hours. The proposal is therefore considered to provide an efficient and safe system for manoeuvring, loading and unloading vehicles.

- (c) *the operations of the development will not have an adverse impact on the functions of the surrounding road network,*

As discussed previously in response to SEPP (Infrastructure) 2007, the proposal have been considered by the Sydney Regional Development Advisory Committee (SRDAC) / RMS on three occasions. In addition, a meeting was held between Council Officers and representatives of RMS on 11 September 2012 to discuss possible improvements to the intersection of King Street and O’Riordan Street.

The original proposal being for a commercial development with a gross floor area of 14,623m² and a public car park for 2,054 vehicles was significantly modified to minimise the traffic generation issues raised by SRDAC / RMS and Council.

The current amended proposal for a hotel (including associated parking and ancillary services) and a long-term public carpark for 1542 vehicles has been accompanied by a Traffic Report and a Letter Report prepared by John Coady Consulting (both dated 8 August 2012).

The traffic generation rates used in the report are based on the existing “Park and Fly” carpark and the RTA Guidelines. The resulting SCATES Analysis presented in the report demonstrates that the intersection performance will be reduced from Level of Service “C” to Level of Service “D” in the AM peak hour, however that the Level of Service will remain unchanged at Level of Service “C” in the PM peak hour. The worst case results from the analysis conclude that the projected average vehicle delay (AVD) for vehicles waiting to turn right out of King Street (west of the intersection with O’Riordan Street) onto O’Riordan Street will increase from 62.4 seconds to 258.6 seconds (4.3 minutes) in the AM peak hour, and that the AVD increase from 112.3 seconds (1.9 minutes) to 289.8 seconds (4.8 minutes) in the PM peak hour. These vehicle delays are included in the average times used to ascertain the overall intersection performance.

The impacts to the traffic exiting King Street west have been minimised by the proposed extension to the “No Parking” provisions on the northern side of King Street and by provision of a dedicated right turn lane from King Street west for traffic entering O’Riordan Street.

The applicant has also submitted an Operational Management Plan prepared by John Coady Consulting (dated 28 November 2012) which is anticipated to result in a traffic generation for the carpark that will be associated with patrons of the airport and that will therefore also result in a spread of traffic throughout the day. This is anticipated to ensure that the impacts to the intersection are minimised during peak times as

recommended by RMS / SRDAC and in accordance with the submitted Traffic Report.

Subject to the imposition of recommended conditions, it is considered that adequate information has been submitted to Council to demonstrate that the traffic generation associated with the development has been satisfactorily minimised. This has largely been achieved through significant modifications to the proposed development that will result in the spread of traffic throughout the day rather than at peak times including:

- a significant reduction in the size of the proposed development (including a deletion of the rear commercial building, a 2,646m² reduction in the GFA and a 322 space reduction in the number of off-street car spaces);
- change of use from a commercial building to a hotel; and,
- use of the public carpark for long-term parking only.

In addition, it is noted that improvements to the intersection will be possible in the longer term when the proposed road widening works to O’Riordan Street are carried out as indicated by the SRDAC / RMS in their letter dated 19 September 2012.

It is therefore the Council Officers’ opinion that refusal of the proposed development based on the traffic impacts associated with the development is not warranted as it would prevent the full and proper development of the land.

The proposed development is considered to be satisfactory with regards to Clause 17(3)(c) of the BLEP 1995.

- (d) *any goods, plant, equipment and other material resulting from the operations of the development will be stored within a building or wholly within the site and screened suitably from public view,*

All materials, goods, plant, equipment and machinery will be stored wholly within the site and not in adjacent forecourts, yards, access ways, car parking areas, or on Council’s footpath. The proposal is therefore considered satisfactory with regards to Clause 17(3)(d).

- (e) *the operation of the development will not have an adverse impact on the surrounding area as a result of traffic movement, the discharge of pollutants, emissions, waste storage, hours of operation and the like,*

The hotel and carpark are proposed to operate 24 hours / 7 days and consideration has been given to the impacts from these proposed land uses.

The development is not anticipated to involve the discharge of pollutants or significant emissions, and conditions have been imposed upon the development with regard to waste storage and other relevant matters. The impacts relating to traffic movements has been discussed in detail under Clause 17(3)(c) above, and safety and security issues associated with the uses have been adequately dealt with through the

design modifications and by proposed conditions recommended by the NSW Police Force in their “Safer by Design” assessment.

The information submitted by the applicant, including plans and accompanying documentation, is considered to adequately minimise any impacts from the development. The proposal is therefore considered satisfactory with regards to Clause 17(3)(e).

- (f) *the landscaping is integral to the design and function of the building and the site to improve the appearance of the development, enhance the streetscape and add to the amenity of the adjoining area,*

The application proposes a total of 2,526m² of soft landscaped area (24% of the site area, excluding pavement and decks), which includes an area of 2,454m² for deep soil planting (23% of the site area).

The proposed soft landscaping has been spread across the site within all setback areas, including an area of 343m² within the front setback area of the site. Council’s Landscape Architect has reviewed the proposal and supports the amended landscape scheme. Their comments are as follows:

“The landscape proposal provides generous proportions of deep soil extensively landscape areas in both street frontages of the site which will ameliorate and complement the building facades and provide screening to the carpark building fronting Ewan Street. There is a large area of deep soil centrally located on the eastern boundary which will provide an area of respite for workers and with the landscape setback to the eastern boundary provides screening for the eastern facade. The wide deep soil landscape setback to the western boundary will enable the protection of trees on the adjoining property and an expansion of this existing tree corridor through additional tree plantings on the site. In this context the development satisfies landscape expectations for development of this size. The proposal has approximately 2,400sqm of deep soil landscaping which equates to 23% of the site area. The ‘unbuilt-upon’ area is 36% and includes pavements as well as deep soil landscaping. The proposal achieves a good balance between building footprint, parking/circulation and landscaping/open space.

The landscape design will assist in integrating the building into the landscape and create a buffer between the development and the public domain. A mix of tall trees and low shrubs adjacent the building allow passive surveillance and legibility and the generous deep soil landscaped setbacks will allow the establishment of a screen of vegetation of appropriate scale and density for the development. Super-advanced canopy trees and shrubs reinforce site entries. The landscaping also provides shade and a comfortably scaled environment for pedestrians in the public domain and within the site. Captured rainwater will be used for irrigation and stormwater absorption trenches have been located so as not to impact landscaped areas.

Underground parking is situated underneath the building footprint so the majority of landscaping is on natural ground.

The landscape plan was amended to incorporate some changes to tree species to enhance the landscape design resolution. These changes include provision of a tall, broad canopy tree to the 15 metre wide Ewan Street setback and more evergreen tree species adjoining King Street.”

Based on the above discussion, the proposed landscaping is considered to be integral to the overall design of the development and will enhance the appearance of the building and the amenity of the streetscape. The proposal is therefore considered satisfactory with regards to Clause 17(3)(f).

- (g) *the building height, scale and design are sympathetic and complementary to the built form, the streetscape and the public domain in the vicinity,*

This matter has been discussed previously in the report during consideration of the SEPP 1 Objection, where it was concluded that the proposed development was of height, scale and design which is complementary to the streetscape and public domain in the nearby vicinity and locality. The proposed development was generally supported by the Council’s Design Review Panel subject to compliance with matters raised which have been addressed in the amended design. The proposal is therefore considered to be satisfactory with regards to Clause 17(3)(g).

- (h) *the building design and finishes will not have an adverse impact on the amenity of the surrounding area as a result of wind generation, overshadowing, reflectivity and the like,*

The proposed building design and finishes are not anticipated to have an adverse impact on the amenity of the surrounding area as a result of overshadowing, or reflectivity. Conditions of consent have been imposed with regards to the reflectivity, and a condition requires submission of a wind report before the issue of the Construction Certificate. The proposal is therefore considered satisfactory with regards to Clause 17(3)(h).

- (i) *the design and operation of the development will protect the visual and aural amenity of adjoining non-industrial uses,*

The subject site is located within the 4(c2) Airport Related – Restricted zone under the provisions of the BLEP 1995. Surrounding the site are primarily existing airport related commercial and industrial land uses. A residential dwelling known as No. 32 Ewan Street is located approximately 80m to the west of the subject site. Impacts to this premises are anticipated to be minimal given that vehicles accessing the site are not required to pass the property to access the carpark, and also due to the separation distance between the property and the subject site. Acoustic impacts are discussed in further detail in response to Clause 17(3)(j) below. The proposal is therefore considered satisfactory with regards to Clause 17(3)(i).

- (ia) *the development is of a high standard of design, provides a high level of environmental amenity and is compatible with adjoining land uses and development,*

The proposed development is considered to be of a high standard of design, is contemporary in nature, and proposes use of high-quality materials. The proposal is considered to be compatible with surrounding development and will enhance the streetscape through its design and also by way of its integration of landscaping into the site. This matter has been addressed in further detail previously in the report in response to SEPP 1. The proposal is therefore considered to satisfactorily address Clause 17(3)(ia).

- (j) *the levels of noise generated from the operations or vehicles associated with the development are compatible with adjoining uses, and*

The site is located within the 4(c2) Airport Related Restricted zone, and the surrounding land uses are primarily commercial and light industrial in nature. The site is also located within the 25-30 ANEF and nearby the busy O’Riordan Street. As such, it is unlikely that the operation of the proposed development, being for a hotel and public carpark, would create significant adverse impacts with regards to noise levels upon surrounding land uses. A condition is however proposed requiring the submission of an acoustic report to demonstrate how noise impacts from the operation of the carpark facility will be minimised (e.g. surface treatment of the ramps, etc.). Subject to imposition of this condition, noise from the operation of the carpark facility is considered to be suitably minimised.

- (k) *the provisions of State Environmental Planning Policy No 55- Remediation of Land will be complied with in relation to the land.*

The provisions of SEPP 55 have been considered earlier in the report and are considered acceptable.

Clause 22 – Greenhouse, Energy Efficiency, etc.

Clause 22 of the LEP and the requirements of Council’s Development Control Plan for Energy Efficiency have been considered in the assessment of the development application. The amended development application was accompanied by an amended Energy Efficiency Report dated 13 August 2012 prepared by Vanovac Associates Architects which is considered to satisfactorily address the requirements of the clause.

Clause 28 – Excavation and filling of land

Clause 28 of the LEP has been considered in the assessment of the development application as the site seeks consent for excavation to a maximum depth of approximately 2 metres below the existing ground level.

The groundwater table is located between 3.04m and 3.1m to AHD (which is approximately 2.5 – 3.0m below ground level) and the applicant has confirmed that the development (including footings) will not involve any excavation works that will transect the watertable.

Appropriate conditions are proposed on the consent to ensure that the excavation involved in the development will not detrimentally impact upon drainage patterns, soil stability or the development of adjoining sites in the locality. In addition, a condition is proposed requiring that approval be obtained from the NSW Office of Water in the event that groundwater is encountered and (temporary) dewatering is required.

As such the proposed development is considered to satisfy the provisions of Clause 28 of BLEP 1995.

Clause 30A – Development on land identified on Acid Sulfate Soil Planning Map

The site is located within a Class 2 Acid Sulfate Soil Area. As such under Clause 30A of the Botany LEP 1995 any works that are below ground surface require the submission of an acid sulfate soils management plan.

An Acid Sulfate Soils Investigation report prepared by Pacific Environmental Services Pty Ltd (dated 20 November 2012) has been submitted for the development. The assessment concludes that “*acid sulfate soils are not present in the soils to be disturbed at the site*”.

As such the proposed development is considered to satisfy the provisions of Clause 30A of BLEP 1995.

Clause 38 – Water, wastewater and stormwater systems

The provisions of clause 38 have been considered in the assessment of the development application. Council must not grant consent to the carrying out of development as follows;

- (i) *on land or subdivision of land to which this plan applies for the purpose of a habitable building unless it is satisfied that adequate water and sewerage services will be available to the land it is proposed to develop;*
- (ii) *on land or subdivision of land to which this plan applies for the purpose of a habitable building unless it is satisfied that adequate provision has been made for the disposal of stormwater from the land it is proposed to develop.*

Sydney Water requested by letter dated 15 October 2012 that conditions be imposed requiring the upgrade of water and wastewater mains, and the submission of a Section 73 Certificate. The Sydney Water requirements are proposed as conditions of consent.

Concept stormwater plans were also submitted with the application, which have been reviewed by Council’s Development Engineer. Council’s Engineer has provided conditions of consent with regard to the provision of stormwater drainage and rainwater reuse for the development. As such the proposed development is considered to satisfy the provisions of Clause 38 of BLEP 1995.

Draft Botany Bay Local Environmental Plan 2012

Draft Botany Bay LEP 2012 is the comprehensive planning instrument for the whole of the City of Botany Bay. It has been prepared in response to the planning reforms initiated by the State Government, which required all Councils in NSW to standardise their LEPs.

The Draft Botany Bay Local Environmental Plan (LEP) 2012 was placed on public exhibition from 22 May 2012 to 22 June 2012. The Draft BBLEP and submissions were considered by the Council at their meeting on 28 November 2012 where they resolved to adopt the Draft BBLEP and forward it to the Department of Planning and Infrastructure for gazettal under Section 68. It is therefore a matter for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, and is considered to be ‘imminent and certain’. It therefore has significant weight and relevance to the determination of this application.

The Applicant has considered the current status of the draft BBLEP 2012 and concluded that the draft plan is now “imminent and certain” and must therefore be considered “highly relevant”. The applicant’s position is generally agreed with and significant weight has therefore been given to the draft instrument.

The provisions of the draft BBLEP 2012 have been considered in the assessment of this Development Application and the following information is provided:

Principal Provisions of draft BBLEP 2012	Compliance Yes/No	Comment
Landuse Zone (Part 2 of draft BBLEP)	N/A	The site is zoned B5 Business Development under the draft BBLEP 2012.
Is the proposed use/works permitted with development consent? (Part 2 of draft BBLEP)	Yes	The proposed ‘carpark’ and ‘hotel’ uses are permissible with Council’s consent under the draft BBLEP 2012.
Does the proposed use/works meet the objectives of the zone? (Part 2 of draft BBLEP)	Yes	The proposed development is consistent with the following objectives of the B5 Business Zone in draft BBLEP 2012: <i>To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.</i>

Principal Provisions of draft BBLEP 2012	Compliance Yes/No	Comment
<p>Does Schedule 1 – Additional Permitted Uses apply to the site?</p> <p>If so what additional uses are permitted on the site?</p> <p>(Part 2 of draft BBLEP)</p>	N/A	N/A – the site is not identified in Schedule 1 of the draft BBLEP.
<p>What is the height of the building?</p> <p>Does the height of the building exceed the maximum building height?</p> <p>(Part 4 of draft BBLEP)</p>	Yes	<p>The maximum height permitted for the site is 44m.</p> <p>The proposed development has a maximum height of 41.4m (being to the top of the lift overrun).</p>
<p>What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?</p> <p>(Part 4 of draft BBLEP)</p>	Yes	<p>The proposed FSR is 4.23:1 (in accordance with the definition of GFA contained in the draft instrument). This exceeds the maximum 3.0:1 permitted for the site. The applicant has demonstrated that a commercial building with an equivalent height, bulk and scale to the proposed development would have a compliant FSR of 3.0:1. This is because the floor to ceiling heights of a carpark is much lower than a commercial office so whilst the GFA is higher, the bulk and height of the proposed development is similar to a commercial building with a compliant FSR. The proposed variation is therefore supported in this case. This is discussed in further detail under Note 1 below.</p> <p>Refer to Note 1 below for discussion.</p>
<p>Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m² min and maximum height of 22 metres and maximum FSR of 1.5:1?</p> <p>(Part 4 of draft BBLEP)</p>	N/A	The site is not located on land zoned R3 or R4 and the clause is not applicable.

Principal Provisions of draft BBLEP 2012	Compliance Yes/No	Comment
<p>Is the site within land marked “Area 1” on the FSR Map?</p> <p>If so, does it comply with the sliding scale for FSR in Clause 4.4A?</p> <p>(Part 4 of draft BBLEP)</p>	N/A	The site is not located on land marked “Area 1” on the FSR Map and this clause is not applicable.
<p>Is the land affected by road widening?</p> <p>(Clause 5.1 – Relevant Acquisition)</p> <p>(Part 5 of draft BBLEP)</p>	N/A	The subject land is not affected by road widening.
<p>Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?</p> <p>(Part 5 of draft BBLEP)</p>	N/A	The subject site is not listed as a Heritage Item.
<p>The following provisions in Part 6 of the draft BBLEP apply to the development –</p> <ul style="list-style-type: none"> • Acid Sulfate Soils; • Airspace operations – OLS; • Development in areas subject to Aircraft noise; • Design Excellence. 	Yes	<p>Consideration has been given to the relevant clauses contained in Part 6. These relate to Acid Sulfate Soils, Airspace Operations, Aircraft Noise and Design Excellence. The application is accompanied by an Acid Sulfate Soils report, an Aircraft Noise Report and has approval from Sydney Airports Corporation to a maximum height of 48.06m. The proposal has also been modified to comply with the Design Review Panel and Council requirements with regards to design and appearance. The proposal is therefore considered to satisfy the relevant clauses contained in Part 6 of the draft BBLEP..</p>

Note 1 – Floor Space Ratio (FSR)

The FSR for the proposed development is considered to be 4.23:1 which exceeds the maximum 3.0:1 permitted under the draft BBLEP 2012.

A summary of the FSR pursuant to the draft BBLEP 2012 is provided in the table below:

Table 4 – FSR Comparisons (draft BBLEP 2012)

Draft Botany LEP 2012		
Requirement under Clause 4.4 of draft BLEP 2012	Proposed FSR Draft BBLEP 2012 (Applicant's calculations)	Proposed FSR Draft BBLEP (Council's Calculation excluding vertical circulation)
3.0:1 (31,644m ²)	4.23:1 (44,665m ²)	3.99:1 (42,126m ²)

The above calculations are based on definition of GFA contained in the draft policy which is as follows:

***gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:*

- (a) the area of a mezzanine, and*
 - (b) habitable rooms in a basement or an attic, and*
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,*
- but excludes:*

- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (e) any basement:*
 - (i) storage, and*
 - (ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.*

The applicant submitted legal advice dated 19 November 2012 which concluded that there is some basis for the consent authority to exclude the ground floor level and levels 1-8 of the proposed carpark building from the GFA calculations of the development under the draft BBLEP 2012.

Further legal advice dated 23 November 2012 deals more specifically with items (d) and (g) of the above definition. This supplementary advice confirms that, if the consent authority is of the opinion that the carpark is included in GFA, the following specific areas of the building may be excluded from the GFA calculations:

- The hotel carparking (including any access thereto);
- The express access ramps, which may be considered to be “*common vertical circulation providing access to the various levels of the public carpark, their function not being dissimilar to stairs or a lift*”;

This supplementary legal advice also concludes that the exclusion from GFA should not be extended to the aisles on each particular level of the carpark (except for the aisles required to access the hotel parking spaces) as these areas are used for the dual purposes of an access ramp as well as an aisle for accessing car spaces.

It is considered that the carpark should be included in the GFA calculations, however based on the definition of GFA it is Council’s view that the vertical circulation ramps for vehicles entering the premises can also be excluded from FSR. The rationale is that vehicles must enter upon each storey of the carpark building prior to moving to the next storey above. This would result in a FSR of 3.99:1.

The applicant has provided sketch plans, shown in **Figures 5 & 6** below, and supporting documentation which demonstrates that the height, bulk and scale of the proposal could, however, be similar to that of a compliant hotel and commercial building with an FSR of 3.0:1.

The Applicant’s position is based on the premise that public car parks:

- (a) have significantly lower floor to ceiling heights to a commercial building, and
- (b) do not benefit from any GFA exclusions for carparking which are afforded to a commercial development (even where the parking is provided above ground level), as public car parks do not comprise any “*car parking to meet any requirements of the consent authority (including access to that car parking)*”;

The sketch plans provided below (**Figures 5 & 6**) clearly demonstrate the applicant’s position. The draft scheme shows a building with a total office floor area of 21,000m² provided over five (5) levels and includes the provision of 525 car spaces over three (3) levels (required to comply with Council’s Off-Street Parking DCP, being 1 space per 40m²).

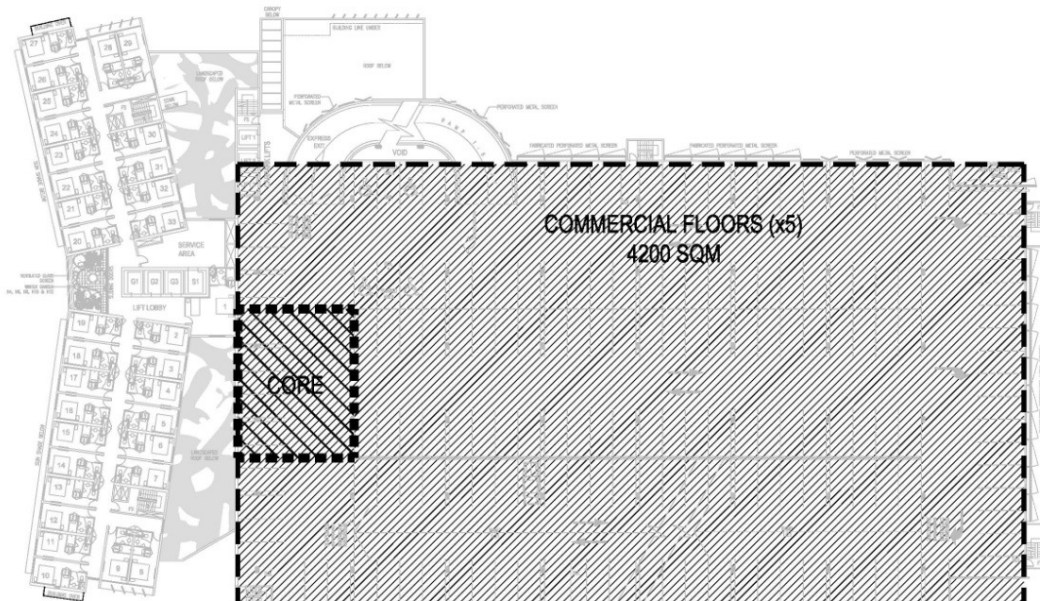


Figure 5 - Floor plan for a possible hotel and commercial development overlaid on the current proposal.

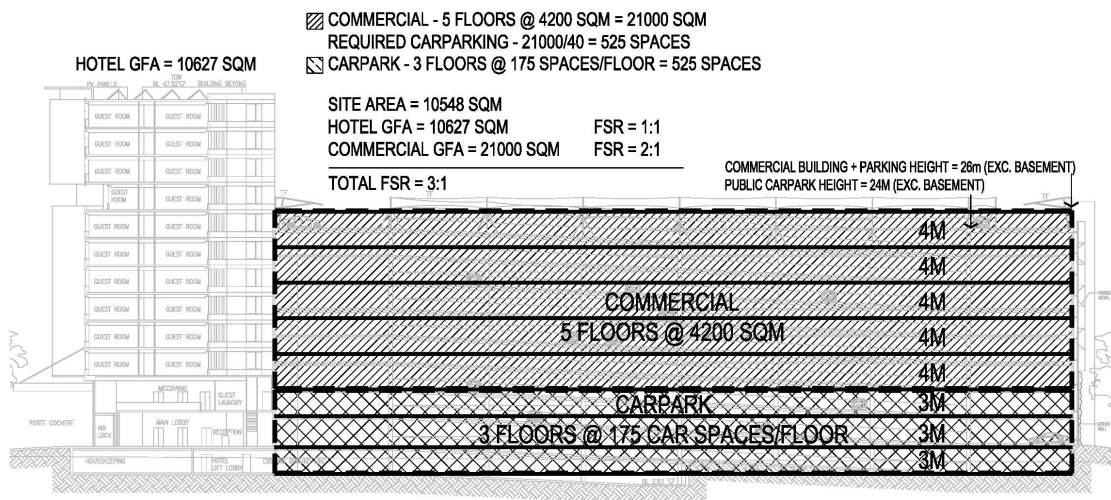


Figure 6 - Proposed cross section showing possible hotel and commercial development with an FSR of 3.0:1 at an equivalent height as the proposed carpark.

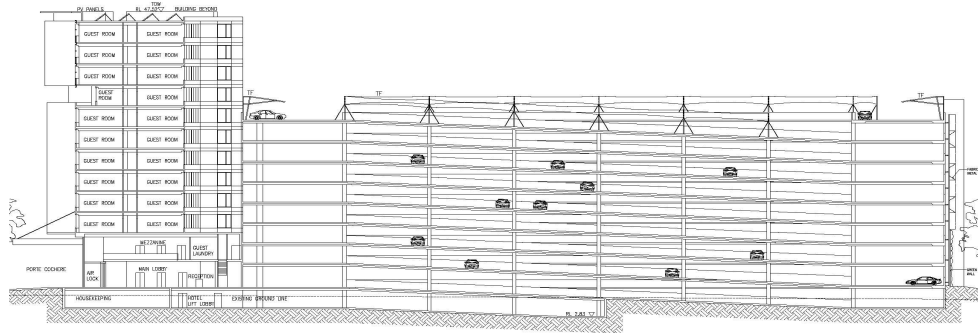


Figure 7 - Proposed hotel & carpark with an FSR of 3.99:1.

The applicant has demonstrated in their SEPP 1 objection that the subject development is similar in height and scale as existing and approved development nearby to the site. Their position is also supported by approval of a commercial development at 185-189 O’Riordan Street that was granted consent by Council on 16 May 2008 (DA-08/287 & DA-08/289). These applications were determined concurrently and were for the erection of a commercial development with an FSR of 4.46:1 (being 51,061m² of gross floor area) when calculated in accordance with the current definition of GFA in Botany LEP 1995. The gross floor area included 7 storeys (15,750m²) of above ground car parking, which is the equivalent of 30.8% of the overall GFA of the development. The carparking proposed in the draft scheme above for a hotel and office development on the subject site (i.e. Figures 4 & 5) equates to 29.1% of the floor area of the development. This is similar to the approved applications DA 08/287 and DA 08/289. This confirms the applicant’s position that a compliant 3.0:1 development could have a similar bulk and scale to the proposed development which has an FSR of 4.23:1.

For the reasons stated above, the variation to the FSR control is therefore supported.

The objectives and provisions of the draft BB LEP 2012 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the Draft BBLEP 2012.

Development Control Plan (DCP) No. 33 – Industrial Development

The proposed development is located within the 4(c2) Airport Related – Restricted zone and DCP 33 therefore applies to the site. Many of the controls relate to industrial development, however consideration has been given to the relevant provisions of DCP No. 33 including Section 5.9 which relates to “Commercial Development in the 4(b) and 4(c2) Zones”.

Standard & Clause	Requirement	Proposed	Complies
Section A – Sustainable Development Design			
A1 - Energy Efficiency	Report submitted for works in excess of \$250,000 Compliance with Energy Efficiency DCP	Works are in excess of \$250,000. An Energy Efficiency Report has been submitted with the development. The report concludes that the development exceeds the requirements of the Energy Efficiency DCP.	Yes
A2 - Drainage	Hydraulic plan submitted Compliance with Guidelines for Stormwater	A concept Hydraulic Plan has been submitted with the Development Application. Council's Development Engineer has reviewed the plan and provided conditions of consent for the development.	Yes
A3 – Site Contamination	Preliminary assessment undertaken where required	Adequate information has been submitted with the Development Application to demonstrate that the site is suitable for the proposed commercial/industrial development.	Yes
A4 – Acid Sulfate Soils	Management plan submitted where required	An Acid Sulfate Soils Investigation prepared by Pacific Environmental Services Pty Ltd (dated 20 November 2012) confirms that Acid Sulphate Soils are not present in the soils to be disturbed at the site.	Yes
Section B - Building Form and Character			
B1 – Land Title	Lots consolidated where applicable	The subject site consists of twelve (12) separate lots. A condition of consent has been imposed upon the development for the consolidation of the twelve (12) lots into one (1) lot.	Yes
B2 – FSR From BLEP	Clause 12(3) allows a maximum FSR of 1.5:1 for commercial and airport related development. (Note: Draft BBLEP 2012 allows a maximum FSR of 3:0:1)	The proposed FSR is 4.74:1 in accordance with Botany LEP 1995. (The FSR is 4.23:1 in accordance with draft BLEP 2012)	NO – Refer SEPP 1 Objection and discussion in response to the Draft BBLEP 2012

Standard & Clause	Requirement	Proposed	Complies
B3 – Site Area & Frontage	<ul style="list-style-type: none"> 1500m² (min) 	<ul style="list-style-type: none"> 10,548m² 	Yes
	<ul style="list-style-type: none"> Allotment frontage - 25m (min) 	<ul style="list-style-type: none"> King Street – 85.18 m Ewan Street – 56.2m 	Yes
	<ul style="list-style-type: none"> Road frontage – 20m (min) 	<ul style="list-style-type: none"> King Street = 21.3m 	Yes
B4 – Site Layout	<ul style="list-style-type: none"> Site analysis plan submitted 	Site Analysis plan submitted	Yes
	<ul style="list-style-type: none"> Loading facilities and majority of parking located at rear or side of buildings 	Vehicle parking and delivery areas catered for on-site and generally to the rear of the premises within the proposed carpark building.	Yes
	<ul style="list-style-type: none"> Offices provided at front of site for sites fronting residential areas, warehouse and loading facilities located away from residences 	The site does not front any residential properties, however the hotel foyer fronts King Street and the rear façade has been articulated and adequate landscape planting provided to subdue the proposal.	Yes
B5 – Height & Overshadowing	<ul style="list-style-type: none"> Shadow diagrams submitted where shadows cast on residence or public open space. Min. 2 hours sunlight maintained to windows of habitable rooms and private open space areas. 	Impacts are to adjoining commercial properties only. Overshadowing plans have been submitted which demonstrate that the proposal allows in excess of 2 hours solar access to the rear area of the adjoining site. In addition	Yes
	<ul style="list-style-type: none"> Compliance with the Civil Aviation Authority Requirements 	The Application has been approved by SACL to a maximum height of 48.06m to AHD. The proposed height of the building has been reduced to 48.0m, however SACL has confirmed that their original approval still applies. The approval does not, however, include the solar panels proposed at rooftop level which will require separate	Yes

Standard & Clause	Requirement	Proposed	Complies
	<ul style="list-style-type: none"> No higher than surrounding development Rooftop structures screened & integrated into building 	<p>approval from CASA and Sydney Airports Corporation (SACL).</p> <p>The proposed development has a maximum height of 48.0m to AHD. The nearby Coates Hire and Stamford Hotel buildings have a maximum height of 51.0m to AHD. Other nearby sites including 210 O’Riordan Street and 185-189 O’Riordan Street have approval to erect buildings to a maximum height of 50.9m and 51.0m to AHD respectively.</p> <p>The rooftop of the car park has been provided with shade sails which are supported by the Design Review Panel. The lift overruns, solar panels and other roof plant and equipment to the hotel building are shown to be suitably screened from view from the public domain.</p>	<p>Yes</p> <p>Yes</p>
B6 – Building Design & Appearance	<ul style="list-style-type: none"> Schedule of finishes and colour scheme provided Glazing reflectivity no more than 20% Finishes to be vandal resistant 	<p>Schedule of finishes and materials submitted.</p> <p>Will be conditioned to comply</p> <p>Will be conditioned to comply</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
B7 – Setbacks Refer to DCP	<p><u>Building Setbacks</u></p> <ul style="list-style-type: none"> Front setback= 9m (min) Side setback= 2m 	<ul style="list-style-type: none"> Front setback between 13.095m and 17.33m Western Side Setback = between 7.43m and 8.76m Eastern Side Setback = between 3.775m and 12.64m, however a 17m 	<p>Yes</p> <p>Yes</p> <p>NO – Refer to Note 1</p>

Standard & Clause	Requirement	Proposed	Complies
	<ul style="list-style-type: none"> Rear setback= Nil to 3m <p><u>Landscape Setbacks</u></p> <ul style="list-style-type: none"> Front Landscape setback = 3m (min) Side Setback Landscaping = 2m (min) Rear Landscape Setback 	<p>section is proposed with a 500mm setback to No. 3 Ewan Street</p> <ul style="list-style-type: none"> 14.285m – 15.86m Between 4.8m (min) and 12m (max) provided Side landscape setback generally exceeds 2m, and increases to 12.64m, however a 17m length adjacent to No. 3 Ewan Street has a landscape setback of 500mm only.. The entire 14.285m – 15.86m rear setback area is proposed to be landscaped. 	<p>below</p> <p>Yes</p> <p>Yes</p> <p>NO – Refer also to Note 1 below</p> <p>Yes</p>
B9 – Parking and Vehicular Access	<p><u>Industrial:</u></p> <p>1 space/ 80m² floor area spaces</p> <p><u>Office:</u></p> <p>1 space/ 40m² floor area</p>	Parking provision is considered to be satisfactory. Refer to discussion below under Council's Off-Street Parking DCP.	Yes
B10 – Signs	Full compliance with DCP for Advertising Signage and SEPP64	Proposed signage has been deleted from this application.	N/A
B11 – Site Facilities	<ul style="list-style-type: none"> Site facilities and open storage areas appropriately designed/sited Underground cabling Name and address clearly displayed Sydney Water S73 certificate 	<p>Conditioned to comply</p> <p>Conditioned to comply</p> <p>Conditioned to comply</p> <p>Conditioned to comply</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
B12 – Building Constructi	To be addressed via conditions of consent	Conditioned to comply with the Building Code of Australia and Site Audit	Yes

Standard & Clause	Requirement	Proposed	Complies
on		Statement (which requires use of materials which are resistant to higher PH levels)	
B13 - Demolition	To be addressed via conditions of consent	No demolition works required.	N/A
B14 – Regulated Systems	To be addressed via conditions of consent	Conditioned to comply	Yes
Section C – Environmental Amenity			
C1 – Landscape	<ul style="list-style-type: none"> >2000m² site area – 10% of site area to be landscaped (min) not include front setback = 1,055m² 	24% of site soft landscaped = 2,526m ² .	Yes
	<ul style="list-style-type: none"> All landscaping at NGL. Basement parking located under building footprint to allow deep soil planting 	The 24% soft landscaping has been provided at ground floor level and the basement parking is provided below the footprint of the building to allow 23% (2,454m ²) to be provided as deep soil planting around the perimeter of the site. In addition a green wall is proposed and a planter bed is required to the roofed areas between the hotel and the carpark building.	Yes
	<ul style="list-style-type: none"> OSD not to be located under landscaping 	The OSD system will be provided beneath the driveway area in the front of the building setback. Some minor encroachment into the landscaped areas may result. Development Engineer also provided conditions of consent with regard to OSD location.	Yes
	<ul style="list-style-type: none"> Buffer – 1m between driveway and side boundary (refer to Section 5.9 which permits this variation from 2m for commercial developments) or 3m (min) along side and 	A 1.4m buffer is provided between the site boundary and the entrance and exit driveways to the site.	Yes

Standard & Clause	Requirement	Proposed	Complies
	rear where adjoins residential land uses <ul style="list-style-type: none"> Automatic irrigation systems required 	Conditioned to comply	Yes
C3 - Fences	<ul style="list-style-type: none"> Located behind 3m landscape setback or incorporated into landscaping 	No fencing proposed.	Yes
C5 – Noise and Hours of Operation	Noise generating activities require acoustic report to be submitted	Not considered to be a significant noise generating development, therefore an acoustic report has only been required by way of condition.	Yes - Conditional
C6 - Waste	Adequate waste storage facilities provided as per DCP 29 Waste management plan required	Adequate waste storage services have been provided to the development within the new building, and waste vehicles can enter and leave the site in a forward direction. Waste Management Plan submitted with the application.	Yes Yes
C7 – Environmental protection	<ul style="list-style-type: none"> Details of emissions to be supplied, POEO Trade Waste Agreement where required Soil & water management plan 	Conditioned to comply	Yes
Section 5 – Controls for Specific Development Types			
C1 – Landscape Setback	Minimum of 3 metres landscape setback	Min. 4.8m provided, increasing to 12m.	Yes
C2- Site Landscaping Proportion	Minimum 30% landscaping required = 3,164sqm	27% = 2,855sqm. (Note: the building footprint covers 59% of the site area)	No – Refer to Note 2 below

Standard & Clause	Requirement	Proposed	Complies
C3 – Underground Car parking	Must be situated beneath the building footprint and not within any deep soil planting areas	Basement car park is located beneath the building footprint.	Yes
C4 – Underground Stormwater Detention Tank	OSD tank to be located outside of landscape area	OSD tank is generally located underneath the driveway and outside of the landscaped areas.	Yes
C5 – Landscape Buffer Strip	A continuous landscape buffer strip shall be provided between the driveway and the side boundary.	A continuous landscape strip has been provided.	Yes
C7 – Upper Level Landscaping	Balconies, indented levels or rooftops may be required as additional softening	The rooftop areas between the hotel and carpark are proposed to be landscaped.	Yes
C8 – Basement Car park	Where the underground car parking structure protrudes above grade it shall be suitably treated	The basement car park area does not protrude beyond the building alignment.	N/A
C9 – Planter Beds	Planter beds shall be a minimum of 1 metre wide	Planter beds proposed are a minimum of 1 metre wide, except for adjoining No. 3 Ewan Street where there is only 500mm proposed.	Yes
C10 – Landscaping	Three tiers of landscaping are required in all mass planting areas being tall trees for canopy, shrubs for mid level screening and groundcovers	The proposed landscape plan incorporates each tier.	Yes
C11 – Fencing and Masonry walls	Fencing details to be provided on the landscape plan	No fencing proposed.	N/A
C12 – Car parks	Car parks shall be adequately landscaped	The proposal does not include any at grade carparking, however the front setback with the porte-cochere and loading area is well landscaped.	Yes
C13 – Irrigation	All landscape areas shall be supplied with a fully automated irrigation system	No details provided with the application.	Yes – Condition to comply
C14 – Planter beds	All planter beds shall be contained by a 150mm kerb	All planter beds will be required to be contained within 150mm kerb	Yes - Condition to comply

Standard & Clause	Requirement	Proposed	Complies
C15 – Substations	All fire hydrants, booster valves, water tanks and electrical substations must not be located in the landscape beds or in the front setback	The existing substation will need to be relocated and a new substation provided on site as required by Ausgrid. It is considered that ample site area is available to provide the substation and other services in well screened locations behind the front setback.	Yes – Condition to comply
C16 – Overhead electricity and telecommunication cables	All existing above ground electricity and telecommunication cables within the road reserve shall be replaced at the applicants expense by underground cables.	Above ground electricity cables in King Street will be required to be placed underground by way of Condition.	Yes - Condition to comply
C17 - Retaining walls	Retaining walls shall be masonry or concrete if over 500mm high	No retaining walls proposed.	N/A
C18 – trade Waste Agreement	A trade waste agreement shall be obtained from Sydney Water in the event that waste water is generated	Condition for Applicant to obtain a Section 73 Certificate from Sydney Water	Yes - Condition to comply

Note 1 – Side Setbacks

Control C1 in Section B7 of Council’s Industrial Development Control Plan No. 33 requires that buildings be provided with a minimum 2 metre side setback to non-residential properties.

The proposed development requests consent for a setback of 500mm for a length of approximately 16m to the adjoining commercial property at No. 3 Ewan Street which does not comply with DCP 33.

The applicant proposes a green wall in this location, however Council’s Landscape Officer is of the opinion that the planting is unlikely to grow in the 500mm strip of land which is located between the proposed new boundary fence and the carpark wall.

An increased setback may be provided, however ample soft landscaping is considered to be provided adjacent to the site, as follows:

- The proposed carpark building is setback approximately 16 metres from the Ewan Street frontage and this setback area which adjoins No. 3 Ewan Street is all soft landscaped;
- No buildings are proposed immediately behind this adjoining property and the setback to the proposed driveway access ramp is approximately 25 metres behind the rear boundary of No. 3 Ewan Street. This area is

proposed to be soft landscaped and may in future allow for communal use by adjoining sites.

The reduced setback will also allow for a nil (or reduced) setback if the adjoining properties are developed in the future. This is considered appropriate as it will allow the adjoining two sites to the east (i.e. No. 1 & No. 3 Ewan Street) to be developed to its maximum potential.

The proposed variation to the side setback control is therefore supported in this case.

Note 2 – Landscape Proportion

Control C2, Section 5.9 of DCP No. 33 requires that commercial developments in the 4(c) zones provide not less than 10% of the site area as landscaped area. On sites greater than 5000 sqm, 30% of the site area shall be landscaped.

The proposed development provides 27% (2,855sqm) of landscaped area and does not comply with this control by 3% (309m²).

The site landscaping has previously been considered in response to Clause 17(3)(f) of Council's LEP 1995. The Council's Landscape Architect supports the proposed landscape plan which is considered to provide generous proportions of deep soil landscape areas in both street frontages of the site and ample soft landscaping is also proposed within the side setback areas.

The variation to the required landscape area provision is therefore considered acceptable in this instance.

Off-Street Parking Development Control Plan

The proposed public carpark has been amended to comply with the relevant provisions contained within Council's Off-Street Parking DCP and the Australian Standard 2890.1, as follows:

- increasing the width of car spaces to comply with AS 2890.1,
- reducing the width of the vehicular access driveways on King Street to facilitate proper and safe traffic movements onto and off the site, and
- modification of the proposed internal circulation.

Conditions are also proposed to ensure that the design and operation of the carpark will comply with the Australian Standards.

With regards to the proposed hotel, the applicant has allocated 80 car spaces solely to the hotel use. The parking spaces are located within the basement level of the carpark building and access to these spaces is provided from both King Street and Ewan Street as discussed in the 'Description of the Development' section of this report (i.e. the Ewan Street entrance being restricted to use by shuttle buses for the hotel and public carpark, and hire cars or the like transporting airline passengers or crew associated with the hotel use only).

The proposed parking provision for the hotel does not comply with the parking requirements contained in Council's Off-Street Parking DCP which would require the provision of approximately 340 off-street parking spaces based on the following requirements:

1 space per 1 bedroom, plus

1 space per 2 employees, plus

1 space for resident manager, plus

Additional parking for the licensed parts of the hotel.

The Applicant has based their parking provision for the hotel on the RTA Guidelines and on a parking survey undertaken for the nearby Ibis Hotel (which contains 200 bedrooms and 61 off-street parking spaces, being 1 space per 3.3 bedrooms). They consider that this more accurately reflects the parking demand characteristics for the proposed hotel.

A comparison of other similar developments located in the area was undertaken by Council Officers which demonstrated that on average a rate of approximately 1 space per 2.5 bedrooms has been applied to other premises. This would require the provision of 128 parking spaces for the proposed hotel.

The hotel adjoins the proposed public carpark and the applicant's Traffic Consultant (John Coady Consulting) confirmed by letter dated 13 November 2012 that the public carpark will be managed so that it can cater for any overflow of parking for the hotel use (i.e. any parking exceeding the 80 spaces allocated to the hotel). This parking provision will be managed by a Plan of Management which is required (by condition) to be submitted to, and approved by, Council prior to issue of any Occupation Certificate for the hotel.

Officer's Comment:

Based on the above assessment, the parking provision is therefore considered satisfactory in this case subject to a condition requiring that a Plan of Management be prepared to manage any overflow of parking from the hotel facility.

Energy Efficiency Development Control Plan

Council's Development Control Plan for Energy Efficiency has been considered in the assessment of the development application as the value of the proposed development exceeds \$250,000.00.

An amended Energy Efficiency Report dated 13 August 2012 prepared by Vanovac Associates Architects has been submitted with the proposal which demonstrates that the measures proposed will improve the buildings energy and water efficiency, including:

- Solar panels will be installed at the rooftop level of the hotel building to generate green electricity for feeding back into the grid via metered inverters. (*Note: the installation of the solar panels are subject to approval from SACL and CASA*);

- The proposed development will comply with the mandatory energy efficiency requirements contained in Section J of the Building Code of Australia (BCA);
- Simple passive techniques have also been used in the design to maximise energy and water efficiency, including building orientation and siting, form and footprint, use of materials, insulation, natural ventilation for the carpark, and so on; and,
- The hotel building has been designed to meet a 4.5 STAR sustainability target under the National Australian Built Environment Rating System (NABERS). This indicates that the building is classified between a “Strong Performer” and “Best Building Performance” (Note: This rating process requires annual monitoring after occupation).

Based on the design and commitments identified in the submitted report, the proposed development is considered to satisfactorily address the requirements of Council’s Energy Efficiency DCP.

Aircraft Noise Development Control Plan

Clause 13 and 13A of the LEP have been considered in the assessment of the Development Application as the site is located within the 25-30 ANEF contour.

An amended Aircraft Noise Assessment prepared by Acoustic Consulting Engineers Pty Ltd (dated 25th July 2012), was submitted with the amended proposal. The report concludes that the proposed hotel building can achieve the indoor noise levels recommended in AS2021-2000 subject to compliance with the details contained in the report.

Council’s Environmental Health Officer has reviewed the report and confirmed that compliance with the aircraft noise requirements contained in AS2021-2000 can be achieved by the development.

The proposal is therefore considered satisfactory with regards to Council’s Aircraft Noise DCP subject to a condition requiring compliance with the submitted acoustic report and AS2021-2000.

Contaminated Land Development Control Plan (DCP) No. 34

The provisions of DCP 34 have been considered as part of the assessment against the requirements of SEPP 55. The proposed development is considered satisfactory with respect of the provisions of the Contaminated Land DCP in that sufficient information has been provided to demonstrate that the site can be made suitable to accommodate the proposed development.

Access Development Control Plan

Consideration has been given to Council’s Access DCP in the assessment of the proposed development. The Applicant has provided 40 parking spaces for people with disabilities and graded access is provided to the entrance of the carpark and hotel buildings.

A condition of consent is proposed requiring that an access report be submitted prior to issue of the Construction Certificate to ensure that the proposal provides appropriate access to and within the development in accordance with the Council's Access DCP, the Disability Discrimination Act (DDA) and the Building Code of Australia (BCA).

Waste Management Development Control Plan (DCP) No. 29

The submitted waste management plan prepared by Vanovac Tuon Architects (dated 13 August 2012) is considered to adequately address the requirements of Council's DCP No. 29.

(b) The likely impacts of the development including environmental impacts on both the natural and built environments, social and economic impacts in the locality.

Consideration has been given to the impacts resulting from the proposed development in the assessment of the application.

The potential impacts associated with site isolation of adjoining properties have not been dealt with elsewhere in the report and are addressed here.

To demonstrate that the proposal will not result in the isolation of adjoining properties the applicant has submitted sketch plans showing possible future development of adjoining sites accompanied by advice prepared by aSquare Planning (dated 26 November 2012).

The planning advice received addresses the relevant 'planning principles' from the following Land and Environment Court cases:

- *Melissa Grech v Auburn Council [2004] NSWLEC 40 at 51*
- *Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189 at 31-34*

The advice notes that Botany LEP 1995 does not set any minimum allotment size for these sites and considers that the schematic plans submitted will allow the orderly and economic use and development of the separate sites without amalgamation. While the planning advice indicates that adjoining sites could utilise parking within the public carpark proposed as part of this application (to maximise commercial floor area on their own land), this is not supported by the parking payment structure required to be implemented which aims to ensure that the carpark is used for long-term parking associated with airport patrons. Notwithstanding this issue, it is considered that the remaining allotments located to the east of the subject site can be satisfactorily amalgamated and developed to an appropriate degree.

The likely impacts of the proposed development are considered to have been adequately dealt with in the assessment of the Development Application. It is considered that the proposed development will have no significant adverse environmental, social or economic impacts on the locality.

(c) The suitability of the site for the development.

These matters have been considered in the assessment of the development application. The site is not known to be affected by any site constraints or other natural hazards likely to have a significant adverse impact on the proposed development, and adequate information has been submitted to demonstrate that the site can be remediated and made suitable for the proposed development. The proposed development is permissible in the zone, satisfies the objectives of the zone. The traffic impacts have been considered and are not considered to warrant refusal of the proposed development. Accordingly, the site is considered suitable to accommodate the proposed development.

The proposed development, being for the construction of hotel and multi-storey (long-term) public carpark to a site located within the 4(c2) Airport Related – Restricted zone, is considered a suitable development in the context of the site and locality.

(d) Any submission made in accordance with the Act or Regulations.

These matters have been considered in the assessment of the development application. In accordance with Council's Notification Development Control Plan No.24 the proposed development was notified to surrounding property owners and advertised in the local newspaper for a thirty (30) day period from 12 July 2011 until 11 August 2011. Fourteen (14) additional properties were subsequently notified between 15 August 2011 to 28 August 2011.

The amended proposal was publicly exhibited for a period of fourteen (14) days between 11 September 2012 and 25 September 2012 in accordance with Council's Notification DCP, including advertisement in the newspaper and site notices. Two (2) submissions were received in response to the amended proposal raising the following concerns:

- (i) *"The DA proposes around 12 storeys of car park against the boundary of our property.... This will have significant impact on our property as we will have a great deal of sunlight blocked out and we will be in the shadow of this building for most of the daylight hours.*

While the NSW Government Office of Environment & Heritage is pushing for energy efficiency and sustainability, our property will have minimal access to natural light and solar energy in the current guise and for any future development of our site.

There is ample space on the western side of the DA to move this car park back from our boundary. "

Comment:

The amended development has a varied setback to No. 3 Ewan Street, including no adjacent built form for the first 14–15 metres from Ewan Street. The original proposal included a commercial building with this frontage to Ewan Street, however this building no longer forms part of this application and

The carpark building is then setback 5.125m from No. 3 Ewan Street for a length of approximately 8.7m (although a setback of 3.775m is proposed

to fire stairs at ground floor level). The height of the building is between 25 and 27.5m for this 8.7m length.

The setback to No. 3 Ewan Street is then reduced to 500mm for a length of 15m until the building continues beyond the end of this adjoining property. The height of the building is approximately 25m for this 15m length of the shared boundary.

No buildings or structures are proposed to the rear of No. 3 Ewan Street, and this area is almost entirely landscaped for a distance of 25 metres behind the neighbours site.

The adjoining property at No. 3 Ewan Street was erected as a dwelling, however it is now used for commercial purposes (as a freight forwarding business), and under the Council's draft BBLEP 2012 the site has not retained any rights to be used for residential purposes in the future.

There are no minimum solar access requirements for commercial developments, however shadow diagrams submitted with the proposal demonstrate that the adjoining property (No. 3 Ewan Street) will retain approximately 3 hours solar access at mid-winter (i.e. between 9am and 12pm). This exceeds the minimum 2 hours required for residential properties in accordance with Council's Industrial DCP 33. The proposed development is therefore considered to allow adequate solar access to be retained to the adjoining property.

Furthermore, and as discussed in response to DCP 33, the proposed 500mm setback is supported in this case as this reduced setback should allow a similar reduced setback for any future redevelopment on the adjoining sites (i.e. No. 1 – 3 Ewan Street). This is important for these adjoining sites as it will facilitate a development that is developed more closely to its maximum potential.

- (ii) *"In regards to the car park operation, this would be the second car park in Ewan Street. There will need to be several shuttle buses operating out of Ewan Street side of the DA car park. There is already nil casual parking available in Ewan Street during business hours and I have concerns that the operation of the car park, in respect of shuttle buses and possible couriers, is able to contain these within the DA property. We already have council rangers showing considerable interest in Ewan Street as there is very little parking or loading areas for local businesses."*

Comment:

This issue has been addressed by restricting egress from the carpark to King Street only. The Ewan Street entrance will only be used as an ingress point for mini-buses (associated with both the carpark and hotel uses), rental vehicles used by patrons of the hotel, and service vehicles for the premises. All vehicles will be required to exit the site via King Street. The impacts to Ewan Street are therefore considered to be adequately minimised.

- (iii) *King Street is a cul-de-sac and the traffic reports do not consider the impacts that the termination of King Street will have on the road network capacity, including queuing problems to get out of King Street.*

Comment:

Council Officers have also given consideration to the existing road network situation and the Applicant's Traffic Engineer (John Coady Consulting) has provided the following response to this issue:

"Figure 4 – Existing Traffic and Parking Controls which is presented on Page 28 of the Traffic and Parking Assessment report dated 17 August 2012 prepared by John Coady Consulting Pty Ltd shows quite clearly that the western end of King Street is a "dead-end" or "cul-de-sac". The results of traffic modelling conducted at the intersection of King Street with the access driveway serving the proposed carpark, and at the King Street / O'Riordan Street intersection, are set out in the Traffic and Parking Assessment report revealing that weekday peak period traffic queues in the eastbound carriageway of King Street under projected post-development traffic demand are within acceptable limits, and do not extend back to the cul-de-sac at the western end of King Street".

In addition to the above, proposed road widening works to O'Riordan Street will (in the longer term) allow for improvements to the intersection. Therefore, adequate consideration has been given to the traffic impacts that may result from the proposed development.

- (iv) *The proposed development is based on survey data from the nearby Park and Fly carpark. Clarification is therefore sought as to whether the proposed development will exclusively provide long term commercial parking that is valet-only service with stacked parking like the Park and Fly situation.*

Comment:

This matter has been addressed in detail in the body of the report. The applicant has now submitted an Operational Management Plan (prepared by John Coady Consulting, received 28 November 2012) which demonstrates that the proposed carpark will be used for long term parking only.

- (v) *No consideration has been given to the cumulative impacts relating to other proposed developments in the area (specifically in relation to the proposed development at No. 289-293 King Street which includes a carpark for 805 vehicles)*

Comment:

The Applicant has provided the following response to this issue:

"John Coady Consulting Pty Ltd has prepared a Traffic Assessment of the hotel and public carpark proposed by DA No. 11/121 only. It is beyond the province of John Coady Consulting Pty Ltd to also assess the traffic implications of other development proposals in the area which have not yet been approved by Botany Council".

The Council generally agrees with the applicant's position. The proposed development at No. 342 King Street was originally lodged with Council on 21 June 2011, almost a year before the application at No. 289-293 King

Street was submitted to Council. This subsequent application is currently under assessment, however it has not yet been determined and there is no certainty that it will be supported. It is therefore considered reasonable that more detailed consideration of the impacts of 289 King Street not be required in the assessment of this application.

(e) The public interest.

These matters have been considered in the assessment of the development applications. The draft conditions include standard conditions requiring the placement of overhead cables underground and the provision of new footpaths to both King and Ewan Streets. In addition, the applicant has provided a public pedestrian path along the sites western boundary linking Ewan Street and King Street, and this land will be dedicated to Council as a right of way.

It is considered that approval of the proposed development will have no significant adverse impacts on the public interest.

2.2 Other Matters

2.2.1 External Referrals

- *Ausgrid (formerly Energy Australia)*

Ausgrid provided the following response to the amended application by letter dated 12 September 2012:

“I wish to advise that, there is an existing substation on the site which appears in the additional DA documentation obtained online. Any proposal to move the substation must ensure that a new substation be established before decommissioning the existing and the location of the new substation must meet Ausgrid Network Standards”.

The above requirement of Ausgrid has been imposed upon the development in the Schedule of Consent Conditions section of this report.

- *Sydney Water*

Sydney Water, by letter dated 15 October 2012, raised no objection to the amended proposal subject to the following:

- Upsize of the drinking water mains on O’Riordan Street and King Street;
- Extension of the existing wastewater main;
- Application to Sydney Water for a Section 73 Certificate as a condition of consent.

The above requirements of Sydney Water have been imposed upon the development in the Schedule of Consent Conditions section of this report.

- *NSW Police – Botany Bay Local Area Command*

The application was referred to the NSW Police on 11 August 2011 for a ‘Safer by Design’ Assessment in accordance with the Draft Protocol established between Botany Bay City Council and the NSW Police Force.

The NSW Police requested additional information on 12 October 2012 regarding the proposed management of security and safety of the public carpark. Further details were provided to Council on 14 November 2011, including the following measures:

- Fixed CCTV cameras will be installed throughout the facility;
- The proposal provides an 'open plan' layout to maximise visibility of spaces (with no isolated or screened areas);
- The floorplan and vehicular circulation is generally the same on each level so that this is easily legible for customers;
- Appropriate lighting will be provided;
- 24 hour security guard and a monitoring control room;
- A customer waiting room located adjacent to the security control room;
- Random security patrols will be undertaken (including external to the carpark);
- The majority of the activity is anticipated to occur during daytime hours between 5:30am and 9:30pm;
- Parking levels will be numbered and identified with distinctive and bright colours; and,
- Integrated control system will be installed to record available parking on each floor level.

In a letter dated 22 November 2011 the NSW Police identified that a 'medium' crime risk rating for the proposed development on a sliding scale of low, moderate, high, extreme crime risk.

The key recommendations from the assessment include:

- Installation of CCTV Cameras within and around the development;
- Improved lighting around the car park areas and building within the development;
- Landscaping that promotes natural surveillance of all areas; and,
- 24 hour security for the multi-storey public car park.

Other recommendations relate to the external design, materials, surveillance, lighting, territorial reinforcement, landscaping, signage, space/activity management and access control.

A comprehensive condition is proposed on the consent requiring compliance with the recommendations made in the NSW Police Safer by Design assessment.

- *NSW Environment Protection Authority (EPA)*

The NSW EPA confirmed by email dated 22 November 2012 that the amended information was satisfactory and that they raise no objection to the proposed development subject to compliance with the conditions contained within the Site Audit Statements.

- *NSW Office of Water*

Groundwater levels encountered across the site vary between 3.04m and 3.1m to AHD. This is approximately 2-3m below ground surface within sandy soils. The proposed basement level will be constructed with a finished floor level of 4.12m (to AHD) and the applicant has confirmed that it will not transect the watertable. In addition, the NSW Office of Water confirmed by telephone discussion on 6 July 2012 that the proposal would not be Integrated Development pursuant to the provisions of Section 91 of the Environmental Planning and Assessment Act 1979 (EP&A Act) as footings and piles are not considered for licensing purposes.

- *Sydney Airports Corporation Limited (SACL) & Air Services Australia*

The subject site lies within an area defined in the schedules of the Civil Aviation (Buildings Control) Regulations that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority.

The amended application was therefore referred to SACL for consideration. Under letter dated 27 September 2011 SACL provided concurrence for the development, subject to conditions, and on the following basis:

- Building height permitted to a maximum AHD of 48.06; and,
- Solar panels shown on the plans do not form part of the approval and that further approval shall be sought from CASA for the installation of any solar panels to the roof of the development.

The conditions provided by SACL and CASA have been imposed upon the development in the Schedule of Consent Conditions section of this report.

- *Roads and Maritime Services (RMS) / Sydney Regional Development Advisory Service (SRDAC)*

The Application is “Traffic Generating Development” and was referred to RMS. The proposal (including amendments) was considered by the Sydney Regional Development Advisory Committee (SRDAC) on three (3) occasions. The issues raised are considered to have been satisfactorily addressed as discussed in detail in response to SEPP (Infrastructure) 2007 in the body of the report.

2.2.2 Internal Referrals

The development application was referred to relevant internal departments within Council, including the Development Engineer, Traffic Engineer, Landscape Officer, Environmental Scientist and Environmental Health Officer for consideration. Relevant conditions have been imposed into the recommendation of the operational consent.

Council's Design Review Panel (DRP)

Council's Design Review Panel (DRP) considered the original proposal prior to the lodgment of the application on 25 November 2010. The DRP subsequently considered the amended proposal for the hotel and public carpark on 13 August 2012.

The Panel in their report dated 20 August 2012 considered that the proposal for a hotel and public carpark generally accords with Council's Planning Strategy and that it is acceptable in the existing and desired future context of the area. They also confirmed their support for the development in principle subject to satisfactory resolution of the issues raised in their report.

The issues raised by the DRP have been incorporated into the amended plans which are currently before the JRPP, and are discussed below:

ISSUE	OFFICER'S COMMENT
<p><u>CONTEXT:</u></p> <p>(a) It would be preferable if the adjoining sites to the east (or at least the weatherboard cottage site) on Ewan Street were amalgamated with the subject property.</p> <p>(b) The design of the facades of the carpark and the elevated vehicular access ramps must resolve issues of light-spill, screening of cars, natural ventilation and acoustic and visual impact on neighbours and within the development.</p>	<p>Consideration has been given to this matter previously in the report. Amalgamation with adjoining sites would be preferable, however the applicant has demonstrated that the adjoining sites are not isolated and can be amalgamated and adequately developed.</p> <p>The amended carpark façade treatment which includes perforated metal screening, combined with a proposed condition requiring that acoustic measures be incorporated into the design, satisfactorily resolves these conflicting requirements.</p>
<p><u>SCALE</u></p> <p>Appears appropriate for the respective scale of the streets and potential future adjoining development.</p>	<p>Noted.</p>
<p><u>BUILT FORM</u></p> <p>Acceptable in principle, however subject to the following:</p> <p>(a) Spaces between Hotel & Carpark</p> <p>The Panel is concerned with the quality of the spaces proposed between the hotel and the carpark building. It would be desirable if the width of these spaces could be increased to provide a better proportion, reduce visual impact and improve outlook from the hotel rooms.</p> <p>The space on the eastern side should be increased to at least 6m (as proposed for</p>	<p>Amended plans show an increased separation between the hotel east wing and the carpark liftshaft of between 5.65m and 12.735m.</p> <p>The rooftop areas between the carpark and the hotel will include a landscaping design which will improve the outlook from hotel rooms.</p> <p>The Applicant is of the opinion that soft</p>

ISSUE	OFFICER'S COMMENT
<p>the western side).</p> <p>The roofed areas related to these spaces (level 3 of the hotel) should be landscaped to provide an attractive outlook from the hotel rooms especially at the lower levels.</p>	<p>landscaping is not appropriate for these areas of podium roof as this will conflict with the requirement for regular maintenance access, however it is considered that ample space is available and a condition requires the provision of small scale roof-top landscaping as recommended.</p>
<p>(b) Landscaping in Ewan Street setback</p> <p>The carpark building aligns with Ewan Street but is setback by 16m.</p> <p>The selection of appropriate tree species for this landscaped area will be especially important.</p>	<p>An amended species selection schedule has been prepared and is supported by Council's Landscape Officer.</p>
<p>(c) Façade Design</p> <p>The top three storeys should be more recessive by setting back from the façade below.</p>	<p>The upper three levels have been set back to align with the building below. In addition, improvements have been made to the proposed curtain wall clad section at these upper three levels.</p> <p>The Applicant provided the following additional response which is generally agreed with:</p> <p><i>“The top of the hotel building has a simple and logical termination featuring a finely detailed blue/grey curtain wall. The neutrally coloured curtain wall will reflect the sky and visually lighten the top of the building.</i></p> <p><i>The massing, detail and articulation of the new hotel building results in a well resolved and very interesting composition”.</i></p>
<p>(d) Projecting Stair At Ground Floor</p> <p>The cranked projecting stair at ground floor and level 1 preferably should be curvilinear to reflect the porte-cochere canopy.</p>	<p>The stair design has been amended to as recommended.</p>
<p>(e) High Level Blank Wall On South Side</p> <p>The blank wall bounding the service area and room 1 on the southern façade needs to be modulated (at levels 9 to 12) where it is exposed to view above the carpark building.</p>	<p>Precast patterned panels have been provided to this rear (southern) elevation of the hotel building. The Applicant contends that these are integrated with other similar large surfaces on the building.</p>

ISSUE	OFFICER'S COMMENT
<p>(f) Carpark Façade Design Comments</p> <p>The car parking building (and the cars within) should be screened from view from the public domain and adjoining properties by a system masonry elements and screening.</p> <p>All the facades need to be sensitively detailed using a combination of treatments to provide acoustic and visual screening and natural light and ventilation.</p> <p>Long, visually heavy horizontal elements presenting on the facades are discouraged.</p> <p>The Panel favours a combination of masonry balustrade / spandrels inside of a light weight framed system supporting translucent fabric, modulated metal screens and / or a frame to support a green wall treatment.</p>	<p>The carpark building is partly screened from King Street by the hotel building, and landscape treatment is provided within the front and side setback areas which will subdue the built form when viewed from the public domain.</p> <p>In addition, a combination of perforated metal panels and green wall treatments are now proposed to the eastern and southern façades of the carpark building which are considered to provide a suitable outcome.</p> <p>The carpark building fronting Ewan Street is also set back 16-17 metres from the sites southern boundary and this space will be soft landscaped.</p> <p>The architect notes that the east side of the carpark is also broken up with the addition of the curved ramp element, solid stair tower and a change of external screen treatment at the southeast corner.</p> <p>Screening has not been required to the western elevation as it is considered that this elevation generally not visible from the public domain. The appearance of this elevation has, however, been improved with by provision of a surface design of 'irregular polychrome green stripes' which continue around the bottom spandrel and onto the ceiling below (which can also be viewed from ground level angles). These measures are considered to adequately break up the mass and appearance of the façade when viewed from the adjoining property.</p> <p>The proposed development also includes solid balustrade to all boundaries to help mitigate noise impacts and limit headlight spill nuisance to adjacent sites.</p> <p>The roof top carpark spaces are also provided with dark green fabric shade structures which are supported by the Panel.</p>
<p>(g) Roof design comments:</p> <p>Provide a modulated, fine horizontal roof canopy to the hotel building to form an attractive ending to the top to the building.</p>	<p>The amended design features a fine horizontal cornice element which is considered to form an attractive termination to the building.</p>

ISSUE	OFFICER'S COMMENT
<p><u>DENSITY:</u></p> <p>The ultimate design will need to comply with the 3:1 FSR to be allowed under the new LEP, and the comments in this report and Council's requirements.</p>	<p>This matter has been discussed previously in the report under consideration of the draft BBLEP 2012.</p>
<p><u>RESOURCE, ENERGY EFFICIENCY:</u></p> <p>The design development of the proposal should incorporate full environmentally sustainable design principles including solar hot water, photo voltaic panels (as proposed) and capture and re-use of roof storm water.</p>	<p>Energy and water efficiency have been considered previously in the report and were found to be satisfactory.</p> <p>The architect has provided the following response:</p> <p><i>"The carpark will be naturally ventilated. Openings over concrete spandrels will promote crossflow ventilation and daylight penetration.</i></p> <p><i>All hotel bedrooms will have adequate daylighting.</i></p> <p><i>Full natural ventilation of hotel is not possible due to aircraft noise constraints, however maximum use will be made of 100% fresh air economy cycle cooling when the ambient conditions are suitable.</i></p> <p><i>Hotel bedrooms will be provided with openable sashes for natural ventilation when acoustic environment permits, ie night times.</i></p> <p><i>Typical hotel floors will have a semi enclosed 'wintergarden' in the middle of the plan that will assist with natural ventilation and improve amenity.</i></p> <p><i>All rainwater from hotel roof will be captured and stored for irrigation and toilet flushing"</i></p>
<p><u>LANDSCAPE:</u></p> <p>(a) Nature strips to be shown on the landscape plan in accordance with Council's Public Domain Plan;</p> <p>(b) Critical to the success of the scheme is its landscape presentation (hard and soft) to King Street at the ground level including pedestrian amenity, the treatment of the vehicular ingress and egress driveways and the loading bay and garbage pickup area.</p>	<p>The proposal is supported by Council's Landscape Officer (subject to recommended conditions).</p> <p>The building is setback between 12m and 17m from King Street and the front setback area provides approximately 343m² of soft landscaping spread across the frontage which now contains appropriate planting species. The treatment of this area is considered to be satisfactorily resolved.</p>

ISSUE	OFFICER'S COMMENT
<p>(c) The proposed landscaped setback to Ewan Street should provide for safety and security by avoiding areas where concealment is possible and by incorporating effective night lighting.</p> <p>(d) The car parking building (and the cars within) should be screened from view from the public domain and adjoining properties by King and Ewan Streets by large canopy tree planting.</p> <p>(e) A pedestrian entry and footpath (as proposed) should be provided from King Street footpath linking to the main hotel lobby entry.</p> <p>(f) Provide pedestrian access and security to enable the landscaped spaces on the eastern and western boundaries to be usable and for maintenance.</p> <p>(g) The green wall on the eastern boundary adjacent to the weatherboard cottage site should be adequately setback to allow for maintenance purposes.</p> <p>(h) The entry points of the through site walkway along the western boundary linking King & Ewan Streets are not well resolved especially at Ewan Street where the walkway is terminated at mid section of a 1 in 8 curved vehicular ramp.</p> <p>(i) The widths of the vehicular access driveways should be minimised to allow more deep soil landscaped area and reduce impact on the adjoining properties. Maximise the planting of large species canopy trees (indigenous or to continue an established planting theme in the locality).</p> <p>(j) Provide water sensitive areas for effective catchment and reuse of rain water.</p>	<p>The Ewan Street setback is provided generally with mature tree species to minimise concealment opportunities. The NSW Police conditions require the provision of appropriate lighting surrounding the site. The proposal is therefore considered satisfactory.</p> <p>Adequate and appropriate landscape planting is proposed to screen the building as discussed previously.</p> <p>A pedestrian footpath has been provided.</p> <p>Fencing and lockable gates have been provided to the western setback area which will be managed by Council. Access has also now been provided to the landscape area within the eastern setback of the site.</p> <p>Adequate landscaping is considered to be provided on the site and a condition recommends continuation of the screening treatment provided above.</p> <p>This matter has been resolved in the final design.</p> <p>The applicant confirms that the driveway widths have been minimised and landscape areas are maximised. The proposed development is considered to provide satisfactory landscaping as discussed previously in the report.</p> <p>Rainwater re-use is proposed at the site and the applicant confirms that water sensitive stormwater management will be incorporated into hydraulic and landscape designs.</p>

ISSUE	OFFICER'S COMMENT
<p><u>AMENITY:</u></p> <p>(a) Provide some pedestrian access from the car park to ground level into the landscaped spaces;</p> <p>(b) Provide screening to avoid glare impact from car head lights;</p>	<p>Access has now been provided to the ground level landscaped spaces.</p> <p>Proposed solid balustrading combined with the perforated metal screening is considered to provide adequate screening for the eastern and southern facades, and the northern façade has been provided with solid screening to prevent impacts to hotel guest. Solid balustrading to the western façade is considered satisfactory.</p>
<p><u>SAFETY / SECURITY:</u></p> <p>(a) Pedestrian access into and through the development requires adequate passive surveillance and appropriate security measures.</p>	<p>The applicant has provided the following response:</p> <p><i>“Hotel is inherently secure by virtue of its round-the-clock occupancy. Carpark entrance is also clearly defined and overlooked by hotel restaurant.</i></p> <p><i>After hours, the carpark can be completely shut and secured. After hours customer access will be by programmable electronic card.</i></p> <p><i>Carpark activity on all floors will be monitored from the ground floor management office by a closed circuit camera system”.</i></p> <p>Subject to the above and conditions recommended by the NSW Police the proposal is considered satisfactory in this regard.</p>
<p><u>AESTHETIC</u></p> <p>(b) External materials: Provide low maintenance external materials and detailing to ensure attractive weathering.</p> <p>(c) A subdued palette (similar to the submitted schedule) is preferred as part of the overall composition of external detailing, materials, textures and colours.</p> <p>(d) Signage – all signage must be discreet, preferably relatively small and fully integrated with the façade designs.</p>	<p>The external materials are considered to be low maintenance with use of perforated metal screening, painted precast concrete panels, concrete balustrading to the capark edges, metal sunshading, and adequate glazed areas.</p> <p>The use of colours has been minimized and the proposed façade composition is considered to be satisfactory.</p> <p>No signage is proposed as part of this application. Signage will form the subject of a separate application except where it is exempt development.</p>

Officer's Concluding Comments to DRP Issues:

The amended application for a hotel and public carpark was submitted to Council on 3 August 2012 and significant improvements have been made to address the issues raised by the Design Review Panel. As discussed above, the DRP support the proposed development subject to the issues raised in their report being satisfied to Council's satisfaction. The issues raised by the Panel have been addressed in the amended design and considered in the table above. The amended proposal is considered to satisfactorily address the design recommendations of the panel and the proposed design outcome is supported.

Local Government Act 1993

A public carpark is defined under the Local Government Act 1993 as follows:

"public car park" means any premises used for the purpose of accommodating vehicles of members of the public on payment of a fee, but does not include a pay parking space under the [Road Transport \(Safety and Traffic Management\) Act 1999](#) prescribed by the regulations.

The Application therefore involves the operation of a public car park and approval is required under the *Local Government Act 1993 (LGA 1993)* pursuant to Paragraph 1 in Part F of the Table to Section 68.

In accordance with Section 78A(3) of the Environmental Planning and Assessment Act 1979 (*EP&A Act*), Council may grant both development consent under the *EP&A Act* and approval under the *LGA 1993* in the same application where Council is the consent authority (Note: The Council remains the consent authority for this Application, the JRPP only exercises the consent authority function of Council in determining the proposal).

Section 78A(3) of the EP&A Act reads as follows:

"If the consent authority is a Council, a person...may, in the same development application, apply for development consent and approval for anything that requires approval under the following provisions of the Table to section 68 of the Local Government Act 1993, namely:....paragraph 1...of Part F".

The Council has no local policies relating to carpark facilities, and there are no other known matters contained within the Regulations or other legislation which would hinder approval of the public carpark under the LGA 1993. Therefore, if approved, this Application grants approval for the operation of the public car park under the *LGA 1993*.

Section 94 Contributions

The development application seeks approval for the construction of a hotel and public carpark. The Section 94 Contributions based on Council's *Section 94 Contributions Plan 2005-2010* are provided below:

• Community Facilities	\$25,900.00
• Administration	\$4,200.00
• Shopping Centre Improvements	\$18,800.00
• Open Space & Recreation	\$174,500.00
• Transport Management	\$33,542.64

Therefore a total Section 94 Contribution of **\$256,942.64** is required to be paid to Council prior to the issue of the Construction Certificate as conditioned under this consent.

3.0 Conclusion

In accordance with Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act, the Application is referred to the The Joint Regional Planning Panel Sydney East Region (JRPP) for determination.

The proposed development has been significantly amended to address issues raised during the assessment process. The application originally requested approval for a mixed commercial (office) development with a public carpark which raised significant concerns with respect to traffic generation, design and FSR.

The amended proposal now requests approval for the following:

- a 12 storey (321 room), 4 star hotel with ancillary facilities plus basement level;
- multi-storey commercial carpark containing a total of 1622 parking spaces comprising:
 - 80 spaces allocated to the hotel;
 - 1542 spaces allocated as a long-term public carpark (including 40 accessible parking spaces, 3 courier vehicle spaces and 49 secure bicycle spaces); and
- Associated landscaping and public domain works.

The amended application demonstrates that impacts to the traffic network and the intersection performance of King Street and O'Riordan Street will be minimised through implementation of the proposed Operational Management Plan. This accords with the recommendations provided by the Sydney Regional Development Advisory Committee / RMS which recommended that the public carpark component be restricted to airport patrons to spread traffic generation throughout the day.

The amended proposal was considered by Council's Design Review Panel (DRP) on 13 August 2012. They considered that the proposal for the hotel and public carpark generally accords with Council's Planning Strategy and that it is acceptable in the "existing and desired future context of the area". The DRP also confirmed their

support for the development in principle subject to satisfactory resolution of the issues raised in their report to Council's satisfaction. The final amended plans submitted to the JRPP for determination are considered to address the issues raised by the Council's Design Review Panel, and the design of the proposal is to Council's satisfaction.

The proposed development has an FSR of 4.74:1 which exceeds the maximum 1.5:1 FSR permitted under the Botany LEP 1995, however the applicant has submitted a SEPP 1 objection which demonstrates that the proposal satisfies the underlying objectives of the FSR control and that the proposal is an orderly and economic form of development. The SEPP 1 objection is considered to be well founded and the variation to the FSR control is supported by Council in this case.

In addition, significant weight is now required to be given to the draft BBLEP 2012. The proposed development is permissible in the B5 – Business Development Zone, and the development is considered to satisfy all requirements and the relevant objectives of the draft BBLEP 2012 with the exception of the 3.0:1 FSR control. As identified in the previous assessment, Council is of the opinion that the internal circulation ramps for the public carpark can be excluded from FSR resulting in an FSR of 3.99:1. Notwithstanding, the proposed development exceeds the maximum FSR permitted, the applicant has demonstrated that, given the lower floor to ceiling levels for a carpark building, that the proposed development will have a height, bulk and scale that is similar to compliant commercial (office) and hotel development with an FSR of 3.0:1. Therefore the variation to the maximum FSR under the draft BBLEP 2012 is considered acceptable in this case.

The application was the subject of two (2) objections and the matters have been addressed in the body of the report.

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*, the *Botany Local Environmental Plan 1995* and the *draft Botany Bay Local Environmental Plan 2012*. The proposal is permissible in the 4(c2) Airport Related – Restricted zone, and is considered to result in a development which is suitable in the context. It is therefore recommended that the Panel grant approval to the application subject to the conditions in the attached schedule.

4.0 RECOMMENDATION

In view of the preceding comments, it is RECOMMENDED that the Joint Regional Planning Panel (JRPP) for the Sydney East Region, as the Consent Authority, resolve to:

- (c) Grant consent to the objection submitted under the provisions of State Environmental Planning Policy No. 1 – Development Standards to vary the provisions of Clause 12(3) of Botany Local Environmental Plan 1995 relating to maximum floor space ratio of 4.74:1 applied under this clause on the basis that:
 - (i) Clause 12(3) of Botany Local Environmental Plan 1995 is a development standard; and
 - (ii) The objection lodged by the applicant is well founded; and
- (d) Approve Development Application No. 11/121 for construction of a 12 storey (321 room), 4 star hotel with ancillary facilities plus basement level, a multi-storey carpark containing a total of 1622 parking spaces (comprising 80 spaces allocated to the hotel and 1542 spaces allocated as a long-term public parking associated with Sydney Airport), and associated landscaping and public domain works at 342 King Street Mascot, Mascot, subject to the Conditions imposed in the attached schedule.

5.0 CONDITIONS OF CONSENT

Premises: 342 King Street, Mascot

DA No: 11/121

GENERAL CONDITIONS

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

Drawing N°	Author	Dated Received by Council
Site Survey Reference 05/0505, dated 3 April 2007.	Watson Buchan Pty Ltd.	29 June 2011
Site Plan, Job No. 0243, Plan No. B-100 (Rev. 04), dated 21.11.12	Vanovac Associates Architects	28 November 2012
Site Analysis Plan, Job No. 0243, Plan No. B-110 (Rev. 04), dated 13.08.12	Vanovac Associates Architects	28 November 2012
Basement Plan, Job No.	Vanovac Associates	28 November 2012

Drawing N°	Author	Dated Received by Council
0243, Plan No. B-200 (Rev. 07), dated 22.11.12	Architects	
Ground Floor Plan Plan No. B-201 (Rev. 12), dated 22.11.12.	Vanovac Associates Architects	28 November 2012
Level 1 Plan, Job No. 0243, Plan No. B-202 (Rev.08), dated 22.11.12.	Vanovac Associates Architects	28 November 2012
Typical Carpark Plan, Job No. 0243, Plan No. B-203 (Rev.09), dated 22.11.12.	Vanovac Associates Architects	28 November 2012
Carpark Roof Plan, Job No. 0243, Plan No. B-204 (Rev.05), dated 22.11.12.	Vanovac Associates Architects	28 November 2012
Hotel Plans, Job No. 0243, Plan No. B-205 (Rev.03), dated 22.11.12.	Vanovac Associates Architects	28 November 2012
Roof Plan, Job No. 0243, Plan No. B-206 (Rev.02), dated 22.11.12.	Vanovac Associates Architects	28 November 2012
Elevations Sheet 1, Job No. 0243, Plan No. B-300 (Rev.03), dated 22.11.12.	Vanovac Associates Architects	28 November 2012
Elevations Sheet 2, Job No. 0243, Plan No. B-301 (Rev.03), dated 22.11.12.	Vanovac Associates Architects	28 November 2012
Elevations Sheet 3, Job No. 0243, Plan No. B-302 (Rev.01), dated 26.11.12.	Vanovac Associates Architects	28 November 2012
Sections, Job No. 0243, Plan No. B-310 (Rev.04), dated 04.09.12.	Vanovac Associates Architects	28 November 2012
Shadow Diagrams, Job No. 0243, Plan No. B-400 (Rev. 02), dated 22.11.12.	Vanovac Associates Architects	28 November 2012
Distant Views, Job No. 0243, Plan No. B-410 (Rev. 02), dated 22.11.12.	Vanovac Associates Architects	28 November 2012
Street Views, Job No. 0243, Plan No. B-411 (Rev. 02), dated 22.11.12.	Vanovac Associates Architects	28 November 2012

Drawing N°	Author	Dated Received by Council
Development Images Sheet 1, Job No. 0243.	Vanovac Associates Architects	28 November 2012
Development Images Sheet 2, Job No. 0243.	Vanovac Associates Architects	28 November 2012
Development Images Sheet 3, Job No. 0243.	Vanovac Associates Architects	28 November 2012
Development Images Sheet 4, Job No. 0243.	Vanovac Associates Architects	28 November 2012
Development Images Sheet 5, Job No. 0243.	Vanovac Associates Architects	28 November 2012
Development Images Sheet 6, Job No. 0243.	Vanovac Associates Architects	28 November 2012
Development Images Sheet 7, Job No. 0243.	Vanovac Associates Architects	28 November 2012
Development Images Sheet 8, Job No. 0243.	Vanovac Associates Architects	28 November 2012
Development Images Sheet 9, Job No. 0243.	Vanovac Associates Architects	28 November 2012
Landscape Plan with Drawing No. 1804 LP-01 (Issue 03, dated 22/11/12)	John Lock & Associates (JLA) Landscape Architects	28 November 2012
Landscape Plan with Drawing No. 1804 LP-02 (Issue C, dated 22/11/12)	John Lock & Associates (JLA) Landscape Architects	28 November 2012
Landscape Plan with Drawing No. 1804 LP-03 (Issue B, dated 08/08/12)	John Lock & Associates (JLA) Landscape Architects	28 November 2012

The following documents are referenced:

Documents	Author	Date Received by Council
Schedule of Materials & Finishes, with Job No. 0243, Drawing No. EF-00 (Rev 2).	VanovacTuon Architects	28 November 2012
Statement of Environmental Effects (Revision 3, Dated 23 November 2012)	Vanovac Tuon Architects	28 November 2012

Documents	Author	Date Received by Council
SEPP 1 Objection (dated 26 November 2012)	aSquare Planning	26 November 2012
Letter Response from Planning Consultant (Site Isolation, etc.)	aSquare Planning	26 November 2012
Waste Management Plan (dated 13 August 2012)	VanavocTuon Architects	13 August 2012
Noise Assessment (DA Phase) Letter Report (Dated 25 July 2012, Reference 110213-02L-DD)	Acoustic Consulting Engineers	13 August 2012
Traffic and Parking Assessment Report (dated 8 August 2012, Ref.11057)	John Coady Consulting Pty Ltd	10 August 2012
“Traffic and Parking Issues” Letter Report (dated 8 August 2012)	John Coady Consulting Pty Ltd	10 August 2012
Operational Management Plan (dated 28 November 2012).	John Coady Consulting Pty Ltd	28 November 2012
Letter response to Council dated 28 November 2012	John Coady Consulting Pty Ltd	28 November 2012
Letter Report on Security and Access Controls for proposed carparking facility (dated 14/11/2011)	Evenas Pty Ltd.	17 October 2011
Site Audit Report titled “Eastern Part of the Former Mascot Galvanising Site” (dated 19 July 2007)	HLA-Envirosciences Pty Ltd	18 November 2011
Site Audit Report titled “Western Half of Former Mascot Galvanising Site”, dated 28 July 2008.	ENSR / AECOM	18 November 2011
Targeted Groundwater & Soil Contamination Assessment (dated 19 th November 2012)	Pacific Environmental Services Pty Ltd	21 November 2012
NSW Police Safer by Design Report, dated 22 November 2011	NSW Police	29 November 2011
Acid Sulfate Soils Investigation Report, dated	Pacific Environmental Services Pty Ltd	23 November 2012

Documents	Author	Date Received by Council
20 November 2012.		
Certificate of Structural Adequacy (dated 2 September 2012)	S. TUT PL. Consulting Engineers	23 November 2012
Response to 20 August 2012 Design Review Panel Report	Vanovac Tuon Architects	
Energy Efficiency Report (dated 13 August 2012)	Vanovac Tuon Architects	16 August 2012
Legal Advice (dated 23 November 2012)	Conomos Legal	26 November 2012

No construction works shall be undertaken prior to the issue of a Construction Certificate.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

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- (a) This Consent relates to land in Lots 15, 16, & 17 in DP 9142, Lot M in DP 356032, Lot F in DP 396672, Lot A in DP 407002, Lot 1 & 2 in DP 387285, Lot B in DP 310256, Lot A in DP 341081, Lot C in DP 348169, and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public domain works required by this consent.
- (b) Consent for the public carpark is valid for a period not exceeding 18 months from the date of issue of the Occupation Certificate unless otherwise approved by Council. At the end of this period the use of the carpark must cease and all buildings associated with the use must be removed from the land.

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

4 The finishes of the building are to be in accordance with the details shown on the approved plans with Job No. 0243, Drawing No. EF-00 (Revision 02) prepared by Vanovac Tuon Architects (undated) and approved under this Development Consent.

- 5 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.
- 6 To protect both the health and safety of the community and the environment, the development shall not inhibit the ability to implement or meet any conditions that are outlined in the two (2) Site Audit Statements for the development site listed in Condition 1 and as outlined below.

SAS WRR168/1

- (a) Preparation of a revised Environmental Management Plan following completion of the redevelopment works on the eastern part of the former Mascot Galvanising site and its review by a site auditor accredited under the Contaminated Land Management Act.
- (b) Continuing operation of the groundwater remediation system on the western half of the former Mascot Galvanising site until approval is obtained from NSW EPA that remediation of groundwater is completed in satisfaction of the Remediation Order.
- (c) Protection and on-going monitoring of all groundwater wells until the remediation works are completed on both the eastern and western parts of the former Mascot Galvanising site.

SAS WRR168/2.

- (d) Continuing operation of the groundwater treatment system on the Site until groundwater remediation goals have been achieved to the satisfaction of NSW EPA;
- (e) Protection of groundwater wells MW510S, MW510D, MW800S, MW800D, MW801S and MW810D, RW2-5, MW507S, MW507D, MW508S, MW508D, MW509S, MW509D and MW23 and ongoing monitoring in accordance with the current monitoring and analytical regime, until groundwater remediation goals have been achieved to the satisfaction of the EPA;
- (f) Capping of the entire site with a permanent seal, such as concrete slabs, pavements or landscaping to minimise exposure to residual contaminants in the soil and groundwater;
- (g) Provision of access along the western boundary of the Site sufficient to allow installation of groundwater recovery wells in the event that NSW EPA or some other government authority requires prevention of migration of contaminated groundwater from the site. The access should not be within a building but may be used for the purposes of a driveway, for parking of vehicles, for temporary storage of materials or for landscaping;
- (h) Design of buildings and services to address groundwater beneath the Site being slightly to moderately acidic, which may be aggressive to sub-surface building structures and services;

- (i) Identification and remediation of any significant contamination beneath the DAF water treatment system following relocation or removal of the system; and
- (j) Preparation and implementation of a long-term Environmental Management Plan if contaminated soil or groundwater remains on the Site after completion of development works. The long-term Environmental Management Plan is required to be prepared to detail the conditions under which residual soil and/or groundwater containing contaminants should be managed if excavation or other works are undertaken.

7 The following landscape requirements shall be complied with:

- (a) To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall 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.
- (b) A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from washing onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable.
- (c) A rigid polyethylene sheet type tree root barrier shall be installed alongside the kerb edges adjoining the Ficus hillii trees at a minimum depth of 1200mm. Root deflectors/directors surrounding the rootball are not suitable. The Applicant is required to contact the Certifier for an inspection of root barriers prior to backfilling.
- (d) Planter boxes constructed over slab shall be built in accordance with the following minimum details :
 - (i) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - (ii) A concrete hob or haunch shall be constructed at the internal joint between the sides and base of the planter to contain drainage within the planter.
 - (iii) 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/spoiling of the external face or integrity of the planter. All internal sealed finishes are to be sound and edges overlapped 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.

- (iv) Drainage cell must be applied to both the base and sides of the planter to minimize damage of the waterproofing membrane during backfilling and to 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.
 - (v) Planter boxes shall be finished externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
- (e) All internal pedestrian walkways and paved areas shall be unit paved. Large areas of asphalt or concrete are not permitted. The driveway crossover shall be constructed of plain broom finished concrete.

8 Electrical kiosks and fire booster assemblies must be located in unobtrusive locations away from vehicle and pedestrian entrances to the property and are not to be located within the main street setbacks. The utilities shall be softened by a built screen and/or landscaping so as not to impact on the streetscape. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation. Fire booster assemblies are to be housed within the external face of the building structure. Sub-surface OSD tank or infiltration trench shall not be located in any deep soil landscaped areas on the site.

9 The consent given does not imply that works can commence until such time that:-

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
 - (i) the consent authority; or,
 - (ii) an accredited certifier; and,
- (b) the person having the benefit of the development consent:-
 - (i) has appointed a principal certifying authority; and,
 - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - (iii) the person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

- 10 Sydney Airports - The proposed development is to comply with the Approval Letter dated 27 September 2011 issued by Sydney Airport Corporation Limited (SACL). The conditions are outlined as follows:

Height Restrictions

- (a) The DEVELOPMENT at 342 King Street, Mascot, lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, 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 as an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, and in his capacity as Airfield Design Manager, advised that he has no objections to the erection of this structure to a height of 48.06 metres above Australian Height Datum.
- (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 48.06 metres above Australian Height Datum (AHD), a new application must be submitted.
- (e) The roof mounted solar panels are not included in this approval as their final RL is not confirmed and they will need to be referred to CASA for assessment as a hazard which may cause confusion, distraction or glare to pilots in the air. The solar panels shall be referred to Mr Peter Bleasdale of SACL once they have been thoroughly designed (and shall be accompanied by a solar panel reflectivity analysis report);
- (f) 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.
- (g) **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.

Approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct. Information required by SACL 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 (MGA94);
- (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.

Any application for approval containing the above information, should be submitted to this Corporation 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.

- (h) For further information on Height Restrictions please call Michael Turner on (02) 9667 9218.
- (i) 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.
- (j) The height of the prescribed airspace at the site is 49.0 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

- (k) The area in which the proposed development is located is in the vicinity of Sydney (KS) Airport.

To minimise the potential for bird habitation and roosting, the Proponent must ensure that non-bird attracting plant species are used in any landscaping design.

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.

All trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.

- 11 Sydney Water - The proposed development is to comply with the conditions provided by Sydney Water dated 15 October 2012. The conditions are outlined as follows:

- (a) The 100mm drinking water main fronting the proposed development on King 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. The drinking water main in O’Riordan Street needs to be upsized to a 200mm main from point ‘A’ to point ‘B’ on the plan attached to the Sydney Water Letter dated 15 October 2012.

- (b) Should this development generate trade wastewater, this correspondence does not guarantee the applicant that Sydney Water will accept the trade wastewater to its sewerage system. In the event trade wastewater is generated, the property owner is required to submit an application for permission to discharge trade wastewater to the sewerage system before business activities commence. A boundary trap will be required where arrestors and special units are installed for trade waste pre-treatment.
 - (c) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Sydney Water will further assess the impact of any subsequent development when the developer applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of future development and to assess if amplification and/or changes to the system are applicable. The developer must fund any adjustments needed to Sydney Water infrastructure as a result of the development.
 - (d) The developer should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. The Water Servicing Coordinator will ensure submitted infrastructure designs are sized and configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002) and the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

- 12 Ausgrid - The proposed development shall comply with the conditions provided by Ausgrid in their letter dated 12 September 2012. The conditions are outlined as follows:
 - (a) An existing Ausgrid substation is located within the proposed development site. Any proposal to move the existing substation must ensure that a new substation is established prior to the removal of the existing substation. The new substation must meet the Ausgrid network standards.

- 13 NSW Police Safer by Design Assessment -
 - (a) The proposed development is to comply with the recommendations provided by NSW Police Botany Bay Local Area Command, dated 22nd November 2011 and further advice provided on 23 November 2012, outlined in the notes at the end of the Schedule of conditions. The key requirements include:
 - Surveillance –
 - (i) Installation of a Closed Circuit Television System (CCTV) which complies with the Australian Standard — Closed Circuit Television System (CCTV) AS:4806:2006, which can 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.

One or more cameras shall be positioned at the entry and exit points to monitor these areas (i.e. entry to the car park, foyer entrance to the hotel, etc.)

Digital technology shall 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.

It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.

- (ii) A duress facility shall be incorporated into the system to enable staff to activate the system manually in the event of an emergency, such as a robbery NB Duress devices should only be used when it is safe to do so

Lighting

- (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.
- (iv) The floors of the carpark shall be finished with a suitable non slip glossy texture which will provide maximum light reflection.

Territorial Reinforcement

- (v) Warning signs shall be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
- (vi) A graffiti management plan shall be incorporated into a 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.
- (vii) Graffiti resistant materials and anti-graffiti coating shall be utilised throughout the development.

Access Control

- (viii) The lower four (4) levels of the western façade of the carpark building shall be provided with suitable screening (to be approved by Council) to prevent people climbing into the carpark to minimise the chance of break and enters occurring.

- 14 Roads and Maritime Services - Any modification to the current Traffic Control Signal (TCS) plan of O’Riordan Street and King Street intersection shall be referred to RMS for approval.

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

- 15 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.

- 16 Prior to the issue of any Construction Certificate:

- (a) The applicant must pay the following fees:

(i)	Builders Security Deposit	\$51,000.00
(ii)	Development Control	\$4,642.00
(iii)	Performance Bond (Public Civil Work)	\$30,000.00
(iv)	Tree Preservation Bond	\$25,000.00
(v)	Tree Preservation Bond Preparation Fee	\$550.00
(vi)	Plan Checking Fee (Civil and Public Domain Work) (as required)	\$500.00

- (b) The payment of **\$256,942.64** in accordance with Council's Section 94 Contributions Plan 2005-2010, such contribution to be paid to Council prior to the issue of the Construction Certificate as follows:

(i)	Community Facilities	\$25,900.00
(ii)	Administration	\$4,200.00
(iii)	Shopping Centre Improvements	\$18,800.00
(iv)	Open Space & Recreation	\$174,500.00
(v)	Transport Management	\$33,542.64

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 fee applicable at the time.

- 17 Prior to the issue of Construction Certificate, the applicant shall lodge with the Council a performance bond of \$30,000 against defective public civil works undertaken by the main contractor for a period of twelve (12) months from the date of the completion agreed by RMS and Council. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee, which will be refundable (with no interest) subject to the approval of Council at the end of the maintenance period. In this period, the Applicant is liable for any

part of the work, which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.

18 Prior to the issue of any Construction Certificate, the architectural plans for construction purposes shall be revised to address the following:-

- (a) The proposed green wall to the lower four (4) levels of the southern façade of the carpark building and the proposed green wall to the eastern elevation adjacent to No. 3 Ewan Street shall be replaced with perforated metal screening to match the screening proposed for the upper levels of the respective façade.
- (b) In order to accommodate traffic movements for the proposed shuttle bus on parking level P2 and P3, the finished floor levels of P2 and P3 shall be raised to ensure that a minimum vertical clearance of 3.5m is achieved;
- (c) Two (2) taxi set-down/pick-up bays and one (1) bus zone shall be provided within the porte-cochere area;
- (d) A minimum 1.2m wide public footpath connecting King Street and Ewan Street shall be provided along the western boundary of the site. The footpath shall be unit paved only (not concrete);
- (e) Raised concrete median shall be constructed to the section of public footpath adjacent to shuttle bus entry driveway to ensure separation between pedestrian and vehicle access.
- (f) All parking bays (including one (1) for car parking bay and three (3) for motorcycle parking) along the northern aisle of the basement level (i.e. Level P1) shall be removed to ensure that the width of the aisle achieves a minimum of 5.5m as required by Australian Standard AS2890.1.
- (g) The Black Bamboo specified for the eastern boundary is to be substituted for a clumping variety such as *Bambusa textilis gracilis* to minimise future impact on adjoining properties;
- (h) The “service strip” in King Street is to be planted with shrubs rather than turf to screen the electrical pillars that will be erected in this location.

19 Prior to the issue of any Construction Certificate the following shall be complied with:

- (a) An Access Report shall be prepared for the premises demonstrating that access to and within the premises shall comply with all relevant legislative requirements (including but not limited to the Building Code of Australia);
- (b) An Acoustic Report shall be prepared and submitted to the Principal Certifying Authority for approval. The report shall address noise emanating from the public carpark and shall provide detailed

measures to ensure that the noise from the carpark will comply with Council's Standard noise requirements. The report shall consider ramp treatment(s), etc. and all details shall be included into the plans submitted with the Construction Certificate.

- (c) In accordance with condition 1 of Site Audit Statement SAS RR168/1, a revised Environmental Management Plan shall be prepared prior to the issue of a construction certificate to manage any remaining groundwater remediation issues. A copy of this management plan shall be supplied to the Principal Certifying Authority and Council prior to the issue of a construction certificate;
- (d) A Construction Noise and Vibration Management Plan shall be prepared to ensure construction noise is controlled and minimised as recommended in the report prepared by Acoustic Consulting Engineers dated 25th July 2012. Such report shall be complied with at all times during works;
- (e) Approval shall be obtained from Sydney Airports Corporation Limited and/or the Civil Aviation Safety Authority (CASA) for the proposed solar panels located at roof level which are proposed to be used for water heating;
- (f) Details to be submitted to the Principal Certifying Authority showing that the visible light reflectivity from building materials used on the facade of the building shall not exceed 20%. The aim of this condition is to ensure that the materials and finishes shall not result in glare that causes discomfort to persons or threatens safety of pedestrians or drivers;
- (g) Council's property shall be supported at all times. Where any shoring is to be supporting (or located on) Council's property, certified engineering drawings showing all details including the extent of encroachment, the type of shoring and the method of removal, shall be submitted prior to the issue of the Construction Certificate. If the shoring cannot be removed, it shall be cut to 150mm below footpath level and the gap between the shoring and any buildings shall be filled with a 5Mpa lean concrete mix;
- (h) Submission of a Design Certificate from a suitably qualified practicing engineer shall be provided to the Principal Certifying Authority demonstrating that any required exhaust Ventilation system required for the carpark and the hotel kitchen will be ventilated at least 1 metre above the top of the carpark structure, away from property boundaries and is in accordance with the BCA and any required Australian Standards;
- (i) A wind impact assessment shall be submitted to, and approval by, Council demonstrating that the proposed development incorporates mitigation measures which adequately minimise wind impacts to the public domain, pedestrian environment and adjoining properties. The measures identified in the report shall be shown on the plans submitted with the Construction Certificate and shall be implemented (and maintained) in the development.

- (a) Landscaping shall be provided in the roof area located between the 2 buildings, as indicated on architectural plan B-203, to provide an attractive outlook for hotel guests on the southern side of the building and screen the northern façade of the carpark. A planter box will be required min. depth 500mm and appropriately designed and drained to enable the planting to be supported and achieve adequate growth. The planter is to be setback a min. of 1.5 metre of building facades and edges to allow for maintenance. This area may be gravel. Safety balustrading is required where necessary on edges.
 - (b) A landscape plan/detail is to be submitted for this area indicating the planter box construction methods and planting design utilising appropriate species to withstand weather conditions and solar variances in this area. Plants species should be decorative and attain a variety of heights from groundcover to 1 metre. All internal pedestrian walkways are required to be unit paved. Asphalt or concrete are not permitted. Porous pavements shall be utilized wherever possible and pathways drained to garden beds.

- 21 The applicant is to submit payment for a Tree Preservation Bond of \$25,000.00 to ensure protection of existing trees adjoining the western and eastern boundaries 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 Council or a qualified consulting Arborist AQF5. If a tree was found to be in decline, damaged (including roots), dead or pruned without Council permission then Council will forfeit all, or part thereof, of the bond. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.

- 22 Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant’s expense.

- 23 Prior to issue of any Construction Certificate:
 - (a) A dilapidation report on public infrastructure (including Council and public utility infrastructure) adjoining the development site shall be prepared by a suitably qualified person and submitted to Council. The report shall include records and photographs of the following area that will be impacted by the development: -
 - (i) King Street
 - (ii) Ewan Street

(iii) All properties immediately adjoining the site

The applicant shall bear the cost of all restoration works to buildings/structures and public infrastructure that been damaged during the course the construction. 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.

(b) A dilapidation report of shall be undertaken of all adjoining properties including a photographic survey prepared by a Practising Structural Engineer.

A copy of the dilapidation report together with the accompanying photographs shall be given to the above property owner/s, and a copy lodged with Principal Certifying Authority and Council prior to works commencing.

The extent of the Dilapidation Survey is to be prepared by a practising Geotechnical Engineer having regard to foundations/structures of the adjoining sites / locality.

24 Prior to the issue of any Construction Certificate, design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the loading area, taxi zone, bus zone, pick-up/drop-off zone, car parking areas (including queuing area, turning area and access ramps), driveways and vehicular access paths shown on the construction plans have been designed in accordance with AS 2890.1, AS2890.2, AS2890.3 and AS2890.6. All parking bays in the proposed public car parking area shall have minimum dimension 2.6m x 5.4m (Category 4 Access Facility).

25 The measures required in the acoustical assessment report prepared by Acoustic Consulting Engineers dated 25th July 2012 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.

The work detailed in the report includes:

- (a) Appropriate acoustic glazing to stated windows and doors, including all required acoustic seals – glazing must be of the thickness recommended in Table 6 of the report,
- (b) A qualified acoustic consultant be engaged during the design phase (for mechanical plant and equipment), to ensure environmental noise impact from the hotel development satisfies the guidelines of the OEH Industrial Noise Policy,

- (c) A qualified acoustic consultant be engaged during the design and construction phases to determine the required construction element/system acoustic performances,

26 Prior to the issue of any Construction Certificate, detailed construction plans in relation to the stormwater management and disposal system for the development (including inter-allotment drainage system, pump-out system and OSD system) shall be prepared by a suitably qualified civil engineer experienced in drainage design and submitted to the Principal Certifying Authority for approval.

The layout of the stormwater drainage system shall be generally in accordance with the following stormwater management plans, prepared by Glen Haig & Partners, Job No. 122205,

- Drawing No. H000, Issue A, dated 9 Aug 2012
- Drawing No. H101, Issue A, dated 9 Aug 2012
- Drawing No. H102, Issue A, dated 9 Aug 2012
- Drawing No. H103, Issue A, dated 9 Aug 2012
- Drawing No. H104, Issue A, dated 9 Aug 2012

However, the construction plans shall be revised to address the following issues:

(a) *For on-site infiltration system*

- (i) In order to ensure the provision of an infiltration system is suitable to the site, geotechnical information about the groundwater level and the infiltration rate (L/m²/s) of the site shall be determined by a qualified geotechnical engineer based on field testing. The report shall include minimum of two (2) boreholes. Each borehole shall be minimum 4m from the existing ground level unless groundwater is encountered. The result shall be submitted to Council for review. It should be noted that the infiltration system is not permitted if: -

- (1) The measured ground water level is within 2.5m of the existing surface levels or
- (2) The base of the adsorption pit will be within 1m of the measured groundwater table or
- (3) The site is contaminated

(Note: If the infiltration system is not permitted, an on-site detention (OSD) system to detain stormwater runoff generated from the site for all storm events up to and including 1 in 100 year ARI storm shall then be provided. The permissible site discharge of the system should not exceed the 1 in 5 year ARI peak flow under the “State of Nature” condition of the site (i.e. the site is totally grassed/turfed) and computer modeling, such as DRAINS can be used to design the OSD system.

Consideration shall be given to the submerged outlet and the area by-passing the OSD system.).

- (ii) The on-site infiltration system shall be designed to **detain 1 in 100 year ARI peak flows** generated from all the roof and impervious area of the development for all storms duration. The outflow of the system shall be based on the infiltration rate of the soil. Detailed calculation of the required storage and storage in the on-site infiltration system shall be submitted to Council for assessment.

(**Note:** “Mass Curve Technique” shown in Australian Rainfall and Runoff (ARR) can be used to determine the required storage volume of the infiltration system.)

- (iii) Based upon the ground water level lower than 2.5m from the existing surface level and assumed infiltration rate of the soil of 0.25 L/m²/s, the size of the infiltration system shall be minimum **85m** (long) x **6m** (wide) with **four (4)** rows of StormTech RC-750 Chamber or equivalent.

(Note: Subject to the geotechnical information in the geotechnical report, the size of the system may vary).

- (iv) The infiltration system shall have a minimum clearance of one (1) metre from the front boundary and two (2) metres from all other boundaries basement and building footings
- (v) In order to provide access for cleaning to the infiltration units, two (2) grated pits (600mm x 600mm) shall be provided and located at the end of the on-site infiltration system and at every 10m interval
- (vi) All pits shall be provided with a Lysaght Maximesh RH3030 litter screen and a 300mm silt sump at the pit(s) where the inlet pipes connected. The base of the infiltration system shall be 200 mm thickness of 14 mm crushed aggregate wrapped in a geotextile fabric.
- (vii) Any infiltration system constructed under the driveway area shall be structurally adequate against vehicle loadings. Structural certificate shall be provided accordingly.
- (viii) A grated boundary pit (minimum 900mm x 900mm) shall be provided to the stormwater drainage system prior to discharging stormwater into the public stormwater drainage system

(b) *For stormwater drainage system in the road reserve*

- (i) Detailed drainage design (including hydraulic grade line (HGL) analysis) from the boundary pit of the site to the existing Council’s grated kerb inlet pit on King Street shall be submitted to Council. The new grated kerb inlet pit shall have minimum 2.4m long opening lintel. All stormwater drainage pipes within the road reserve area shall be minimum 375mm

diameter Class 3 rubber ring jointed (RRJ) reinforced concrete pipe (RCP) / fibre reinforced concrete pipe (FRC), with minimum fall of 0.5%.

(c) *For pump-out drainage system in the basement*

- (i) The storage volume of the pump-out tank shall be designed with a minimum storage capacity equivalent to the runoff volume generated from the area that draining into the tank for the 1 in 100 year ARI 2-hours duration storm event. Detailed calculation of the required storage and storage provided in the pump-out system shall be submitted to Council for assessment.
- (ii) The pump-out drainage system shall comprise with two (2) submersible type pumps. The two pumps shall be designed to work on an alternative basis to ensure both pumps receive equal use and neither remains continuously idle.
- (iii) Each pump shall have a minimum capacity of 10L/s or shall be based on the flow rate generated from the 1 in 100 year ARI 5-minutes duration storm event of the area draining into the system, whichever is greater.
- (iv) An alarm warning device (including signage and flashing strobe light) shall be provided for the pump-out system to advise the occupant of pump failure. The location of the signage and flashing strobe light shall be shown on the stormwater management plans.

(d) *For Stormwater Quality Control*

- (i) All stormwater runoff generated from the site shall pass through Stormwater Quality Improvement Devices (SQID) prior to discharge into public stormwater drainage system. Stormwater pollution reduction targets stated in Botany Bay & Catchment Water Quality Improvement Plan shall be complied with.
- (ii) All drawings and specifications shall be prepared in accordance with Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', Australian Rainfall and Runoff (AR&R), AS 3500.3 and BCA. All drawings shall correspond with the approved architectural plans. Design certification from the engineer shall be submitted to Principal Certifying Authority.

27 Prior to issue of any Construction Certificate, the applicant shall lodge an application under Roads Act to Council for the public domain civil works associated with the development. Engineering construction drawings, including plan checking fee(s), shall be submitted to Council as part of the documentation for the application.

Documentary evidence of the lodgement of engineering plans shall be submitted to the Principal Certifying Authority attesting this condition has been appropriately satisfied prior to the issue of any Construction Certificate.

The engineering construction drawings shall include the following: -

- (a) Design and reconstruct kerb and gutter along full King Street and Ewan Street frontage of the site. The works shall include removal of any redundant crossings.
- (b) Design and reconstruct 1.2m wide footpath along King Street frontage of the site. The location of the new footpath shall have 600mm setback from the property boundary.
- (c) Design and construct a new full-width footpath along the entire Ewan Street frontage of the site. The new footpath shall also extend west by additional 20m to connect the existing pedestrian access point of 350 King Street.
- (d) Design and provide landscaping/street trees to the footpath area on all frontages of the site to Council's Landscape Architect's satisfaction
- (e) Design and construct new vehicular crossings, including laybacks and minimum one (1) metre associated road restoration, at 90o to the kerb and gutter in plain concrete on King Street and Ewan Street. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant. The minimum width of each vehicular crossing at the property boundary shall be in accordance with the following: -

King Street

<i>Vehicular Crossing Location</i>	<i>Width Required</i>
Entrance of car parking area	six (6) metres
Exit of car parking area and loading/unloading area	eleven (11) metres
Entrance and exit of porte-cochere	seven (7) metres

Ewan Street

<i>Vehicular Crossing Location</i>	<i>Width Required</i>
Entrance of car parking area	five (5) metres

- (f) Design and construct stormwater drainage system from the site to the existing Council's drainage pit on King Street. This work shall include provision of a new 2.4m long opening grated kerb inlet gully pit. All stormwater drainage pipes within the road reserve area shall be minimum 375mm diameter Class 3 rubber ring jointed (RRJ) reinforced concrete pipe (RCP) / fibre reinforced concrete pipe (FRC).
- (g) Resurface six (6) metres wide road pavement on King Street (measuring from the lip of the gutter) with 50mm AC10 hotmix.

- (h) Replace the existing above ground electricity and telecommunication cables along King Street frontage of the site with underground cables to relevant authority's requirements.
- (i) Design and install appropriate street lighting on King Street frontage of the site in accordance with the relevant authorities' requirements. P2 lighting design category shall be provided.
- (j) Design and install any new signage and line marking to RMS requirements on all frontages of the site and also include the following: -
 - (i) Signage and line marking to transform the existing kerbside lane (left turn only into O'Riordan Street) in King Street (west) on the approach to O'Riordan Street to a left-turn/thru traffic lane
 - (ii) Signage and line marking to transform the existing thru/right-turn lane in King Street (west) on the approach to O'Riordan Street to a dedicated right-turn lane only
 - (iii) Install "No Parking" sign on the northern side of King Street (west) on the approach to the O'Riordan Street intersection for a distance of approximately 100m from the intersection

All the above works shall be designed and prepared by suitably qualified civil engineers and landscape architects with relevant qualification in civil engineering and landscape respectively. All costs associated with the design and construction shall be borne by the applicant.

28 Prior to the issue of any Construction Certificate, a detailed Construction Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the Principal Certifying Authority and Council. The plan shall: -

- (a) be prepared by a RMS accredited qualified person;
- (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) indicate the construction vehicle access points of the site;
- (d) indicate the frequency of truck movements;
- (e) ensure any vehicles accessing the site or carrying out construction activities associated with the development be restricted to 12.5 metres (defined as Heavy Rigid Vehicle in AS2890.2);
- (f) ensure any vehicles associated with the demolition and construction activities to enter the site from Flack Avenue; and
- (g) ensure all traffic (including worker's vehicles) generated from the construction activities shall enter and leave the site in a forward direction.

- 29 Prior to the issue of any Construction Certificate, a detailed Construction Management Plan (CMP) shall be submitted to Principal Certifying Authority and Council for approval of the site works. The CMP shall address the following:
- (a) All vehicles (including worker's vehicles) associated with site construction activities shall enter and leave the site in a forward direction ONLY;
 - (b) All vehicles (including worker's vehicles) associated with site construction activities shall only be allowed to park within the site. No parking of these vehicles shall be allowed on Flack Avenue;
 - (c) Construction building materials shall be stored wholly within the site;
 - (d) Access to adjacent buildings and the pedestrian and vehicular access fronting Rhodes Street and Flack Ave shall be maintained at all times. No closure of any road reserve will be permitted without Council approval;
 - (e) Under no circumstances (except in an emergency) shall any trucks be permitted to queue and wait on public places, public streets or any road related area (eg. footpath, nature strip, road shoulder, road reserve etc) prior to entering the site;
 - (f) Locations of site office, accommodation and the storage of major materials related to the project shall be within the site;
 - (g) Protection of adjoining properties, pedestrians, vehicles and public assets shall be implemented at all times;
 - (h) Location and extent of proposed builder's hoarding and Works Zones, if there is any, shall be shown on the plan. It should be noted that any Works Zones proposed requires approval from Council; and
 - (i) Tree protection management measures for all protected and retained trees shall be implemented at all times.

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

- 30 A Tree Preservation Order applies to all existing trees on adjoining properties in close proximity to the proposed development and/or property boundaries. In order to ensure that all trees adjoining the western boundary of the site and those near the eastern boundary of the site are protected during construction, and their health and structural stability ensured, the following is required :
- (a) Prior to commencing any work on the site overhanging canopy is required 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 fence shall remain in place until construction is complete.
 - (b) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.

- 31 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and Roads and Maritime Services (RMS) in order to obtain the following approvals and permits on Council's lands /road reserve under Road Act 1993 and Local Government Act 1993: -

(It should be noted that no works or occupancy shall be carried out in road reserve until permits have been granted from Council's engineers. 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
- (g) Permit to use any part of Council's road reserve or other Council lands
- (h) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area

(It should be noted that the issue of such permits may involve approval from RMS and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.)

- (i) Permit to establish "Works Zone" on public roads adjacent to the development site, including use of footpath area.

(Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Traffic Engineer for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s))

- (j) Copy of the approved permits shall be submitted to the Principal Certifying Authority attesting this condition has been appropriately satisfied.

- 32 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 33 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 on Council's road reserve 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.
- 34 Prior to commencement of any works in the road reserve area, the applicant shall obtain **written approval from Roads and Maritime Services (RMS)**, together with a copy of approved engineering plans, construction management plan and construction traffic plans, under Section 138 of Roads Act 1993 for the civil works to be carried out in public domain. Documentary evidence shall be submitted to the Principal Certifying Authority attesting to this condition has been appropriately satisfied.
- 35 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certifying Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:
- (a) Waste and recycling for commercial users shall be in a separate room from the storage of waste and recycling for residential users,
 - (b) The rooms for the storage of garbage and recyclable materials shall be fully enclosed,
 - (c) Adequately ventilated,
 - (d) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor,

- (e) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation, and
- (f) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS

- 36 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 after hours contact telephone number.
 - (b) Any such sign is to be removed when the work has been completed.
- 37 Excavation associated with this development shall cease immediately should groundwater be encountered, with
- (a) Groundwater then being tested by a laboratory accredited by the National Association of Testing Laboratories (NATA) to NSW Office of Water suite of analytes; and
 - (b) No de-watering from the site will occur until (a) above has taken place.

A separate development application and approval from the NSW Office of Water is required for dewatering works.

- 38
- (a) Excavation associated with this development shall cease immediately should groundwater be encountered,
 - (b) If dewatering is required, groundwater shall be tested by a laboratory accredited by the National Association of Testing Laboratories (NATA) to NSW Office of Water suite of analytes; and
 - (c) No de-watering from the site will occur until (a) above has taken place or until separate approval from the NSW Office of Water has been obtained for dewatering works.

39 During Works:

- (a) The applicant shall conduct all demolition, excavation, 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 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.
- (c) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer
- (d) Shaker pads shall to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
- (e) During the construction works, the Council nature strip shall be maintained in a clean and tidy state at all times.
- (f) During Demolition, Excavation, Construction and any associated deliveries 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.
- (g) 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.

40 During Excavation and Construction and any associated deliveries activities, 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 make 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.

- 41 During construction, the applicant is responsible for the installation and protection of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
- 42 During excavation, construction and any associated delivery activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times: -
- (a) Approved Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan);
 - (b) Approved Construction Traffic Management Plan;
 - (c) Approved Construction Management Plan; and
 - (d) Approved Waste Management Plan;
- All controls in the plans shall be maintained at all times and made available to council officers on request, and the principal contractor must install and maintain water pollution, erosion and sedimentation controls in accordance with the Protection of the Environment Operations Act 1997.
- 43 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) and road pavement materials
 - (c) Prior to backfilling of proposed stormwater drainage system in the road reserve
 - (d) Council's 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.
- 44 Site Contamination and Remediation matters:
- (a) To prevent contaminated soil being used onsite, any imported fill shall be certified VENM material and shall be validated in accordance with the Department of Environment, Climate Change and Water (DECCW) 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.

- (b) 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.
 - (c) All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.

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

- 46 The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA Environmental Noise Control Manual.

- 47 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.

- 48
 - (a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards, and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
 - (b) 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, piering, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - (c) As the development involves an excavation that extends below the level of the base of the footings of a building 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.

- 49 The following shall be complied with during construction and demolition:
- (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 20dB(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 06:00pm
 - (ii) Saturday 07:00am to 04:00pm
 - (iii) No Construction to take place on Sundays or Public Holidays.
 - (d) Silencing
All possible steps should be taken to silence construction site equipment.
- 50 The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA Environmental Noise Control Manual.
- 51
- (a) Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
 - (i) Erection of public infrastructure 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,

If connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.

- (c) The provisions of toilet facilities in accordance with this clause must be completed before any other work is commenced.

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

52 Prior to the issue of any Interim or Final Occupation Certificate for the carpark:

- (a) A maximum of one thousand six hundred and twenty-two (1622) car parking off-street parking bays shall be provided to the development in accordance with the approved plans.
- (b) An amended landscape plan for the King Street setback shall be provided to, and approved by, Council if construction of the proposed hotel building has not commenced. The amended landscape plan is to provide species that are suitable to subdue and screen the carpark building when viewed from King Street.
- (c) In order to maximise visibility in the basement car park, the ceiling shall be painted white prior to issue of the Occupation Certificate.

Note: This excludes the ceiling areas to the western side of the carpark building which are proposed to be improved with the surface design of 'irregular polychrome green stripes' which continue around the bottom spandrel and onto the ceiling below (refer to Architects response to the 20 August 2012 Design Review Panel).

- (d) A Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that the Floor Space Ratio (FSR) of the proposed carpark is a maximum of 2.74:1 (when calculated in accordance with the provisions of draft Botany LEP 2012) as approved under this Development Application, has been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
- (e) A Plan of Management for Security shall to be submitted to, and approved by, Botany Bay City Council and the NSW Police Force.

The Plan of Management for the carpark shall include all measures agreed by the applicant (Evenas Pty Ltd) in their letter dated 14 November 2011, the measures agreed in the letter response to the 20 August 2012 Design Review Panel (prepared by Vanovac Tuon Architects), and the relevant measure required by the NSW Police

(Refer to Condition No. 13). The measures shall include, but not be limited to the following:

- (i) Installation and operation of fixed CCTV cameras throughout the facility;
- (ii) Provision / Employment of a 24 hour security guard and a monitoring control room;
- (iii) Random security patrols (including external to the carpark) at all times of the day;
- (iv) Address the security guard access to security camera monitors at all hours of the day
- (v) Parking levels will be numbered and / or identified with distinctive and bright colours; and,
- (vi) Integrated control system will be installed to record available parking on each floor level.
- (vii) Procedures for locking of the carpark after hours (which can be completely shut and secured), including provision to customers of an 'after hours' programmable electronic card.

53 Prior to the issue of any Interim or Final Occupation Certificate for the Hotel:

- (a) A minimum of eighty (80) parking bays shall be allocated to the hotel component of the development, and an additional forty-eight (48) parking bays shall be available for use by the hotel in order to accommodate any required overflow parking demand from the hotel component of the development;
- (b) A Plan of Management is required to be submitted to, and approved by, Council demonstrating how the overflow parking will be managed.
- (c) The applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in Condition 25 have been carried out and certify that the construction meets the above requirements and the indoor sound levels of AS2021-2000. 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 Australia Acoustical Consultants).
- (d) A Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that the Floor Space Ratio (FSR) of the proposed hotel is a maximum of 1:1 (when calculated in accordance with the provisions of draft Botany LEP 2012) as approved under this Development Application, has been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
- (e) A report shall be submitted to Council confirming that the measures incorporated agreed in the Energy Efficiency Report listed in Condition 1 have been complied with. Amongst other matters, the

report shall confirm that the development achieves a minimum 4.5 star NABERS rating (www.nabers.com.au).

- 54 Prior to the issue of any Occupation Certificate, documentation from suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying that the loading area, taxi zone, bus zone, pick-up/drop-off zone, car parking areas (including queuing area, turning area and access ramps), driveways and vehicular access paths have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2, AS2890.3 and AS2890.6 requirements. The internal road network and parking area shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current version of Australian Standards. All car parking bays in the proposed car park area shall have minimum dimension 2.6m x 5.4m (Category 4 Access Facility).
- 55 Prior to the issue of any Occupation Certificate, construction of the stormwater drainage system (including on-site infiltration/detention system and pump-out system) of the proposed development shall be completed generally in accordance with the approved stormwater management construction plan(s), Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', Australian Rainfall & Runoff (AR&R), AS 3500 and BCA.
- Documentation from a qualified civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system (including on-site infiltration systems and pump-out system) has been constructed generally in accordance with the approved stormwater drainage construction plan(s) and accepted practice.
- 56 Prior to the issue of Final Occupation Certificate, maintenance schedule of the stormwater drainage system (including on-site infiltration/detention system and pump-out system) shall be prepared by a qualified engineer and submitted to Principal Certifying Authority. A copy of maintenance schedule shall also be submitted to Council for record purpose.
- 57 In order to ensure that the constructed on-site infiltration system and pump-out system will be adequately maintained, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. The relative location of the systems, in relation to the building footprint, shall be shown on a scale sketch, attached as an annexure to the plans/ forms. Proof of registration shall be submitted to the Principal Certifying Authority prior to the issue of Final Occupation Certificate.

- 58 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.
- 59 Prior to the issue of any Occupation Certificate, the following public domain civil works shall be completed to the satisfaction of Council: -
- (a) Kerb and gutter reconstruction along King Street and Ewan Street frontage of the site. The works shall include removal of any redundant crossings.
 - (b) 1.2m wide footpath reconstruction along King Street frontage of the site. The location of the new footpath shall have 600mm setback from the property boundary.
 - (c) Construction of a new full-width footpath along the entire Ewan Street frontage of the site. The new footpath shall also extend to the west by additional 20m to connect the existing pedestrian access point of 350 King Street.
 - (d) Provision of landscaping/street trees to the footpath area on all frontages of the site
 - (e) Construction of new vehicular crossings including layback and/or gutter and minimum one (1) metre associated road restoration, at 90o to the kerb and gutter in plain concrete. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant. The minimum width of each vehicular crossing at the property boundary shall be in accordance with the following: -

King Street

<i>Vehicular Crossing Location</i>	<i>Width Required</i>
Entrance of car parking area	six (6) metres
Exit of car parking area and loading/unloading area	eleven (11) metres
Entrance and exit of porte-cochere	seven (7) metres

Ewan Street

<i>Vehicular Crossing Location</i>	<i>Width Required</i>
Entrance of car parking area	five (5) metres

- (f) Construction of stormwater drainage system from the site to the existing Council's drainage pit on King Street. This work shall include provision of a new 2.4m long opening grated kerb inlet gully pit. All stormwater drainage pipes within the road reserve area shall be minimum 375mm diameter Class 3 rubber ring jointed (RRJ) reinforced concrete pipe (RCP) / fibre reinforced concrete pipe (FRC).

- (g) Resurfacing six (6) metres wide road pavement on King Street (measuring from the lip of the gutter) with 50mm AC10 hotmix.
- (h) Installation of underground electricity and telecommunication cables along King Street frontage of the site to relevant authorities' requirements.
- (i) Installation of appropriate and suitable street lighting to a high decorative standard on King Street frontage of the site to relevant authorities' requirements.
- (j) Installation of any necessary signage and line marking to RMS requirements on all frontages of the site and also include the following: -
 - (i) Signage and line marking to transform the existing kerbside lane (left turn only into O'Riordan Street) in King Street (west) on the approach to O'Riordan Street to a left-turn/thru traffic lane;
 - (ii) Signage and line marking to transform the existing thru/right-turn lane in King Street (west) on the approach to O'Riordan Street to a dedicated right-turn lane only;
 - (iii) Install "No Parking" sign on the northern side of King Street (west) on the approach to the O'Riordan Street intersection for a distance of approximately 100m from the intersection;

60 Prior to the issue of any Occupation Certificate, the following documentation shall be submitted to Council and Principal Certifying Authority attesting this condition has been appropriately satisfied.

- (a) Written confirmation / completion certificate obtained from RMS and Council's engineers
- (b) Inspection reports (formwork and final) for the works on public domain and road reserve area obtained from Council's engineer
- (c) A copy of the approved engineering construction plans showing Work-as-Executed details (together with an electronic copy (DWG format)) for all the civil works on public domain and road reserve area. The plan shall be prepared by a registered surveyor.

61 Prior to the issue of any Occupation Certificate, a Certificate of Survey from a registered surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels shown upon the approved plans, with relation to drainage, boundary and road reserve levels, have been strictly adhered to. The report shall also confirm that all works have been undertaken wholly within the subject site (with the exception of the public domain works required by conditions of consent).

- 62 Prior to issue of any Occupation Certificate:
- (a) A Right of Way shall be created over the footpath and landscaped area located along the western boundary of the site connecting Ewan Street and King Street. The Right of Way shall be in the benefit of Botany Bay City Council. The area between the building structures and the sites western boundary shall be provided with high quality fences and lockable gates approved by Council in the position shown on the approved plans to ensure that the area can be secured by Council during the night time hours. Proof of registration of the Right of Way shall be submitted to the Principal Certifying Authority and a copy to Council
 - (b) The western setback area shall be provided with new paving, furniture and tree planting as shown in the approved landscape plan(s), to be installed by the applicant and at the applicant's expense.
- 63 Prior to the issue of any Occupation Certificate for the hotel building or the carpark building, a Workplace Travel Plan shall be developed, and submitted to Council in order to encourage staff to make good use of public transport, cycling, walking and car sharing for commuting work related journeys and reduce car based travel demand by staff. The plan shall generally include but not limited to the following: -
- (a) Prepare Transport Access Guides (TAGs) for staff, visitors and hotel guests about information on how to reach the site via public transport, walking or cycling
 - (b) Encourage staff to cycle and/or walk to the workplace
 - (c) Encourage staff to use public transport to travel to workplace by providing financial incentive
 - (d) Adopt car sharing and /or car pool scheme
 - (e) Provide priority parking for staff with car pool
 - (f) Establish measurable targets on the number of staff travel to work by public transport, cycling and walking
- 64 Prior to issue of any Occupation Certificate for the public carpark, the applicant shall obtain the Local Traffic Committee's approval for the deletion of the parking restrictions in King Street as recommended in the submitted Traffic Reports. The cost of the changes to the parking restrictions shall be borne by the applicant.
- 65 Prior to the release of any Occupation Certificate a sign shall be erected within or adjacent to the garbage room / bins and within each hotel room encouraging hotel staff, hotel guests and carpark patrons to recycle and not place recyclables into waste bins. The sign shall be clearly legible and A3 minimum within garage room areas. Details of an acceptable wording for the

sign are available from Council's Internet site at <http://www.botanybay.nsw.gov.au>.

- 66 Prior to the release of any occupation certificate the operator shall enter into a commercial contract for the collection of (trade) waste and recyclables arising from the premises. A copy of all contracts and receipts shall be kept on the premises and made available to Council Officers on request.

67

- (a) Landscaping shall be installed in accordance with the approved amended landscape plan, 1804 LP-01 Issue 03, LP-02 Issue C and LP-03 Issue B, by John Lock & Assoc. prior to the issue of an Occupation Certificate. Amendments include substitution of 2 green walls with decorative architectural façade/fenestration treatment, planting to the service strip area in King Street and substitution of Black Bamboo with a clumping variety such as *Bambusa textilis gracilis*. The landscaped areas on the property shall be installed and maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.
- (b) An experienced Landscape Contractor shall be engaged to undertake the landscaping 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 26 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.

- 68 New street trees (*Waterhousia floribunda* Sweeper) shall be installed in the King Street nature strip in accordance with the approved landscape plan LP-01, Issue 03. Trees shall be sourced from a reputable supplier that grows to NATSPEC and a service enquiry is required prior to planting. The trees shall be planted in the minimum area required for the rootball, backfilled with imported soil/compost, water holding additive and fertiliser, Rootrain ag. pipe watering system installed and mulched with leaf mulch to a depth of 100mm and at 1 metre diameter. The trees are to be double staked and tied. The Applicant is required to obtain a Council inspection of the new street trees prior to issue of the Occupation Certificate.

- 69 The Council nature strip shall be replaced in accordance with Council Specification at the completion of construction work and at the Applicant's expense. The service strip located between the public footway and the property boundary shall be landscaped with shrubs that attain a height of 500mm to adequately above ground screen electrical service pillars.

- (a) All existing aboveground service cables, including power lines, telecommunications cables and other similar services (“overhead service cables”) in the streets adjacent to and within the confines of the development site shall be placed underground at no cost to the Council in the following manner:
- (i) Overhead service cables on the King Street frontage to be undergrounded, starting from the existing pole “A” to the existing pole “D” as shown on Plan No. 1.
 - (ii) Overhead service cables on the Ewan Street to be undergrounded, starting from the existing pole “A” to the existing pole “C” as shown on Plan No. 1.
 - (iii) Existing street lights located within the footpath reserve along the King Street frontages of the development site, being street lights identified as being located on poles “B” and “C” as shown on Plan No. 1 shall be replaced with new street lights in accordance with the requirements of Australian/New Zealand Standard AS/NZS 1158-1997 “Public Lighting Code” and the requirements of the Roads and Traffic Authority.

All of the works required by this condition must be completed prior to the issue of any Occupation Certificate.

- (b) Prior to issue of any Occupation Certificate, approval shall be obtained from Council and the responsible utility authority 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 Energy Australia’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. P2 lighting design category shall be provided to all street frontages of the site.

71 Prior to issue of a Final Occupation Certificate:

- (a) A second Dilapidation Report, including a photographic survey shall 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.
- (b) Any damage shown in the second dilapidation report that was not present in the first dilapidation report submitted to Council before site works have commenced in accordance with Condition No. 23, will be assumed to have been caused by the site works undertaken (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,

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

73

- (a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.
- (b) Condition No.'s 52 – 72 are pre-conditions to the issue of the Occupation Certificate.

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

74 The hotel and carpark uses shall be permitted to operate on a 24 hour basis, seven days per week.

Note: The use of the carpark is restricted to a maximum of 18 months from the date of issue of the Occupation Certificate in accordance with Condition 2(b) unless otherwise approved by a further application to Council.

75 Ongoing maintenance of the nature strip shall be undertaken by the occupier or owner. Maintenance includes mowing, watering, removal of weeds and rubbish and maintaining an even coverage of grass at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees located on the nature strip under any circumstances at any time. Pruning work etc is undertaken by Council only.

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

77 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.

78 Prior to commencement of operations a maintenance schedule shall be submitted to the Principal Certifying Authority for approval as to the ongoing maintenance and upkeep of the finishes and materials to the building(s). This shall include, but not be limited to the following:

- (a) The exterior of the buildings being painted at least once in every ten year period;
- (b) The metal screens and any fencing to the building and site being protected against fading/discolouration and warping.

The maintenance schedule shall be complied with during ongoing use of the premises.

79 The ongoing operation of the hotel shall comply with the following additional requirements:

- (a) The ancillary meeting rooms, bar and restaurant facilities located within the hotel shall be restricted for hotel guest / residents use only;
- (b) Annual monitoring shall be undertaken to confirm that the hotel retains a minimum 4.5 STAR sustainability target in accordance with the National Australian Built Environment Rating System (NABERS);
- (c) Two (2) taxi set-down/pick-up bays and one (1) bus zone shall be provided in the porte-cochere area and shall be set aside for pick-up/set-down purpose only and shall not be used for other purposes. No vehicles shall be permitted to park in these areas.

80 The ongoing operation of the long-term public carpark shall comply with the following additional requirements:

- (a) The Plan of Management for the site shall be complied with at all times during the use and operation of the premises (Including employment of a minimum of one (1) licensed security guards being employed by the carpark 24 hours, 7 days per week).
- (b) The Plan of Management with respect to the operation of the premises shall be regularly reviewed, to address changing circumstances or new issues that may arise with respect of the ongoing operation and use of the premises.
- (c) The staff of the premises shall be provided with at least one copy of the Plan of Management. An additional copy of the plan shall be displayed in a secure, publicly visible and accessible position within the premises.

- 81 The car parking bays shall be allocated as follow at all times during the ongoing use of the premises: -
- (a) A minimum of eighty (80) parking bays shall be allocated to hotel component of the development;
 - (b) Forty-eight (48) parking bays of the proposed public car parking area shall be made available as required to accommodate any overflow parking demand from the hotel component of the development;
 - (c) Forty (40) parking bays shall be dedicated as accessible parking bays.
 - (d) Secure bicycle parking shall be provided as shown in the approved plans.
- 82 In order to ensure the intersection performance at O’Riordan Street/King Street will not be significantly worse than the Level of Service stated in the submitted traffic report, traffic surveys shall be carried out for all vehicle access points of the site on Ewan Street and King Street. The traffic surveys shall be carried out six (6) months and twelve (12) months after the issue of any occupation certificate for the long-term public carpark.
- 83 The operation of the development and movements of vehicles for both the hotel and carpark uses shall comply with the following requirements: -
- (a) The maximum size of vehicle accessing the porte-cochere area on King Street shall be limited to 8.8m long Medium Rigid Vehicle (MRV) (as denoted in AS2890.2), except the 10.5m long garbage collection vehicle. Use of any larger vehicle will be subject to further development application(s) and approval from Council;
 - (b) A maximum 10.5 m length garbage collection vehicle shall only be permitted to access the site. Such access shall be restricted to times outside of peak traffic periods only;
 - (c) All vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction;
 - (d) All vehicles shall leave the site via the King Street exits only;
 - (e) Garbage collection and loading and unloading activities associated with the delivery shall take place wholly within the dedicated loading area;
 - (f) For the Ewan Street vehicle, the following requirements shall be complied with: -
 - (i) The Ewan Street vehicle entrance shall be restricted to be used for ingress only;
 - (ii) Except for shuttle bus, authorised hire cars, tradesman’s vehicles and vehicles/cars to transport flight crews to hotel, no public access shall be allowed to enter the car parking area via Ewan Street vehicle entrance. Suitably signage shall be installed accordingly;

- (iii) The shuttle gate of Ewan Street vehicle entrance shall be closed at all times and shall only be operated by the hotel reception or carpark (security) office via intercom system only;
- (iv) The maximum size of vehicle accessing the car parking area via Ewan Street vehicle entrance shall be restricted to 7m long and 3.5m high vehicles;
- (v) The vehicular usage of Ewan Street (e.g. shuttle bus, car hire, tradesman's vehicles) shall not exceed 150 vehicles/ day;
- (g) All vehicles shall be parked in the marked parking bays and all parking bays on-site shall be set aside for parking purpose only and shall not be used for storage of goods or machinery. Vehicle manoeuvring area shall be kept clear at all times;
- (h) No deliveries to the premises shall be made direct from a public places, public streets or any road related areas (eg. footpath, nature strip, road shoulder, road reserve etc);
- (i) Under no circumstance shall vehicles to queue on public places, public streets or any road related area (e.g. footpath, nature strip, road shoulder, road reserve etc) prior to entering the site;
- (j) The occupier of the development shall make it a condition of the employment of any person employed on the premises that they shall park their vehicles, if any, in the employee parking area provided only. No employee shall be permitted to park on a common driveway, public streets or any road related areas (eg. footpath, nature strip, road shoulder, road reserve etc);
- (k) The maximum number of delivery vehicle on-site at any one time shall be limited to one (1);
- (l) The Operation Management Plan (for public car park) stated in the letter, by John Coady Consulting Pty Ltd, dated 28 Nov 2012 shall be implemented at all times; and
- (m) The approved Workplace Travel Plan shall be implemented at all times.

84

- (a) The use of the carpark shall comply with all requirements contained within the acoustic report submitted in accordance with Condition 19(b) of the consent at all times; and
- (b) The use of the carpark and hotel shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

- (i) 'Offensive noise' as defined in the Protection of the Environment Operations Act 1997.
- (ii) Transmission of vibration to any place of different occupancy above the requirements of AS2670.
- (iii) The following additional criteria:
 - (1) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - (2) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - (3) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

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.

85 The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

86 Within three (3) months after issue of any Occupation Certificate for the carpark, the NSW Police Safer by Design Officer at the Botany Bay Local Area Command shall be contacted and a "crime risk assessment" shall be undertaken by them to ensure the security measures have been put in place and are effective in reducing crime. Any additional measures required to be implemented shall be carried out within 1 month of the date of the inspection or as otherwise agreed.

Note: The current contact is Senior Constable Martin Karajayli at the Mascot Police Station on 8338 7475.

87 Waste Management:

- (a) The hotel shall actively encourage recycling of materials within hotel rooms;
- (b) The Waste Management Plan for the site prepared by VanavocTuon Architects dated 13 August 2012 shall be complied with at all times during ongoing use of the premises;

- (c) All waste and recycling containers shall be stored in the designated waste storage area. The waste containers shall not be over filled and the lids kept closed at all times except when material is being put in them;
- (d) No waste or waste containers shall be placed on the public way (including: footpaths, roadways, and reserves) at any time.

88 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. 11/121 dated as 29 June 2011 and that any alteration, variation, or extension to the building or use for which approval has been given, would require further Approval from Council.

Advisory Notes:

- (1) The proposed development is to comply with the recommendations provided by NSW Police Botany Bay Local Area Command, dated 22nd November 2011 and 23 November 2012. The conditions are outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:

Surveillance

- (a) 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.
- (b) 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.
 - Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas.
 - One or more cameras should be positioned at the entry and exit points to monitor these areas (car park, foyer entrance)
- (c) 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.

- (d) It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.
- (e) A monitored intruder alarm system which complies with the Australian Standard — Systems Installed within Clients Premises, AS:2201:1998 should be installed within the premises to enhance the physical security and assist in the detection of unauthorised entry to the premises. This standard specifies the minimum requirements for intruder alarm equipment and installed systems. It shall apply to intruder alarm systems in private premises, commercial premises and special installations. The system should be checked and tested on a regular (at least monthly) basis to ensure that it is operating effectively. Staff should be trained in the correct use of the system.
- (f) The light emitting diodes (LED red light) within the detectors should be deactivated, to avoid offenders being able to test the range of the system.
- (g) Consideration should also be given to incorporating duress facility into the system to enable staff to activate the system manually in the event of an emergency, such as a robbery NB Duress devices should only be used when it is safe to do so
- (h) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
- (i) 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.
- (j) 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.
- (k) 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.
- (l) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.
- (m) 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.

- (n) Where views from the counter are restricted, the installation of convex mirrors to improve visibility from the console. Ensure the location of advertising does not impede the view from the console operator or surveillance cameras. Consideration should be given to the width, height and location of the counter areas. The counter should be designed to reduce the opportunity for assaults upon staff and unauthorised public access behind counters. It is advised that the minimum console width should be 900mm and height minimum 1000mm. Partitions fitted with doors should be installed to restrict access behind the counter areas.

Lighting

- (a) 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.
- (b) 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).
- (c) 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.
- (d) 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.
- (e) The floors should be finished with a suitable non slip glossy texture which will provide maximum light reflection.

Territorial Reinforcement

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

- Warning, trespasser will be prosecuted
- Warning, these premises are under electronic surveillance

Car park signage:

- Don't leave valuables in the car
 - Warning, these premises are under electronic surveillance
- (c) Directional signage should be posted at decision making points (eg. 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.
 - (d) 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.
 - (e) Signage needs to be provided at fire exits to assist customers to identify exits in emergency situations.
 - (f) Signage needs to be provided to assist staff and customers to identify fire suppression equipment, eg extinguishers, fire hoses etc.
 - (g) 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.
 - (h) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development.

Space Management

- (a) 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>.
- (b) Maintenance policies need to be developed and implemented for the proposed development to deal with rubbish collection and disposal, damage and repairs to property, eg. Lighting and structures as quickly as possible.

Access Control

- (a) The door and door frames to these premises should be of solid construction.
- (b) 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.
- (c) 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 the side 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.
- (d) 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).
- (e) The windows to the business need to be secured to restrict access and increase surveillance opportunities to and from the business. Shops and businesses should avoid obstructed windows and doors as these environments are considered attractive by many armed robbers and thieves. Display windows should be covered by no more than 15% of promotional materials to increase surveillance opportunities to and from the business. Glass within windows can be reinforced by either having a shatter-resistant film adhered internally to the existing glass, or by replacing the existing glass with laminated glass.

- (f) As your business may deal in cash a robbery prevention program needs to be established to ensure that management and staff are aware of their responsibilities in the event of such an event taking place. Establish clear cash-handling procedures within your business to reduce opportunities for crime. Staff should be trained in cash handling procedures to reduce opportunities for crime. Limit the amount of money carried in the cash drawer at any time (\$200.00 float). Lock cash drawers when not in use and clear money from the cash drawer on a regular basis, e.g. to a safe. Avoid counting cash in view of public. Use a minimum of two staff, or security services, when transferring money to financial institutions, or consider using a reputable security company especially when transferring large amounts of money. Avoid wearing uniform or identification when transferring money. Don't use conspicuous bank-bags when transferring money, as this can be a clear indication to the thief.
- (g) Entrance doors to commercial premises should include an electronically operated lock, which can be locked after hours to control access to the development. Staff could release this lock electronically from the safety of the counter area once the customer has been identified. This locking mechanism should be activated during the hours of darkness.
- (h) Any cash safe should be secured to the floor and placed away from view of the public. Staff should be trained in safe cash handling practices to minimise the loss of monies in the event of a robbery.
- (i) Due to the high volume of vehicles expected and proposal to be in operation 24 hours a day it is **HIGHLY** recommended that 24 hour security is on site. This includes a gatehouse/security office at the main entrance or more appropriate location, guard access to security camera monitors and random guard patrols all hours of the day. An appropriate security management plan needs to be implemented and shown to Botany Council for viewing and approval.

Ongoing Conditions

- (a) After the car park is in operation I would like to attend the site and complete a crime risk assessment to ensure the security measures put in place are effective in reducing crime. Please ask the operator of the car park to contact Senior Constable Martin Karajayli at Mascot Police Station on 8338 7475 at a convenient time.