

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

<b>JRPP No</b>	<b>2014SYE011</b>
<b>DA Number</b>	<b>DA13/266</b>
<b>Local Government Area</b>	<b>City of Botany Bay</b>
<b>Proposed Development</b>	<b>Integrated Development and Joint Regional Panel Application comprising:</b> <ul style="list-style-type: none"> <li>▪ <b>Demolition of existing factory buildings;</b></li> <li>▪ <b>Construction of:</b> <ul style="list-style-type: none"> <li>○ <b>four levels including 1 basement level of car parking for a total of 69 vehicles</b></li> <li>○ <b>a nine (9) storey hotel comprising 172 rooms (including 8 accessible rooms); a sky lobby, bar, lounge and restaurant with outdoor terrace on Level 9;</b></li> </ul> </li> <li>▪ <b>Business identification signage</b></li> <li>▪ <b>On-site drop-off and pick up zone for a bus with vehicle entry and exit points along Baxter Road;</b></li> <li>▪ <b>Shuttle bus service;</b></li> <li>▪ <b>All vehicular access to be obtained from Baxter Road;</b></li> </ul>
<b>Street Address</b>	<b>113 Baxter Road, Mascot</b>
<b>Applicant/Owner</b>	<b>Fox Johnston Pty Ltd</b>
<b>Number of Submissions</b>	<b>First Round – Five Submissions</b>  <b>Second Round - Four Submissions</b>
<b>Recommendation</b>	<b>Conditional Consent</b>
<b>Report by</b>	<b>Rodger Dowsett, Director Planning and Development</b>
<b>Date</b>	<b>3 September 2014</b>
<b>Capital Investment Value</b>	<b>\$21, 180, 000.00</b>

## **PRECIS**

Council received Development Application No. 13/266 on the 12 December 2013 seeking consent for a hotel development (as amended) comprising the following:

- Demolition of existing factory buildings;
- Construction of:
  - four levels including 1 basement level of car parking for a total of 69 vehicles
  - a nine (9) storey hotel comprising 172 rooms (including 8 accessible rooms); a sky lobby, bar, lounge and restaurant with outdoor terrace on Level 9;
- Business identification signage;
- On-site drop-off and pick up zone for a bus with vehicle entry and exit points along Baxter Road;
- Shuttle bus service, and
- All vehicular access to be obtained from Baxter Road.

The development application is required to be referred to the Joint Regional Planning Panel pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the Capital Investment Value of the proposal is \$21,180, 000.00

The proposed development is Integrated Development under the provisions of Section 91 of the Environmental Planning and Assessment Act as the development involves temporary construction dewatering and therefore requires approval from NSW Office of Water. In a letter dated 7 August 2014, the NSW Office of Water has granted its General Terms of Approval to the proposed development.

On 3 April 2014, 28 May 2014 and 18 June 2014, Council received additional information in respect of the following:

- Site Consolidation and consideration of site isolation of the sites to the north and public benefit associated with the non-compliance of the Floor Space Ratio control. In addition, further information was provided regarding wind turbulence, bus accommodation and landscaping.
- Amended plans lowering the height of the building by 200mm
- Revised architectural plans including modification of the car parking levels (including additional basement level carpark) to accommodate a total of 69 car parking spaces modification of the Porte Cochere area to accommodate a 52 seater bus and additional information in relation to Groundwater, corrections to the contamination investigation and additional wind turbulence information.

The application was publicly exhibited for a period of thirty (30) days from 24 January 2014 to the 24 February 2014. Five Submissions were received following the public exhibition process.

The amended plans and documentation were the subject of public exhibition for a period of thirty (30) days from 16 July until 16 August 2014. Four Submissions were received.

Council's Design Review Panel (DRP), prior to the lodgment of the application considered the proposed development on 31 July 2013, which concluded that the "*development of the hotel of the height and form proposed close to the airport is appropriate in this location*" and concluded that, the development can be supported subject to certain amendments. The applicant has made these amendments.

#### Public Benefit

The public benefit directly attributed to the subject development application includes:

- A voluntary payment of \$100,000 for public domain upgrades which will be utilised for the creation of a cul de sac to separate the residential and commercial uses in Baxter Road.

#### **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 is \$21, 180, 000 million.

The recommendation is for approval, as stated below:

*The Joint Regional Planning Panel (JRPP), as the determining Authority in this instance, resolve to:*

- (a) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum FSR of 3.48:1; and*
- (b) Approve Development Application No. 13/266 for the demolition of the existing Demolition of existing factory buildings; Construction of four levels including 1 basement level of car parking for a total of 69 vehicles and a nine (9) storey hotel comprising 172 rooms (including 8 accessible rooms); a sky lobby, bar, lounge and restaurant with outdoor terrace on Level 9; business identification signage and an on-site drop-off and pick up zone for a bus with vehicle entry and exit points along Baxter Road; a shuttle bus service and site preparation works at 113 Baxter Road, Mascot, subject to the Conditions imposed in the attached schedule.*

#### **Site Description**

The subject site is located on the northern side of Baxter Road with O'Riordan Street (State classified road) being located approximately 78m to the west of the site and Botany Road, being located approximately 575m to the east of the site.

The site is currently used for warehouse/industrial activity and associated parking purposes. The site has a total area of 1,481m<sup>2</sup> and is generally rectangular in shape. The site has a primary Southern frontage of 45.95m along Baxter Road and a northern boundary of 42.37m in length which partially abuts the existing Quest Hotel to the north. The western boundary is approximately 33.385m with the eastern boundary of 34.01m in length.





Subject site as viewed to the north from Baxter Road

## Site and Development History

The relevant development and site history for 113 Baxter Road is as follows:

- Development Application 12/27 was approved on 1 August 2012 for the continued use of the site for use as a wood machinery workshop, for joinery and cabinet making;
- Development Application 12/21 was approved on 17 July 2012 for the continued use of the site for storage, hire and distribution of products and equipment for sealing and polishing of concrete floors, serving primarily to tradespersons;
- Development Application 09/149 for the temporary use of the premises (113 Baxter Street) for a maximum 24 month period for storage, hire and distribution of products and equipment for sealing and polishing of concrete floors, serving primarily to tradespersons on 15 December 2008. This consent provided 6 car spaces on the western side of the car park;
- Development Application No. 05/046 on 18 February 2006 for use as a wood machinery workshop, for joinery and cabinet making (113-115 Baxter Road). A Section 96(1A) Application was subsequently submitted to amend the consent to extend the use as a wood machinery workshop for an additional two years. The Section 96(1A) Application was approved by Council on 22 March 2007. This consent provided 6 car spaces on the western side of the car park for the use, and
- Development Application No. 05/306 on 4 May 2005 for the temporary use of the land as a car park (vacant western component of site). A Section 96(1A) Application to Development Application No. 05/306 was subsequently submitted to amend the consent to extend the use of the land as a car park for a further 3 year period. This section 96(1A) was subsequently approved by Council on 21 June 2007.

## Description of Development

The development application in its amended form, seeks consent for the following:

- Demolition of existing factory buildings;

Construction of:

- four levels of car parking including 1 basement level for a total of 69 vehicles;
- a nine (9) storey hotel comprising 172 rooms (including 8 accessible rooms); a sky lobby, bar, lounge and restaurant with outdoor terrace on Level 9;
- Business identification signage;
- On-site drop-off and pick up zone for a bus with vehicle entry and exit points along Baxter Road, and
- Shuttle bus service.

## SECTION 79C CONSIDERATIONS

In considering the Development Applications, 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) The provisions of any EPI and DCP and any other matters prescribed by the Regulations.**

Environmental Planning and Assessment Act 1979 – Part 4, Division 5 – Special Procedures for Integrated Development and Environmental Planning and Assessment Regulations 2000 – Part 6, Division 3 – Integrated Development

The relevant requirements under Division 5 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the development application.

The subject application is Integrated Development under the provisions of Section 91 of the Environmental Planning and Assessment Act as the development involves temporary construction dewatering and therefore requires approval from NSW Office of Water.

Before granting development consent to an application, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development.

In this regard, the application was referred to the NSW Office of Water. In a letter dated 7 August 2014 the NSW Office of Water has provided its General Terms of Approval for the proposed development and is attached to the schedule of consent conditions.

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

The development application has been accompanied by an Environmental Site Assessment Report as the proposed development involves excavation on an industrial site. Appropriate investigations have been conducted whereby there was no contamination found on the site.

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. Council's Environmental Scientist reviewed the application and has no objection to the proposal. As stated above, Council is satisfied there is no contamination of the land and as such no remediation is required. As such the site is considered suitable for the proposed development.

#### State Environmental Planning Policy No. 64 (SEPP 64) – Advertising and Signage

The proposed signage is considered to be consistent with the aims and objectives of SEPP 64 and satisfies the assessment criteria of the policy, which seeks to ensure the signs are compatible with the character of the area, existing streetscape and building, and will not adversely affect the safety of motorists or pedestrians.

The signage is attached to the building at roof level but below the maximum height of the building and will contain the words "The Baxter International" the signage is box section lettering with internal edge lighting and will be of a length of 17.177m and height of 0.704m located on the southern elevation.

The second sign will be an over awning signage split over the south and east elevations containing the words "The Baxter International." The signage (containing the words "The Baxter") on the south elevation will be of a height of 0.956m over a length of 9.88m whilst the signage on the east elevation (containing the word "International") will be of 0.956m over a length of 12.77m long. The signs configuration will be internally illuminated acrylic lettering.

The proposed signage is considered appropriate for the context of the development site and satisfies the assessment criteria of SEPP 64.

#### Botany Local Environmental Plan (LEP) 2013

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

<b>Principal Provisions of BBLEP 2013</b>	<b>Compliance Yes/No</b>	<b>Comment</b>
Landuse Zone	N/A	The site is zoned B5 – Business Development under BBLEP 2013.
Is the proposed use/works permitted with development consent	Yes	The proposed hotel building is permissible with Council's consent under BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objective in the BBLEP 2013: <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>
Does Clause 2.6 apply to the site?	No	The development does not propose any subdivision.
What is the height of the building?	Yes	The proposed building height is 9 storeys with a maximum height of 40.60m (R.L

Is the height of the building below the maximum building height?		48.050. ).  The height of the building is below the permitted 44m.
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	<b>No – Clause 4.6 Variation</b>	The proposed FSR is 3.48:1 (5,169.2m <sup>2</sup> ) which exceeds the maximum permitted FSR of 3:1 (4,444.8m <sup>2</sup> ). As such, the Applicant has submitted a Clause 4.6 variation to the FSR.
Is the proposed development in a R3/R4 zone? If so does it comply with the site area of 2000m <sup>2</sup> minimum and maximum height of 22 metres and maximum FSR of 1.5:1?	N/A	The subject site is not located within an R3 or R4 zone.
Is the site within land marked “Area 3” on the FSR Map	N/A	The subject site is not identified as being within “Area 3” FSR map.
Is the land affected by road widening?	N/A	The subject site is not affected by road widening on the Land Acquisition Map.
Is the site identified on the Key sites Map?	N/A	The subject site is not identified in the Key Sites Map
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
The following provisions in Part 6 of the LEP apply to the development:  6.1 – Acid Sulfate Soils  6.2 – Earthworks		Clause 6.1 – Acid Sulfate Soils. The subject site is affected by Class 4 Acid Sulfate Soils. The development application has not been accompanied but has been tested up to a depth of 5m. Standard Conditions are therefore recommended for any approval.  Clause 6.2 – Earthworks. The proposed development seeks to demolish the existing buildings and excavate the subject site for basement car parking. The development application is Integrated Development and as such, the NSW Office of Water has provided General Terms of Approval for the proposed development. These conditions are included in



<p>6.3 - Stormwater management</p> <p>6.8 - Airspace operations</p> <p>6.9 - Development of areas subject to aircraft noise.</p> <p>6.16 - Design excellence</p>		<p>the draft Schedule of Conditions. The development is considered to be consistent with Clause 6.2 of the BBLEP 2013.</p> <p>Clause 6.3 – Stormwater. A Stormwater Report and Plans have been prepared for the subject site and concludes that the existing stormwater infrastructure in the vicinity of the site should be adequate to accommodate the proposed development. The development is considered to be consistent with Clause 6.3 of the BBLEP 2013.</p> <p>Clause 6.8 – Airspace Operations. The subject site lies within an area defined in the schedules of the Civil Aviation (Building 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 application proposes buildings which exceed the maximum height and was therefore referred to Sydney Airports Corporation Limited (SACL) for consideration. SACL raised no objections to the proposed maximum height of 48.050 metres AHD, subject to conditions to be imposed on any consent. The development is considered to be consistent with Clause 6.8 of the BBLEP 2013.</p> <p>Clause 6.9 – Aircraft Noise. The subject site is affected by the 25-30 ANEF contour. An acoustic report has been submitted with the development application, which indicates that if the development incorporates the recommendations of the report it will comply with ASA2021-2000. The development is considered to be consistent with Clause 6.9 of the BBLEP 2013.</p> <p>Clause 6.16- Design excellence. The subject site is located 930m south of the Mascot Train Station and falls within the Mascot Station Precinct (MSP). The proposed design has been the subject of consideration by Council’s Design Review Panel on 13 July 2013. The DRP was supportive of the proposal. Council and the DRP made a number of recommendations which have been</p>
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		<p>incorporated in the amended design. Council received amended drawings on the 18 June 2014 which further addressed the concerns of Council in respect of parking and the accommodation of a 52 seater bus and dewatering.</p> <p>On this basis, it is considered that the Applicant has adequately addressed the recommendations of the DRP and the concerns of Council and the proposed development is considered to be consistent with Clause 6.16 of the BBLEP 2013.</p>
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**Table 2 – BBLEP 2013 Compliance Table**

#### Clause 4.6 Exceptions to development standards

Under the provisions of the Botany Bay LEP 2013, the site is zoned B5 - Business Development. The maximum FSR permitted by the BBLEP 2013 is 3:1 (4,444.8m<sup>2</sup>). The amended development application seeks an FSR of 3.48:1 (5,169m<sup>2</sup>) being an additional 724.2m<sup>2</sup> or 16.3%. The Applicant has submitted a Clause 4.6 variation to Clause 4.4 requesting a greater FSR.

*Clause 4.6 is reproduced as follows:*

*(1) The objectives of this clause are as follows:*

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

- (a) *the consent authority is satisfied that:*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
- (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
  - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- Note.** *When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E3 Environmental Management or Zone E4 Environmental Living.*
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
- (a) *a development standard for complying development,*
  - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy – Building Sustainability Index – BASIX (2004) applies or for the land on which such a building is situated,*
  - (c) *clause 5.4.*

The development proposes a FSR of 3.48:1 which exceeds the maximum FSR of 3:1 under Clause 4.4 of the BBLEP 2013.

#### **Clause 4.4 – Floor Space Ratio**

Clause 4.4 of Botany Bay LEP 2013 contains the following specific objectives in respect of FSR.

(1) *“The objectives of this clause are as follows:*

- (a) to establish standards for the maximum development density and intensity of land use,*
- (b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- (d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,*
- (e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (g) to facilitate development that contributes to the economic growth of Botany Bay.”*

The Applicant has adequately identified the objectives applying to FSR under BBLEP 2013.

#### **Five Part Test**

***1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;***

The proposed development is consistent with the relevant objectives contained within Clause 4.4 Floor Space Ratio, of the Botany Bay Local Environmental Plan 2013 for the following reasons:

- The development proposal is compatible with the bulk and scale of the existing and desired future character of the locality.
- The development proposal maintains an appropriate visual relationship between new development and the existing character of the area noting that the land to the east is likely to undergo change.
- The development proposal will not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places including parks or community facilities.
- The development proposal will provide an appropriate correlation between the site of a site and the extent of any development on that site.

**2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;***

Clause 4.4 of Botany Bay LEP 2013 contains the following specific objectives in respect of FSR.

(2) *“The objectives of this clause are as follows:*

- (h) to establish standards for the maximum development density and intensity of land use,*
- (i) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- (j) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- (k) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,*
- (l) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (m) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (n) to facilitate development that contributes to the economic growth of Botany Bay.”*

The underlying objective and purpose of the Floor Space Ratio control has been achieved as stated above, therefore the standard is relevant but strict compliance with the numerical requirement being a maximum FSR of 3:1 being unnecessary in this instance as the proposal meets the objectives of Clause 4.4. The proposed development is compatible with the desired future character and reinforces the gateway function of this locality. The applicant has also offered an additional public benefit of \$100,000 to contribute to the public domain.

**3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;***

The underlying objectives and purposes of the FSR control remain relevant to the proposed development. The proposed development is consistent with the objectives of the FSR control in the BBLEP 2013 as detailed above.

**4. *The development standard has been virtually abandoned or destroyed by the council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;***

The applicant has not provided justification to demonstrate that the underlying objectives of the FSR control of BBLEP 2013 would be thwarted or defeated if compliance were required.

However the floor space ratio control within the Botany Bay Local Environmental Plan 2013 has been, with justification together with the individual circumstances, varied in recognition of a need to meet the demands for housing and commercial development in the area. The proposed floor space ratio variation is not inconsistent with the extent of variations to which consent has previously been provided and demonstrates that in certain circumstances that compliance with the control is unreasonable or unnecessary. The following table provides a list of those variations approved by Council, the JRPP and the NSW Land & Environment Court in the Mascot Corridor.

**Table 1 - List comparison table of other approved DA's FSR variations.**

<b>Address</b>	<b>FSR Control under BBLEP 2013</b>	<b>Approved FSR calculated under BBLEP 2013</b>	<b>Approval Date</b>	<b>Consent Body</b>
5 Haran Street	3.2:1	3.1:1	June 2013	LEC
2-4 Haran Street	3.2:1	4:1	August 2013	JRPP
19-33 Kent Road	3.2:1	3.72	30 March 2014	JRPP
581-587 Gardeners Road	2.5:1	2.46:1	16 April 2014	JRPP
2-8 Sarah Street	3:1	3.19:1	22 July 2014	JRPP
13A Church Avenue	3.2:1	3.6:1	11 June 2014	Council

***5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land should not have been included in the zone.***

It is noted compliance with the standard would also meet most of the points raised, however, the applicant has made a voluntary offer of \$100,000 towards the public domain upgrade, in particular the mid-block closure of Baxter Road and installation of a cul de sac will be conditioned as part of the recommendation. It has been established that in the circumstances of the case, the proposed development is appropriate and strict adherence to the development standard in this instance is unreasonable and unnecessary.

Furthermore, the additional floor space does not manifest itself in any substantive impact to adjoining properties in terms of residential amenity, overshadowing or visual impact. To strictly apply the development standard, in the absence of any tangible impact, would be unreasonable and without basis.

The proposed development provides a high quality hotel development that facilitates the orderly and economic development of the land in a manner that is appropriate in the Precinct.

Council Officer Response:

The justification for the departure to the maximum FSR is supported for the following reasons:

- The variation to the maximum FSR does present public benefits as outlined in the report.
- The variation is 16.3% over the site, where the maximum FSR permitted by the BBLEP 2013 is 3:1 (4,444.8m<sup>2</sup>). The proposed development seeks an FSR of 3.48:1 (5,169m<sup>2</sup>) being an additional 724.2m<sup>2</sup>.
- The scale and bulk of the building reinforces the landmark qualities that are required for the locality to serve as a Gateway to Sydney.
- The built form will be acoustically treated to ensure the amenity of Guests.
- The overshadowing created by the development still maintains at least three hours of sunlight to neighbouring properties on June 21.
- The buildings address the desired future character of the area and the site is located in an area that is in transition to align the development to the B5-Business Development zone, noting residential activity is not permissible in this zone.

It is considered that the Applicant has addressed the requirements of Clause 4.6(4) and the granting of consent is consistent with the aims and objectives of Clause 4.6 of BBLEP 2013.

Botany Bay Development Control Plan (BBDCP) 2013

BBLEP 2013 is the comprehensive development guideline for the City of Botany Bay. Council resolved on 11 December 2013, to adopt the BBDCP 2013 in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Part	Control	Proposed	Complies
3A.2 Parking Provisions	C2 – Car parking provisions shall be provided in accordance with Table 1.	A total of 69 car parking spaces have been provided comprising a basement car park for 26 vehicles and 13 vehicle at ground level, 15 vehicles at level 1 including 1 accessible space at level 1 and 14 vehicles at level 2	Yes

Part	Control	Proposed	Complies
		A shuttle bus service will also be provided to the airport. The parking rate has been provided at 1 space per 2.5 rooms.	
3A.3.1 - Car Park Design	C1 - All off-street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6. The design of off-street commercial vehicle facilities shall be in accordance with AS2890.2.	The Traffix Impact Assessment report prepared by Traffix confirms that the internal configuration of the car park and loading area has been designed in accordance with AS2890.1 and AS2890.2	Yes
3C.1 - Access and Mobility	C2 - All development must comply with the provisions of the Disability Discrimination Act 1992, BCA, the Premises Standards and the relevant Australian Standards	The proposal is accompanied by a Statement of Compliance Access for People with a Disability prepared by Accessible Building Solutions which demonstrates that the proposal can achieve compliance with the access provisions of the BCA.	Yes
3G.2 - Stormwater Management	C1 - Development shall not be carried out on or for any lands unless satisfactory arrangements have been made with and approved by Council to carry out stormwater drainage works.	The Engineering report concludes that the existing stormwater infrastructure in the vicinity of the site is adequate to accommodate the proposed new hotel development.	Yes



Part	Control	Proposed	Complies
3G.3 – Water Sensitive Urban Design	C3 – All developments shall adopt an integrated approach on water management through a coordinated process to address water efficiency, water conservation, stormwater management, drainage and flooding.	The ESD and Energy Efficiency report prepared by SLR provides several initiatives for water sensitive design that can be implemented throughout the development.	Yes
3G.4 – Stormwater Quality	C1 – Water quality objectives stated in “ <i>Botany Bay &amp; Catchment Water Quality Improvement Plan (BBWQIP)</i> ” shall be satisfied.	The Stormwater plans prepared by IGS include appropriate sediment and stormwater measures to ensure the quality of stormwater runoff meets the objectives of the BBWQIP.	Yes
3I.– Crime Prevention Safety and Security	C1 – Building entrances shall be visible from the street and be clearly recognisable through design features	The entrance to the proposed hotel will be clearly recognisable from Baxter Road.	Yes
	C8 – Entrances to new development shall front the street to maximise surveillance to the public environment and provide clear sightlines with direct access from the street to the	The entrance to the proposed hotel fronts Baxter Road and will provide maximum surveillance to the porte corchere area and direct sightlines and access from Baxter Road. Further it is noted that there will be a staff member located in the ground level of the building at all times.	Yes

Part	Control	Proposed	Complies
	building entrance.		
	C10 – Entrances and exits of buildings shall be well lit, secure and highly visible to and from public spaces, streets and adjoining buildings.	Adequate lighting will be provided to the building entrance along Baxter Road and the pick-up and drop-off area. Lighting will be provided to the car parking areas.	Yes
3J.2 – Aircraft Noise and Exposure Forecast	C2 – Where a building site is classified as “conditional” under Table 2.1 of AS20121-2000, development may take place, subject to Council consent and compliance with AS2021-2000	The subject site is affected by the 25-30 ANEF Contour. An Acoustic Report has been prepared by Acoustic Logic and concludes that provided the measures recommended are implemented aircraft noise emissions will comply with AS2021-2000.	Yes
3J.3 – Aircraft Height Limits and Prescribed Zones	C1 – If the building is located within a specific area identified on the OLS map or seeks to exceed the height limit specified on the OLS map or seeks to exceed the height limit specified in the map the application must be referred to Civil Aviation Safety Authority and Airservices Australia for assessment.	The development application has been referred to SACL. SACL raised no objections to the proposed maximum height of 48.050 AHD, subject to conditions to be imposed on any consent.	

Part	Control	Proposed	Complies
3L Landscaping	- C3 – landscaping shall be designed to reduce the bulk, scale and size of buildings, to shade and soften hard paved areas, to create a comfortably scaled environment for pedestrians in the public domain, or from within the site, and to screen utility and vehicle circulation or parking areas. Emphasis should be placed on landscaped setbacks designed to soften buildings.	<p>The proposed development is accompanied by Landscape Plans prepared by JILA.</p> <p>The proposed building envelopes provide generous setbacks to all site boundaries and 13.5% of the site will be in the form of deep soil planting although the DCP has no requirements for hotels to provide deep soil planting.</p> <p>The landscaping including the elevated planter boxes provided to the front and east of the site will soften the built form and enhance the streetscape when viewed from Baxter Road. The deep soil landscaping will allow for natural drainage to occur and minimise overland flow onto adjoining premises.</p>	Yes
3N.2 – Waste Minimisation and Management/ Demolition and Construction	C1 – A Site Waste Minimisation and Management Plan in accordance with Part 1 – Model Site Waste Minimisation and Management Plan must be submitted for Development Application involving:  Demolition  New development; and  Alterations or additions affecting more	A Waste Management Plan prepared by The Baxter International Hotel has been submitted and addresses the waste minimisation at design stage and during demolition, excavation and construction and future on-site waste management.	Yes

Part	Control	Proposed	Complies
	than 20m <sup>2</sup> of floor area.		
6 – Mascot Business Development Precinct	<p>C1 – Development is to encourage a higher public transport (including walking and cycling) use and include strategies to encourage and promote car sharing and carpooling strategies. In this respect a Workplace Travel Plan is to be lodged with the development application. The Workplace Travel Plan shall establish measurable targets to achieve the mode share targets stated in the Mascot Town Centre Precinct TMAP – maximum car mode share: 65% by 2021 and 57% by 2031.</p>	<p>The proposed hotel is located in close proximity to Sydney's Domestic and International Airports. The proposals close location to Mascot Train Station (930m north) encourages active transport modes such as walking and cycling. The site's location adjacent to O'Riordan Street where a high volume of taxi transportation is available makes it ideal for the short trips to the Domestic and International Airport. It is noted that the Domestic Terminal Station is approximately 875m from the hotel. The hotel will also provide a shuttle bus service which will lessen traffic demand on roads in the immediate area.</p>	Yes
	<p>C2 – Development, including alterations and additions shall:</p> <p>(i) improve the appearance of buildings,</p>	<p>The proposed hotel is of a high quality design which will incorporate modern materials which will be an improvement to the current structures on the site. The prominence of the building when viewed from O'Riordan Street reinforces the gateway function of the</p>	Yes

Part	Control	Proposed	Complies
	<p>particularly along the roads which serve a gateway function to Sydney Airport and the Sydney CBD; and</p> <p>(ii) Comply with Sydney Airport's regulation in regard to safety, lighting and height of buildings.</p>	<p>immediate area to the Airport. The hotels modern design and fresh appearance will provide uplift to the immediate area which is currently characterised by commercial/light industrial uses.</p> <p>The landscaping to the front of the building will soften the built form and enhance the existing streetscape and gateway function of the area.</p> <p>The proposal will comply with the Sydney Airport's regulation with regard to safety and lighting and SACL has raised no objections to the proposed maximum height of 48.050 metres AHD, subject to conditions to be imposed on any consent</p>	
	<p>C7 – Development shall be designed and constructed in accordance with Australian Standard AS2021 (Acoustic Aircraft Noise Intrusion- Building siting and Construction)</p> <p><b>Note:</b> Details to be included in the Development Application. For further details in relation to Aircraft Noise refer to Part 3J – Development Affecting Operations at Sydney Airport.</p>	<p>An Acoustic Report prepared by Acoustic Logic was submitted with the application and made recommendations to ensure that the development when built complies with AS2021-2000.</p>	Yes

Part	Control	Proposed	Complies
	C8 – The introduction of noise abatement measures to achieve compliance with current AS 2021 must be done in a manner that does not compromise the architectural design of a building or impact on the character of an existing streetscape.	The proposed development incorporates noise abatement measures to achieve compliance with AS 2021-2000 and so as not to compromise the architectural design of a building or impact on the character of an existing streetscape.	Yes
	C9 – All development that is in, or immediately adjacent to, the rail corridor or a busy road must be designed in accordance with NSW Department of Planning 'Development Near Rail Corridors and Busy Roads – Interim Guidelines, December 2008'.	The proposed development has been designed in accordance with NSW Department of Planning 'Development Near Rail Corridors and Busy Roads – Interim Guidelines, December 2008'.	Yes
6.3.1 Amalgamation and subdivision	Development to comply Part 3E to ensure consistency with the Desired Future Character	Proposal has demonstrated that sites to north can develop independently of the proposed development	Yes – Refer Note 1
6.3.5 Setbacks	Side Setback - 2m	Side setback – 1.2 m over a distance of 2.7m (Fire Stairwell) on the western boundary.	No Considered acceptable

Part	Control	Proposed	Complies
	<p>Front – 3m landscape</p> <p>9m to Building</p> <p>Rear nil to 3m</p>	<p>Remainder of building setback 3m.</p> <p>2.5m setback to awning and between 7.5 to 8.5m to the building is proposed. Given the landscaped appearance that will result, the setback and open air nature of the awning do not contribute to additional bulk and as such the front setback is considered acceptable.</p> <p>Rear setback is approximately 2.9m</p>	
7F.2 General Requirements – Hotels & Motel Accommodation	C1 – The maximum stay permitted is 3 months.	A Plan of Management has been submitted confirming the maximum stay period permitted will be for 3 months	Yes
	C2 – The main access point is to be located at the main street frontage of the property. Access Points should be avoided at the boundaries of the property where and impact on noise or privacy could result for adjoining residences.	The main access point has been provided off Baxter Road. There are no residential properties immediately abutting the subject site.	Yes
	C4 – The minimum size for a visitor's room is 5.5m <sup>2</sup> for the	The rooms are all 19m <sup>2</sup> .	Yes

Part	Control	Proposed	Complies
	bedroom floor area for each person staying within the room.		
	C7 – A small kitchenette is permitted if adequate cupboards and shelves are provided.	The proposal incorporates a kitchenette within each hotel room.	Yes
	C9- Bathrooms must be provided in accordance with the <i>Building Code of Australia</i> .	A separate bathroom is provided within each hotel room in accordance with the BCA.	Yes
	C10 – The design and operation of hotel and motel accommodation must take into account possible noise impacts on adjacent properties and the surrounding area.	An Acoustic Report by Acoustic Logic has been prepared for the site. There are no residentially zoned properties in the area and it is therefore considered that the proposed hotel will not have any adverse noise impacts on adjacent properties or the surrounding area.	Yes
	C11 – A Plan of Management (POM) is required to be submitted. The POM is a written report which describes how the ongoing operation of hotel and motel accommodation will be managed to reduce its impact upon the amenity of surrounding	A Plan of Management has been provided with the application. The consent approval has appropriately been conditioned.	Yes



Part	Control	Proposed	Complies
	<p>properties.</p> <p>The POM allows Council to exercise control over the ongoing operation of a premises by requiring, as a condition of consent, that the premises operate in accordance with the POM. A condition of consent may require that a POM be regularly revised and submitted to Council.</p>		
	<p>C12- The building is to comply with Parts C, D, and E of the BCA.</p>	<p>The proposal has been reviewed by a building consultant confirming compliance has been achieved by the proposal with regards to fire safety requirements.</p>	Yes
	<p>C13 – Each room is to comply with Parts C, D E and F5 of the BCA so as to ensure there is adequate fire safety in the building and adequate sound insulation between each room.</p>	<p>The proposal has been reviewed by a building consultant confirming compliance has been achieved by the proposal with regards to fire safety requirements.</p>	Yes

**Table 3 – BBDCP 2013 Compliance Table**

**Note 1: Site Isolation**

Council asked the applicant to address potential site isolation of the sites to the north.

The following assessment is provided which addresses the relevant matters of consideration to the Isolation of Sites principles. However as there is no minimum lot

size and given the following assessment it is considered that there is no site isolation and the principles need not be addressed.

Assessment under the relevant Planning principle including Cornerstone Property Group Pty Ltd v Warringah Council [10493 of 2003] was provided: The applicant's response is as follows:

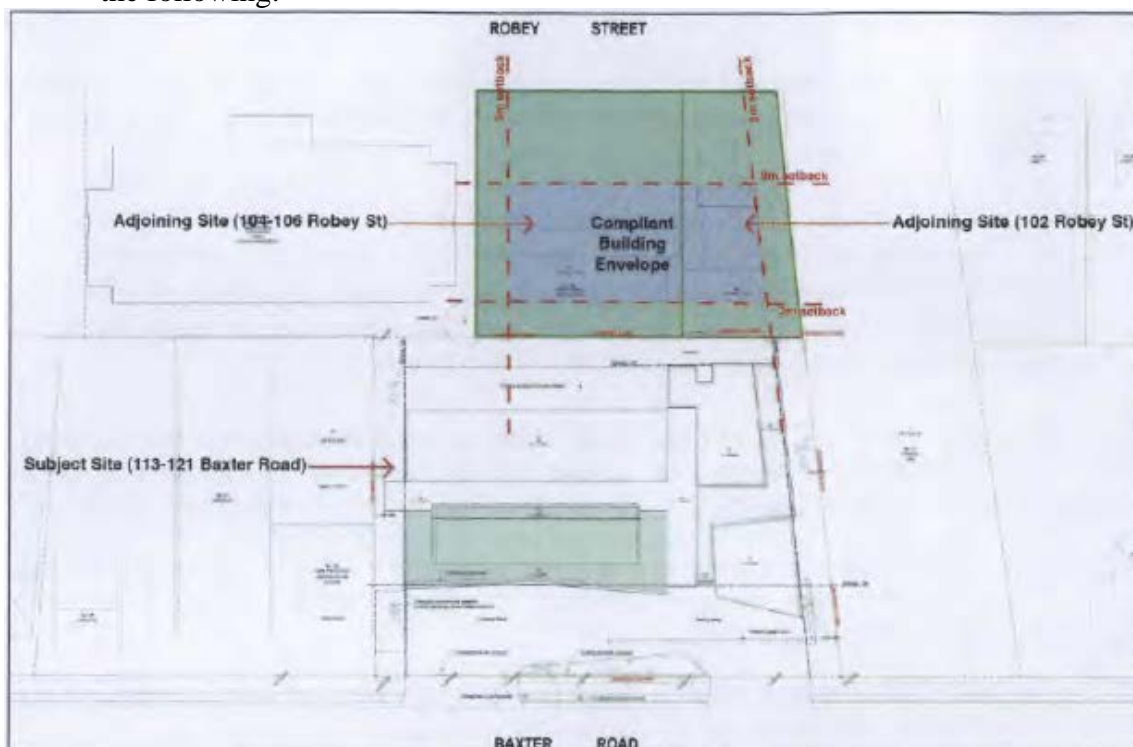
**Applicants Assessment:** *"The properties that Council are concerned with along Robey Street are not considered to be isolated or compromised for the following reasons:*

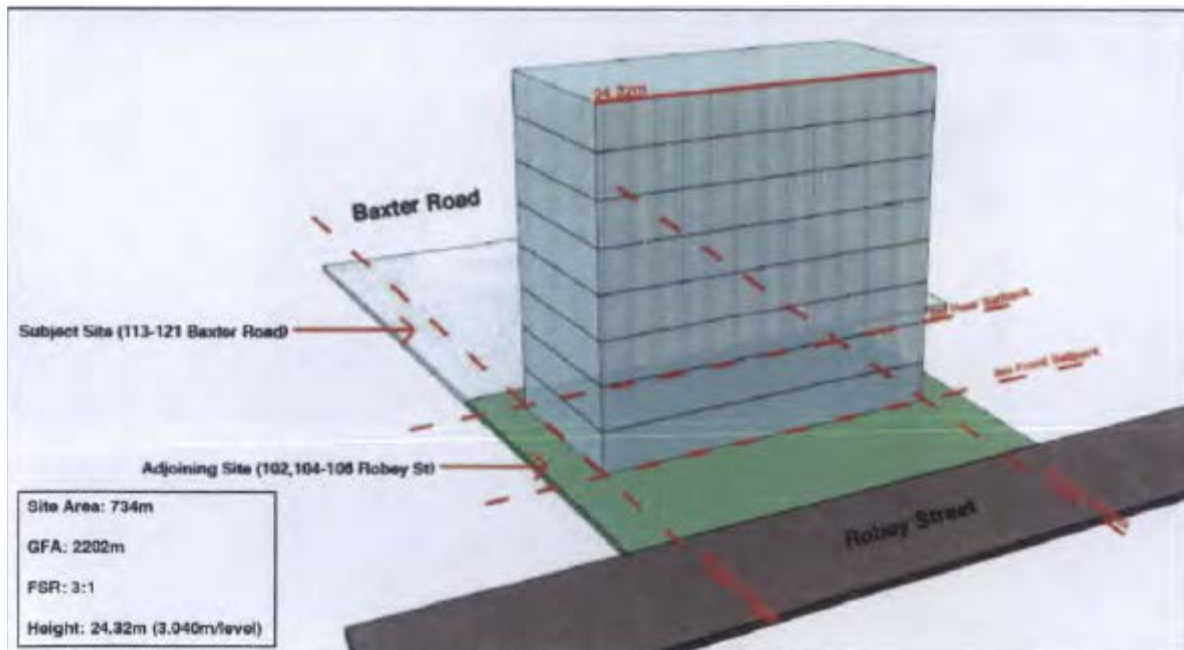
- The properties to the north at 102 and 104-106 Robey Street can be amalgamated to achieve a developable site area of approximately 729m<sup>2</sup>;*
- The rectangular shaped site has a considerable frontage to Robey Street which allows for vehicular access and ease of construction for any potential development;*
- and*
- The large and regular nature of the site allows for compliance with Council's setback requirements and can accommodate a destiny and height contemplated for the site, being 3:1 and 44m respectively.*

*This factor is considered to differentiate the subject circumstances from the planning principle assessment. Therefore, there is no impediment from a similar FSR or height to be achieved on the neighbouring sites to the north."*

The applicant goes onto to discuss the matter that 102 and 104 Robey Street can amalgamate together and achieve a development with an FSR of 3:1 and a height of 44m.

Further the applicant has undertaken a potential building form analysis and submits the following:





As is demonstrated, the site can be developed and be used by a number of permissible uses and accordingly it is considered that the site is not isolated.

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

These matters have been considered 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. Any likely impacts of the proposed development are considered to have been adequately dealt with in the assessment of the Development Application.

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

These matters have been considered in the assessment of the development application. The subject site is currently a commercial warehouse building used for the purposes of a car/truck rental business. A Contamination Report prepared by Environmental Investigations has been submitted which concludes that the site can be made suitable for the proposed use based on carrying out the recommendations contained within the report. Notwithstanding this a condition has been imposed upon the Consent that a Remedial Action Plan be submitted to Council prior to the commencement of any remedial action works or any excavation, demolition or other building works and shall demonstrate how the site will be made suitable for the proposed residential development. In addition the subject site is affected by the 25-30 ANEF contour and also affected by road traffic noise. In this regard the applicant has submitted an acoustic report which demonstrates that the development can meet the acoustic requirements of both affectations.

Accordingly, it is considered that the site is suitable for the proposed development. The proposed development being for the demolition of the existing building; the

construction of a basement and three level above ground carpark; a seven story hotel comprising 172 rooms; a dining room/restaurant and sky/bar lounge and sky lobby on Level 9; an on-site drop-off/pick up zone for a 52 seater bus and vehicle entry and exit points along Baxter Road and a shuttle bus service, at 113 Baxter Road, Mascot located in the B5- Business Development zone is considered to be a suitable development in the context of the site and the locality.

**(d) Any submissions made in accordance with the Act or Regulation**

These matters have been considered in the assessment of the development application. In accordance with the Botany Bay Development Control Plan 2013 Part 2 – Notification and advertising, the development application was notified to surrounding property owners for thirty (30) days from 22 January 2014 to 24 February 2014 and five (5) submissions were received.

The amended application was notified for a period of thirty (30) days from 16 June 2014 to 16 July 2014 and four (4) submissions were received.

First Round Notification

The issues from the first round of submissions are summarised as follows:

- *Additional Traffic and delivery vans, safety of road.*
- *No Cul De sac as promised by Council.*

Comment

Whilst a cul de sac is being considered by Council at the eastern end of Baxter Road, it is noted the objectors all live eastward of the proposed cul de sac. Notwithstanding this it is recommended that conditions of consent requiring this cul de sac be placed on any approval that issues.

- *Construction Traffic, Noise and Safety*
- *Trucks to Enter from O’Riordan Street only*

Comment

The applicant has submitted a Construction Management Plan, which details the Traffic Management Plan. The traffic management plan indicates that trucks to either come from Botany Road or O’Riordan Street. To reduce safety concerns. It would be recommended that construction traffic to ingress or egress from O’Riordan Street only. A condition has been included in the recommendation.

- *No resident consultation has occurred for such a large development*

Comment

The application has been publicly notified twice in accordance with Council’s DCP.

- *Development must be considered in terms of benefit to the community.*

Comment

The development will be required to pay S94 Contributions and in addition \$100,000 towards public domain work as well as the applicant is required to undertake the cul de sac work.

- ***Enormous Scale in relationship to existing environment***

Comment

The area is earmarked for a change in development type as expressed through the change in zoning, height and floor space ratio controls through the Botany Bay LEP 2013. It is noted that the development is concentrated towards the industrial/commercial area and will further contribute to this area having a Gateway function to Sydney.

Second Round Notification

The issues from the second round of submissions which have not previously been addressed above are summarised as follows:

- ***Bulk and Scale will have an impact on neighbourhood***

Comment

It is noted that the proposal complies with the height control and that the scale of the building is similar to more recent development similar to the proposed. Furthermore, the proposal has been reviewed by the Design Review Panel who consider the proposal to be acceptable. Notwithstanding that, it is noted that this is an area of transition, noting that the B5 – Business Development Zone extends eastward of the site along Baxter Road appropriately 400m, furthermore, residential in this zone is now not permissible.

- ***Vehicles (bus) entering the site from the west will be encouraged to cross the double unbroken lines.***

Comment

The applicant has provided a voluntary contribution towards the public domain upgrade. It is considered appropriate for the upgrade to focus on the mid-block closure and potential turning facility. Notwithstanding this, a condition for a widened vehicles crossing showing swept turning paths and the utilisation of the loading dock will form part of the recommendation.

- ***Shadows Cast by the development would block the only morning sun received by 131 Baxter Road***

Comment

The shadow diagrams that accompany the application indicate that in the afternoon the properties west of the site (125, 127, 129, 131 and 133 Baxter Road) are not impacted by shadowing created by the proposed development and that at least 3 hours of daylight are maintained on 21 June to 131 Baxter Road as a result of the proposed development. Furthermore, the shadow cast by the proposed development impacts 125 Baxter Road and a small portion of 127 Baxter Road.

- ***Inadequate staff parking and high on street parking demand in area.***

#### Comment

The submitter identifies that only 45 parking spaces are provided and that on street car parking is at a premium. The parking provision has been increased to 69 spaces as part of the amended application which complies with the DCP requirements. It is therefore considered appropriate parking is provided on the site to cater for staff and guests given the location.

- ***Loss of solar access to 125 Baxter, a Panel beaters with 20 solar panels on the two storey portion of the roof which enjoys existing use rights***

#### Comment

It is noted that this area is in transition and as such the site immediately to the west is undeveloped given the FSR and height controls.

The retention of solar access would unreasonably inhibit the development anticipated by the controls set down in the LEP and envisaged by the DCP. It is noted that the proposed development is at least 2.5m under the height limit and as such the shadowing cast could be considered less than a development that is at the height limit.

Furthermore, from 12pm onwards the proposed development does not overshadow sites to the west. However it is noted at 12pm that 125 Baxter Road, is overshadowed by the existing Quest Hotel immediately to the north of 125 Baxter Road. It is therefore considered that the overshadowing in this instance is reasonable given the circumstances addressed above.

- ***Clause 4.6 Variation Sub Standard- Does not address why compliance is unreasonable or unnecessary. Nor adequately addressed impact on adjoining development.***

#### Comment

It is considered reasonable to address compliance with the control in its totality taking into consideration the intent of the control through the assessment of its objectives and the numerical standard. The assessment of the objectives of the FSR control are met as discussed in the clause 4.6 variation discussion, however in this instance the numerical control is breached.

Notwithstanding this, numerical compliance in this instance is unreasonable or unnecessary as outlined in the Clause 4.6 variation as the intent of the control is met.

It is noted the proposed building is below the height limit set for the location as set out in the LEP but is 200mm below the maximum height permissible by Sydney Airport

Furthermore, it is noted that development in this locality must reinforce this area as a gateway to Sydney. This is achieved through landmark buildings which are well designed, aesthetically pleasing and of a height and bulk to reinforce their landmark function. It is considered that the proposal meets these functions and thus reinforces the gateway function of this locality.

- ***Failed to minimise (any) adverse environmental impacts on the use or enjoyment of adjoining properties.***

#### Comment

The proposed development has minimised the adverse impacts, inherent in the design proposed. Sunlight access to adjoining sites is considered to be satisfactory given the area is transitioning to reinforce the gateway function of this locality. As demonstrated the development complies with the majority of the controls that apply and as such the development is considered to minimise adverse impacts to the neighbours, whilst recognising that the neighbouring sites are likely to be redeveloped.

#### **(e) The public interest.**

These matters have been considered in the assessment of the development applications. It is considered that approval of the proposed development will have no significant adverse impacts on the public interest.

### **Other Matters**

#### External Referrals

##### *Sydney Airports Corporation Limited (SACL)*

The subject site 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 without prior approval of the Civil Aviation Safety Authority.

Correspondence received from Sydney Airports Corporation Limited (SACL) dated 15 August 2014, grants approval to a maximum height of the building to 48.050 metres AHD. A condition is proposed on the consent, specifying this height restriction.

##### *Ausgrid*

Correspondence was received from Ausgrid dated 24 January 2014, and raises no objection to the proposed development, subject to a condition requiring an electricity substation within the premises. This will be required as a condition of consent.

##### *NSW Office of Water*

Correspondence was received from NSW Office of Water on the 7 August 2014, advising that they have no objection to the proposal, and have provided their General Terms of Approval which have been required as conditions of consent.

#### Internal Referrals

The development application was referred to relevant internal departments within Council, including the Traffic Engineer, Development Engineer, Landscape Officer, Environmental Health Officer and Environmental Scientist for comment and relevant conditions, following assessment by the nominated officer of this Council, have been inserted into the recommendation of the consent.

### Design Review Panel (DRP)

The design concept now forming part of this development application currently before the Panel was referred to the DRP, which met on 31 July 2013. The DRP made the following recommendations:

*It is considered that the development of the hotel of the height and form proposed close to the airport is appropriate in this location. Apart from the density issue, subject to the submission of a satisfactory detailed architectural design of the building and satisfactory response to the comments, the development is supported in principle.*

The following is a response to each suggestion made by the DRP:

	<b>Issue</b>	<b>Applicant's Response</b>
1	<b>Relationship to the Context of the Proposal</b>  The combination of traffic, intensive large-scale signage, and a generally unattractive and hostile environment poses major challenges for any development.	No amendments to plans required.
2	<b>The Scale of the Proposal</b>  A continuous awning along Baxter Road front should be considered.	The application plans include a large awning (porte cochere) along Baxter Road
3	<b>The built form of the proposal</b>  Provide deeper recess at lift lobby to achieve more distinct separation between the two façade elements.	The lift lobby is differentiated with a recess to the circulation space on each level.
4	<b>The proposed density</b>  The exceedence in FSR cannot be supported unless there is a public benefit.	The applicant is offering an additional contribution of \$100,000.00 for public domain works.
5	<b>Resource and Energy Use and Water Efficiency</b>  The applicant is urged to adopt environmentally responsible design measures in relation to rain water recycling, solar hot water and other initiatives.	SLR has provided an Energy Efficiency Report which addresses this matter.  Further it is recommended that a condition form part of any consent issued that requires the installation of solar hot water.
6	<b>Landscaping</b>  A comprehensive landscape design from an experienced landscape architect is required.  The Panel suggests green wall be	Landscaping plans have been prepared by JILA.  Dense planting is intended to the base of the level 2 car park and entry podium to provide



	<b>Issue</b>	<b>Applicant's Response</b>
	considered for part of the screen walls to the carpark.	visual relief and ensure security to perimeters. Canopy street planting is intended for Baxter Road to provide a green outlook.
7	<b>The Amenity of the Proposal for its users</b> Opening windows Pool at Podium Increase ground floor lobby to allow for guests to wait for transportation.	The design does not include a pool nor opening windows. The ground floor lobby is of a sufficient size for hotel guests to wait for transportation.
8	<b>The Safety and Security Characteristics of the Proposal</b> No Comment	It is noted that the application has been referred to NSW Police who have provided conditions.
9	<b>Social issues</b> The type of accommodation proposed is appropriate for the site.	No amendments required.
10	<b>The Aesthetics of the Proposal</b>	This elevation has been further articulated to provide depth and interest in the façade.  Hotel signage has been placed on the northern and southern facades of the building for clear identification.

**Table 4 – Design Review Panel comments**

It is considered that the Applicant has addressed the concerns of the Design Review Panel in the design currently before the Panel. The current design will contribute to the commercial amenity of the precinct.

#### Section 94 Contributions

It is considered that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plan 2005-2010, it is recommended that the consent be conditioned to require payment of a sum in the amount of **\$140,935.87** to paid prior to the issue of an Occupation Certificate towards the provision and/or improvement of human services in the local government area. The Applicant has stated that there will be 10 staff members and one (1) manager however based on other typical developments and what has been charged for Sarah Street it has been calculated that there would be 58 staff members which equates to a ratio of one (1) staff member per three (3) bedrooms. The contribution consists of the following;

(i)	Community Facilities	\$15,022.00
(ii)	Administration	\$2,436.00

(iii)	Shopping Centre Improvements	\$10,904.00
(iv)	Open Space & Recreation	\$101,210.00
(v)	Transport Management	\$11,363.87

### Public Benefit

The Applicant has identified the provision of \$100,000.00 to contribute to the public benefit in lieu of the increased FSR. This contribution will be used for the construction of the mid-block closure turning facility for Baxter Road.

### **Conclusion**

The Joint Regional Planning Panel, Sydney East Region (JRPP) is the consent authority for the development application. The design currently before the Panel has been the subject of a design review process. The view is expressed that the application given the findings of the assessment process should be supported.

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* and the *Botany Bay Local Environmental Plan 2013*. The proposal is permissible in the B5 – Business Development 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.

### **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:

- (a) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum FSR of 3.48:1; and
- (b) Approve Development Application No. 13/266 for the demolition of the existing Demolition of existing factory buildings; Construction of four levels including 1 basement level of car parking for a total of 69 vehicles and a nine (9) storey hotel comprising 172 rooms (including 8 accessible rooms); a sky lobby, bar, lounge and restaurant with outdoor terrace on Level 9; an on-site drop-off and pick up zone for a bus with vehicle entry and exit points along Baxter Road; a shuttle bus service and site preparation works business identification signage at 113 Baxter Road, Mascot, subject to the Conditions imposed in the attached schedule.

**Premises: 113 Baxter Road, Mascot**

**DA No: 13/266**

### **SCHEDULE OF CONSENT CONDITIONS**

### **GENERAL CONDITIONS**

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

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received by Council</b>
Architectural Plans, Elevations and Sections and Drawing No.: DA0.00 Cover Sheet (Issue A) DA0.01 Site Analysis & Demolition Plan (Issue A) DA0.02 Site Plan (Issue B) DA1.00 Basement Carpark (Issue A) DA1.01 Ground Floor Plan (Issue B) DA1.02 Level 1 Carpark (Issue B) DA1.03 Level 2 Carpark (Issue B) DA1.04 Level 1 (Issue A) DA1.05 Level 2-7 Typical Plan (Issue A) DA1.06 Level 8 (Issue A) DA1.07 Sky Lobby (Issue A) DA1.08 Roof Plant (Issue B) DA1.09 Roof Plan (Issue B) DA2.01 Section AA (Issue C) DA2.02 South Elevation (Issue C) DA2.03 East Elevation (Issue C) DA2.04 North Elevation (Issue C) DA2.05 West Elevation (Issue B) DA2.06 Façade Sections (Issue A) DA3.02 Shadow Diagram 9am Jun21 Proposed DA3.04 Shadow Diagram 12pm Jun21 Proposed DA3.06 Shadow Diagram 3pm Jun21 Proposed DA4.01 Schedule of Finishes	Fox Johnston	18 June 2014
Landscape Plans	JILA	12 December 2013

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received by Council</b>
DA01 – Ground Floor DA02 – Typical Level & Schedule		
Stormwater Drainage Plans, Drawing Nos.: SW01 Cover Sheet Rev A SW02 Concept Stormwater Design Ground Floor Sheet 1 Rev A SW03 Concept Stormwater Design Roof Level Plan Rev A SW04 Concept Stormwater Design Details Rev A	IGS	12 December 2013

<b>Document(s)</b>	<b>Author</b>	<b>Date received by Council</b>
Statement of Environmental Effects	ABC Planning	12 December 2013
Construction Management Plan/ Traffic Management Plan	Construction rescue Services	12 December 2013
Waste Management Plan	Baxter International Hotel	12 December 2013
Environmental Site Assessment Report No E1909 AA Rev 2 dated 18 June 2014	Environmental Investigations Australia	18 June 2014
BCA Capability Report	Vic Lilli & Partners	12 December 2013
Traffic Impact Assessment	Traffix	12 December 2013
Acoustic Report	Acoustic Logic	17 April 2014
ESD & Energy Efficient Report	SLR	12 December 2013
Reflectivity Assessment	SLR	1. 12 December 2013
MitchelBrandtman Qunatity Surveyors Report	Mitchel Brandtman	12 December 2013
Qualitative Wind Turbulence	SLR	12 December

Document(s)	Author	Date received by Council
Report		2013
Additional Information Response	ABC Planning	4 April 2014
Traffic Impact Assessment addendum regarding Bus accommodation	Traffix	18 June 2014
Amended Clause 4.6 Variation	ABC Planning	20 August 2014

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

2 The applicant must prior to the release of the stamped plans, pay the following fees:

- (a) Builders Security Deposit \$137, 865,00;
- (b) Development Control \$1,350.00.00
- (c) Tree Maintenance Bond \$6,000.00
- (d) Section 94 Contribution \$140,935.87
- (e) Public Benefit Voluntary Payment \$100,000.00

**Note:**

- (i) The Section 94 Contribution is to be paid prior to the issue of the Occupation Certificate. 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.

3 This Consent relates to land in Lot 620 DP1031958 and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public works required by this consent.

4 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.

5

- (a) All building work must be carried out in accordance with the provisions of the Building Code of Australia; and
- (b)
  - (i) The basement car park must be designed and built as a “fully tanked” structure; and
  - (ii) The limitations of the BCA Performance Provision FP1.5 do not apply to the Class 7 part of the building.

6 No additional signage, other than signage permitted as exempt or complying development, shall be installed or displayed at the premises without a development application being lodged with Council and consent thereto being given by Council in accordance with Council’s guidelines and SEPP 64.

#### **CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY**

7 The following conditions are imposed by the Ausgrid:

- (a) The Applicant shall make provision for a substation(s). The size and type of substation(s) required cannot be confirmed until a completed Connection Application with load details has been received by Ausgrid;

**Note:** Connections to Ausgrid’s network are governed by Chapter 5A of the National Electricity Rules. Under these rules, a binding contract may be formed only after a connection application is lodged and Ausgrid has made a connection offer in response to that application. Accordingly Ausgrid cannot make any representation concerning electricity supply to your development. A duly completed connection application should be lodged as soon as possible to allow Ausgrid to respond to your Council’s conditions of consent and to ensure electricity supply is available when your development is ready to be connected.

8 The following conditions are imposed by NSW Office of Water:

#### **General**

- (a) An authorisation shall be obtained from NSW Office of Water for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified in the authorisation.
- (b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be in contact with groundwater watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to

incorporate adequate provision for reasonably foreseeable high water table elevations to prevent potential future inundation.

- (c) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

Prior to excavation

- (d) Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken. These measurements should be included in a report provided to the NSW Office of Water in support of the dewatering licence application, along with a schedule and indicative level predictions for the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.
- (e) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the parameters (e.g. permeability predicted by slug-testing, pump-testing or other means) and calculation method shall be included in the report submitted to the NSW Office of Water in support of the dewatering licence.
- (f) A copy of a valid development consent for the project shall be provided in the report to the NSW Office of Water.
- (g) Groundwater quality testing shall be conducted on a suitable number of samples using a suitable suite of analytes and completed by a NATA-certified laboratory, with the results collated and certificates appended to a report supplied to the NSW Office of Water. Samples must be taken prior to the substantial commencement of dewatering, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
- (h) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (sometimes referred to as “tailwater”) must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
- (i) Contaminated groundwater (i.e. above appropriate NEPM 2013 investigation thresholds) shall not be reinjected into any aquifer without the specific authorisation of the NSW Environment Protection Authority (any such discharge would be regulated through a licence issued under the Protection of the Environment Operations Act 1997 [POEO Act]). The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

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

#### Following excavation

- (q) All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.

#### 9 The following conditions are imposed by the NSW Police Service:

- (a) As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
- (b) The CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance



coverage of the area, particularly in areas that 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 strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance);

- (c) Any proposed landscaping and vegetation should adhere to the following principles:
  - (i) Shrubs bushes, plants should remain under 900mm in height;
  - (ii) Branches or large trees should start at a height of two (2) metres and higher;
    - (a) This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
- (d) 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;
- (e) Any storage cages in the underground car park areas should not be constructed in an isolated area. CCTV cameras must cover this area, as they are easy targets when they have little supervision. Solid steel housing and quality key locks should be used to prevent access.

10 The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) and must be complied with:

- (a) The PROPERTY DEVELOPMENT at 113 BAXTER ROAD 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 this Corporation.
- (b) The Civil Aviation Safety Authority (CASA) have no objection to the proposed development to a maximum height of 48.050 metres above Australian Height Datum (AHD).
- (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 the above height, a new application must be submitted. **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. SACL advises that approval to operate construction equipment (ie 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 ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
- (iv) the period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
- (e) 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.
- (f) For further information on Height Restrictions please contact Mr Peter Bleasdale on 02 9667 9246.
- (g) 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 a fine of up to 50 penalty point.
- (h) The height of the prescribed airspace at the site is 51.0 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airports (Protection of Airspace) regulations Statutory Rules 1996 No 293, “a thing to be used in erecting the building, structure or thing would, during the erection of the building, structure or thing, protrude into PANS OPS airspace for the Airport, cannot be approved.

#### Bird and Obstacle Hazard Management

- (i) 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 landscape design.
- (j) 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.
- (k) All trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.

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

**Note:** Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use the land planning tool for Sydney Airport was endorsed by Airservices on 13 March 2009 (Sydney Airport 2029 ANEF).

Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

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

- 11 Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Principal Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

- 12 Prior to the issue of a Construction Certificate and subject to the approval of the Civil Aviation Safety Authority (CASA), the applicant is to provide roof-mounted solar collector panels below a height of RL48.050m AHD to the rooftop area of the building. The collectors shall collect sufficient electricity to supply at least 20% of the building's energy requirements. Details of the panel system are to be provided with the Construction Certificate, including the approval of CASA.

- 13 Prior to the issue of a construction certificate the illuminated signage must be designed in conjunction with CASA's document "lighting in the vicinity of Aerodromes". Details of the compliance and approval of CASA must be provided to the Principal Certifying Authority.

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

- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
- (b) Access to and egress can only be obtained from O'Riordan Street and at no times shall construction vehicles approach the site from Botany Road.
- (c) The proposed phases of construction works on the site and the expected duration of each construction phase,
- (d) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
- (e) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,

- (f) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- (g) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- (h) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- (i) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- (j) Proposed protection for Council and adjoining properties, and
- (k) The location and operation of any on site crane.

**Note:** A crane may require prior approval from Sydney Airports Corporation.

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

- 15 A detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:
- (a) be prepared by a RMS accredited consultant,
  - (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police,
  - (c) during construction, access can only be obtained to Baxter road from O'Riordan Street.
  - (d) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

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

- 16 Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1.

- (b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 17 Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.
- 18 Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval.
- (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council’s Development Control Plan ‘Stormwater Management Technical Guidelines’, AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)
- The plans shall incorporate but not be limited to the following:
- (a) Provision of an On-site Infiltration system in accordance with but not limited to Part 5 of the SMTG. A part infiltration, part OSD system may be considered in exceptional circumstances when it can be demonstrated to Council that all other options to regulate the discharge from the site have been exhausted,
  - (b) Infiltration rates shall be determined by a suitably qualified geotechnical engineer and shall be part of the geotechnical report submitted to Council or alternatively the rate of 0.25L/m<sup>2</sup>/s shall be used,
  - (c) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of Botany Bay’s SMTG,
  - (d) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a “fully tanked” structure,
  - (e) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
  - (f) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater infiltration system,
  - (g) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay’s SMTG,
  - (h) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
  - (i) Any proposed discharge to Council and/or RMS Kerb and Gutter shall be limited to 10L/s. If a higher rate is proposed, a connection shall be made to RMS/Council’s underground stormwater drainage system. Any connection to a

Sydney Water or RMS stormwater system will require specific approval from the relevant organisation, and

- (j) The submission of detailed calculations including computer modelling where required to support the proposal
- 19 The measures in the acoustical report prepared by Acoustic Logic, received by Council 12 December 2013, 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.
- 20 An Erosion and Sediment Soil and Water Management Plan (ESCP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.
- This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.
- 21 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to the release of the construction certificate.
- This plan shall incorporate and reference the construction environmental management plan and address site limitations
- 22 Should any excavation occur at a level equivalent to 5m below existing ground level at the lowest point of the site an Acid Sulfate Soils Management Plan (prepared by a suitably qualified and experienced environmental/geotechnical consultant) shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:
- (a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
  - (b) Management of acid sulfate soil affected excavated material;
  - (c) Measures taken to neutralise the acidity of any acid sulfate soil affected material; and
  - (d) Run-off control measures for the acid sulfate affected soil.

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

23 To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:

- (a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
- (b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
  - (i) The additional load on the system, and
  - (ii) The relocation and/or adjustment of the services affected by the construction.

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

24

- (a) As part of this development, the Ausgrid power and lighting poles along Baxter Road will need to be decommissioned and new underground and above ground infrastructure shall be provided as specified by Ausgrid or any other affected service provider. The location of the new electrical pillars and new lighting poles shall be confirmed with Council prior to the issue of the Construction Certificate.
- (b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

25 The landscape areas shown on the concept plan by *JILA, DA01-DA03, Rev 1 dated December 2013* shall be the subject of detailed landscape construction documentation (plans and specifications) submitted to and approved by the City of Botany Bay's Landscape Architect. The landscape documentation is to be prepared by a suitably qualified landscape architect, in accordance with DCP 2013. The detailed (construction level) plan shall include, but not be limited to:

- a) A detailed planting plan at 1:100 scale showing all plant locations, centres, numbers and pot sizes. there is to be a dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas.
- b) All trees shall be min. 100 litre.
- c) The fire egress path on the eastern boundary is to be relocated to the building façade to make the deep soil area near the boundary available for canopy tree planting. A small planter shall be retained to accommodate climbers.
- d) Details of the proposed climbing frame/trellis for all areas proposed.
- e) Details for landscaping at the rear boundary and planter boxes required.
- f) Relocation of the fire hydrant booster assembly and gas meter/regulator assembly in the front setback to alternative location out of the setback or within the basement/level 1 as per other utilities

- g) An increase in width to the main planter in the front setback to achieve DCP compliance.
  - h) areas of paving, schedule of materials, edge treatments and sectional construction details.
  - i) all fencing, privacy screening and pergolas – elevations and materials.
  - j) Planter box on slab sectional details. Planter box depths to be in accordance with Council's DCP which requires 900mm soil depth for planting trees.
  - k) Trees shall be used extensively throughout the site and be of an appropriate scale to ameliorate and soften buildings and provide a measure of screening and privacy for adjoining landuses. Deep soil zones (side/rear setbacks) must include larger canopy trees. Trees to be predominantly native, evergreen species.
- 26 A public domain improvements plan shall be submitted for approval by Council. The plan shall be undertaken by a suitably experienced landscape architect and shall include, but not be limited to, new street tree planting, incorporation of existing street trees, full width segmental footpath paving with tree pit cut outs (to Council specification), street tree pit treatments and tree guards (where required). The plan shall be in accordance with Council specification and requirement. Civil drawings shall be included providing levels and detailed footpath construction sections in accordance with Council's engineering and landscape requirements and are required to align with the landscape drawings.
- 27 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- (a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
  - (b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
  - (c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
  - (d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743.
  - (e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.



- 28 The Applicant shall submit to Council details of the construction and fit out of the food premises. Such details must demonstrate compliance with the following requirements:
- (a) the Food Act 2003,
  - (b) Food Regulations 2004;
  - (c) the Food Standards Code as published by Food Standards Australia and New Zealand; and
  - (d) the Australian Standard AS 4674-2004: Construction and fit out of food premises.
- Details to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.
- 29 Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
- 30 Prior to the issue of the construction certificate, amended plans showing a widened vehicle crossing to at least 12.5m with swept path diagrams to show the bus can manoeuvre on site through the utilisation of the loading dock to turn be submitted to Council and the Principal Certifying Authority.
- 31 Prior to the issue of the Construction Certificate of the cue-de-sac on Baxter Road, the followings shall be complied with:
- (a) A concept plan of the cue-de-sac shall be submitted and approved by Council;
  - (b) RMS approval of the Traffic Management Plan (TMP) shall be submitted for Local Traffic Committee's consideration for the cul – de – sac.
  - (c) A detailed construction plan of the cul-de-sac, incorporating Local Traffic Committee's recommendations, should be submitted to Council for approval.

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

- 32 The Development is to be constructed to meet the requirements detailed in the approved acoustic report (Acoustic Logic, Council Dated 12 December 2013), and the following construction noise requirements:
- (a) 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) Construction period of 4 weeks and under:  
the  $L_{10}$  sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).

- (c) Construction period greater than 4 weeks and not exceeding 26 weeks:  
the L<sub>10</sub> sound pressure level measured over a period of not less than 15 minutes  
when the construction site is in operation must not exceed the background level  
by more than 10 dB(A).

(d) Time Restrictions

- |       |  |                      |
|-------|--|----------------------|
| (i)   | Monday to Friday   | 07:00 am to 06:00 pm |
| (ii)  | Saturday   | 07:00 am to 04:00 pm |
| (iii) | No Construction to take place on Sundays or Public Holidays. |                      |

- (e) All possible steps should be taken to silence construction site equipment.

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

- 33 All management measures recommended and contained within the erosion and sediment Control Plan (ESCP) submitted as part of the construction certificate shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction 4<sup>th</sup> Edition (2004)*. This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times and made available to council officers on request.

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

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.

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

- 36 The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
- 37 Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
- 38 For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

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

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

- 39 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate:

- (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, footpath, kerb and gutter over road reserve;
- (e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever;
- (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 RTA 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 Engineers for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s)).

- 40 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- (a) Erection of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
  - (b) Each toilet provided:
    - (i) must be standard flushing toilet; and,
    - (ii) must be connected:
      - (1) to a public sewer; or
      - (2) if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
      - (3) if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
  - (c) The provisions of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- 41 To ensure that the 2 existing Council street trees are protected during construction, the following is required :
- a) Prior to commencing demolition the trees are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence hessian to form the tree protection zone (TPZ). the fence shall remain in place until construction is complete. fencing shall be erected to ensure the public footway is unobstructed.
  - b) All detailed construction certificate plans shall show trees to be protected and the TPZ.
  - c) The TPZ's are a "no-go" zone. there shall be no access to the property, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, no excavation or filling, no service trenching.
  - d) where unavoidable foot access is required in the tpz, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
  - e) Excavation within the canopy dripline or within an area extending 1 metres outward of the canopy dripline shall be carried out manually using hand tools to minimise root damage. Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's tree officer.
  - f) Ensure that there is no damage to the canopy, trunk or root system of any tree. There shall be no canopy pruning unless approval has been granted by council's tree officer under separate application.
  - g) There shall be no trenching for new subsurface utilities within the primary root zone of any street tree. Any such structures in close proximity to trees must accommodate tree roots without damage or pruning.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then council will require remedial pruning work or other specified work.

- 42 A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
- (a) stating that unauthorised entry to the work site is prohibited;
  - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
  - (c) the Development Approval number;
  - (d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
  - (e) any such sign is to be removed when the work has been completed.

- 43 Prior to any excavation works an acid sulfate soil (ASS) assessment shall be undertaken to determine the presence and extent of any ASS at or below 5m below ground level (bgl) at the site.

Should any potential acid sulfate soil (PASS) or actual acid sulfate soil (AASS) be identified then the an Acid Sulfate Soils Management Plan shall be prepared which shall include any site specific procedures and mitigation measures required and a site analysis from a NATA registered laboratory. All recommendations of the report shall be implemented prior to the commencement of excavation and building works.

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

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

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

## **DURING WORKS**

- 45 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:

- (a) WorkCover NSW requirements. An appropriately licensed asbestos removalist and must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos
  - (b) Protection of the Environment Operations Act 1997;
  - (c) Protection of the Environment Operation (Waste) Regulation
  - (d) DECC Waste Classification Guidelines 2008.
- 46 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.
- 47 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.
- 48 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.
- 49 The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Acid Sulfate Soil Management Plan required to be submitted prior to the construction certificate including:
- (a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil; and
  - (b) Management of acid sulfate affected excavated material;
  - (c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
  - (d) Run-off control measures for the acid sulfate affected soil.
- 50 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- (a) Office of Environment and Heritage (OEH) approved guidelines;
  - (b) Protection of the Environment Operations Act 1997; and
  - (c) Protection of the Environment Operations (Waste) Regulation 2005.
- 51 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- (a) The Erosion and Sediment Control Plan;

- (b) 'Managing Urban Stormwater – Soils and Construction'(2004) Landcom ('The Blue Book'); and
  - (c) Protection of the Environment Operations Act 1997.
- 52 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.
- 53 Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
- 54 The following shall be complied with at all times:
- (a) The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department;
  - (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) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition;
  - (d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer; and
  - (e) 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.
- 55 During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

- 56 If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- (a) Must preserve and protect the building/ fence from damage; and,
  - (b) If necessary, underpin and support such building in an approved manner;
  - (c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
  - (d) Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
  - (e) If the soil conditions required it:
    - (i) Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided, and
    - (ii) Adequate provision must be made for drainage.
- 57 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
- 58 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.
- 59 The operation shall not give rise to offensive odour or other air impurities in contravention of the Protection of the Environment Operations Act 1997. The Principal contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- (a) Covering excavated areas and stockpiles;
  - (b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas;
  - (c) Maintenance of equipment and plant to minimise vehicle exhaust emissions;
  - (d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources;
  - (e) All loads entering or leaving the site are to be covered;
  - (f) The use of water sprays to maintain dust suppression;
  - (g) Keeping excavated surfaces moist.



- 60 Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
- 61 For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
- 62
- (a) All imported fill shall be validated in accordance with Department of Environment and Conservation approved guidelines to ensure that it is suitable for the proposed development from a contamination perspective. Imported fill shall be accompanied by documentation from the supplier, which certifies that the material is suitable for the proposed residential/recreational land use and not contaminated based upon analyses of the material;
  - (b) Any soil disposed of offsite shall be classified in accordance with the procedures in the Department of Environment and Climate Change Waste Classification Guidelines (2008), prior to being disposed of to a NSW approved landfill or to a recipient site;
  - (c) Any material containing asbestos found on site during excavation shall be removed and disposed of in accordance with:
    - (i) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10sqm of bonded asbestos and/or any friable asbestos;
    - (ii) Protection of the Environment Operations Act 1997;
    - (iii) Protection of the Environment Operations (Waste) Regulation;
    - (iv) DECC Waste Classification Guidelines 2008.

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

- 63 Section 94 Contributions are required to be paid in accordance with Condition 2(d) above, The City of Botany Bay being satisfied that the proposed development will increase demand for services and facilities within the area, and in accordance with Council's Section 94 Contribution Plans 2005-2010 a sum of **\$140,935.87** listed below towards the provision of services is to be paid to Council prior to the issuing of an Occupation Certificate either interim or final.

(i)	Community Facilities	\$15,022.00
(ii)	Administration	\$2,436.00
(iii)	Shopping Centre Improvements	\$10,904.00
(iv)	Open Space & Recreation	\$101,210.00
(v)	Transport Management	\$11,363.87

The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fees applicable at that time

- 64 All construction works of the cue-de-sac (Baxter Road) and the new driveways shall be undertaken in accordance with the approved Engineer design as identified in Condition No. 31 and shall be completed to the satisfaction of the Engineering and Regulatory Services Department at no cost to Council.
- 65 Prior to the issue of the Occupation Certificate:
- (a) Replace all the existing above ground electricity and telecommunication cables to underground cables that adjoin the site and road reserve area fronting Baxter Road in accordance with the guidelines and requirements of the relevant utility authorities and Ausgrid. The applicant shall bear all the cost of the construction and installation of the below ground cables and any necessary adjustment works. These works and payments shall be completed prior to the issue of the Occupation Certificate; and
  - (b) Provide appropriate and suitable street lighting to a high decorative standard to both street frontages of the site together with those internally publicly accessible paths, spaces and corridors, so to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements.
- 66 Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
- 67 All services (Utility, Council, etc.) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
- 68 Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

- 69 Prior to the issue of the Occupation Certificate the Workplace travel Plan needs to be updated to address its implementation strategy and success measures.
- 70 Prior to the issue of the Occupation Certificate the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustical assessment report prepared by Acoustic Logic Consultancy Pty Ltd, updated and received by Council 12 December 2013 have been carried out and certify that the construction meets AS2021-2000 and AS3671-1989 and specified indoor sound levels. 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).
- 71 Prior to the issue of the Occupation Certificate, documentation from a suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying that the loading dock, pick-up/drop-off zone, car parking areas (including queuing area, turning area and disabled parking area), driveways and vehicular access paths have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6 requirements. The internal parking facilities shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standards.
- 72 Prior to the issue of the Occupation Certificate, minimum of *sixty-nine (69)* off-street car parking bays shall be provided to the development in accordance with the approved architectural plans.
- 73 Prior to the issue of the Occupation Certificates, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 74 Prior to the issue of Final Occupation Certificate, the applicant shall carry out the following works:
- On Baxter Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications,
  - On Baxter Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications, and
  - On Baxter Road, adjacent to development, reconstruct full width of road asphalt, in accordance with Council's Infrastructure Specifications.
- 75 Prior to the issue of the Occupation Certificate a sign shall be erected within or adjacent to the garbage room encouraging residents to recycle and not place recyclables into waste bins. The sign shall be a minimum of A3. Details of an acceptable wording for the sign are available from Council's Internet site at <http://www.botanybay.nsw.gov.au>.

- 76 Prior to the issue of the 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.
- 77 In order to ensure that the constructed rainwater re-use and OSD/absorption 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 system, 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 the Occupation Certificate.
- 78 Prior to the issue of the 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.
- 79 Prior to the issue of the Occupation Certificate 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.
- 80 Landscaping shall be installed in accordance with the council approved landscape plan only prior to the issue of an occupation certificate. This amended plan will supercede previous landscape plans. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and to council's satisfaction at all times.
- (a) 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.
  - (b) 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.
  - (c) At the completion of landscaping on the site, the applicant is required to obtain a certificate of compliance from the landscape consultant to certify that the landscaping has been installed in accordance with the council approved landscape plan. The certificate is to be submitted to the City of Botany Bay Council prior to the issue of an occupation certificate.
- 81 The public domain and council footpath area shall be upgraded with new paving, street furniture and street tree planting installed by the applicant at the applicant's

expense. All improvements shall be constructed and completed prior to the issue of an Occupation Certificate.

82 The public footpaths shall be re-constructed in accordance with Council specification. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications only. Pavers shall be ordered accounting for adequate lead time for manufacture. Construction hold points and council inspections are required at the following points :

- (i) after formwork installation and to prior pouring the concrete blinding slab,
- (ii) at the commencement of paving works, and
- (iii) at final completion.

83 Council approval of public domain works is required prior issue of occupation certificate.

84 Prior to the issue of the Occupation Certificate:

- (a) Lighting (lux) levels for this development must include the installation of low glare/high uniformity lighting levels in line with Australian Standard AS:1158. 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). 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.
- (b) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill; and,
- (c) All lighting shall comply with AS4282-1997 Control of the obtrusive effects
- (d) The porte cochere to the building shall be lit in accordance with Condition 84(a), (b) and (c).

85 The applicant is to submit payment for a public works defects liability bond of \$10,000.00. The duration of the bond shall be limited to a period of 12 months after council approval of public domain works. At the completion of the 12 month period the bond shall be refunded pending a satisfactory inspection of the new public domain work by council. If rectification or maintenance work is required in this period then council will forfeit all or part of the bond to undertake the required work, unless the applicant undertakes this work.

86

- (a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979;

- (b) Condition Numbers 63 to 85 of this consent are pre-conditions to the issue of the Occupation Certificate.

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

- 87 A shuttle bus required to service the Hotel must be provided to transport occupants to and from the development site to the Sydney Airport. Should the shuttle bus no longer be provided, for whatever reason a separate development application shall be submitted to Council to provide an alternative travel and parking arrangement for the use.
- 88 The bus zone and pick-up/drop-off zone shown on the approved architectural plans shall be set aside for bus and pick-up/drop-off purpose only and shall not be used for other purposes. No vehicles shall be permitted to park in these areas.
- 89 The Food Business must appoint at least one trained Food Safety Supervisor. The person nominated must obtain a Food Safety Supervisor Certificate that is current (by completing Food Safety Supervisor training with a registered training organisation (RTO) approved by the NSW Food Authority or by submitting an FSS certificate request form). The certificate must be kept on the premises at all times.
- In the event that the person appointed as Food Safety Supervisor leaves the business another person within the organisation must be appointed as a Food Safety Supervisor and must undertake all required training to gain certification.
- 90 The operations 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, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
- 91 The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997 and shall be controlled in accordance with the requirements of this Act.
- 92
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA<sub>90</sub> level (in the absence of the noise under consideration).
- (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

- (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
  - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 93 All waste and recycling containers shall only be collected during daylight hours.
- 94 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
- 95
- (a) The approved Waste Management Plan for the site prepared by (Fox Johnston, dated 12 December 2013) shall be complied with at all times during demolition works, construction works, and use of the premises; and
  - (b) The building owner shall be provided with at least one copy of the waste management plan. The approved Waste Management Plan shall be complied with at all times.
- 96 The operation of the development and movements of vehicles shall comply with the following requirements:
- (a) The largest size of vehicle accessing the development shall be restricted to MRV;
  - (b) Garbage collection and loading and unloading activities associated with the delivery shall take place wholly within the loading dock;
  - (c) Qualified traffic controllers shall be present when the delivery/service vehicle reverses to the loading dock;
  - (d) 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);
  - (e) Vehicular manoeuvring area shall be kept clear at all times. All vehicles shall be parked in the marked parking bays;
  - (f) Maximum number of delivery vehicles on-site shall be limited to one (1).
  - (g) The loading dock must be clear of delivery or any other vehicles when the shuttle bus is manoeuvring on site.

97

- (a) The operations of the site must at all times fully comply with the requirements of the approved Plan of Management for the site; and
  - (b) At all times the approved Workplace Travel Plan shall be fully complied with.
  - (c) The sub-leasing of car parking spaces is strictly prohibited.
- 98 Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or similar 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.
- 99 For the purpose of inhibiting or preventing the growth of micro organisms that are liable to cause Legionnaires' Disease, all cooling towers, evaporative condensers, evaporative coolers, and warm water systems shall be designed, installed and maintained in accordance with the requirements of Public Health (Microbial Control) Regulation 2000 and the Public Health (Microbial Control) Amendment (Miscellaneous) Regulation 2003, under the Public Health Act 1991. All waste water from the cooling tower/humidifier/evaporative cooler/warm water system shall be discharged to sewer under a Trade Waste Agreement from Sydney Water.
- 100 A staff member shall be located on the ground floor lobby at all times.
- 101 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. 13/266 dated as 12 December 2013 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.