

JOINT REGIONAL PLANNING PANEL
(Sydney East Region)

JRPP No	2014SYE045
DA Number	DA14/45
Local Government Area	City of Botany Bay
Proposed Development	<p>Integrated Development and Joint Regional Panel Application comprising:</p> <ul style="list-style-type: none"> ▪ Demolition of existing car/truck rental and associated carpark; ▪ Construction of: <ul style="list-style-type: none"> ○ car parking for a total of 69 vehicles comprising a basement carpark for 34 vehicles and two levels of above ground carpark for 17 vehicles on ground level (including 1 accessible space); and ○ a seven (7) storey hotel comprising 169 rooms (including 8 accessible rooms); a business centre and gym on Level 1, a dining room and sky/bar lounge on Level 8; ▪ an on-site drop-off/pick up zone for a 52 seater bus with vehicle entry and exit points along Sarah Street; ▪ a shuttle bus service; ▪ all vehicular access will be obtained from Sarah Street; ▪ floor space ratio (FSR) of 3.19:1 (site area of 1,516m²); ▪ building heights between eight (8) to nine (9) storeys with a maximum height of 29.97m (R.L. 36.37).
Street Address	2-8 Sarah Street, Mascot
Applicant/Owner	Fox Johnston Pty Ltd
Number of Submissions	Nil
Recommendation	Deferred Commencement
Report by	Rodger Dowsett, Director Planning and Development
Date	11 June 2014
Capital Investment Value	\$21, 369, 429

PRECIS

Council received Development Application No. 14/45 on the 11 March 2014 seeking consent for a hotel development comprising the following:

- Demolition of existing car/truck rental and associated carpark;
- Construction of:
 - two levels of car parking for a total of 43 vehicles (including 1 accessible space on each level);
 - a seven (7) storey hotel comprising 162 rooms (including 8 accessible rooms); a business centre and gym on Level 1, a dining room and sky/bar lounge on Level 8;
- an on-site drop-off and pick up zone for a bus with vehicle entry and exit points along Sarah Street;
- a shuttle bus service;
- all vehicular access to be obtained from Sarah Street;
- floor space ratio of 3:1;
- building height between eight (8) to nine (9) storeys with a maximum height of 29.97m (R.L. 36.37).

Following a meeting on 10 June 2014, the applicant submitted amended drawings and a Clause 4.6 Variation for the additional FSR on 26 June 2014 which seeks consent for a hotel development comprising the following:

- Demolition of existing car/truck rental and associated carpark;
- Construction of:
 - car parking for a total of 69 vehicles comprising a basement carpark for 34 vehicles and two levels of above ground carpark for 17 vehicles on ground level (including 1 accessible space); and
 - a seven (7) storey hotel comprising 169 rooms (including 8 accessible rooms); a business centre and gym on Level 1, a dining room and sky/bar lounge on Level 8;
- an on-site drop-off/pick up zone for a 52 seater bus with vehicle entry and exit points along Sarah Street;
- a shuttle bus service;
- all vehicular access will be obtained from Sarah Street;
- floor space ratio (FSR) of 3.19:1 (site area of 1,516m²);
- building heights between eight (8) to nine (9) storeys with a maximum height of 29.97m (R.L. 36.37).

The changes to the proposed development comprise:

- The provision of 26 additional carparking spaces and a basement carpark;
- Seven (7) additional hotel rooms
- Increase in floor space ratio from 3:1 to 3.19:1.
- Zero lot Line – western boundary.

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 \$21,369,429.00.

The proposed development is also 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 May 2014, the NSW Office of Water has granted its General Terms of Approval to the proposed development.

The proposed development also requires approval from NSW RMS pursuant to Section 138 of the Roads Act. Under letter dated 29 April 2014, NSW RMS provided conditions for the proposed development.

On the 24 June 2014, Council received additional information in respect of the proposed development as follows:

- Revised architectural plans, including amended shadow diagrams, modification of the car parking levels (including additional basement level carpark) to accommodate a total of 69 car parking spaces (which complies with the rate of 2.5 spaces per room), seven (7) additional rooms, extension of the building to the western boundary with a zero boundary setback, relocation of the fire stair to the south-western corner, modification of the Porte Cochere area to accommodate a 52 seater bus, general modifications to the facade and a cover letter dated 20 June 2014 from the Applicants town planning consultant in respect a Clause 4.6 variation for the additional FSR
- An Excavation Methodology for Proposed Development in proximity to the Rail Tunnel prepared by TaylorThompsonWhitting dated 16 June 2014; a Geotechnical discussion of the potential impact of the proposed development on the Rail Tunnel prepared by Environmental Investigations dated 19 June 2014; a Rail Tunnel Proximity Plan prepared by TaylorThompsonWhitting dated 10 June 2014; Shadow Diagrams dated prepared by Fox Johnston dated June 2014; a Supplementary Traffic Statement prepared by Traffix dated 19 June 2014; a Qualitative Wind Turbulence Report prepared by SLR dated 17 June 2014; and
- On 27 June 2014 an updated QS Report prepared by Mitchell Brandtman dated 30 June 2014.

The application was publicly exhibited for a period of thirty (30) days from 17 April 2014 to the 21 May 2014. No submissions were received following the public exhibition process.

Council's Design Review Panel (DRP), prior to the lodgment of the application has considered the proposed development on 19 December 2013, which concluded that the development can be supported subject to certain amendments. The Applicant has incorporated most of these amendments.

The Development Application was referred to RailCorp on the 7 April 2014, pursuant to State Environmental Planning Policy (Infrastructure) 2007, for its concurrence. In a letter dated 8 July 2014, RailCorp advised Council that it has no objection to the proposed development, subject to the granting of a 'Deferred Commencement' Consent, requiring the Applicant to prepare a final geotechnical and structural report, construction methodology, final cross sectional drawings.

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, 369, 429 million.

The recommendation is for approval, as stated below:

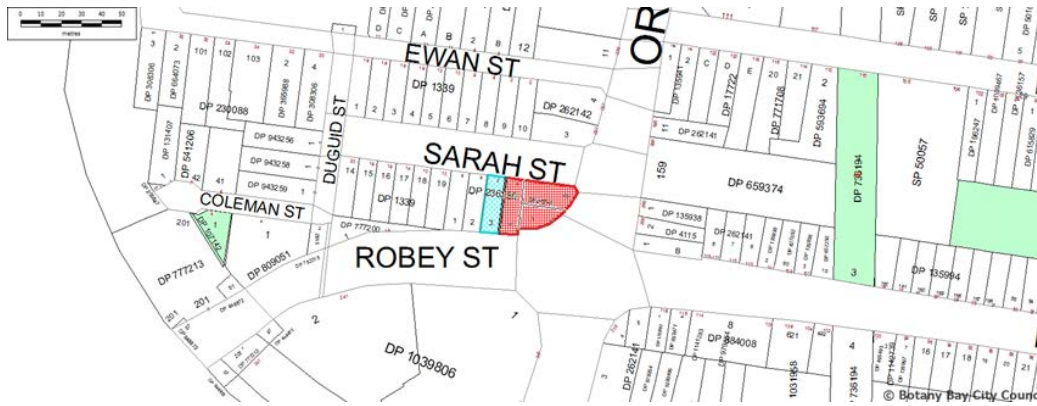
The Joint Regional Planning Panel (JRPP), as the determining Authority in this instance, resolve to:

- (a) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum FSR of 3.19:1; and*
- (b) Issue “Deferred Commencement” under Section 80(3) of the Environmental Planning and Assessment Act 1979 for the Development Application No. 14/45 for the demolition of the existing car/truck rental and associated carpark; construction of carparking for a total of 69 vehicles comprising a basement carpark for 34 vehicles and two levels of above ground carpark for 17 vehicles on ground level (including 1 accessible space) and 18 vehicles on level 1 (including 1 accessible space); a seven (7) storey hotel comprising 169 rooms (including 8 accessible rooms); a business centre and gym on level 1, a dining room and sky/bar lounge on level 8; a shuttle bus service; an on-site drop-off/pick up zone for a 52 seater bus with vehicle entry and exit points along Sarah Street; with a floor space ratio of 3.19:1 and a maximum building height of nine (9) storeys, 29.97m (R.L. 36.37); and site preparation works and remediation of land.*

1. Site Description

The subject site is located at the junction of two roads and enjoys three street frontages, being Sarah Street, O’Riordan Street (State classified road) and Robey Street. The site is currently used for a car/truck rental premises and associated parking purposes. The site has a total area of 1,516m² and is primarily rectangular in shape with a curved edge on the corner of O’Riordan Street and Robey Street. The site has a primary northern frontage of 61.52m along Sarah Street and a southern frontage of 18.3m along Robey Street with the remainder curving along the eastern boundary, and a western boundary of 29.82m.

The site is affected by the 25-30 ANEF contour and as such the application is accompanied by an Acoustic Report that concludes that provided the measures recommended are implemented in the built development, traffic and aircraft noise emissions will comply with the relevant acoustic criteria.



2. Locality Plan

3. Site Photo



Subject site as viewed north from Sarah Street

4. Site and Development History

Council approved Development Application No. DA/BA 97/0461 on the 19 June 1997, for a car rental business in the existing warehouse building on the subject site.

Council subsequently approved Development Application No. DA98/0057 on 22 October 1997, for a sign for the car rental business on the subject site.

Development Application No. DA99/592 was lodged on 8 April 1999 for the storage, distribution and sales of electronic medical equipment and associated office and refused on 26 October 1999 due to the fact that the use was not permissible with consent.

5. Description of Development

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

- Demolition of existing car/truck rental and associated carpark;
- Construction of:
 - o car parking for a total of 69 vehicles comprising a basement carpark for 34 vehicles and two levels of above ground carpark for 17 vehicles on ground level (including 1 accessible space); and
 - o a seven (7) storey hotel comprising 169 rooms (including 8 accessible rooms); a business centre and gym on Level 1, a dining room and sky/bar lounge on Level 8;
- an on-site drop-off/pick up zone for a 52 seater bus with vehicle entry and exit points along Sarah Street;
- a shuttle bus service;
- all vehicular access will be obtained from Sarah Street;
- floor space ratio (FSR) of 3.19:1 (site area of 1,516m²);
- building heights between eight (8) to nine (9) storeys with a maximum height of 29.97m (R.L. 36.37).

6. 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:

6.1 The provisions of any EPI and DCP and any other matters prescribed by the Regulations.

6.1.1 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 and also requires approval from NSW RMS pursuant to Section 138 of the Roads Act.

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 and NSW RMS. In a letter dated 7 May 2014 the NSW Office of Water has provided its General Terms of Approval for the proposed development. The RMS issued their conditions on the 29 April 2014, and is attached to the schedule of consent conditions.

The Application was required to be referred to Railcorp under Section 86(A) the Infrastructure SEPP, as the development is integrated and requires concurrence of Railcorp as the site is adjacent to the airport rail tunnel. In letter dated 8 July 2014,

RailCorp raised no objection to the proposed development, subject to a ‘Deferred Commencement’ consent as Railcorp requires a final geotechnical and structural report, construction methodology, final cross sectional drawings, a detailed survey plan and if required a FE analysis to be prepared. Therefore the application has been recommended for a “Deferred Commencement” Consent be issued subject to the submission of this information.

6.1.2 Clause 4.6 Exceptions to development standards

Under the provisions of the Botany Bay LEP 2013, the site is zoned Business Development B5. The maximum FSR permitted by the BBLEP 2013 is 3:1 (4,548m²). The amended development application seeks an FSR of 3.19:1 (4,836m²). 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 3.19:1 which exceeds the maximum FSR of 3:1 under Clause 4.4 of the BBLEP 2013.

As such, the applicant has submitted with this amended development application a Clause 4.6 variation that provides the following justification in relation to FSR against the objectives of Clause 4.6:

- (a) ***to establish standards for the maximum development density and intensity of the land use,***

Response:

- (i) *The proposed FSR is a result of amendments made to address Council's comments and result in a density that can be accommodated in an orderly manner. The proposed FSR is associated with a compliant building footprint and height as well as a compliant landscaped area and car parking at the rate of 2.5 spaces per room.*

The surrounding road network can also accommodate the additional traffic generated by the development, noting that there will be a bus service associated with the hotel development and that the hotel is in close proximity to public transport, the international and domestic airports and a regular taxi service along O’Riordan Street.

Additionally, the Wind Turbulence Assessment provided demonstrates that the proposed development will not have any adverse impact on the operation of the Sydney domestic or international runways. The combination of the above factors demonstrates that the proposed FSR does not generate an overdevelopment and that the density and intensity of usage is appropriate in this instance.

(b) To ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,

Response:

- (i) The proposed development is compatible with other hotel developments in the immediate area and sits well below the statutory height limit of 44m which applies to the subject site. The bulk and scale of the proposed development is in line with that envisaged for the area and is a positive visual contribution to the streetscape and the gateway to the Sydney domestic and international airport. The proposed development replaces outdated light industrial/commercial uses with a modern, high quality development which will facilitate the operation of the nearby airport and contribute to employment in 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,

Response:

- (i) The predominant height of 8-9 storeys, while well below the statutory height limit, is consistent with other hotel developments in the immediate area and is consistent with the desired future character of the area as envisaged by Council. The substantial landscape side/front boundary to O’Riordan Street and Sarah Street respectively provides an appropriate visual relationship along one of the primary gateways to the domestic and international airport from the CBD.*
- (ii) The increased FSR variation is not responsible for any visual bulk or amenity impacts as the additional FSR is predominantly contained within the original proposed building envelope with the exception of extending the wall to close the gap to the western neighbour, as requested by Council. Subsequently, the additional FSR does not result in any adverse impacts in regard to overlooking, common loss of views or shadowing.*

(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,

Response:

- (i) *The proposal satisfies the above objective as the additional FSR is predominantly contained within the original proposed footprint. The additional FSR arises from extending the wall to close the gap to the western neighbour, as requested by Council. Compliance with the parking rate of 2.5 spaces per room is facilitated through the addition of a basement level. Substantial landscaping is retained to Sarah and O’Riordan Streets to ensure the street and pedestrian interface is not adversely affected.*

(e) To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

Response:

- (i) *The additional FSR does not adversely affect the streetscape due to the placement of the built form within a landscaped setting, whilst the fragmented and articulated nature of the facades provides for an attractive street elevation, which sits comfortably in its surrounds. The proposal will appear as an attractive development, which represents a substantial improvement from the existing form of development on the site. It is reiterated that the FSR variation would be indiscernible, is an improvement on the original design, and satisfies Council’s concerns regarding the interface with the western neighbour. Additionally, there is no adverse shadow, privacy or loss of view impacts associated with the increase in FSR.*

(f) To provide an appropriate correlation between the size of a site and the extent of any development on that site,

Response:

- (i) *The 3-street frontage character of the site, lack of residential neighbours to the west and articulated form of the development, ensure that the site is capable of accommodating the marginal degree of excess FSR. Outperformance of setbacks, substantial landscape along all road frontages, compliant parking numbers, excellent internal performance and lack of external impacts demonstrate that the FSR is suitable on this site.*

(g) To facilitate development that contributes to the economic growth of Botany Bay,

Response:

- (i) *The proposed hotel development will facilitate economic growth in Botany Bay, Sydney City and the wider area due to its close proximity to the domestic and international airport. The sites’ close proximity to public transport and the CBD also supports employment in the local area.*

Comment:

The applicant’s justification is generally agreed with. The proposal is considered to be of an appropriate bulk, scale and height for the subject site.

The overall impacts from the proposed development have been minimised and the built form combined with the proposed landscape treatment is considered to improve the public domain of the locality and future character of the locality as is evident in the site photo.

The development will enhance economic growth in the local precinct as it will create additional jobs and will contribute to the revenue of the area.

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

Pursuant to Clause 4.6(4)(a):-

- (i) the consent authority can be satisfied that this written request has addressed the requirements of Clause 4.6(3) in relation to the FSR standard; and
- (ii) the proposal is in the public interest because it does not raise any inconsistencies with the objectives of the relevant FSR standard or the objectives for development in the B5 Business Development zone.

The variation to the FSR control has been assessed in accordance with relevant case law and the applicant variation request is supported for the reasons outlined below.

1. Is the requirement a development standard?

The subject FSR is a development standard contained in Clause 4.4 of Botany Bay Local Environmental Plan 2013.

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

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.

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

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

Comment:

The applicant's justification is generally agreed with. The proposal is considered to be of an appropriate bulk, scale and height for the subject site which has been amended to address concerns raised by the assessment of the application in relation to the number of car parking spaces proposed and the setback on the western boundary.

The overall impacts from the proposed development have been minimised and the built form combined with the proposed landscape treatment is considered to improve the public domain of the locality. The development will also enhance economic growth in the local precinct.

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

4. *The underlying objective or purpose is not relevant to the development;*

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

5. *The underlying objective or purpose would be defeated or thwarted if compliance was required with the standard;*

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.

6. *The development standard has been virtually abandoned or destroyed by Council's own actions.*

Clause 4.4 FSR

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 consistently varied over time by Council in recognition of a need to meet the demands for housing and commercial development in the area. The proposed floor space ratio is not inconsistent with the extent of variations to which consent has previously been provided. The following table provides a list of those variations approved by Council, the JRPP and the NSW Land & Environment Court.

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

Address	FSR Control	Approved FSR (BBLEP 2013)	Approval Date
210 O’Riordan Street, Mascot	3:1	7:1 (approved under BLEP 1995)	29 March 2009
214 Coward Street (JRPP Application)	3.2:1	4.05:1	16 December 2010
230 Coward Street (aka 25 John Street)	3.2:1	3.6:1	23 August 2006
3-9 Church Avenue	3.2:1	1.9:1	21 May 2008
10-14 Church Avenue & 619-629 Gardeners Road (JRPP Application)	3.2:1	2.27:1	3 August 2011
7 Bourke Street & 30-32 John Street	3.2:1	3.75:1	13 January 2011
24-26 John Street	3.2:1	3.1:1	6 September 2009
8 Bourke Road & 37 Church Avenue	3.2:1	3.82:1	13 May 2009
208-210 Coward Street (JRPP Application)	3.2:1	4:1	5 December 2011
103-105 O’Riordan Street (JRPP Application)	3.2:1	3.1:1	20 June 2012
5 Haran Street (Court Approved)	3.2:1	3.1:1	June 2013
2-4 Haran Street (JRPP Application)	3.2:1	4:1	August 2013

7. Is the objection well founded?

It is considered that the proposal is generally consistent with the underlying objectives of the standard identified in 2 above. The Clause 4.6 variation contends that compliance with the 3:1 FSR development standard is unreasonable and unnecessary in the circumstances of the case with respect of the aims and objectives of BBLEP 2013 and the relevant matters of consideration.

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

The rationale and argument presented in the Clause 4.6 variation is generally agreed with and it is recommended that the development standard relating to the FSR for the site as contained within Clause 4.4 of the BBLEP 2013 should be varied in the circumstances to allow the development to attain a floor space ratio of 3.19:1.

8. *Is the granting of consent consistent with the aims and objectives of Clause 4.6 of BBLEP 2013, namely:*

(a) To provide an appropriate degree of flexibility in applying certain development standards to particular development.

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

(b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

In the discussion under point 3 above, 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.

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.

6.1.3 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 above the water table. Appropriate conditions have been imposed upon the development which requires a Remediation Action Plan to be submitted to Council prior to commencement of any remedial action works or any excavation, demolition or other building works and prior to the issue of any construction certificate. A Site Validation Report is required to be submitted to the Principal Certifying Authority and Council if the Council is not the Principal Certifying Authority after the completion of remediation works and prior to the issue of the occupation certificate.

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. As stated above, a condition will be imposed on any consent granted to ensure that on site contamination is addressed and that a Site Audit Statement is issued prior to the issue of the Occupation Certificate that states that the site is suitable for the development.

6.1.4 State Environmental Planning Policy (Infrastructure) 2007

The development application was referred to RailCorp in accordance with the requirements of the SEPP, due to the proximity of the subject site over the rail corridor. In a letter dated 22 April 2014, RailCorp advised Council that it had ‘stopped the clock’ as it sought further information from the Applicant in relation to a detailed geotechnical report, construction methodology details and cross sectional drawings.

Council wrote to the Applicant on the 1 May 2014, advising of the additional information request from RailCorp. Additional information was provided directly to RailCorp however, in a letter dated 8 July 2014, RailCorp advised that it had no objection to the proposed development, subject to Council granting a ‘Deferred Commencement’ consent, imposing conditions relating to the requested additional information.

6.1.6 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:

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
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? Is the height of the building below the maximum building height?	Yes	The proposed building height is between 8 to 9 storeys with a maximum height of 29.97m (R.L. 36.37). 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?	No	The proposed FSR is 3.19:1 which exceeds the maximum permitted FSR of 3:1. 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 ² 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.
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <p>6.1 – Acid Sulfate Soils</p> <p>6.2 – Earthworks</p> <p>6.3 - Stormwater management</p>		<p>Clause 6.1 – Acid Sulfate Soils. The subject site is affected by Class 2 Acid Sulfate Soils. The development application has not been accompanied by an Acid Sulfate Soils Assessment. In this instance natural ground level is 5.72-6.51m AHD. Further assessment will be required to determine if Acid Sulfate Soils are present on site.</p> <p>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 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</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>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 36.37 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 800m 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 19 December 2013. The DRP was generally supportive of the proposal and made a number of recommendations which have been incorporated in the amended design. Council received amended drawings on the 26 June 2014 which further addressed the concerns of Council in respect of the setback to the western boundary, parking and the extension of the porte cochere to accommodate a 52 seater bus.</p> <p>On this basis, it is considered that the Applicant has adequately addressed the</p>
---	--	--

		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.
--	--	--

Table 2 – BBLEP 2013 Compliance Table

The proposed development is for the construction of a nine storey building for use as a hotel and is considered to satisfy the requirements of the above mentioned clauses as the nature of the proposal will have a positive contribution to the commercial viability of the precinct. The proximity of the site situated between Sydney Airport and Mascot Station will ensure that the proposed use contributes to the ongoing economic growth of the area and to employment generation.

The proposed development will occupy a site that is currently used for a car/truck rental business and add benefit to the area without causing adverse impact on the amenity of nearby and adjacent development. The objectives and provisions of the BBLEP 2013 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the BBLEP 2013.

6.1.7 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 34 vehicles and two levels of above ground car parking for 17 vehicles on ground level and 18 vehicles on Level 1. A shuttle bus service will also be provided to the airport. The parking rate has been provided at 1 space per 2.5 rooms.	Yes
3A.3.1 - Car Park Design	C1 – All off-street parking facilities shall be designed in accordance with current Australian	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	Yes

Part	Control	Proposed	Complies
	Standards AS2890.1 and AS2890.6. The design of off-street commercial vehicle facilities shall be in accordance with AS2890.2.	AS2890.1 and AS2890.2	
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 should be adequate to accommodate the proposed new hotel development.	Yes
3G.3 – Water Sensitive Urban Design	C3 – All developments shall adopt an integrated approach on water management through a coordinated process to address	The ESD and Energy Efficiency report prepared by SLR provides several initiatives for water sensitive design that can be implemented throughout the development.	Yes

Part	Control	Proposed	Complies
	water efficiency, water conservation, stormwater management, drainage and flooding.		
3G.4 – Stormwater Quality	C1 – Water quality objectives stated in “ <i>Botany Bay & 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 Sarah street.	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 building entrance.	The entrance to the proposed hotel fronts Sarah Street and will provide maximum surveillance to the porte corchere area and direct sightlines and access from Sarah Street.	Yes
	C10 – Entrances and exits of buildings shall be well lit, secure and highly visible to and from public spaces, streets and	Adequate lighting will be provided to the building entrance along Sarah Street and the pick-up and drop-off area. Lighting will be provided to the car parking areas.	Yes

Part	Control	Proposed	Complies
	adjoining buildings.		
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 36.37 metres AHD, subject to conditions to be imposed on any consent.	
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	The proposed development is accompanied by Landscape Plans prepared by JILA. The proposed building envelopes provide generous setbacks to all site boundaries and 22% of the site will be in the form of deep soil planting although the DCP has no	Yes

Part	Control	Proposed	Complies
	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.	requirements for hotels to provide deep soil planting. The landscaping provided to the front and east of the site will soften the built form and enhance the streetscape when viewed from O’Riordan Street being the main access point to and from Sydney Airport. The deep soil landscaping will allow for natural drainage to occur and minimise overland flow onto adjoining premises.	
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 than 20m ² of floor area.	A Waste Management Plan prepared by Fox Johnston Pty Ltd has been submitted and addresses the waste minimisation at design stage and during demolition, excavation and construction and future on-site waste management.	Yes
6 – Mascot Business Development Precinct	C1 – Development is to encourage a higher public transport (including	The proposed hotel is located in close proximity to Sydney’s Domestic and International Airports. The proposals close location to Mascot Train Station (800m north)	Yes

Part	Control	Proposed	Complies
	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.	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. The hotel will also provide a shuttle bus service which will lessen traffic demand on roads in the immediate area.	
	C2 – Development, including alterations and additions shall: (i) improve the appearance of buildings, particularly along the roads which serve a gateway function to Sydney Airport and the Sydney CBD; and (ii) Comply with Sydney Airport's regulation in	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 O'Riordan Street 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. The landscaping to the front and eaves of the building will soften the built form and	Yes

Part	Control	Proposed	Complies
	regard to safety, lighting and height of buildings.	enhance the existing streetscape and gateway function of the area. 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 36.37 metres AHD, subject to conditions to be imposed on any consent	
	C6 – Development within 25 metres of either side of the Airport Line Tunnel is to be referred to RailCorp.	The subject site is adjacent to the Airport Line Tunnel and has been referred to RailCorp. In a letter dated 8 July 2014, RailCorp advised Council that it has no objection to the proposed development, subject to the granting of a 'Deferred Commencement' Consent, requiring the Applicant to prepare a final geotechnical and structural report, construction methodology, final cross sectional drawings.	Yes
	C7 – Development shall be designed and constructed in accordance with Australian Standard AS2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction) Note: Details to be included in the Development Application. For further details in relation to Aircraft Noise	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.	Yes

Part	Control	Proposed	Complies
	refer to Part 3J – Development Affecting Operations at Sydney Airport.		
	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 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’.	
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

Part	Control	Proposed	Complies
	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.	All access points including the main access point has been provided off Sarah Street. There are no residential properties adjacent to the subject site.	Yes
	C4 – The minimum size for a visitor's room is 5.5m ² for the bedroom floor area for each person staying within the room.	The rooms are all 19m ² .	Yes
	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	An Acoustic Report by Acoustic Logic has been prepared for the site. There are no residential properties in the area and it is therefore considered that the proposed hotel will not have any adverse noise impacts on adjacent	Yes

Part	Control	Proposed	Complies
	properties and the surrounding area.	properties or the surrounding area.	
	<p>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 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>	A Plan of Management has been provided with the application. The consent approval has appropriately been conditioned.	Yes
	C12- The building is to comply with Parts C, D, and E of the BCA.	The proposal has been reviewed by a building consultant confirming compliance has been achieved by the proposal with regards to fire safety requirements.	Yes

Part	Control	Proposed	Complies
	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.	The proposal has been reviewed by a building consultant confirming compliance has been achieved by the proposal with regards to fire safety requirements.	Yes

Table 3 – BBDCP 2013 Compliance Table

(a) 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.

(b) 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 associated with the car/truck rental and associated carpark; the construction of a basement and two level above ground carpark; a seven story hotel comprising 169 rooms; a business centre and gym on Level 1, a dining room and sky/bar lounge on Level 8; an on-site drop-off/pick up zone for a 52 seater bus and vehicle entry and exit points along Sarah Street and a shuttle bus service, at 2-8 Sarah Street, Mascot located in the B5- Business Development zone is considered to be a suitable development in the context of the site and the locality.

(c) 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 days from 17 April 2014 to 21 May 2014 and no submission were received.

(d) 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.

7. Other Matters

7.1 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 8 July 2014, grants approval to a maximum height of the building to 36.37 metres AHD. A condition is proposed on the consent, specifying this height restriction.

Ausgrid

Correspondence was received from Ausgrid dated 28 April 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.

Roads & Maritime Service

Correspondence received was from Roads & Maritime Service dated 29 April 2014, and raises no objection to the proposed development, subject to recommendations, which will be required as conditions of consent.

RailCorp

In a letter dated 8 July 2014, RailCorp advised Council that it has no objection to the proposed development, subject to the granting of 'Deferred Commencement' Consent, requiring the Applicant to prepare a final geotechnical and structural report, construction methodology, final cross sectional drawings.

NSW Office of Water

Correspondence was received from NSW Office of Water on the 7 May 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.

7.2 Internal Referrals

The development application was referred to relevant internal departments within Council, including the Traffic Engineer, Development Engineer, Landscape Officer, Environmental

Officer, and Health Officer for comment and relevant conditions, following assessment by the nominated officer of this Council, have been inserted into the recommendation of the operational 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 19 December 2013. The DRP made the following recommendations:

The Panel generally supports the Pre-DA design subject to the suggested modifications being incorporated in an amended design prior to the submission of a DA.

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

	Issue	Applicant's Response
1	Relationship to the Context of the Proposal 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	The Scale of the Proposal The scale of the proposal is appropriate	No amendments to plans required.
3	The built form of the proposal At the western end the ground and first storeys of the building are setback approximately 1.2m and the upper storeys setback 2.5m from the common boundary. This is problematic in that it would result in a 'left-over-space' between the subject site and its neighbour. This space would be insecure, difficult to landscape and could result in an unattractive gap when and if the neighbouring site is also redeveloped. It is suggested that at least the two podium parking levels, if not the tower component, should be built right to the common boundary. It is suggested that the overall building and especially the curved eastern element would benefit from a stronger definition of base, middle	The plans have been amended so that the entire building on the western boundary is now built to that boundary line thereby having a zero lot line between the subject building and No. 10-12 Sarah Street. The built form to the western boundary podium levels will facilitate a stronger definition of base.

	Issue	Applicant's Response
	<p>and top.</p> <p>Apart from the definition of the top storey, a roof plane could be employed to provide a visual end to the form.</p> <p>Ensure that solar protection as façade elements are integrated and effective.</p>	<p>The plans have been amended so that the roof plan is articulated in the form of a sky lobby on the eastern side.</p> <p>The plans have been amended by modulating the slab to provide sun protection to the northern facades. Glazing is to be performance glazed as per the SLR report.</p>
4	<p>The proposed density</p> <p>Within the Botany LEP the density control is 3:1.</p>	<p>The density has been increased as a result of the redesign to achieve a zero setback on the western boundary. The new proposed density is 3.19:1 and a Section 4.6 Variation has been submitted.</p>
5	<p>Resource and Energy Use and Water Efficiency</p> <p>In a relatively large development of this scale it would be desirable to include initiatives relating to energy conservation and sustainability beyond the basic statutory requirements. Solar collection, rainwater 'grey water' recycling, and greening of the rooftop could be explored.</p> <p>Natural light should be provided to all internal service rooms on the top floor, level 8, by way of roof lights</p>	<p>SLR has provided an Energy Efficiency Report which addresses this matter.</p> <p>The plans have been amended to include skylights to the top floor to ensure natural light into all rooms.</p>
6	<p>Landscaping</p> <p>A comprehensive landscape design from an experienced landscape architect is required to include the street verges and large species canopy street trees.</p> <p>On the Robey Street frontage the top</p>	<p>Landscaping plans have been prepared by JILA.</p> <p>Dense planting is intended to the base of the</p>

	Issue	Applicant's Response
	<p>of the projecting podium could be covered with planting and the carpark façade treated as a 'green wall'. At ground level the recessed section could pose security issues unless made very difficult for access by way of mounding/planting etc. The frontage of the site could also have major 'canopy' tree-planting which could then be extended when adjoining sites to the west are redeveloped.</p> <p>On Sarah Street the width of the loading dock and vehicle entrances should be reduced as much as possible and the landscaped area increased by deleting the two parking bays and relocating them internally. The 'drop-off' area could be attractively paved so that it is pedestrian-friendly and enhances the continuity of the public footpath.</p>	<p>level 2 car park and entry podium to provide visual relief and ensure security to perimeters. Canopy street planting is intended for Sarah Street and O'Riordan Street corner as well as along Sarah Street to provide a green outlook.</p> <p>The loading dock and vehicle entry has been further landscaped with the deletion of 2 parking bays. The drop-off areas have been paved to provide continuous and uniform landscape treatment. Traffic requirements call for provided sizes and widths of driveway crossings and carpark entries.</p>
7	<p>The Amenity of the Proposal for its users</p> <p>If the western end wall of the accommodation floors were to be set on the common boundary, other solutions would have to be explored to allow daylight this end.</p> <p>Alternatively as suggested under the Built Form, if the parking floors only were to be set on the boundary, some refinement of the design as proposed could be retained.</p>	<p>The design was reviewed and the western end of the whole building has been moved to the zero boundary setback. A narrow recessed glazed slot has been provided at the western end of the passage and glazing has been provided at the eastern end of the passage to allow natural daylight throughout the hallways.</p>
8	<p>The Safety and Security Characteristics of the Proposal</p> <p>Satisfactory subject to security of the ground level on the western end.</p>	<p>The building has been redesigned to be built to the western boundary line.</p>
9	<p>Social issues</p> <p>The type of accommodation proposed is appropriate for the site.</p>	<p>No amendments required</p>
10	<p>The Aesthetics of the Proposal</p> <p>As appearing in the preliminary</p>	<p>This elevation has been further articulated to</p>

	Issue	Applicant's Response
	montage view, the curved eastern element appears somewhat bland, but this could readily be resolved with attention to modulation and articulation.	provide depth and interest in the façade.
	Identification sign(s) on the building should be integrated into the design.	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.

7.4 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 **\$136,731.72** to paid prior to the issue of a Construction 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 it has been calculated that there would be 56 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	\$14,504.00
(ii)	Administration	\$2,352.00
(iv)	Shopping Centre Improvements	\$10,528.00
(v)	Open Space & Recreation	\$97,720.00
(v)	Transport Management	\$11,627.72

7.5 Public Benefit

The Applicant has not identified the provision of any public benefit in lieu of the increased FSR.

8 Conclusion

Development Application No. 14/45 in its amended form, seeks consent for the construction of an nine (9)storey hotel development containing:

- Demolition of existing car/truck rental and associated carpark;
- Construction of:
 - car parking for a total of 69 vehicles comprising a basement carpark for 34 vehicles and two levels of above ground carpark for 17 vehicles on ground level (including 1 accessible space); and

- a seven (7) storey hotel comprising 169 rooms (including 8 accessible rooms); a business centre and gym on Level 1, a dining room and sky/bar lounge on Level 8;
- an on-site drop-off/pick up zone for a 52 seater bus with vehicle entry and exit points along Sarah Street;
- a shuttle bus service;
- all vehicular access will be obtained from Sarah Street;
- floor space ratio (FSR) of 3.19:1 (site area of 1,516m²);
- building heights between eight (8) to nine (9) storeys with a maximum height of 29.97m (R.L. 36.37).

The Joint Regional Planning Panel, Sydney East Region (JRPP) is the consent authority for the development application. No submissions were received as a result of the public exhibition process. The design currently before the Panel has been the subject an extensive design review process. It is the opinion of the Council as the planning body that the current design has addressed the concerns raised by the DRP and the assessment process, and on this basis the proposed development in its current form is supported.

The application has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* and the *Botany Local Environmental Plan 2013* and it is recommended to the Panel that the application be granted “deferred commencement” consent, subject to the Applicant meeting the requirements of RailCorp.

RECOMMENDATION

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

- (c) Grant consent to the Clause 4.6 variation request under Botany Bay Local Environmental Plan 2013 to permit a maximum FSR of 3.19:1; and
- (d) Issue “Deferred Commencement” under Section 80(3) of the Environmental Planning and Assessment Act 1979 for the Development Application No. 14/45 for the demolition of the existing car/truck rental and associated carpark; construction of carparking for a total of 69 vehicles comprising a basement carpark for 34 vehicles and two levels of above ground carpark for 17 vehicles on ground level (including 1 accessible space) and 18 vehicles on level 1 (including 1 accessible space); a seven (7) storey hotel comprising 169 rooms (including 8 accessible rooms); a business centre and gym on level 1, a dining room and sky/bar lounge on level 8; a shuttle bus service; an on-site drop-off/pick up zone for a 52 seater bus with vehicle entry and exit points along Sarah Street; with a floor space ratio of 3.19:1 and a maximum building height of nine (9) storeys, 29.97m (R.L. 36.37); and site preparation works and remediation of land.

CONDITIONS

- DC1 This consent is not to operate until the Applicant satisfies the Council, within 12 months of the date of this consent, that it has obtained

approval/certification from RailCorp as to the following matters and the approval/certification has been forwarded to the Council:

DC2 The Applicant shall prepare and provide to RailCorp for approval/certification the following items:

- (a) A final Geotechnical and Structural report that meets RailCorp's requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail tunnel
- (b) Final Construction methodology with construction details pertaining to structural support during excavation;
- (c) Final cross sectional drawings showing the rail tunnel, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail ;
- (d) Detailed Survey Plan showing the relationship of the proposed development with respect to rail land and infrastructure.
- (e) If required by Sydney Trains, a Fe analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

Any conditions issued as part of Sydney Trains' approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

Note: that once the “deferred commencement” conditions are satisfied, that certain draft conditions may need to change when the amended drawings required by the “deferred commencement” conditions are submitted.

Premises: 2-8 Sarah Street, Mascot

DA No: 14/45

DRAFT 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:

Drawing No.	Author	Dated Received by Council
Architectural Plans, Elevations and Sections and Drawing No.: DA0.00 Cover Sheet (Issue A) DA0.01 Site Analysis & Demolition Plan	Fox Johnston	24 June 2014

Drawing No.	Author	Dated Received by Council
(Issue A) DA0.02 Site Plan (Issue A) DA1.00 Basement Carpark (Issue A) DA1.01 Ground Floor Plan (Issue A) DA1.02 Level 1 Carpark (Issue A) DA1.03 Level 2-7 Typical Plan (Issue A) DA1.04 Level 8 – Sky Restaurant (Issue A) DA1.05 Roof Plan (Issue A) DA2.01 Section AA (Issue A) DA2.02 North Elevation (Issue A) DA2.03 South Elevation (Issue A) DA2.04 East Elevation (Issue A) DA2.05 West Elevation (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		
Landscape Plans DA01 – Ground Floor DA02 – Typical Level & Schedule	JILA	28 February 2014
Stormwater Drainage Plans, Drawing Nos.: SW01 Cover Sheet Rev A SW02 Concept Stormwater Design Ground Floor Sheet 1 Rev A SW03 Concept Stormwater Design Ground Floor Sheet 2 Rev A SW04 Erosion & Sediment Control Plan Rev A SW05 Concept Stormwater Design Details Rev A	IGS	February 2014

Document(s)	Author	Date received by Council
Statement of Environmental Effects	ABC Planning	11 March 2014 updated 26 June 2014
Construction Management Plan/ Traffic Management Plan	Construction rescue Services	11 March 2014
Waste Management Plan	Fox Johnston Pty Ltd	11 March 2014
Preliminary Geotechnical Investigation Report NO. E22020GA	Environmental Investigations Australia	11 March 2014
BCA Capability Report	Vic Lilli & Partners	11 March 2014
Traffic Impact Assessment	Traffix	11 March 2014 - updated 19 June 2014
Acoustic Report	Acoustic Logic	17 April 2014
ESD & Energy Efficient Report	SLR	11 March 2014
MitchelBrandtman Qunatity Surveyors Report	MitchelBrandtmanTraffix	Revised – 30 June 2014
Qualitative Wind Turbulence Report	SLR	20 June 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 \$100,000.00;
- (b) Development Control \$1,350.00;
- (c) Tree Maintenance Bond \$3,000.00
- (d) Section 94 Contribution \$136,731.72.

Note:

- (i) Condition 2(a) has been assessed on the basis that construction site access is only permitted from Sarah Street.
- (ii) 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 1 DP 236339; Lot 2 DP 236339; Lot 3 DP236339; Lot 4 DP 236339; Lot 1 DP 262142; Lot 2 DP 262141 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 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 NSW Roads and Maritime Services (RMS).

- (a) Any proposed buildings or structures must be erected clear of Robey 7 O’Riordan Street corridors (unlimited in height and depth) and the identified easement;
- (b) Access to the RMS easement is not to be denied;
- (c) The integrity of the easement is not to be compromised

Note: While no part of the subject property is required under any current project approved by Roads and Maritime Services (RMS), the property is within an area under investigations for the widening of O’Riordan Street. Any possible effect on individual properties has not been determined at this time. Any enquiries in regard to this investigation should be referred to Kate Lunny on Tel: 8849 2214 or by email: Kate.Lunny@rmrs.nsw.gov.au

- (d) The developers should be aware of the potential for the existing and future road traffic noise impact from O’Riordan Street to the development on the subject site. The developer should provide and maintain noise attenuation measures in accordance with EPS’s Environmental Criteria for Road Traffic noise. RMS will not provide noise mitigation for future residences on the subject land. RMS’s Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments;
- (e) The developer is to submit detailed documents and geotechnical reports relating to the excavation of the site and support structures to RMS for approval in accordance with Technical Direction (GTD2012/001);
- (f) Council should ensure that post development storm water discharge from the subject site into the RMS drainage system does not exceed the pre development discharge;

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RMS for approval, prior to the commencement of any works. Details should be forwarded to:-

The Sydney Asset Management
PO Box 973
Parramatta CBD NSW 2124

A plan checking fee may be payable and a performance bond may be required before the RMS’s approval is issued. With regard to the Civil Works requirement please contact the RMS’s Project Engineer, External Works Tel: 8849 2144 or Fax: 8849 2766;

- (g) The layout of the proposed car parking areas and access driveways associated with the subject development (including grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS2890.1-2004;
- (h) Off street parking shall be designed and constructed in accordance with AS2890.1-2004;
- (i) All work associated with the proposed development shall be at no cost to RMS.

8 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.

9 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.

10 The following conditions are imposed by RailCorp and must be complied with:

- (a) If required by Sydney Trains, prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from RailCorp and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney trains;
- (b) An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads-Interim Guidelines".
- (c) Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction certificate.
- (d) If required by Sydney Trains, prior to the issue of a Construction certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SSWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principle Certifying Authority is not to issue the Construction certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- (e) Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- (f) If required by Sydney Trains, a track/tunnel monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate. The Principle

Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains advising of the need to undertake the track monitoring plan, and if required, that it has been endorsed.

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

- (a) The PROPERTY DEVELOPMENT at 2-8 SARAH STREET MASCOT lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of this Corporation.
- (b) The Civil Aviation Safety Authority (CASA) have no objection to the proposed development to a maximum height of 36.37 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 (KSY) 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

- 12 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.
- 13 A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:

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

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.

- 14 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, if access from O'Riordan St is required, the applicant is to submit documentary evidence to the Principle Certifying Authority that the required Section 138 Consent under the Roads Act, 1993 has been issued by the New South Wales Roads and Maritime Services, and

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

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

- 15 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.
- 16 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.
- 17 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/m²/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
- 18 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.
- 19 The measures in the acoustical report prepared by Acoustic Logic, dated 17th April 2014, shall be undertaken in accordance with the provisions of AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.
- 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.

- (a) As part of this development, the Ausgrid power and lighting poles along Sarah, O’Riordan and Robey Streets 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.

- 23 A Stage 3 – Remedial Action Plan (RAP) shall be prepared by a suitably qualified and experienced contaminated land consultant and in accordance with:
 - (a) NSW Office of Environment and Heritage (OEH) ‘Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites’;
 - (b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
 - (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

- 24
 - (a) The RAP shall incorporate all findings and recommendations and address any data gaps identified in the Phase 1 Preliminary Site Assessment and Phase 2 Detailed Site Assessment for the site, specifically it shall:
 - (i) Outline a regime to delineate the extent of the identified fibrous cement sheeting;
 - (ii) Incorporate a regime for analysis of soil down-gradient of the fuel tank and associated pipework to a depth of at least 3.5 metres below ground level;
 - (iii) Outline the removal of the lead hotspot identified, as well as the known underground storage tank (UST) and all associated pipework and infrastructure; and
 - (iv) Outline testing for Environmental Investigation Levels in landscaping areas.
 - (b) The RAP shall clearly state proposed clean-up objectives, and demonstrate how the site will be made suitable for the proposed residential use.
 - (c) The RAP shall be submitted to Council for review and concurrence prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP.

- 25 The landscape areas shown on the landscape plan dated 28.02.14 shall be the subject of detailed landscape construction documentation (plans and specifications) that are to be submitted to and approved by Council. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council’s

Landscape DCP. The detailed (construction level) plan shall include, but not be limited to:

- (a) A site plan showing building envelopes, paved areas and areas to be landscaped.
- (b) A planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be a dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas.
- (c) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking.
- (d) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls.
- (e) Areas of paving, schedule of materials, edge treatments and sectional construction details.
- (f) All fencing, privacy screening and pergolas – elevations and materials.
- (g) Details of other landscape elements such as furniture, pedestrian lighting, sculpture and water features. Provide sectional construction details and elevations.
- (h) Planter box on slab sectional details. Planter box depths to be in accordance with Council's Landscape DCP.
- (i) Trees shall be used extensively throughout the site – particularly in the setbacks. Trees must be of an appropriate scale to complement and scale with the building form and to pedestrianize landscaped open spaces. Trees to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration. Additional trees shall be provided along the setback at the corner of Robey St & O'Riordan Street.
- (j) Show the location of electrical kiosks and fire booster valves. Comply with conditions relating to their location and treatment.

26 Prior to the issue of a Construction Certificate, the applicant is to submit payment for a Street Tree Maintenance Bond of \$3,000. The duration of the Bond shall be limited to a period of 12 months after planting of the new street trees. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the tree by Council. If the tree is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work.

27 Prior to the issue of a Construction certificate, 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, footpath paving, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. The plan shall include the following improvements:

- (a) Street trees shall be installed in the two western sections of the Sarah Street naturestrip as follows:

- (i) Four (4) x *Corymbia maculata*, min. height 2.5 metres and pot size 200 litre, shall be installed in the Sarah Street nature strip at 7-8 metre centres.
 - (ii) Trees shall be sourced from a reputable supplier that grows to NATSPEC.
 - (iii) A Dial-Before-You-Dig enquiry is required prior to all tree planting.
 - (iv) The trees shall be planted in an area measuring 3 metres long by 1.5 metres wide, backfilled with imported soil/compost, water holding additive and fertiliser, and mulched with leaf mulch to a depth of 100mm. The trees are to be staked in accordance with Council's Landscape DCP and NATSPEC recommendations.
 - (v) The tree pits shall include *Dianella 'Breeze'* understory planting.
 - (vi) The Applicant is required to obtain a Council inspection of new trees prior to the planting to ensure plant stock is suitable and post planting prior to the maintenance period commencing.
 - (vii) Rigid polyethylene sheet type tree root barriers shall be installed alongside the kerb and footpath edge for all new street trees for a depth of 900mm, for 3 metres each side of the tree centre and shall be located 150mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the rootball are not permissible. The Applicant is required to contact Council's Landscape Architect for an inspection of root barriers located within the public domain prior to backfilling and turfing.
- (b) Unit paved footpaths to Council's Landscape Architect's specification.
- (i) Sarah Street – 3 metres wide with planted street tree pits as per above
 - (ii) O'Riordan Street – 3 metres wide
 - (iii) Robey Street – 1.5 metres wide (plus retention of existing pedestrian barrier)
 - (iv) All footpaths to be adjacent to kerb.
- (c) On Sarah Street adjacent to the development reconstruct:
- (i) existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications;
 - (ii) half width of the road asphalt, in accordance with Council's Infrastructure Specifications.
- (d) 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.
- 28 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.
- 29 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.
- 30 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.

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

- 31 The Development is to be constructed to meet the requirements detailed in the approved acoustic report (Acoustic Logic, Dated 30th January 2014), 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_{10} 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.

32 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 4th 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.

33 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.

34 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.

35

- (a) The applicant shall arrange with NSW Road and Maritime Services (RMS) for any required Road Occupancy Licence prior to commencement of any road works; and
- (b) The applicant shall submit documentary evidence to the Principal Certifying Authority that the required Section 138 Consent under the Roads Act, 1993 has been issued by the Roads and Maritime Service (RMS).

36 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)).

37 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.
- 38 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.
- 39 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

- 40 All remediation work must be carried out in accordance with:

- (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites; and
 - (b) NSW Environmental Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 197;
 - (c) State Planning Policy 55 (SEPP 55) – Remediation of Land;
 - (d) Any recommendations contained in the Environmental Investigations (10 March 2014) '*Baxter International Hotel – Environmental Site Assessment – 2-8 Sarah Street, Mascot*';
 - (e) The remedial Action Plan (RAP) required to be submitted prior to the issue of the Construction Certificate.
- 41 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 10m² 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.
- 42 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.
- 43 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.
- 44 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 45 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.
- 46 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.
- 47 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.
- 48 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.
- 49 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.
- 50 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.
- 51 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.
- 52 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.
- 53 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.
- 54 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.
- 55
- (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**

- 56 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 **\$136,731.72** 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	\$14,504.00
(ii)	Administration	\$2,352.00
(iii)	Shopping Centre Improvements	\$10,528.00
(iv)	Open Space & Recreation	\$97,720.00
(v)	Transport Management	\$11,627.72

- 57 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 both Sarah Street, O'Riordan Street and Robey Street 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.

58

59 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.

60 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.

61 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.

62 Prior to the issue of the Occupation Certificate the Workplace travel Plan needs to be updated to address its implementation strategy and success measures.

63

(a) Prior to the issue of the Occupation Certificate a Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- (i) NSW Office of Environment and Heritage (PEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- (ii) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- (iii) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and

(b) The site validation report shall provide a notice of completion of remediation works, whether there are ongoing site management requirements and a clear statement of the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority for review and concurrence). The report is to be submitted after completion of remediation works and prior to the issue of the Occupation Certificate.

64

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

(b) Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and the Site Audit Statement (SAS) prior to the issuing of the Occupational Certificate.

Note: In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

- 65 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 17 April 2014 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).
- 66 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.
- 67 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.
- 68 Prior to the issue of the Occupation Certificate the construction of the stormwater drainage system of the proposed development shall be generally in accordance with the approved stormwater management construction plan(s), Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. Certification from a Professional Engineer shall be provided to the Principal Certifying Authority.
- 69 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>.
- 70 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.
- 71 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.

- 72 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.
- 73 Prior to the issue of the Construction 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.
- 74 At the completion of landscaping on the site and public domain areas, 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 and to address the following:
- (a) To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
 - (b) Any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped street setback. The utilities must be screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
 - (c) New street trees shall be maintained by the Owner for the duration of the landscape bond period after planting. Maintenance includes periodic watering at a frequency to sustain adequate growth, annual feeding and weed removal but does not include trimming or pruning of the trees under any circumstances.
 - (d) Upgrade the public domain by the reconstruction of half the road pavement, kerb and gutter, footpath, drainage system, street trees, landscaping and any associated works for the street frontage Robey Street, Sarah Street and O'Riordan Street of the site, at the applicant's expense. All improvements shall be in accordance with specifications and requirements from Council's

landscape and engineering sections, the approved civil works construction plans and landscape plans, and Condition 27 of this Consent.

75

- (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 56 to 76 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

76 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.

77 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.

78 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.

79 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.

80 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.

81

- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA₉₀ level (in the absence of the noise under consideration).
- (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

- (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 82 All waste and recycling containers shall be stored in the designated waste storage area. The waste containers shall not be over filled and the lids kept closed at all times except when material is being put in them. The building owner shall be responsible for the following:
- (a) Where waste and recycling containers need to be moved to the street,
 - (b) Movement of the waste and recycling containers to the footpath for collections, and the return of waste and recycling containers to the waste storage area,
 - (c) Refuse containers are to be returned to the waste storage area on the same day as the refuse is collected,
 - (d) Refuse containers are not to be left on the street for longer than 24 hours.
 - (e) Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers.
 - (f) Providing and maintaining signage and information to uses to encourage recycling.
- 83 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.
- 84
- (a) The approved Waste Management Plan for the site prepared by (Fox Johnston, dated 25 February 2014) 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.
- 85 All waste and recycling containers shall be stored in the designated waste storage area. The waste containers shall not be over filled and the lids kept closed at all times except when material is being put in them. The Owners Corporation or building owner shall be responsible for the following:
- (a) Where waste and recycling containers need to be moved to the street;

- (b) Movement of the waste and recycling containers to the footpath for collections, and the return of waste and recycling containers to the on site waste storage area;
 - (c) Refuse containers are to be returned to the waste storage area on the same day as the refuse is collected;
 - (d) Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers;
 - (e) Providing and maintaining signage and information to uses to encourage recycling;
 - (f) No waste or waste containers shall be placed on the public way (including: footpaths, roadways, and reserves) at any time.
- 86 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).
- 87
- (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.
- 88 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.
- 89 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.

- 90 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 14/45 dated as 11 March 2014 and amended on 26 June 2014 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.