JOINT REGIONAL PLANNING PANEL
(Sydney East Region)

JRPP No	2014SYE077
DA Number	DA14/047
Local Government Area	City of Botany Bay
Proposed Development	Redevelopment of the site for serviced apartments and multi storey car parking to incorporate the following: ▪ 132 serviced apartments comprising 64 x 1 bedroom, 44 x 2 bedroom, 4 x 3 bedroom and 20 dual key apartments; ▪ ancillary meeting rooms, gymnasium and café; ▪ multi storey car park containing 1622 parking spaces including 132 spaces for the serviced apartments and 1490 for a commercial car park.
Street Address	342 King Street, Mascot (also known as 5-11 Ewan Street)
Applicant/Owner	Parking Station Pty Ltd
Number of Submissions	Nil
Regional Development Criteria	Development with a CIV of $31,530,000.
List of All Relevant s79C(1)(a) Matters	• Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment • Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to development applications • State Environmental Planning Policy No. 55 – Contaminated Land • State Environmental Planning Policy 2004 (BASIX); • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat buildings • Botany Bay Local Environmental Plan 2013 • Botany Development Control Plan 2013
List all documents submitted with this report for the panel's consideration	• Statement of Environmental Effects – Vanovac Tuon Architects P/L; • Clause 4.6 Variation – Vanovac Tuon Architects P/L; • Architectural Plans – Vanovac Tuon Architects P/L; • Traffic Impact Assessment – John Coady Consulting P/L; • Letter from Contamination Consultants;

Recommendation	Conditional Consent
Report by	Christopher Mackey – Senior Assessment Planner
Report Dated	26 June 2015

1. RECOMMENDATION

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

(a) It is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of Botany Bay LEP 2013 and that the proposed development is in the public interest because it is consistent with the objectives of the Floor Space Ratio standard and the objectives for development in the B5 – Business Development zone;

(b) Subject to the Conditions imposed in the attached schedule, approve Development Application No. 14/047 for the redevelopment of the site at 342 King Street, Mascot for serviced apartments and multi storey car park to incorporate the following:

- 132 serviced apartments comprising 64 x 1 bedroom, 44 x 2 bedroom, 4 x 3 bedroom and 20 dual key apartments;
- ancillary facilities including a restaurant and bar;
- multi storey car park containing 1622 parking spaces including 132 spaces for the serviced apartments and 1490 for a commercial car park.

2. EXECUTIVE SUMMARY

Council received Development Application No. 14/047 on the 12 March 2014 seeking consent for the redevelopment of the site for serviced apartments and multi storey car parking to incorporate the following:

- 132 serviced apartments comprising 64 x 1 bedroom, 44 x 2 bedroom, 4 x 3 bedroom and 20 dual key apartments;
- ancillary meeting rooms, gymnasium and café;
- multi storey car park containing 1622 parking spaces including 132 spaces for the serviced apartments and 1490 for a commercial car park.

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 $31,530,000.

The application was publicly exhibited for a period of thirty (30) days from 28 May 2015 to the 27 June 2014. No submissions were received following the public exhibition process.

The main issues with the application are the proposed FSR, wind turbulence and remediation. It is considered that these matters have been resolved and the application is recommended for approval, subject to conditions imposed in the attached Schedule.

3. BACKGROUND & ISSUES

DA11/121

The Joint Regional Planning Panel approved DA11/121 (2012SYE071) on 13 December 2012 for the construction of a 12 storey (321 room), 4 star hotel with ancillary facilities plus basement level, a multistorey car park containing a total of 1622 parking spaces (comprising 80 spaces allocated to the hotel and 1542 spaces allocated as a long-term public car park associated with Sydney Airport), and associated landscaping and public domain works. The approved FSR was 4.74:1 (GFA of 50,121m^2) calculated under BLEP 1995 and 4.23:1 (GFA of 44,665m^2).

Floor Space Ratio

The current application proposes to change the use from a hotel to serviced apartment complex, which is still defined as *tourist and visitor accommodation* under BBLEP 2013. There is an increase in GFA from 44,665m^2 up to 46,064m^2, which increases the FSR from 4.23:1 to 4.35:1 (when calculated under BBLEP 2013). This is due to the inclusion of the corridors only, as these appear to have been omitted from the calculations originally assessed under DA11/121. A revised Clause 4.6 variation was then received on the 26 March 2015. The height remains compliant with the 44 metre height control.

Remediation

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

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

In an email dated 14 August 2014, Council requested a revised Site Audit Statement that details the site is suitable for the proposed use. Council had already been issued with a SAS dated 2008 stating that the site was suitable for the proposed commercial (hotel) use, however since the issue of that SAS, the health based criteria for commercial has changed significantly in 2013.

On 17 November 2014, Council received a Review of Contamination prepared by AECOM dated 17 November 2014. This report states that the existing Site Audit Statement is still relevant as the site will still meet the new criteria for commercial land use and that providing that the conditions of the Site Audit Statement are continued to be met, the site is suitable for the proposed use.

Wind Turbulence
In a letter dated 17 July 2014, Sydney Airport Corporation Limited requested a Wind Turbulence Report to determine the impacts of the proposal on the airport/aircraft operations.

On 24 September 2014, Council received a Wind Turbulence Report as requested by Sydney Airport Corporation. SACL provided its approval letter on the 18 December 2014.

4. SITE DESCRIPTION

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

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

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

The subject site is generally rectangular in shape and has an 85.18 metre frontage to King Street, a 56.185 metre frontage to Ewan Street and a site area of 10,590m^2. The site is currently vacant, and contains no significant vegetation.

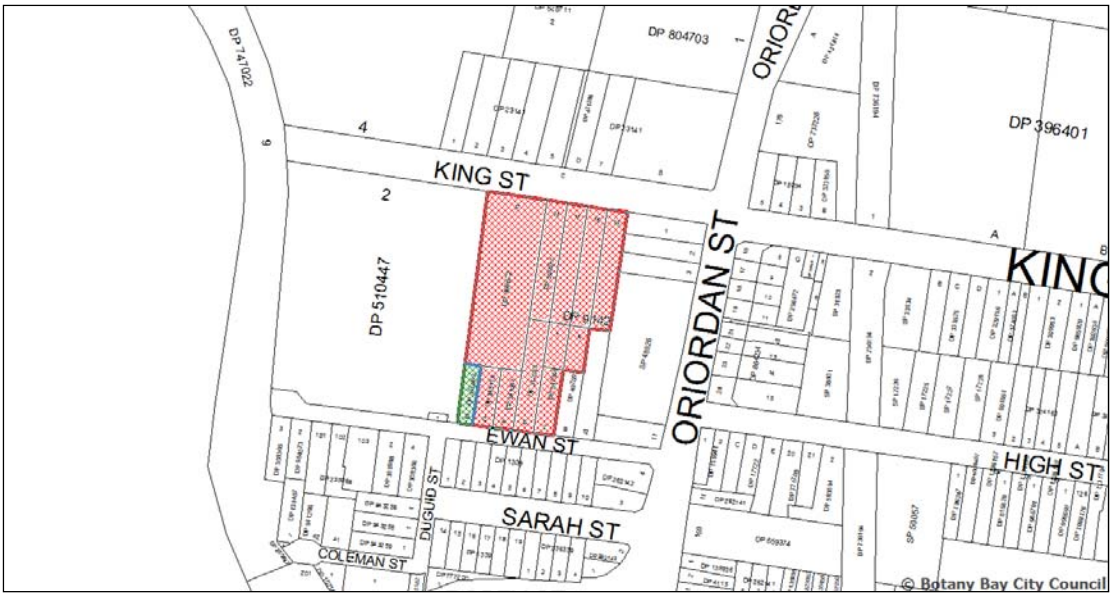

***Figure 1* – Site Location Plan**

The site is located within the B 5 – Business Development zone and is currently vacant. It was most recently occupied by a metal galvanising plant ('Mascot Galvanising') and buildings associated with that use were approved for demolition on 21 March 2003 (DA-03/448)

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

***Photo 1* – View of site looking north. Groundwater treatment tanks in foreground.**

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

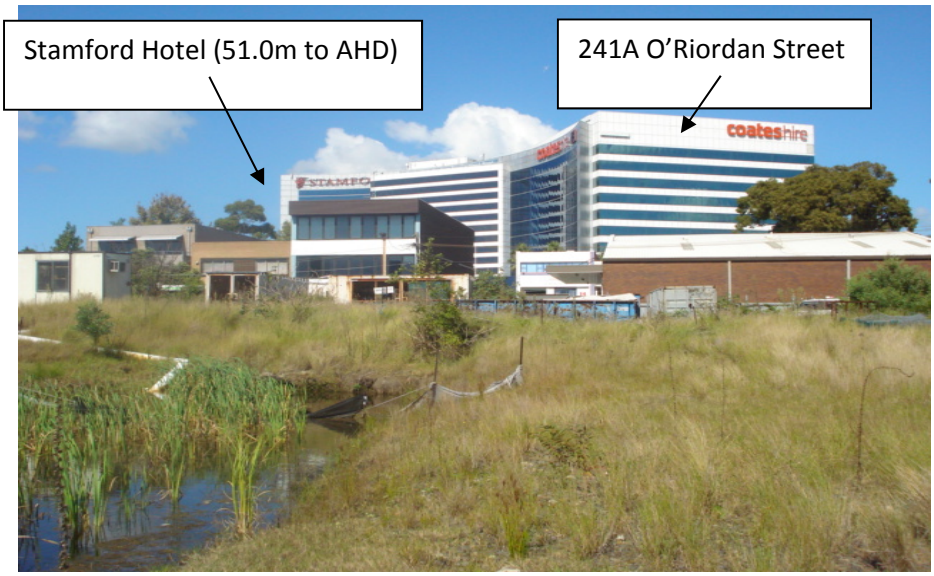

***Photo 3** – View of site looking south. Buildings in foreground front Ewan Street. Coates Hire & Stamford Hotel in the background have a maximum height of 51.0m AHD.*

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

5. DESCRIPTION OF THE LOCALITY

The subject site is located approximately 890m from Sydney Domestic Airport Terminal and 3km from Sydney International Airport Terminal.

The site is situated within the Mascot Business Development Precinct which is a large consolidated area immediately north of Sydney (Kingsford Smith) Airport and provides the main area for commercial offices, warehousing, airport related uses, hotel and serviced apartment accommodation. Landholdings are generally large and developments vary considerably in height and architectural character. The relatively flat topography results in the visual prominence of tall buildings and structures from a large visual catchment area.

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

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

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

Photo 5 – No. 3 Ewan Street - commercial premises adjoins to the east.

Further to the east and on the opposite side of O'Riordan Street is located 182-196 O'Riordan Street. The site comprises of 113 residential apartments, retail / commercial show rooms, associated car parking, loading facilities and landscape treatment.

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

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

To the west of the subject site is land owned by Qantas, currently used for car parking. Further to the west is Qantas Drive and Sydney International Terminal.

6. DESCRIPTION OF DEVELOPMENT

The development application seeks consent for the redevelopment of the site for serviced apartments and multi storey car parking to incorporate the following:

- 132 serviced apartments comprising 64 x 1 bedroom, 44 x 2 bedroom, 4 x 3 bedroom and 20 dual key apartments with ancillary meeting rooms, gymnasium and café;
- multi storey car park accommodating 1622 parking spaces, comprising of:
  - 132 spaces for the serviced apartments; and
  - 1490 allocated as a long-term commercial car park (including 14 accessible parking spaces, 3 mini bus spaces and 49 secure bicycle spaces);
- Associated landscaping and public domain works.

Some plans of the proposed development are provided below (Figures 2, 3 and 4):

Figure 2 - Ground Floor/Site Plan

Figure 3 – A section of the proposed development viewed from the south.

Figure 4 – The King Street Perspective

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

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

Botany Bay LEP 2013	
Permitted FSR under Clause 4.4	**Proposed FSR**
3:1 (31,644m^2)	4.35:1 (46,064m^2)

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

1. Site Works
   The Application requires some site clearing and preparation works, including some additional excavation (and some filling) works to allow construction of the basement level, which has a finished floor level of RL4.12m. The applicant has confirmed that the proposal will not transect the groundwater table which is found between 3.04m and 3.1m to AHD.

2. Serviced Apartments
   The proposed serviced apartment building contains 132 serviced apartments (twenty are dual key) and ancillary facilities including a gymnasium, bar, restaurant and meeting rooms for use by visitors.

The building will have a gross floor area (GFA) of 11,596m^2 when calculated in accordance with Botany Bay Local Environmental Plan 2013 (BBLEP2013), resulting in a FSR of 1.09:1.

The fit-out of the serviced apartment building is proposed as follows:

- *Basement Level* - The basement level is proposed to be utilised for a gymnasium, technical services, rainwater tank, sprinkler tank and pump room, distribution and switch rooms, serviced apartment storage and housekeeping.
- *Ground Floor Level* - The ground floor level of the serviced apartment building will contain normal ancillary facilities including:
    - Main lobby / Lift lobby;
    - Reception desk;
    - Front administration office;
    - Cafe;
    - Meeting rooms; and
    - Loading bay.
- *Levels 1 to 12* - The rooms will be provided over 12 levels, from Level 1 to Level 12. Each level containing 12 apartments and Level 12 being the first floor level of apartments on Level 11.

3. Multi-Storey Commercial Car park

The proposed car park contains ten (10) parking levels with a GFA of 34,468m^2 and a FSR of 3.25:1.

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

- 132 spaces allocated to the serviced apartments. These spaces are proposed at parking level P1 (basement);
- 1490 spaces allocated as a long-term commercial carpark, including
    - 14 accessible parking spaces;
    - 3 courier vehicle spaces; and
    - 49 secure bicycle spaces.

Car parking for the serviced apartments will be managed to cater for any overflow of parking (i.e. any parking exceeding the 132 spaces), however given that the parking allocated complies with Council requirements, this is not anticipated to be a major concern. The bicycle and courier spaces may also be utilised by the serviced apartments.

Development Application No. 11/121 was approved on the basis that the applicant had submitted an Operational Management Plan (prepared by John Coady Consulting, dated 28 November 2012) which demonstrates that the facility should be used for long term parking associated with Sydney Airport only.

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

4. Vehicular Access and Deliveries

Vehicular access for the proposed development is as follows:

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

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

5. Site Landscaping

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

A landscaped setback of between 7.43m and 10.2m exists between the carpark building and the sites western boundary. This setback has been provided to ensure that the existing monitoring wells can be retained to allow continued monitoring of the groundwater as required by the Environmental Site Management Plan (EMP) and Site Audit Statements. This area is proposed to be landscaped and includes a public footpath linking Ewan Street and King Street (which will be created as a public access easement). This will facilitate pedestrian movements to/from the Mascot Railway Station located approximately 630 metres to the north of the subject site.

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

6. Public Domain Works

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

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

7. SECTION 79C CONSIDERATIONS

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

(a) The provisions of any EPI, draft EPI, DCP and any other matters prescribed by the Regulations.

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

Remediation works, including removal of contaminated soil and groundwater treatment, have been undertaken at the site. The site is still the subject of a court order and five (5) current remediation notices issued by the NSW EPA, however Site Audit Statements have been issued which confirm that the site is suitable for commercial or industrial land uses subject to conditions.

The development application has been accompanied by these Site Audit Statements that also accompanied Development Application No. 11/121 and at the time Council was satisfied that the site had been made suitable for commercial and industrial use, hotels being classified as commercial use under the *National Environment Protection (Assessment of Site Contamination) Measure 1999*.

However, since determination of DA11/121, the Guidelines were amended in 2013 and hotel/serviced apartment uses are now classified as residential, requiring a higher degree of assessment criteria. On the 17 November 2014, Council received a letter from the applicants Contamination Consultants regarding this matter. The following summary is provided in the report:

- *No visual evidence was observed of additional activities having been conducted at the site since 2008 which may have changed its contamination status (as previously reported in the SAS's). Therefore the previous data set is considered to remain representative of site conditions;*

- *The potential exposure pathways are likely to be the same for a commercial hotel worker or guest and an occupant of serviced apartments. Therefore the relevant contaminations of potential concern are likely to be consistent with those identified in the SAS's previously prepared for the site;*

- *Assessment of site soil data against criteria based on a commercial land use is considered likely to be protective of occupants of serviced apartments at the site, based on the likely exposure duration and frequency of these receptor groups;*

- *Comparison of previously collected site validation soil data with current HIL's indicates that the site is suitable to be developed for use as serviced apartments (provided conditions of the SAS's are complied with);*

- *No potentially complete linkages with groundwater were identified. The requirement of the SAS for capping of the entire site will minimise the potential for exposure to residual contaminants in the soil.*

Council's Environmental Scientist has reviewed the application and the further information submitted and has no objection to the proposal. As such the site is suitable for the proposed development.

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 serviced apartment and public car park are 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: *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.*
Does Clause 2.6 – Subdivision 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 12 storeys with a maximum height of 41.87m (R.L 47.72m). The height of the building is below the permitted 44m.
What is the proposed FSR? Does the FSR of the building comply the maximum FSR?	**No – Clause 4.6 Variation**	The proposed FSR is 4.35:1 (46,064m^2) which exceeds the maximum permitted FSR of 3:1 (31,770m^2). As such, the Applicant has submitted a Clause 4.6 variation to the FSR.
Is the land affected by road widening?	N/A	The subject site is not affected by road widening on the Land Acquisition Map.
Is the site identified on the Key sites Map?	N/A	The subject site is not identified in the Key Sites Map
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.

The following provisions in Part 6 of the LEP apply to the development: 6.1 – Acid Sulfate Soils		Clause 6.1 – Acid Sulfate Soils. The subject site is affected by Class 4 Acid Sulfate Soils. The development application has not been accompanied but has been tested up to a depth of 5m. Standard Conditions are therefore recommended for any approval.
6.2 – Earthworks		Clause 6.2 – Earthworks. The site has already been cleared of structures, with excavation for site remediation also undertaken. The development is considered to be consistent with Clause 6.2 of the BBLEP 2013.
6.3 - Stormwater management		Clause 6.3 – Stormwater. A Stormwater Report and plans have been prepared for the development and concludes that the existing stormwater infrastructure in the vicinity of the site should be adequate to accommodate the proposed development. A large rainwater collection tank is located at basement level. The development is considered to be consistent with Clause 6.3 of the BBLEP 2013.
6.8 - Airspace operations		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 47.72m 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.
6.9 – Development of areas subject to aircraft noise.		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.
6.16 – Design excellence		Clause 6.16- Design excellence. The subject site is located 930m south of the Mascot Train Station and falls within the Mascot Station Precinct (MSP) – Key Sites Area. The proposed built form is identical to that already approved for the site and that design was the subject of consideration by Council's Design Review Panel on 13 July 2013. The current proposal has not been referred to the DRP as it is considered to be a substantial improvement from the original design. The proposed development is consistent with Clause 6.16 of the BBLEP 2013.

Table 2 – BBLEP 2013 Compliance Table

Clause 4.6 Exceptions to a Development Standard (FSR)

The maximum FSR permitted by the BBLEP 2013 is 3:1 (31,770m^2). The development application seeks an FSR of 4.35:1 (46,064m^2) being an additional 14,294m^2 or 45%.

Accordingly, the proposal is inconsistent with the FSR development standard pursuant to Clause 4.4 of the BBLEP 2013. The applicant has submitted a variation to Clause 4.4 pursuant to Clause 4.6 requesting a greater FSR. This variation is considered below.

Clause 4.6 of BBLEP 2013 states:

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.

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the FSR development standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written request justifying the contravention of the development standard pursuant to Clause 4.6(3) of BBLEP 2013, which is considered below. The matters for consideration pursuant to Clause 4.6(4) and (5) are also considered below. Clause 4.6 (6), (7) and (8) are not relevant to the current proposal.

In assessing the proposed departure, consideration has been given to the objectives of the standard, the objectives of the zone, and the objectives of BBLEP 2013 (including Clause 4.6(1)) as outlined below. The following justification for this proposed departure from the FSR development standard has been provided by the applicant:

The proposed FSR variation is considered to be justified on the following basis:

1. *Consistency with the objectives of the FSR standard in the LEP and DCP objectives:*

> *4.4 Floor space ratio* [relevant clauses quoted]
> *(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,*
>
> *(2) The maximum floor space ratio for a building on any land is not to exceed the floor space*
> *ratio shown for the land on the Floor Space Ratio Map.*

Objectives (a) and (b)

The proposed development demonstrably meets objectives (a) and (b) of the standard.

The proposed bulk and scale of the development as being contextually appropriate for this site, its location, complementing the surrounding locality and desired future character, and providing a high standard of architecture to reinforce the visual objectives for the locality. The height of the proposed building is within the prescribed 44m height of building control and is compatible with other tourist and visitor accommodation development in the immediate area.

The supporting documentation demonstrates that the density of the development will not impact upon surrounding infrastructure, with all parking demands satisfied on site; with easy and direct access to the road network; and with provision of substantial landscaped setbacks to the needs of existing and proposed workers.

Additionally, the Wind Turbulence Report prepared by CPP Wind Engineering demonstrates that the proposal will not have any adverse impact on the operation of the aircraft operations at Sydney Airport.

As such, the underlying objects of the development standard are fully respected and safeguarded.

> *(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,*

The distribution of building form, over such a large site, frees up generous areas around the building for perimeter landscaping. This creates a visual buffer between the proposed development and existing buildings on adjacent sites.

The site analysis demonstrates the suitability of the development for the site, providing an appropriate standard of amenity for future occupants, and in a manner that is attractive to its context within the locality.

(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,

The proposed serviced apartment building is appropriately setback from the street to form part of a desired future visual corridor. Landscaping in the setback area is aimed to provide a smooth visual link between adjoining roads and the building.

In the circumstances and context of this site "exceptional design quality' is more than the external appearance of a development. It is the quality of the overall design response and sensitivity to its context in terms of its concept, landscape setting, high quality facades, fragmented scale and form of individual buildings and elements, activity and visual permeability at ground level, functionality and sustainability. The resultant building will create a positive impact on views from public places in the immediate vicinity.

The shape of the serviced apartment building has a positive impact to the public domain where it creates an interesting skyline when viewed from adjoining roads.

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

The active serviced apartment component of the development is clearly articulated in the built form and ensures a positive contribution to the public domain and to the local community.

The integration of the additional floor space in the built form is well resolved and the building complex makes a very valuable contribution to the public domain, particularly with respect to streetscape, passive surveillance, ground floor activity along the principal streets, building materials, detail and scale.

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

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

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

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

The proposed development responds directly to the local demand for short term tourist accommodation, will create additional employment opportunities for the locality and contribute to the long term economic growth of Botany Bay.

2. Consistency with the objectives of the B5 Business Development

1 Objective of zone

- *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.*

The proposed car parking facility and serviced apartment development (a type of visitor and tourist accommodation) are permissible within the B5 Business Development zone. The development is located in close proximity to major transport hubs, other businesses and local centres. By introducing tourist and visitor accommodation with ancillary business facilities, the proposal is complementary to its location and supports the viability of Sydney Airport, Mascot Town Cetre and the wider Botany Bay locality.

3. Consistency with State and Regional planning policies

ENVIORNMENTAL PLANNING & ASSESSMENT ACT 1979
5 Objects
The objects of this Act are:

(a) To encourage

(i) The proper management, development, and conservation of natural and artificial resources, including agricultural land, native areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.

Environmental benefit
There are no negative environmental, streetscapes or operational impacts arising from the non-compliance with the FSR control. Any impact, even if it could be quantified, would be negligible.

Social benefits to the community
The increase in floor space will provide a social benefit by activating this precinct and creating a wider range of employment opportunities.

The precinct is accessible to a mix of employment uses; good arterial road links; a commuter rail link between the airport and the City; and is supported by a wide range of recreational facilities in the surrounding hinterland within the LGA.

Development also offers less tangible qualitative social benefit outcomes such as an improved sense of community and a feeling of public safety.

A positive longer-term benefit includes broadening of range of commercial uses on site. This is a key characteristic of a sustainable and successful commercial complex.

The social benefit arising from the increase in floor space is demonstrably greater than the benefit the development would provide had the standard been met.

<u>Economic benefit to the community</u>
This is clearly a key development site, and the early development of this site will be critical to the strategic success of the precinct. The resultant increase in commercial activity will provide significant investment potential to new business establishing within the area, and will support existing infrastructure such as the rail-link that is dependant upon customer patronage to remain viable and safe.

The applicant has undertaken extensive market research and the proposed development is specifically designed to meet existing and projected demand.

Positive longer-term benefits include creation of wider variety of jobs, promotion of new economies, business and industries. This is particularly appropriate because the size and types of industrial and commercial uses now required in this locality had not been envisaged when the development standard were developed.

The economic benefit arising from the increase in floor space is demonstrably greater that the benefit would provide had the standard been met.

(ii) Promotion and co-ordination of the orderly and economic use and development of land,

The achievement of additional floor space on the site, with a high level of internal and external amenity demonstrates that the sites development is economical and orderly, responding to the increase demand for commercial space in this evolving commercial and visitor accommodation precinct.

4. <u>The variation allows for a better planning outcome</u>

The proposal represents a significant improvement from the existing form and condition of the site. The proposed serviced apartment and car park development is of a high architectural merit and will be a positive contribution to its immediate vicinity.

The variation to Council's FSR control will introduce short term tourist accommodation which has high internal amenity with excellent solar access and cross ventilation, pleasant elevated expansive outlooks and the provision of complementary business facilities on ground level. The site is highly accessible suitably located within close proximity to the Sydney Airport, Mascot Station and Mascot Town Centre.

The proposal includes an abundance of landscaping around all site boundaries which softens the views to the building from the public domain, improves pedestrian amenity and allows for natural drainage.

Overall the variation with the FSR control allows for a better planning outcome without creating adverse impacts to the surrounding properties.

5. There are sufficient environmental grounds to permit the variation

- *The proposal will create an appropriate built form which is consistent with surrounding tourist and visitor accommodations whilst the proposal is well under Council's height control and prescribed planning controls;*
- *The proposed development is of a highly articulated form, whilst incorporating interesting façade treatments. It demonstrates high architectural merit and sets a desirable precedent for future serviced apartment development in the area;*
- *The serviced apartment amenities include generous room sizes, excellent solar access and natural cross-ventilation, expansive elevated outlooks and access to business facilities;*
- *The proposal will be a more efficient use of the site and will introduce 132 serviced apartments which is conveniently located in close proximity to various uses and public transport services;*
- *The serviced apartment accommodation caters for disabled and elderly people with barrier free access to all apartments and common areas. Accessible apartments and nominated accessible car parking spaces that area Australian Standard compliant;*
- *The departure from the maximum FSR control will not result in any significant adverse amenity impacts such as overshadowing, privacy impacts or any significant view loss to the surrounding neighbours; and*
- *The proposal will provide adequate car parking and the provision of the shuttle bus service to travel between the airport and the site will alleviate traffic impacts to the road network.*

6. The variation is in the public interest
The FSR variation is considered to be in the public interest, given the proposal will introduce serviced apartment accommodation to the locality and will contribute to the economic growth of Botany Bay.

The building mass, height and separation distances combined with the provision of sufficient deep soil landscaping demonstrates the floor space is suitable for the site. The proposal is located in an accessible location in close proximity to Mascot Town Centre and transport hubs. There will be no adverse impacts to the public domain or amenity to surrounding sites which are outlined in other parts of this report.

7. Objection well founded and compliance with the development standard is unreasonable or unnecessary in the circumstance of the case (Cl 4.6(3)(a))

The Land and Environment Court have set out a five part test for consent authorities to consider when assessing an application to vary a standard to determine whether the objection to the development standards is well founded. This test is outlined below for the variation to FSR.

The principles of *Wehbe v Pittwater Council [2007] NSW LEC 827* (Wehbe) in which the Hon. Brian Preston, Chief Justice of the Land & Environment Court, set out a new test (the long standing 5 part test was set out in *Winten Property v North Sydney (2001) 130 LGERA 79).* This test sets out the following assessment process:

The Chief Justice then expressed the view that there are 5 different ways in which on objection may be well founded and that approval of the objection may be consistent with the aims of this Policy:

1) *The objectives of the standard are achieved notwithstanding noncompliance with the standard;*

Assessment:
The objectives of Clause 4.4 - Floor Space Ratio of BBLEP 2013 are identified in Section 1 above and have been adequately addressed by the applicant. The applicant has demonstrated that the proposed additional floor area will not result in any adverse impacts on adjoining properties, the road network, the public domain or streetscape. The proposal will result in both social and economic benefits to the locality and improves pedestrian connectivity with its through site link from King Street to Ewan Street, providing a direct link for pedestrian to Robey Street and the Domestic Terminal.

2) *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3) *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The strict application of the 3:1 FSR control under Clause 4.4 of BBLEP 2103 is not necessary or reasonable in this instance for the following reasons:

- The proposed additional floor space will result in a better environmental planning outcome than that which could have been achieved on the site had the standard been complied with;

- The proposed additional floor space satisfies a greater demand for serviced apartment accommodation and long stay car parking in close proximity to Sydney Airport;

- The proposed development is very compatible with the existing and desired future character of the area;

- The proposed development will be in the public interest as it is consistent with the aims and objectives expressed in:

    - the B5 – Business Development zone under BBLEP 2013; and

    - the development standard under Clause 4.4 of BBLEP 2013 and other relevant standards within environmental planning instruments applying to the site.

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

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

As stated in this report, the former development standard applying to the site under BLEP 1995 (FSR of 1.5:1), was varied by the Panel in 2012, to permit an FSR of 4.74:1 for a hotel and long stay car park development identical to that currently proposed. Whilst the new LEP permits an FSR of 3:1, the new LEP did not take into account the approved FSR of 4.74:1 under Development Consent No. 11/121. The development standard has been varied for other sites in the immediate locality for similar types of developments.

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

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 traffic impact, residential amenity, overshadowing or visual impact. To strictly apply the development standard, in the absence of any tangible impact, would be unreasonable and without basis.

The proposed development provides a high quality serviced apartment building and long stay car park to meet the recognised demands in the locality and facilitates the orderly and economic development of the land in a manner that is appropriate in the Precinct.

8. Consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s5(a)(i) and (ii) of the Environmental Planning & Assessment Act 1979; and

Clause 4.6 is now the applicable instrument, however the objectives of both are similar in that flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances, is desirable.

The objects specified in section 5 (a) (i) and (ii) of the Act are:

a) *to encourage:*

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

(ii) the promotion and co-ordination of the orderly and economic use and development of land.

It is considered that in this instance, non-compliance with the planning controls is acceptable as the proposal achieves the objectives of the development standard and in this instance allows for the co-ordination of the orderly and economic use and development of land. Further, the development does not create any adverse impacts on the public domain, local road network or adjoining properties.

9. Sufficient Environmental Planning Grounds (Cl 4.6(3)(b))

There are sufficient planning grounds to justify contravening the development standard. The additional floor space proposed will not be out of character of scale with the locality. The development will enjoy high standards of amenity, comprising well designed serviced apartments and high quality open landscaped spaces around the building.

The scale of the development responds to the generous proportions of the site, and its location adjacent to an arterial road.

Any alternative scheme to require strict compliance with the FSR control would not provide the same extent of planning benefit as it would require the deletion of the entire serviced apartment building or at least four level from the long stay car park building.

There are no substantive adverse impacts arising from the additional floor space proposed. There would be no increased amenity to adjoining properties if compliance was required.

The change in use from the hotel to serviced apartment use will result in reduced traffic generation and a reduction in employment numbers (without eliminating employment generation). The serviced apartment building relies on larger unit sizes and as such, there are fewer apartments than approved 321 hotel rooms. The long stay car park will operate in accordance with the Car Park Management Plan, which utilises the service of a shuttle bus to and from the site to the airport, which is available for guest of the serviced apartment building. The proposed development with its similar GFA and FSR will be a marginally less intense use for the site, than the approved hotel use.

10. Other Matters For Consideration (Cl 4.6(1), (4) & (5))

The following matters pursuant to Clause 4.6 also need to be considered:

- Objectives of Clause 4.6;

- Public interest and public benefit of maintaining the development standard Cl 4.6(4)(a)(ii) and (5)(b) of BBLEP 2013); and
- Any matters of state or regional importance (Cl 4.6(5)(a) of BBLEP 2013)

Objectives of Clause 4.6

The objectives of Clause 4.6 (pursuant to Cl 4.6(1) of BBLEP 2013) are:

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.*

It is considered that the proposed development will achieve a better outcome for the site and that the proposal will not adversely impact on the visual amenity, public domain or the adjoining road network.

The strict application of the development standard in this instance is unreasonable as it will not provide any additional planning benefit. A complying development would result in a scale of development that would not present the most orderly and economic use of the land. The proposed additional floor space assists in meeting a demonstrated demand for both tourist and visitor accommodation and long stay car parking at this particular locality, which is consistent with the objectives of the B5 zone.

The extent of additional floor area attributed to the car park building will not be noticeable from the public domain and the serviced apartment building height remains compliant with the 44m prescribed height under Clause 4.3 of BBLEP 2013.

Public Interest and Public Benefit

There are no material public benefits proposed by the applicant, however a through site link, which can be created as an easement does form part of the proposed development along the sites western boundary. It will provide direct pedestrian access from King Street to Ewan Street, providing both the local workforce population and other hotel guests in the area, direct access through the site to Ewan Street and Robey Street.

The proposed development will not result in any adverse effects in the locality and will generate employment in the locality. The resulting change in use from a hotel to serviced apartment use result in a less intense use on site which is in the public interest.

Matters of State or Regional Importance

The proposed variation to the FSR standard does not raise any matters of significance for state or regional planning. The variation is also not contrary to any state policy or ministerial directive.

Summary

The Clause 4.6 Exception to the FSR control has been assessed in accordance with relevant case law, being the principles of *Wehbe v Pittwater Council [2007] NSW* LEC *827. T*he proposal is consistent with the underlying objectives of the standard identified.

The proposed development is for a serviced apartment and long stay car park development to meets the demand for such uses in the locality, however the proposal exceeds the FSR control under Cl 4.4 of BBLEP 2013. Notwithstanding, there are no substantive adverse impacts that will result from the proposal or its additional floor space sought. The resultant development therefore, represents the orderly and economic development of land in a manner that is appropriate for the site and the locality.

It has been established that the proposed development is appropriate for the site and locality and that strict adherence to the development standard in this instance is unreasonable and unnecessary. Maintaining and enforcing the development standard in this case will prevent the orderly and economic development of this site and will not result in any additional benefits.

It is considered that the applicant's Clause 4.6 is well-founded and the departure in FSR is in the public interest. On this basis of, it is recommended that the development standard relating to the maximum FSR for the site pursuant to Clause 4.4 of the BBLEP 2013 should be varied in the circumstances as discussed above to permit the proposed development to an FSR of 4.35:1.

Botany Bay Development Control Plan (BBDCP) 2013

Part	Control	Proposed	Complies
3A.2 Parking Provisions	C2 – Car parking provisions shall be provided in accordance with Table 1.	A total of 106 spaces are required and a total of 132 car parking spaces are allocated (within the basement) to the serviced apartment complex, being 1 space per 1.5 rooms.	Yes
3A.3.1 - Car Park Design	C1 – All off-street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6. The	The Traffic Impact Assessment report prepared by John Coady Consulting Pty Ltd confirms that the internal configuration of the car park and loading area has been designed in accordance with AS2890.1 and AS2890.2.	Yes

Part	Control	Proposed	Complies
	design of off-street commercial vehicle facilities shall be in accordance with AS2890.2.		
3A.3.4 – On Site Loading & Unloading	C2 – The number of service bays shall be provide in accordance with Table 2 – ie. 2 courier van bays, 1 SRV bay and 1 MRV bay.	Two loading bays are proposed within the King Street setback. The western most bay accommodated a 10.5m HRV and the eastern most loading bay accommodates an 8.8m MRV. The ground floor parking level has been designed to accommodate three (3) service/mini-bus spaces.	Yes
3C.1 – Access and Mobility	C2 – All development must comply with the provisions of the Disability Discrimination Act 1992, BCA, the Premises Standards and the relevant Australian Standards	The proposal is accompanied by a Statement of Compliance Access for People with a Disability prepared by Accessible Building Solutions which demonstrates that the proposal can achieve compliance with the access provisions of the BCA.	Yes
3G.2 – Stormwater Management	C1 – Development shall not be carried out on or for any lands unless satisfactory arrangements have been made with and approved by Council to carry out stormwater drainage works.	The Engineering report concludes that the existing stormwater infrastructure in the vicinity of the site is adequate to accommodate the proposed new hotel development.	Yes
3G.3 – Water	C3 – All	The application is accompanied	Yes

Part	Control	Proposed	Complies
Sensitive Urban Design	developments shall adopt an integrated approach on water management through a coordinated process to address water efficiency, water conservation, stormwater management, drainage and flooding.	by an Energy Efficiency report prepared by Vanovactuon Architects and provides several initiatives for water sensitive design, including a rainwater tank and infiltration trenches that can be implemented throughout the development.	
3G.4 – Stormwater Quality	C1 – Water quality objectives stated in "*Botany Bay & Catchment Water Quality Improvement Plan (BBWQIP)"* shall be satisfied.	The Stormwater plans prepared by Glenn Haig & Partners 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 serviced apartment complex will be clearly recognisable from King Street and both car park entrances are easily identifiable.	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 serviced apartments fronts King Street and will provide direct access for pedestrians and vehicles from King Street and maximises surveillance to the porte cochere area. Further it is noted that there will be a staff member located in the ground level of the building at all times.	Yes

Part	Control	Proposed	Complies
	C10 – Entrances and exits of buildings shall be well lit, secure and highly visible to and from public spaces, streets and adjoining buildings.	Adequate lighting will be provided to the building entrance along King Street and the pick-up and drop-off area. Lighting will be provided to the car parking areas.	Yes
3J.2 – Aircraft Noise and Exposure Forecast	C2 – Where a building site is classified as "conditional" under Table 2.1 of AS20121-2000, development may take place, subject to Council consent and compliance with AS2021-2000	The subject site is affected by the 25-30 ANEF contour. An Acoustic Report has been prepared by Acoustic Consulting Engineers Pty Ltd 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 47.72m AHD, subject to conditions to be imposed on any consent.	
3L -	C3 – landscaping	The proposed development is	Yes

Part	Control	Proposed	Complies
Landscaping	shall be designed to reduce the bulk, scale and size of buildings, to shade and soften hard paved areas, to create a comfortably scaled environment for pedestrians in the public domain, or from within the site, and to screen utility and vehicle circulation or parking areas. Emphasis should be placed on landscaped setbacks designed to soften buildings.	accompanied by Landscape Plans prepared by John Lock & Associates. The proposed building envelopes provide generous setbacks to all site boundaries and 28% of the site will be in the form of deep soil planting although the DCP has no requirements for serviced apartments to provide deep soil planting. Landscaping includes extensive landscape garden beds to all front, side and rear setbacks soften the built form and enhance the streetscape when viewed from both street frontages. The deep soil landscaping will allow for natural drainage and minimises overland flow onto adjoining properties.	
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	A Waste Management Plan prepared by Vanovactuon Architects has been submitted and addresses the waste minimisation at design stage and during demolition, excavation and construction and future on-site waste management.	Yes

Part	Control	Proposed	Complies
	floor area.		
6 – Mascot Business Development Precinct	C1 – Development is to encourage a higher public transport (including walking and cycling) use and include strategies to encourage and promote car sharing and carpooling strategies. In this respect a Workplace Travel Plan is to be lodged with the development application. The Workplace Travel Plan shall establish measurable targets to achieve the mode share targets stated in the Mascot Town Centre Precinct TMAP – maximum car mode share: 65% by 2021 and 57% by 2031.	The proposed serviced apartment complex is located in close proximity to Sydney's Domestic and International Terminals. The sites proximity to Mascot Train Station (930m north) encourages active transport modes such as walking and cycling. The site's location is near O'Riordan Street where a high volume of taxi transportation is available. It is noted that the Domestic Terminal Station is approximately 875m from the site.	Yes
	C2 – Development, including alterations and additions shall: (i) improve the appearance of buildings, particularly along	The proposed hotel is of a high quality design, utilising modern materials. The prominence of the building when viewed from O'Riordan Street reinforces the gateway function of the immediate area to the Airport. The buildings modern design and fresh appearance will enhance the	Yes

Part	Control	Proposed	Complies
	the roads which serve a gateway function to Sydney Airport and the Sydney CBD; and (ii) Comply with Sydney Airport's regulation in regard to safety, lighting and height of buildings.	commercial viability of the precinct. The landscaping to the front of the building will soften the built form and 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 47.72m AHD, subject to conditions to be imposed on any consent.	
	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 refer to Part 3J – Development Affecting Operations at Sydney Airport.	An Acoustic Report prepared by Acoustic Consulting Engineers Pty Ltd was submitted with the application and made recommendations to ensure that the development when built complies with AS2021-2000.	Yes
	C8 – The introduction of noise abatement measures to achieve compliance with	The proposed development incorporates noise abatement measures to achieve compliance with AS 2021-2000 and so as not to compromise the architectural design of a	Yes

Part	Control	Proposed	Complies
	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.	building or impact on the character of an existing streetscape.	
	C9 – All development that is in, or immediately adjacent to, the rail corridor or a busy road must be designed in accordance with NSW Department of Planning 'Development Near Rail Corridors and Busy Roads – Interim Guidelines, December 2008'.	The proposed development has been designed in accordance with NSW Department of Planning 'Development Near Rail Corridors and Busy Roads – Interim Guidelines, December 2008'.	Yes
6.3.1 Amalgamation and subdivision	Development to comply Part 3E to ensure consistency with the Desired Future Character	The existing allotments can be amalgamated into one allotment. The applicant has demonstrated that sites to the east can be developed independently of the proposed development. In addition, the eastern landscape area and southern setback to Ewan Street will be un-built upon, being available, subject o negotiation for amalgamation with any future redevelopment of the sites to the east.	Yes

Part	Control	Proposed	Complies
6.3.5 Setbacks	Side Setback - 2m Front – 3m landscape 9m to Building Rear nil to 3m	Eastern varied 750mm to green wall; 11m otherwise; Western varied 7.5m – 8.5m. 10-12m front landscape setback. Building setback 12m – 26m Rear setback is 13.6m to fire stair.	Yes
7L.2 General Requirements – Serviced Apartments	C1-C4: The maximum period of occupation of a serviced apartment is 3 months.	A condition can be imposed to require submission of a POM prior to the issue of the Occupation Certificate which shall comply with the requirements of Part 7L.	Condition to comply.
	C5 – The minimum size for a visitor's room is $5.5m^2$ per person for habitation greater than 28 consecutive days.	The serviced apartments are ample in size to accommodate visitors. Each sleeping room is in excess of $9m^2$.	Yes
	C6 – The minimum size for a visitor's room is $3.25m^2$ per person for habitation less than 28 consecutive days.	Each sleeping room is in excess of $9m^2$.	Yes
BBDCP 2013 (Version 1 control)	C7 – The amenity of the serviced apartments must be designed to address the Design Quality Principles of SEPP 65.	The Applicant has adequately addressed each of the 10 Design Quality Principles. A discussion is provided in Note 1 below.	**Yes – Refer to Note 1.**

Part	Control	Proposed	Complies
	C9 – Development are to minimise visual and acoustic impacts to residential properties nearby.	There are no nearby residential dwellings that will be affected. An Acoustic Report by Acoustic Consulting Engineers Pty Ltd has been prepared for the site. There are no residentially zoned properties in the area and it is therefore considered that the proposed hotel will not have any adverse noise impacts on adjacent properties or the surrounding area.	Yes
	C10 – The main access point is to be located at the main street frontage of the property. Access should be avoided at the boundaries of the property where and impact on noise or privacy could result for adjoining residences.	The main access point has been provided off King Street. There are no residential properties immediately abutting the subject site.	Yes
	C11 – A washtub, washing machine and clothes drying facilities are to be provided within each serviced apartment.	Each apartment contains these facilities.	Yes
	C12 – Communal washing facilities, bathrooms and kitchen areas shall not be provided within a serviced apartment	None provided.	Yes

Part	Control	Proposed	Complies
	building.		
	C13 – A refrigerator to maintain food below 5 degrees Celsius must be provided within individual apartments, they must not be located in sleeping rooms.	Each kitchenette contains adequate space for a refrigerator.	Yes
	C14 – If cooking facilities and food preparation areas are provided within individual apartments they must not be located in sleeping rooms.	All food preparation areas are contained in the kitchenettes and separated from sleeping rooms.	Yes
	C15 – Tiered sleeping facilities (eg. bunk beds) are not permitted within serviced apartments.	Condition to comply	Yes
	C16 – A garbage room including recycling facilities is to be provided within the building or basement.	There are three (3) garbage rooms located at ground level with direct access to the car park and western loading dock.	Yes
	C17 – Storage facilities are to be provided within each serviced apartment to cater for clothing and travel luggage.	Each apartment contains adequate storage within the sleeping rooms.	Yes
	C18 – Toilet and shower facilities	Condition to comply.	Condition to

Part	Control	Proposed	Complies
	within each serviced apartment shall comply with the provisions of the BCA.		Comply.
	C19 – A Plan of Management is required to be submitted with the application.	The Applicant has advised that a POM is currently in draft form and has therefore not been submitted, as an operator has not been selected. This is acceptable and it is appropriate to condition the submission of the POM with compliance with the requirements of BBDCP 2013.	Condition to submit POM prior to CC.
	C20 – An Emergency Management Plan is to be prepared.	Not provided at this stage. Condition for submission prior to the issue of the CC.	Condition to comply.
	C21 – Evacuation procedures for the building must be displayed within each serviced apartment, lobby and public circulation space.	Condition to comply.	Condition to comply.
	C22 - The building is to comply with Parts C, D, and E of the BCA.	Condition to comply.	Condition to comply.
	C23 – Each serviced apartment is to comply with Parts C, D E and F5 of the BCA to ensure there is adequate fire safety and adequate sound	Condition to comply.	Condition to comply.

Part	Control	Proposed	Complies
	insulation between each room.		

Table 3 – BBDCP 2013 Compliance Table

Note 1 – SEPP 65 – Design Quality Principles.
The Applicant has addressed Control C7 of the original BBDCP 2013, which requires compliance with SEPP 65 Design Quality Principles. The Applicant provides the following in respect to each principle:

Context – The subject site is within a locality consisting of tourist accommodation due to its close proximity to the airport. The proposal is in keeping with the desired future character described in BBLEP 2013 and BBDCP 2013. The proposal is of high architectural quality and will contribute to the transition from the current local building character to the desired future character planned for the locality.

Scale – The proposed serviced apartment is comparable in height and bulk with other existing buildings in the area. It is also in keeping with the scale identified for the desired future character of the area. Scale of the building is addressed through careful consideration of massing, articulation and detailing of the architectural elements.

Built Form – The form of the proposed serviced apartment building is generated through function. The overall built form consists of two tower building blocks on the eastern and western ends of the site, connected by curved ribbons. The building is oriented to face King Street and the form works well with solar access and natural ventilation. The building is further broken down through vertical cuts (breezeways and voids), where recesses in the building break up the bulk, creating shadows and details that are required to articulate a building of this size. All units are oriented to enjoy district views and provide passive surveillance to the street.

Density – The proposed density of the development is suitable for the locality given the amenities of the proposed serviced apartments greatly exceeds Council minimum controls. The building is consistent with the desired future character of the locality and it will assist in the transition from the current local character to the desired future density with high quality amenities.

Resources, Energy and Water Efficiency – The development is designed to embrace ESD principles. The massing, internal layouts and orientation have been organised so as to provide good natural day lighting and solar access into the primary living spaces and external living areas. Energy Efficient appliances and water efficient devices will be specified to minimise water consumption of resources. The development will include tanks for the retention of stormwater to be re-used for irrigation.

Landscape – Landscape at the front of the site is incorporated with the pedestrian and vehicular accessways to enhance the connection between the street and the development. The trees in this area also provide a pleasant setting for the serviced

apartment building when viewed from the public domain. The landscaping is low maintenance and uses native plant species. Each apartment has a functional balcony that are located to maximise light and views.

Amenity – The organisation of built form and open space is laid out in response to the existing and proposed urban morphology and the intrinsic opportunities and constraints of the site. All apartments are oriented to receive ample natural solar access and ventilation. The rooms to the apartments are well sized and of very functional proportions. Privacy is maintained between apartments through orientation and internal layouts. Accessible/adaptable apartments are provided throughout the building in accordance with Council's DCP.

Safety and Security – Safe access is achieved by a clearly legible pedestrian access point on King Street. Apartments on the north are oriented towards King Street, providing passive surveillance over the public space as well as the resident pedestrian entry area. Internal privacy is maintained through details such as obscure balustrade designs. Clear and safe access point for pedestrians is provided. Video intercom security access control is provided at the lobby entry. Appropriate lighting to all external areas proposed.

Social Dimensions – The scheme provides a range of unit typologies and sizes that shall appeal to different price points. The recently completed residential developments in the vicinity are proven to attract residents from a wide range of backgrounds n adage groups. The proposed serviced apartment is capable of accommodating both the local and international residents/guests.

Aesthetics – The aesthetics of the building reflects the planning and the use of the building. The selection of building elements and details on the building façade were driven by the principles of ESD eg. shading devices and design of balconies), structural and minimisation of building maintenance. Texture, materials and colours were selected in keeping with the desired future character of the locality.

Conclusion

The proposed serviced apartment building is in context with its existing and future surrounding area, which is in transition. The scale, massing and bulk of the building is consistent with that anticipated by Council's controls. The building appearance is confident, modern and refreshing, providing a welcome atmosphere for visitors to Mascot. The Applicant has adequately addressed the ten design quality principles in the design of the serviced apartment building.

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

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

(c) The suitability of the site for the development

These matters have been considered in the assessment of the development application. The subject site is vacant, has been remediated with Site Audit Statement submitted to Council indicating the site is suitable for commercial use. Further, a supplementary letter has been submitted by the Applicants consultant indicating that the site remediation meets the criteria for residential with minimal soil access, which is required to be met for hotel/serviced apartment uses.

In addition the subject site is affected by the 25-30 ANEF contour. In this regard, the applicant has submitted an acoustic report which demonstrates that the development can meet the acoustic requirements of both affectations.

Accordingly, the site is suitable for the proposed development. The proposed development being for the redevelopment of the site for serviced apartments and multi storey car parking to incorporating 132 serviced apartments and 20 dual key serviced apartments, ancillary meeting rooms and café, 1622 parking spaces including 132 spaces for the serviced apartments and 1490 for a commercial car park at 342 King 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.

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

These matters have been considered in the assessment of the development application. In accordance with the Botany Bay Development Control Plan 2013 Part 2 – Notification and advertising, the development application was notified to surrounding property owners for thirty (30) days from 28 May 2014 to 27 June 2014. No submissions were received.

(e) The public interest.

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

Other Matters

External Referrals

Sydney Airports Corporation Limited (SACL)

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

Correspondence received from Sydney Airports Corporation Limited (SACL) dated 18 December 2014, grants approval to a maximum height of the building to 47.72m AHD. A condition is proposed on the consent, specifying this height restriction.

Ausgrid

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

NSW Police Service
Correspondence was received from NSW Police dated 30 June 2014, and raises no objection to the proposed development, subject to conditions.

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

Design Review Panel (DRP)

The current design forming part of this development application is near identical to that design approved by the JRPP in 2012 under Development Application No. 11/121. Therefore, the current application has not been referred to the Design Review Panel. The Applicant has addressed the ten design principles of SEPP 65 and there are no adverse impacts as a result of the proposed built form.

The current proposal is an improvement from the previous design and provides a softer built form with a much lighter façade than the former design. The following images depict the approved hotel development that can be compared to the proposal. The approved built form has a much heavier top and has a greater visual impact that the current design concept.

Figure 5 – The approved King Street perspective

Figure 6 – The approved Aerial Perspective

Section 94 Contributions

The development application seeks approval for the construction of a serviced apartment complex and public car park. The Section 94 Contributions based on Council's *Section 94 Contributions Plan 2005-2010,* indexed to current rates, are provided below:

- Community Facilities $6,980.00
- Administration $1,060.00
- Shopping Centre Improvements $4,520.00
- Open Space & Recreation $49,200.00
- Transport Management $97,745.70

Therefore a total Section 94 Contribution of **$159,505.70** is required to be paid to Council prior to the issue of the Construction Certificate as conditioned under this consent.

Public Benefit

As stated in the report, it is proposed to create a pedestrian through site link from King Street to Ewan Street, which is incorporated into an appropriately landscape setback. It is recommended however, that this space be created as a public access easement. It will benefit the immediate workforce population and guest of the site and other hotel development on King Street in gaining a more direct pedestrian route to Robey Street and the domestic terminal, which is approximately 630m from the site.

Conclusion

The Joint Regional Planning Panel, Sydney East Region (JRPP) is the consent authority for the development application. The proposed development responds to market demand for both

long stay car parking and serviced apartments to meet the needs of tourists and visitors to the area. The view is expressed that the application, given the findings of the assessment process, should be supported.

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* and the *Botany Bay Local Environmental Plan 2013*. The proposal is permissible in the B5 – Business Development zone, and is considered to result in a development which is suitable in the context. It is therefore recommended that the Panel grant approval to the application subject to the conditions in the attached schedule.

RECOMMENDATION

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

(a) It is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of Botany Bay LEP 2013 and that the proposed development is in the public interest because it is consistent with the objectives of the Floor Space Ratio standard and the objectives for development in the B5 – Business Development zone;

(b) Subject to the Conditions imposed in the attached schedule, approve Development Application No. 14/047 for the redevelopment of the site at 342 King Street, Mascot for serviced apartments and multi storey car park to incorporate the following:

- 132 serviced apartments comprising 64 x 1 bedroom, 44 x 2 bedroom, 4 x 3 bedroom and 20 dual key apartments;
- ancillary facilities including a restaurant and bar;
- multi storey car park containing 1622 parking spaces including 132 spaces for the serviced apartments and 1490 for a commercial car park.

Premises: 342 King Street, Mascot **DA No: 14/047**

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

Drawing N^{o}	**Author**	**Dated Received**
Survey Plan, Reference 05/0505, dated 3 April 2007.	Watson Buchan Pty Ltd.	12 March 2014
Cover Sheet, Job No. 0243, Drawing No.	Vanovac Tuon	12 March 2014

Drawing N^{o}	Author	Dated Received
A-100 (Rev 01), dated 14.02.14	Architects	
Construction Management Plan, Water & Soil Management Plan & Site Analysis, Job No. 0243, Drawing No. A-110 (Rev. 04), dated 14.02.14	Vanovac Tuon Architects	12 March 2014
GFA Calculation Diagrams, Job No. 0243, Drawing No. A-120 (Rev 3), dated 09.03.15		9 March 2015
Site Plan, Job No. 0243, Drawing No. A-150 (Rev 01), dated 14.02.14	Vanovac Tuon Architects	12 March 2014
Basement Plan, Job No. 0243, Drawing No. A-200 (Rev. 01), dated 14.02.14	Vanovac Tuon Architects	12 March 2014
Ground Floor Plan, Job No. 0243, Drawing No. A-201 (Rev. 01), dated 14.02.14.	Vanovac Tuon Architects	12 March 2014
Level 1 Plan, Job No. 0243, Drawing No. A-202 (Rev.01), dated 14.02.14.	Vanovac Tuon Architects	12 March 2014
Typical Floor Plans Level 2-8, Job No. 0243, Drawing No. A-203 (Rev.01), dated 14.02.14.	Vanovac Tuon Architects	12 March 2014
Level 9 and 10, Job No. 0243, Drawing No. A-204 (Rev.01), dated 14.02.14.	Vanovac Tuon Architects	12 March 2014
Level 11, Level 12 and Roof Plan, Job No. 0243, Drawing No. A-205 (Rev.01), dated 14.02.14.	Vanovac Tuon Architects	12 March 2014
Roof Plan, Job No. 0243, Plan No. B-206 (Rev.02), dated 22.11.12.	Vanovac Tuon Architects	12 March 2014
Elevations, Job No. 0243, Drawing No. A-300 (Rev.01), dated 14.02.14.	Vanovac Tuon Architects	12 March 2014
Elevations and Sections, Job No. 0243, Drawing No. A-301 (Rev.01), dated 14.02.14.	Vanovac Tuon Architects	12 March 2014
Shadow Diagrams, Job No. 0243, Drawing No. A-302 (Rev.01), dated 14.02.14.	Vanovac Tuon Architects	12 March 2014
Distant Views, Job No. 0243, Drawing	Vanovac Tuon	12 March 2014

Drawing N^{o}	Author	Dated Received
No. A-410 (Rev. 01), dated 14.02.14.	Architects	
Street Views, Job No. 0243, Drawing No. A-411 (Rev. 01), dated 14.02.14.	Vanovac Tuon Architects	12 March 2014
Development Images, Job No. 0243, Drawing No. A-412 (Rev. 01), dated 14.02.14.	Vanovac Tuon Architects	12 March 2014
Landscape Plan, Drawing No. 1804-02 LP-01, Rev. 01, dated 17.02.14.	John Lock & Associates Landscape Architects	12 March 2014
Landscape Elevations and Sections, Drawing No. 1804-02 LP-02, Rev. 01, dated 17.02.14.	John Lock & Associates Landscape Architects	12 March 2014
Landscape Details, Drawing No. 1804-02 LP-03, Rev. 01, dated 17.02.14.	John Lock & Associates Landscape Architects	12 March 2014

The following documents are referenced:

Documents	Author	Date Received
Schedule of Materials & Finishes, with Job No. 0307, Drawing No. EF-00 (Rev 01).	Vanovac Tuon Architects	12 March 2014
Statement of Environmental Effects (Revision 01, dated 13 February 2013)	Vanovac Tuon Architects	12 March 2014
Clause 4.6 Variation to FSR, Rev. 02, dated 25 March 2015.	Vanovac Tuon Architects	26 March 2015
Waste Management Plan, Rev. 01, dated 17 February 2014.	Vanavoc Tuon Architects	12 March 2014
Noise Assessment Report, dated 6 February 2014, Reference 110213-03L-DD.	Acoustic Consulting Engineers	12 March 2014
Traffic and Parking Assessment Report, dated 6 March 2014, Ref. 14010).	John Coady Consulting Pty Ltd	12 March 2014
Operational Management Plan (dated 28 November 2012).	John Coady Consulting Pty Ltd	28 November 2012

Documents	Author	Date Received
Site Audit Report titled "Eastern Part of the Former Mascot Galvanising Site" (dated 19 July 2007)	HLA-Envirosciences Pty Ltd	18 November 2011
Site Audit Report titled "Western Half of Former Mascot Galvanising Site", dated 28 July 2008.	ENSR / AECOM	18 November 2011
Targeted Groundwater & Soil Contamination Assessment (dated 19th November 2012)	Pacific Environmental Services Pty Ltd	21 November 2012
Acid Sulfate Soils Investigation Report, dated 20 November 2012.	Pacific Environmental Services Pty Ltd	23 November 2012
Letter regarding contamination status and criteria levels, Ref. 60334597, dated 17 November 2014.	AECOM Australia Pty Ltd	24 November 2014
Wind Assessment Report, Project No. 7968, dated 12.08.14.	Cermak Peterka Petersen	
Access Report, Ref. 0307, dated 17 February 2013.	Vanovac Tuon Architects	12 March 2014
Energy Efficiency Report, Rev. 01, dated 13 February 2014.	Vanovac Tuon Architects	12 March 2014

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

2. This Consent relates to land in Lot 1 in DP 1190883, and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public domain works required by this consent.

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

4. 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.

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

SAS WRR168/1

a) Preparation of a revised Environmental Management Plan following completion of the redevelopment works on the eastern part of the former Mascot Galvanising site and its review by a site auditor accredited under the Contaminated Land Management Act.

b) Continuing operation of the groundwater remediation system on the western half of the former Mascot Galvanising site until approval is obtained from NSW EPA that remediation of groundwater is completed in satisfaction of the Remediation Order.

c) Protection and on-going monitoring of all groundwater wells until the remediation works are completed on both the eastern and western parts of the former Mascot Galvanising site.

SAS WRR168/2.

d) Continuing operation of the groundwater treatment system on the Site until groundwater remediation goals have been achieved to the satisfaction of NSW EPA;

e) Protection of groundwater wells MW510S, MW510D, MW800S, MW800D, MW801S and MW810D, RW2-5, MW507S, MW507D, MW508S, MW508D, MW509S, MW509D and MW23 and ongoing monitoring in accordance with the current monitoring and analytical regime, until groundwater remediation goals have been achieved to the satisfaction of the EPA;

f) Capping of the entire site with a permanent seal, such as concrete slabs, pavements or landscaping to minimise exposure to residual contaminants in the soil and groundwater;

g) Provision of access along the western boundary of the Site sufficient to allow installation of groundwater recovery wells in the event that NSW EPA or some other government authority requires prevention of migration of contaminated groundwater from the site. The access should not be within a building but may be used for the purposes of a driveway, for parking of vehicles, for temporary storage of materials or for landscaping;

h) Design of buildings and services to address groundwater beneath the Site being slightly to moderately acidic, which may be aggressive to sub-surface building structures and services;

i) Identification and remediation of any significant contamination beneath the DAF water treatment system following relocation or removal of the system; and

j) Preparation and implementation of a long-term Environmental Management Plan if contaminated soil or groundwater remains on the Site after completion of development works. The long-term Environmental Management Plan is required to be prepared to detail the conditions under which residual soil and/or groundwater containing contaminants should be managed if excavation or other works are undertaken.

6. The consent given does not imply that works can commence until such time that:

a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:

   i) the consent authority; or

   ii) an accredited certifier; and

b) the person having the benefit of the development consent:

   i) has appointed a principal certifying authority; and

   ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and

   iii) the person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

7. Sydney Airport - The proposed development is to comply with the Approval Letter dated 18 December 2014 issued by Sydney Airport Corporation Limited (SACL). The conditions are outlined as follows:

   Height Restrictions

   a) The development is approved to a maximum height of 48.06 metres above Australian Height Datum. The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.

   b) Should you wish to exceed 47.72 metres above Australian Height Datum (AHD), a new application must be submitted.

   c) Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

   d) **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.

   e) Approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct. Information required by SACL prior to any approval is to include:

      i) the location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);

      ii) the swing circle of any temporary structure/equipment used during construction;

iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment i.e. construction cranes, intended to be used in the erection of the proposed structure/activity;

iv) the period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.

f) 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.

Bird and Obstacle Hazard Management

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

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

Any landscaping design must minimise the attractiveness for foraging birds, i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted.

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

8. Sydney Water - The proposed development is to comply with the conditions provided by Sydney Water. The conditions are outlined as follows:

a) The 100mm drinking water main fronting the proposed development on King Street does not comply with the Water Supply Code of Australia (Sydney Water Edition – WSA 03-2002) requirement for minimum sized mains for the scope of development. The drinking water main in O'Riordan Street needs to be upsized to a 200mm main from point 'A' to point 'B' on the plan attached to the Sydney Water Letter dated 15 October 2012.

b) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Sydney Water will further assess the impact of any subsequent development when the developer applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of future development and to assess if amplification and/or changes to the system are applicable. The developer must fund any adjustments needed to Sydney Water infrastructure as a result of the development.

c) The developer should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. The Water Servicing Coordinator will ensure submitted infrastructure designs are sized and configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002) and the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

9. An existing Ausgrid substation is located within the proposed development site. Any proposal to move the existing substation must ensure that a new substation is established prior to the removal of the existing substation. The new substation must meet the Ausgrid network standards.

10. NSW Police Safer by Design Assessment - The proposed development is to comply with the recommendations provided by NSW Police Botany Bay Local Area Command, dated 30 June 2014, outlined in the advisory notes at the end of the Schedule of conditions.

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

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

12. Prior to the issue of any Construction Certificate:

a) The applicant must pay the following fees:

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

b) The payment of **$159,505.70** in accordance with Council's Section 94 Contributions Plan 2005-2010, such contribution to be paid to Council prior to the issue of the Construction Certificate as follows:

i)	Community Facilities	$6,980.00
ii)	Administration	$1,060.00
iii)	Shopping Centre Improvements	$4,520.00
iv)	Open Space & Recreation	$49,200.00
v)	Transport Management	$97,745.70

13.

a) Prior to the issue of Construction Certificate, the applicant shall lodge with the Council a performance bond of $30,000 against defective public civil works undertaken by the main contractor for a period of twelve (12) months from the date of the completion agreed by RMS and Council. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee, which will be refundable (with no interest) subject to the approval of Council at the end of the maintenance period. In this period, the Applicant is liable for any part of the work, which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.

b) The applicant is to submit payment for a Tree Preservation Bond of $25,000.00 to ensure protection of existing trees adjoining he western and eastern boundaries from damage during construction. The duration of the Bond shall be limited to a period of 24 months after issue of the Occupation Certificate. At the completion of the 24 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified consulting Arborist AQF5. If a tree was found to be in decline, damaged (including roots), dead or pruned without Council permission then Council will forfeit all, or part thereof, of the bond. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method

14. Prior to the issue of any Construction Certificate for above ground works, the architectural and landscape plans for construction purposes shall be revised to address the following:

a) The Black Bamboo specified for the eastern boundary is to be substituted for a clumping variety such as Bambusa textilis gracilis to minimise future impact on adjoining properties.

15. Prior to the issue of any Construction Certificate for above ground works the following shall be complied with:

a) An Acoustic Report shall be prepared and submitted to the Principal Certifying Authority for approval. The report shall address noise emanating from the public car park and shall provide detailed measures to ensure that the noise from the car park will comply with Council's Standard noise requirements. The report shall consider ramp treatment(s) etc and all details shall be included into the plans submitted with the Construction Certificate;

b) A revised Environmental Management Plan shall be prepared prior to the issue of a Construction Certificate to manage any remaining groundwater remediation issues. A copy of this management plan shall be supplied to the Principal Certifying Authority and Council prior to the issue of a construction certificate;

c) A Construction Noise and Vibration Management Plan shall be prepared to ensure construction noise is controlled and minimised as recommended in the report prepared by Acoustic Consulting Engineers dated 6 February 2014. Such report shall be complied with at all times during works;

d) Details to be submitted to the Principal Certifying Authority showing that the visible light reflectivity from building materials used on the facade of the building shall not exceed 20%;

e) Council's property shall be supported at all times. Where any shoring is to be supporting (or located on) Council's property, certified engineering drawings showing all details including the extent of encroachment, the type of shoring and the method of removal, shall be submitted prior to the issue of the Construction Certificate. If the shoring cannot be removed, it shall be cut to 150mm below footpath level and the gap between the shoring and any buildings shall be filled with a 5Mpa lean concrete mix;

f) Submission of a Design Certificate from a suitably qualified practicing engineer shall be provided to the Principal Certifying Authority demonstrating that any required exhaust ventilation system required for the car park and the café kitchen will be ventilated at least 1 metre above the top of the car park structure, away from property boundaries and is in accordance with the BCA and any required Australian Standards;

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

17. Prior to issue of any Construction Certificate:

a) A dilapidation report on public infrastructure (including Council and public utility infrastructure) adjoining the development site shall be prepared by a suitably qualified person and submitted to Council. The report shall include records and photographs of the following area that will be impacted by the development:

i) King Street;

ii) Ewan Street;

iii) All properties immediately adjoining the site;

The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course the construction. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer's expense;

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

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

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

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

19. The measures required in the acoustical assessment report prepared by Acoustic Consulting Engineers dated 6 February 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.

    The work detailed in the report includes:

    a) Appropriate acoustic glazing to stated windows and doors, including all required acoustic seals – glazing must be of the thickness recommended in Table 6 of the report;

    b) A qualified acoustic consultant be engaged during the design phase (for mechanical plant and equipment), to ensure environmental noise impact from the hotel development satisfies the guidelines of the OEH Industrial Noise Policy; and

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

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

    The layout of the stormwater drainage system shall be generally in accordance with the following stormwater management plans, prepared by Glen Haig & Partners, Job No. 142427:

    a) Drawing No. H000, Issue A, dated 19 Feb 2014;

    b) Drawing No. H101, Issue A, dated 19 Feb 2014;

    c) Drawing No. H102, Issue A, dated 19 Feb 2014;

    d) Drawing No. H103, Issue A, dated 19 Feb 2014;

e) Drawing No. H104, Issue A, dated 19 Feb 2014;

f) Drawing No. H105, Issue A, dated 19 Feb 2014;

g) Drawing No. H106, Issue A, dated 19 Feb 2014.

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

i) *For on-site infiltration system*

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

1 the measured ground water level is within 2.5m of the existing surface levels; or

2 The base of the absorption pit will be within 1m of the measured groundwater table; or

3 The site is contaminated

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

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

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

iv) Based upon the ground water level lower than 2.5m from the existing surface level and assumed infiltration rate of the soil of 0.25 L/m^2/s, the size of the infiltration system shall be minimum **85**m (long) x **6**m (wide) with **four** (**4**) rows of StormTech RC-750 Chamber or equivalent.

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

vi) The infiltration system shall have a minimum clearance of one (1) metre from the front boundary and two (2) metres from all other boundaries basement and building footings;

vii) In order to provide access for cleaning to the infiltration units, two (2) grated pits (600mm x 600mm) shall be provided and located at the end of the on-site infiltration system and at every 10m interval;

viii) All pits shall be provided with a Lysaght Maximesh RH3030 litter screen and a 300mm silt sump at the pit(s) where the inlet pipes connected. The base of the infiltration system shall be 200 mm thickness of 14 mm crushed aggregate wrapped in a geotextile fabric;

ix) Any infiltration system constructed under the driveway area shall be structurally adequate against vehicle loadings. Structural certificate shall be provided accordingly;

x) A grated boundary pit (minimum 900mm x 900mm) shall be provided to the stormwater drainage system prior to discharging stormwater into the public stormwater drainage system;

xi) *For stormwater drainage system in the road reserve*

1 Detailed drainage design (including hydraulic grade line (HGL) analysis) from the boundary pit of the site to the existing Council's grated kerb inlet pit on King Street shall be submitted to Council. The new grated kerb inlet pit shall have minimum 2.4m long opening lintel. All stormwater drainage pipes within the road reserve area shall be minimum 375mm diameter Class 3 rubber ring jointed (RRJ) reinforced concrete pipe (RCP) / fibre reinforced concrete pipe (FRC), with minimum fall of 0.5%.

xii) *For pump-out drainage system in the basement*

1 The storage volume of the pump-out tank shall be designed with a minimum storage capacity equivalent to the runoff volume generated from of the area that draining into the tank for the 1 in 100 year ARI 2-hours duration storm event. Detailed calculation of the required storage and storage provided in the pump-out system shall be submitted to Council for assessment.

2 The pump-out drainage system shall comprise with two (2) submersible type pumps. The two pumps shall be designed to work on an alternative basis to ensure both pumps receive equal use and neither remains continuously idle.

3 Each pump shall have a minimum capacity of 10L/s or shall be based on the flow rate generated from the 1 in 100 year ARI 5-

minutes duration storm event of the area draining into the system, whichever is greater.

4 An alarm warning device (including signage and flashing strobe light) shall be provided for the pump-out system to advise the occupant of pump failure. The location of the signage and flashing strobe light shall be shown on the stormwater management plans.

xiii) *For Stormwater Quality Control*

1 All stormwater runoff generated from the site shall pass through Stormwater Quality Improvement Devices (SQID) prior to discharge into public stormwater drainage system. Stormwater pollution reduction targets stated in Botany Bay & Catchment Water Quality Improvement Plan shall be complied with.

2 All drawings and specifications shall be prepared in accordance with Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', Australian Rainfall and Runoff (AR&R), AS 3500.3 and BCA. All drawings shall correspond with the approved architectural plans. Design certification from the engineer shall be submitted to Principal Certifying Authority.

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

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

The engineering construction drawings shall include the following:

a) Design and reconstruct kerb and gutter along full King Street and Ewan Street frontage of the site. The works shall include removal of any redundant crossings.

b) Design and reconstruct 1.2m wide footpath along King Street frontage of the site. The location of the new footpath shall have 600mm setback from the property boundary.

c) Design and construct a new full-width footpath along the entire Ewan Street frontage of the site. The new footpath shall also extend west by additional 20m to connect the existing pedestrian access point of 350 King Street.

d) Design and provide landscaping/street trees to the footpath area on all frontages of the site to Council's Landscape Architect's satisfaction

e) Design and construct new vehicular crossings, including laybacks and minimum one (1) metre associated road restoration, at 90o to the kerb and gutter in plain concrete on King Street and Ewan Street. All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the

development and any associated construction works shall be carried out at the full cost to the Applicant. The minimum width of each vehicular crossing at the property boundary shall be in accordance with the following:

King Street

Vehicular Crossing Location	*Width Required*
Entrance of car parking area	six (6) metres
Exit of car parking area and loading/unloading area	eleven (11) metres
Entrance and exit of porte-cochere	four (4) - eight (8) metres

Ewan Street

Vehicular Crossing Location	*Width Required*
Entrance of car parking area	five (5) metres

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

g) Resurface six (6) metres wide road pavement on King Street (measuring from the lip of the gutter) with 50mm AC10 hotmix.

h) Replace the existing above ground electricity and telecommunication cables along King Street frontage of the site with underground cables to relevant authority's requirements.

i) Design and install appropriate street lighting on King Street frontage of the site in accordance with the relevant authorities' requirements. P2 lighting design category shall be provided.

j) Design and install any new signage and line marking to RMS requirements on all frontages of the site and also include the following:

   i) Signage and line marking to transform the existing kerbside lane (left turn only into O'Rirodan Street) in King Street (west) on the approach to O'Riordan Street to a left-turn/thru traffic lane;

   ii) Signage and line marking to transform the existing thru/right-turn lane in King Street (west) on the approach to O'Riordan Street to a dedicated right-turn lane only;

iii) Install "No Parking" sign on the northern side of King Street (west) on the approach to the O'Riordan Street intersection for a distance of approximately 100m from the intersection;

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

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

a) be prepared by a RMS accredited qualified person;

b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police;

c) indicate the construction vehicle access points of the site be restricted to King Street only;

d) indicate the frequency of truck movements;

e) ensure pedestrian and vehicular access fronting King Street and Ewan Street to be maintained at all times. No closure of any road reserve will be permitted without Council's approval;

f) ensure any vehicles accessing the site or carrying out construction activities associated with the development be restricted to 12.5 metres (defined as Heavy Rigid Vehicle in AS2890.2);

g) ensure any vehicles associated with the demolition and construction activities to enter and leave the site via King Street; and

h) ensure no vehicles associated with the demolition and construction activities of the site be permitted to travel on Ewan Street, Sarah Street, Duguid Street and the section of King Street, east of O'Riordan Street.

23. Prior to the issue of any Construction Certificate, a detailed Construction Management Plan (CMP) shall be submitted to Principal Certifying Authority and Council for approval of the site works. The CMP shall address the following:

a) All vehicles (including worker's vehicles) associated with site construction activities shall enter and leave the site in a forward direction ONLY;

b) All vehicles (including worker's vehicles) associated with site construction activities shall only be allowed to park within the site. No parking of these vehicles shall be allowed on King Street, Sarah Street or Duguid Street;

c) Construction building materials shall be stored wholly within the site;

d) Vehicle and pedestrian access on King Street shall be kept clear at all times;

e) Under no circumstances (except in an emergency) shall any trucks be permitted to queue and wait on public places, public streets or any road related area (eg. footpath, nature strip, road shoulder, road reserve etc) prior to entering the site;

f) Locations of site office, accommodation and the storage of major materials related to the project shall be within the site;

g) Protection of adjoining properties, pedestrians, vehicles and public assets shall be implemented at all times;

h) Location and extent of proposed builder's hoarding and Works Zones, if there is any, shall be shown on the plan. It should be noted that any Works Zones proposed requires approval from Council; and

i) Tree protection management measures for all protected and retained trees shall be implemented at all times.

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

24. A Tree Preservation Order applies to all existing trees on adjoining properties in close proximity to the proposed development and/or property boundaries. In order to ensure that all trees adjoining the western boundary of the site and those near the eastern boundary of the site are protected during construction, and their health and structural stability ensured, the following is required:

    a) Prior to commencing any work on the site overhanging canopy is required to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chain wire fence to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete;

    b) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.

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

    a) (It should be noted that no works or occupancy shall be carried out in road reserve until permits have been granted from Council's engineers. Any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

    b) Permit to erect hoarding on or over a public place, including Council's property/road reserve;

    c) Permit to construction works, place and/or storage building materials on footpaths, nature strips;

d) Permit for roads and footways occupancy (long term/ short term);

e) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve;

f) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services;

g) Permit to place skip/waste bin on footpath and/or nature strip;

h) Permit to use any part of Council's road reserve or other Council lands;

i) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area;

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

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

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

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

26. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

27. The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work on Council's road reserve and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than $20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED.

28. Prior to commencement of any works in the road reserve area, the applicant shall obtain **written approval from Roads and Maritime Services (RMS) and Council,** together with a copy of approved engineering plans, construction management plan and construction traffic plans, under Section 138 of Roads Act 1993 for the civil works to be carried out in public domain. Documentary evidence shall be submitted to the Principal Certifying Authority attesting to this condition has been appropriately satisfied.

29. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certifying Authority with the application for the Construction Certificate for any above ground building works. Storage of Waste and recycling shall meet the following requirements:

    a) Waste and recycling for commercial users shall be in a separate room from the storage of waste and recycling for residential users;

    b) The rooms for the storage of garbage and recyclable materials shall be fully enclosed;

    c) Adequately ventilated;

    d) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;

    e) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation, and

    f) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS

30. The proposed development shall comply with the following:

    a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

        i) Stating that unauthorised entry to the work site is prohibited;

        ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;

        iii) The Development Approval number; and

        iv) The name of the Principal Certifying Authority including an after hours contact telephone number.

    b) Any such sign is to be removed when the work has been completed.

31. Excavation associated with this development shall cease immediately should groundwater be encountered, with:

a) Groundwater then being tested by a laboratory accredited by the National Association of Testing Laboratories (NATA) to NSW Office of Water suite of analytes; and

b) No de-watering from the site will occur until (a) above has taken place.

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

32. During works:

a) The applicant shall conduct all demolition, excavation, construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council;

b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations, which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;

c) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer;

d) Shaker pads shall to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment;

e) During the construction works, the Council nature strip shall be maintained in a clean and tidy state at all times;

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

g) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.

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

34. During construction, the applicant is responsible for the installation and protection of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.

35. During excavation, construction and any associated delivery activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:

    a) Approved Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan);

    b) Approved Construction Traffic Management Plan;

    c) Approved Construction Management Plan; and

    d) Approved Waste Management Plan;

    All controls in the plans shall be maintained at all times and made available to council officers on request, and the principal contractor must install and maintain water pollution, erosion and sedimentation controls in accordance with the Protection of the Environment Operations Act 1997.

36. 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 constriction, encompassing not less than the following key stages:

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

    b) Prior to placement of concrete (kerb and gutter and footpath) and road pavement materials;

    c) Prior to backfilling of proposed stormwater drainage system in the road reserve; and

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

37. Site Contamination and Remediation matters:

    a) To prevent contaminated soil being used onsite, any imported fill shall be certified VENM material and shall be validated in accordance with the Department of Environment, Climate Change and Water (DECCW) approved guidelines to ensure that it is suitable for the proposed development. Imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use;

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

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

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

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

40. 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.

41.

a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards, and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;

b) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piering, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures;

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

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

ii) Where necessary, underpin the adjoining premises to prevent any such damage.

42. The following shall be complied with during construction and demolition:

a) Construction Noise

i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.

b) Level Restrictions

i) Construction period of 4 weeks and under:

1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).

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

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

c) Time Restrictions

i) Monday to Friday 07:00am to 06:00pm

ii) Saturday 07:00am to 04:00pm

iii) No Construction to take place on Sundays or Public Holidays.

d) Silencing

i) All possible steps should be taken to silence construction site equipment.

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

44.

a) Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

i) Erection of public infrastructure being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;

b) Each toilet provided:

i) Must be standard flushing toilet; and

ii) Must be connected:

1 To a public sewer; or

2 If connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or

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.

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

45. Prior to the issue of any Interim or Final Occupation Certificate for the car park:

a) A maximum of one thousand six hundred and twenty-two (1622) car parking off-street parking bays shall be provided to the development in accordance with the approved plans.

b) An amended landscape plan for the King Street setback shall be provided to, and approved by, Council if construction of the proposed serviced apartment building has not commenced. The amended landscape plan is to provide species that are suitable to subdue and screen the car park building when viewed from King Street.

c) A Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that the Floor Space Ratio (FSR) of the proposed car park is a maximum of 3.25:1 (when calculated in accordance with the provisions of Botany Bay LEP 2013) as approved under this Development Application, has been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.

46. Prior to the issue of any Interim or Final Occupation Certificate for the serviced apartment building:

a) A minimum of one hundred and thirty four (134) parking bays shall be allocated and available for use by the serviced apartment component of the development;

b) The applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in Condition 19 have been carried out and certify that the construction meets the above requirements and the indoor sound levels of AS2021-2000. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australia Acoustical Consultants).

c) A Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that the Floor Space Ratio (FSR) of the proposed hotel is a maximum of 1.09:1 (when calculated in accordance with the provisions of Botany Bay LEP 2013) as approved under this Development Application, has been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.

d) A report shall be submitted to Council confirming that the measures incorporated agreed in the Energy Efficiency Report listed in Condition 1 have been complied with. Amongst other matters, the report shall confirm that the development achieves a minimum 4.5 star NABERS rating (www.nabers.com.au).

47. Prior to the issue of any Occupation Certificate, documentation from suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying that the

loading area, taxi zone, bus zone, pick-up/drop-off zone, car parking areas (including queuing area, turning area and access ramps), driveways and vehicular access paths have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2, AS2890.3 and AS2890.6 requirements. The internal road network and parking area shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current version of Australian Standards. All car parking bays in the proposed car parking area shall have minimum dimension 2.6m x 5.4m (Category 4 Access Facility).

48. Prior to the issue of any Occupation Certificate, construction of the stormwater drainage system (including on-site infiltration/detention system and pump-out system) of the proposed development shall be completed generally in accordance with the approved stormwater management construction plan(s), Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', Australian Rainfall & Runoff (AR&R), AS 3500 and BCA.

    Documentation from a qualified civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system (including on-site infiltration systems and pump-out system) has been constructed generally in accordance with the approved stormwater drainage construction plan(s) and accepted practice.

49. Prior to the issue of Final Occupation Certificate, maintenance schedule of the stormwater drainage system (including on-site infiltration/detention system and pump-out system) shall be prepared by a qualified engineer and submitted to Principal Certifying Authority. A copy of maintenance schedule shall also be submitted to Council for record purpose.

50. In order to ensure that the constructed on-site infiltration system and pump-out system will be adequately maintained, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. The relative location of the systems, in relation to the building footprint, shall be shown on a scale sketch, attached as an annexure to the plans/ forms. Proof of registration shall be submitted to the Principal Certifying Authority prior to the issue of Final Occupation Certificate.

51. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.

52. Prior to the issue of any Occupation Certificate, the public domain civil works required by Condition No. 21 shall be completed to the satisfaction of Council.

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

    a) Written confirmation / completion certificate obtained from RMS and Council's engineers;

b) Inspection reports (formwork and final) for the works on public domain and road reserve area obtained from Council's engineer;

c) A copy of the approved engineering construction plans showing Work-as-Executed details (together with an electronic copy (DWG format)) for all the civil works on public domain and road reserve area. The plan shall be prepared by a registered surveyor.

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

55. Prior to issue of any Occupation Certificate:

a) A Right of Way shall be created over the footpath and landscaped area located along the western boundary of the site connecting Ewan Street and King Street. The Right of Way shall benefit the City of Botany Bay Council. The area between the building structures and the sites western boundary shall be provided with high quality fences and lockable gates approved by Council in the position shown on the approved plans to ensure that the area can be secured by Council during the night time hours. Proof of registration of the Right of Way shall be submitted to the Principal Certifying Authority and a copy to Council; and

b) The western setback area shall be provided with new paving, furniture and tree planting as shown in the approved landscape plan(s), to be installed by the applicant and at the applicant's expense.

56. Prior to the release of an 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.

57. Prior to the issue of the Occupation Certificate:

a) Landscaping shall be installed in accordance with the approved landscape plans, 1804-2 LP-01 Issue 01, LP-02 Issue 01 and LP-03 Issue 01, by John Lock & Assoc. prior to the issue of an Occupation Certificate. Amendments include substitution of Black Bamboo with a clumping variety such as Bambusa textilis gracilis. The landscaped areas on the property shall be installed and maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times;

b) New street trees (Waterhousia floribunda Sweeper) shall be installed in the King Street nature strip in accordance with the approved landscape plan LP-01, Issue 01. Trees shall be sourced from a reputable supplier that grows to NATSPEC and a service enquiry is required prior to planting. The trees shall be planted in the minimum area required for the root ball, backfilled with imported soil/compost, water holding additive and fertiliser, Rootrain ag. pipe watering system installed

and mulched with leaf mulch to a depth of 100mm and at 1 metre diameter. The trees are to be double staked and tied. The Applicant is required to obtain a Council inspection of the new street trees prior to issue of the Occupation Certificate.

c) To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

d) A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from washing onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable.

e) A rigid polyethylene sheet type tree root barrier shall be installed alongside the kerb edges adjoining the Ficus hillii trees at a minimum depth of 1200mm. Root deflectors/directors surrounding the rootball are not suitable. The Applicant is required to contact the Certifier for an inspection of root barriers prior to backfilling.

f) Planter boxes constructed over slab shall be built in accordance with the following minimum details:

   i) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.

   ii) A concrete hob or haunch shall be constructed at the internal joint between the sides and base of the planter to contain drainage within the planter.

   iii) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining/spoiling of the external face or integrity of the planter. All internal sealed finishes are to be sound and edges overlapped and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.

   iv) Drainage cell must be applied to both the base and sides of the planter to minimize damage of the waterproofing membrane during backfilling and to facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation.

v) Planter boxes shall be finished externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

g) All internal pedestrian walkways and paved areas shall be unit paved. Large areas of asphalt or concrete are not permitted. The driveway crossover shall be constructed of plain broom finished concrete.

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

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

59.

a) All existing aboveground service cables, including power lines, telecommunications cables and other similar services ("overhead service cables") in the streets adjacent to and within the confines of the development site shall be placed underground at no cost to the Council in the following manner:

i) Overhead service cables on the King Street frontage to be undergrounded, starting from the existing pole "A" to the existing pole "D" as shown on Plan No. 1.

ii) Overhead service cables on the Ewan Street to be undergrounded, starting from the existing pole "A" to the existing pole "C" as shown on Plan No. 1.

iii) Existing street lights located within the footpath reserve along the King Street frontages of the development site, being street lights identified as being located on poles "B" and "C" as shown on Plan No. 1 shall be replaced with new street lights in accordance with the requirements of Australian/New Zealand Standard AS/NZS 1158-1997 "Public Lighting Code" and the requirements of the road authority.

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

b) Prior to issue of any Occupation Certificate, approval shall be obtained from Council and the responsible utility authority for street lighting. Detailed street lighting design and construction plans, prepared by a suitably qualified person,

shall be submitted to Council for approval. The design shall be in accordance with AS 1158 and to Energy Australia's requirements. Alterations/additions to street lighting shall be carried out by the responsible utility authority for lighting, or to the satisfaction of that authority, and all capital contributions associated with the installation of the lighting shall be borne by the applicant. The proposal shall include details of all fixtures being proposed and underground power reticulation shall be allowed for in the design. P2 lighting design category shall be provided to all street frontages of the site.

60. Prior to issue of a Final Occupation Certificate:

a) A second Dilapidation Report, including a photographic survey shall be submitted at least one month after the completion of construction works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all immediate adjoining properties owners, and a copy lodged with Principal Certifying Authority.

b) Any damage shown in the second dilapidation report that was not present in the first dilapidation report submitted to Council before site works have commenced in accordance with Condition No. 17, will be assumed to have been caused by the site works undertaken (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction,

61.

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

b) Condition Nos. 45 – 60 are pre-conditions to the issue of the Occupation Certificate.

CONDITIONS WHICH MUST BE SATISFIED WHEN THE PREMISES ARE OPERATIONAL

62.

a) The serviced apartment and car park uses shall be permitted to operate on a 24 hour basis, seven days per week.

b)

i) Within 18 months of the issue of an Occupation Certificate, either interim or final, the Applicant or Operator of the car park shall engage a suitably qualified Traffic Engineer to prepare a report to be submitted to Council confirming that the forecasts contained in the Traffic Report prepared by John Coady Consulting (dated 6 March 2014) and listed under Condition 1 have been met in all respects.

ii) Should the report in (b)(i) above demonstrate that the traffic impacts exceed the forecasts provided in the Traffic Report prepared by John

Coady Consulting (dated 6 March 2014), the applicant is to engage a suitably qualified Traffic Engineer to give advice to the Council on what additional measures are required to enable the forecast of the traffic report to be met and a time period in which these measures shall be implemented.

iii) Any additional measures required shall be implemented within 6 months of the date of the report (i.e. within 2 years of the date of approval of the development).

63. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired in accordance with the maintenance schedule submitted to Council to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.

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

a) The exterior of the buildings being painted at least once in every ten year period;

b) The metal screens and any fencing to the building and site being protected against fading/discolouration and warping.

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

65. The ongoing operation of the serviced apartments shall comply with the following additional requirements:

a) The ancillary meeting rooms and gymnasium facilities located within the hotel shall be restricted for serviced apartment guests/residents use only;

b) Annual monitoring shall be undertaken to confirm that the serviced apartments retain a minimum 4.5 STAR sustainability target in accordance with the National Australian Built Environment Rating System (NABERS);

c) No vehicles shall be permitted to park in the porte-cochere area other than to set down and pick up passengers.

66. The ongoing operation of the long-term public car park shall comply with the security measures agreed by the applicant in their letter dated 14 November 2011, the measures agreed in the letter response to the 20 August 2012 Design Review Panel and the relevant measure required by the NSW Police in Condition No. 12. The measures shall include, but not be limited to the following:

a) Installation and operation of fixed CCTV cameras throughout the facility;

b) Provision / Employment of a 24 hour security guard and a monitoring control room;

c) Random security patrols (including external to the car park) at all times of the day;

d) Address the security guard access to security camera monitors at all hours of the day;

e) Parking levels will be numbered and / or identified with distinctive and bright colours; and

f) Integrated control system will be installed to record available parking on each floor level.

g) Procedures for locking of the car park after hours (which can be completely shut and secured), including provision to customers of an 'after hours' programmable electronic card.

67. The car parking bays shall be allocated as follow at all times during the ongoing use of the premises:

a) A minimum of one hundred and thirty four (134) parking bays shall be allocated to serviced apartment component of the development;

b) Forty (40) parking bays shall be dedicated as accessible parking bays; and

c) Secure bicycle parking shall be provided as shown in the approved plans.

68. The operation of the development and movements of vehicles for both the serviced apartment and public car park uses shall comply with the following requirements:

a) The maximum size of vehicle accessing the porte-cochere area on King Street shall be limited to 8.8m long Medium Rigid Vehicle (MRV) (as denoted in AS2890.2), except the 10.5m long garbage collection vehicle. Use of any larger vehicle will be subject to further development application(s) and approval from Council;

b) A maximum 10.5 m length garbage collection vehicle shall only be permitted to access the site. Such access shall be restricted to times outside of peak traffic periods only;

c) All vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction;

d) All vehicles shall leave the site via the King Street exits only;

e) Garbage collection and loading and unloading activities associated with the delivery shall take place wholly within the dedicated loading area;

f) For the Ewan Street vehicle access, the following requirements shall be complied with:

i) The Ewan Street vehicle entrance shall be restricted to be used for ingress only;

ii) Except for shuttle buses, authorised hire cars, tradesman's vehicles and vehicles/cars to transport flight crews to the site, no public access shall be allowed to enter the car parking area via Ewan Street vehicle entrance. Suitably signage shall be installed accordingly;

iii) The shuttle gate of Ewan Street vehicle entrance shall be closed at all times and shall only be operated by the staff or car park (security) office via intercom system only;

iv) The maximum size of vehicle accessing the car parking area via Ewan Street vehicle entrance shall be restricted to 7m long and 2.6m high vehicles;

v) The vehicular usage of Ewan Street (e.g. shuttle bus, car hire, tradesman's vehicles) shall not exceed 150 vehicles/ day;

g) All vehicles shall be parked in the marked parking bays and all parking bays on-site shall be set aside for parking purpose only and shall not be used for storage of goods or machinery. Vehicle manoeuvring area shall be kept clear at all times;

h) No deliveries to the premises shall be made direct from a public places, public streets or any road related areas (eg. footpath, nature strip, road shoulder, road reserve etc);

i) Under no circumstance shall vehicles to queue on public places, public streets or any road related area (e.g. footpath, nature strip, road shoulder, road reserve etc) prior to entering the site;

j) The occupier of the development shall make it a condition of the employment of any person employed on the premises that they shall park their vehicles, if any, in the employee parking area provided only. No employee shall be permitted to park on a common driveway, public streets or any road related areas (eg. footpath, nature strip, road shoulder, road reserve etc);

k) The maximum number of delivery vehicle on-site at any one time shall be limited to one (1); and

l) The Operation Management Plan (for public car park) stated in the letter, by John Coady Consulting Pty Ltd, dated 28 Nov 2012 shall be implemented at all times.

69.

a) The use of the public car park shall comply with all requirements contained within the acoustic report submitted in accordance with Condition 17(b) of the consent at all times; and

b) The use of the public car park and serviced apartments shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the

typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

i) 'Offensive noise' as defined in the Protection of the Environment Operations Act 1997.

ii) Transmission of vibration to any place of different occupancy above the requirements of AS2670.

iii) The following additional criteria:

1 The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

2 The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

3 The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

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

71. Waste Management:

a) The serviced apartment shall actively encourage recycling of materials within the apartments;

b) The Waste Management Plan for the site prepared by VanovacTuon Architects dated 17 February 2014 shall be complied with at all times during ongoing use of the premises;

c) All waste and recycling containers shall be stored in the designated waste storage area. The waste containers shall not be over filled and the lids kept closed at all times except when material is being put in them;

d) No waste or waste containers shall be placed on the public way (including: footpaths, roadways, and reserves) at any time.

72. 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. 14/047 dated as 12 March 2014 and that any alteration, variation, or extension to the building or use for which approval has been given, would require further approval from Council.

Advisory Notes:

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

(b) This system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas which are difficult to supervise.

  (i) Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas;

  (ii) One or more cameras should be positioned at the entry and exit points to monitor these areas (car park, foyer entrance);

(c) (Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis.

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

(e) Any proposed landscaping and vegetation should adhere to the following principles:

  (i) Shrubs bushes, plants should remain under 900mm in height;

  (ii) Branches or large trees should start at a height of two (2) metres and higher;

  (iii) This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.

(f) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.

(g) Any proposed seating area, playground or grass area should be positioned somewhere which can be viewed easily by the community. Consider whether the area will be used enough to warrant its development. Areas which area isolated, unused and maintained poorly become a breeding ground for anti-social behaviour.

(h) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external lighting.

(i) The configuration of car parking spaces can impact the risk to car thieves. Grid rows increase natural surveillance. Avoid dark spots, corners and isolated car spaces.

(j) Public laundries, garbage disposal areas and other communal spaces should not be located in a buildings 'leftover space'. Poor supervision of communal facilities can greatly increase the risk of predatory crime, theft and vandalism. Areas that are unused or sporadically used after hours and unsupervised should not be accessible to the public.

(k) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.

(l) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime;

(m) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.

(n) Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens).

(o) The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis.

(p) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.

(q) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.

(r) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently $5500) for an individual and 100 penalty units (currently $11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.

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

(i) Warning, trespasser will be prosecuted

(ii) Warning, these premises are under electronic surveillance

(t) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.

(u) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.

(v) Signage needs to be provided at fire exits to assist customers to identify exits in emergency situations.

(w) Signage needs to be provided to assist staff and customers to identify fire suppression equipment, eg extinguishers, fire hoses etc.

(x) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours.

(y) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW http://www.ememency.nsw.qov.au or Emergency Management Australia http://www.ema.qov.au.

(z) The door and door frames to these premises should be of solid construction.

(aa) Doors should be fitted with locks that comply with the Australian Standard – Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are recommended for residential units;

(bb) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space;

(cc) The doors in the required exits must be readily open-able without a key from the side that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor.

(dd) Any sliding doors must be fitted with lockable bolts in the bottom and top of the door frame;

(ee) The windows and window-frames to these premises should be of solid construction. These windows should be fitted with locks with comply with the Australian Standard – Mechanical Locksets for windows in buildings, AS:4145 http://www.standards.orq.au to restrict unauthorised access. This standard specifies the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical windows, such a wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses and factories. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms);

(ff) The main access to the underground car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering.

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