

## JOINT REGIONAL PLANNING PANEL (East Region)

JRPP No	2014SYE139
DA Number	14/207
Local Government Area	City of Botany Bay
Proposed Development	<p>Integrated Development and Joint Regional Planning Panel:-</p> <ul style="list-style-type: none"> <li>• Demolition of existing structures;</li> <li>• Construction of a serviced apartments complex:- <ul style="list-style-type: none"> <li>- One (1) level of basement car parking for 115 vehicles and bicycle storage, 18 car spaces at ground level (total car parking of 133 spaces) with 3 drop-off/pick-up spaces at the front of the building from Robey Street;</li> <li>- Eight (8) storey building comprising 152 serviced apartments with, retail space, pool, guest dining area, meeting room on the ground floor; and</li> <li>- Loading dock and service areas on the ground floor accessed from Baxter Road;</li> </ul> </li> <li>• Through-site link between Baxter Road &amp; Robey Street;</li> <li>• Publicly accessible playground;</li> <li>• Construction of 3 storey warehouse/office building fronting Baxter Road and loading dock at ground level and single storey warehouse fronting Robey Street.</li> <li>• Lot consolidation and subdivision into two (2) lots; and</li> </ul> <p>Associated landscaping and stormwater drainage works</p>
Street Address	53 – 79 Baxter Road & 62 – 66 Robey Street Mascot
Applicant/Owner	Zauner Constructions
Number of Submissions	Four (4) submissions
Regional Development Criteria (Schedule 4A of the Act)	The development application is referred to the JRPP pursuant to Clause 3 of Schedule 4A of the Act as the Capital Investment Value (CIV) of the proposal is over \$20 million. The Council Estimate of the CIV of this development \$64 500 000.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• List all of the relevant environmental planning instruments: s79C(1)(a)(i) <ul style="list-style-type: none"> <li>○ Integrated Development – S91 – Dewatering</li> <li>○ State Environmental Planning Policy (Infrastructure)2007</li> <li>○ State Environmental Planning Policy No 64</li> <li>○ State Environmental Planning Policy No 55</li> <li>○ Botany Bay Local Environmental Plan 2013;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>List any relevant development control plan: s79C(1)(a)(iii) <ul style="list-style-type: none"> <li>Botany Bay Development Control Plan 2013;</li> </ul> </li> </ul>
List all documents submitted with this report for the panel's consideration	See Condition 1
Recommendation	Defer the Application for Amended Plans
Report by	Kim Johnston, Contract Planner

## Assessment Report and Recommendation Cover Sheet

### Executive Summary

Development Application No. 14/207/1 was received by Council on 30 October 2014, which seeks consent for a serviced apartment complex with an adjoining office and warehouse component. The original proposal has been amended several times, with the amended proposal the subject of this assessment comprising the following:

- Demolition of existing structures;
- Construction of a serviced apartments complex:-
  - One (1) level of basement car parking for 115 vehicles, bicycle storage and 18 car spaces at ground level with 3 drop-off/pick-up spaces at the front of the building from Robey Street;
  - Eight (8) storey building comprising 152 serviced apartments with retail space, pool, Guest dining area, and meeting room on the ground floor; and
  - Loading dock and service areas on the ground floor accessed from Baxter Road;
  - Guest roof top garden area;
- Through-site link between Baxter Road & Robey Street;
- Publicly accessible playground;
- Construction of 3 storey warehouse/office building fronting Baxter Road and loading dock at ground level and single storey warehouse fronting Robey Street.
- Lot consolidation and subdivision into two (2) lots; and
- Associated landscaping and stormwater drainage works.

The development application is required to be determined by the Joint Regional Planning Panel (JRPP) pursuant to Clause 3 of Schedule 4A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as the Capital Investment Value (CIV) of the proposal is over \$20 million. The CIV of this development is approximately \$64.5 million. A JRPP briefing was undertaken on 19 February 2015 when issues relating to FSR and height were discussed. These issues have not been adequately addressed in this proposal.

The proposed development is Integrated Development under the provisions of Section 91 of the EP&A Act as the development involves temporary construction dewatering and therefore requires approval from NSW Office of Water. In a letter dated 10 February 2015, the NSW Office of Water has granted its General Terms of Approval to the proposed development.

Council received additional information in respect of the proposed development in relation to revised Clause 4.6 variations for FSR and height, arborists report, further contamination studies and additional technical and architectural plans. There was initially concern with owner's consent, in which the application originally proposed the development in 2 parts (not stages), however, this issue has since been resolved and the application now proposes the entire development.

Council's Design Review Panel (DRP) considered the proposed development on 7 August 2014, prior to the lodgement of the application. The DRP concluded that the *"Whilst the design has considerable merit and has been thoughtfully developed, height and density in excess of the LEP standards cannot be supported. Provided that these and other issues raised above are addressed, the application promises to be of very good standard and one which potentially could be fully supported"*. The applicant has made some amendments to the proposal as suggested by the DRP, which are discussed in this report, however, the exceedance of the FSR and height controls are still proposed which is considered to be unacceptable.

The original proposal involved significant variations to both the maximum height and floor space ratio (FSR) development standards pursuant to Clauses 4.3 and 4.4 of the *Botany Bay Local Environmental Plan 2013* (BBLEP 2013). The FSR variation originally requested was a 1,816.3m<sup>2</sup> (14.96% variation) exceedance and 5.89 metres over the maximum height limit. Significant discussions have been held with the applicant and several sets of amendments have been made to the proposal, however, there has been no substantial change to the building envelope or built form from that originally proposed.

Amendments were made to the proposal on 10 February 2015, which included a minor reduction of 0.5 metre to the overall height of the building (RL 32.35), on 9 March 2015 which included the removal of the penthouse level and replacement with roof gardens with the lowering of the overall height to around 5.88 metres above the height limit to top of building (RL 31.25) and again on 26 March 2015. This report represents an assessment of the most recently lodged amendments of 26 March 2015 (the amended proposal) which involves the deletion of the previously proposed child care centre, other ground floor uses, changes to floor area delineations in the warehouse/office building and materials and colour changes to the architectural roof feature. The resulting reduction in overall gross floor area (GFA) is around 865.6m<sup>2</sup>.

In effect, the changes to the proposed GFA (now currently proposed at 12,747.3m<sup>2</sup> at an FSR of 1.56:1) have been achieved through removal of ground floor uses (child care centre, gym, library/games room), replacement of some areas in the warehouse/office component with plant rooms and minor changes to GFA on levels 1 - 4 and 5 - 6 in the order of less than 45m<sup>2</sup>. Such amendments have not affected any real change to the built form on the site and in this way are unacceptable.

Similarly, the changes to the overall height of the building through lowering by 1.1 metres to now exceed the height limit by 4.78 metres to the top of the building from 5.88 metres previously has largely been achieved through the removal of the GFA of the formerly proposed penthouses but not the removal of the building structure which formed the penthouses. This is now a structural steel frame screen, or "architectural roof feature".

The applicant's Clause 4.6 variation to development standards submission fails to adequately establish why it is unreasonable or unnecessary for the proposal to comply with

the relevant standards. This report establishes that the Clause 4.6 variations to height and FSR are not well founded and cannot be supported.

At a meeting on 6 March 2015 between Council and the applicant, Council clearly outlined that Council was unwilling to vary the development standards to any significant extent given the variations were not consistent with the objectives of the development standard, there was no planning purpose for doing so and Council was of the opinion that the bulk and scale of the proposal, due to its non-compliance with the key development standards of Height and FSR, was excessive for its setting adjoining a low density residential area.

The amendments made as a result of discussions with Council over the significant departures with respect to FSR and height development standards have not achieved any real change to the bulk and scale of the proposal and therefore remains unacceptable in its context adjoining low density residential development in the order of around 8 metres.

Therefore it is considered that the applicant has failed to amend the application to address the matters raised by Council officers and has failed to provide adequate justification for the proposed departures. Since the commencement of discussions with the applicant during the Pre-DA/DRP process, Council has provided clear direction to the applicant as to its preferred outcome for the built form requirements. The preferred outcome is detailed in this report, in that the proposal should comply with the height and FSR development standards.

In general, the Council is supportive of the proposal, in particular the use of the site for airport related uses (serviced apartments) and employment generating activity (warehouse/office). The proposed car parking and access, landscaping and general layout of the proposal is generally satisfactory, and the technical issues of contamination, dewatering and subdivision have been adequately addressed, however, the bulk and scale of the proposal is not supported and needs to be reduced to be consistent with BBELP 2013 for Council to support the development.

However, the applicant has been reluctant to adopt these amendments and make real built form changes to the development. Accordingly, the application cannot be supported in its current form and is recommended for deferral subject to amended plans being lodged which generally comply with the height and FSR development standards of BBELP 2013.

In assessing this application, Council officers consider that the primary issues for consideration are the proposed FSR and height non-compliances. Other issues which were considered in this assessment included car parking and access, strategic context, compatibility with surrounding development (particularly residential), contamination and remediation and visual and acoustic privacy. These issues are considered in this assessment, with these latter issues largely addressed (except compatibly).

Council officers are of the opinion that the preferred outcome is that the FSR and height must be reduced to compliant levels. Should the applicant accommodate these amendments in amended plans, then consideration could be given to granting approval subject to conditions contained within the Schedule of consent conditions.

The site is located at 53 – 79 Baxter Road and 62 – 66 Robey Street Mascot, and comprises a large allotment of 8,151m<sup>2</sup>. The site has frontages to both Baxter Road and Robey Street with residential development adjoining to the east of the site along Baxter Road and Robey Street as well as opposite the site along Robey Street. Commercial and industrial

development exists opposite the site along Baxter Road as well as to the west along Baxter Road and Robesey Street.

The site is zoned B5 Business Development pursuant to the *Botany Bay Local Environmental Plan 2013* (BBLEP 2013). The proposal falls within the definition of serviced apartments, office, warehouse or distribution centres, neighbourhood shops and food and drink premises. The proposal is therefore permissible in the zone with development consent.

The development application was notified for a period of 30 days from 12 November 2014 to 12 December 2014. Four (4) submission were received which raised issues including traffic generation and car parking, construction of cul-de-sac, concerns with some of the submitted information (traffic report, Plan of Management and wind assessment) height, property depreciation, site being unsuitable for a child care centre, Baxter Road frontage, and contaminated land. These issues have been considered in this report and are considered to be satisfactorily addressed by the proposal, with the exception of the FSR and height exceedances.

### **Public Benefit**

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

- Provision of a through-site link between Baxter Road and Robesey Street by way of an easement for public access as provided by the proposal;
- Publicly accessible park in NE corner as provided by the proposal; and
- Imposed as a condition of consent a \$30,000 contribution towards the cost of the construction of a cul-de-sac in Baxter Road consistent with other approvals in the area to separate residential and commercial traffic along Baxter Road.

### **Officer Recommendation**

The application is recommended to the Joint Regional Planning Panel for consideration and the Application be Deferred subject to lodgement of amended plans which comply with the height and FSR development standards of the BBLEP 2013.

## **1. BACKGROUND**

The subject site is currently largely vacant and is being used in association with the adjoining development to the west, comprising the regional headquarters for the regional airline company, Regional Express Holdings Pty Ltd (Rex). Previous land uses on the site from aerial photography indicate that the site has been used for both commercial / industrial buildings and residential land use prior to 1961.

In relation to the current application, Council received additional information in respect of the proposed development as follows:

- On 10 September 2014, the Council rejected the application on the basis of inadequate owners consent (no consent from Lot 281 DP 1138673);
- On 16 October 2014, a meeting was held between Council and the applicant where several issues were discussed including the Clause 4.6 variations and owners consent issues.

- On 20 October 2014, the applicant submitted an Addendum to the original DA submission with a full-set of updated drawings, including a 3D image of an alternative site use (bulky goods) and a 2D elevation drawing to demonstrate treatment of the minor height non-compliance, revised reports including updated Cl 4.6 variations, further contamination studies and an additional civil drawing. On 7 November 2014, updated electronic copies were provided to Council;
- 30 October 2014 – the official lodgement date of the DA was transferred with consent of the applicant given it has been rejected by Council.
- On 2 December 2014, the NSW Office of Water (NOW) requested additional information in the form of a Groundwater Take Volume Assessment to quantify groundwater volumes expected to be extracted during the construction and operational phases of the development.
- On 16 December 2014, the applicant advised that they were now the owners of Lot 281 DP 1138673. Therefore, Parts 1 and 2 of the application were no longer necessary.
- On 28 January 2015, additional information was provided by the applicant including a Remedial Action Plan, a Groundwater Take Assessment and a response to the NSW Office of Water's concerns.
- On 10 February 2015, the applicant provided additional information comprising:-
  - Response to issues raised in public submissions including traffic response;
  - Arborist report and landscaping comments (requested by Council on 24 December 2014);
  - Revised Plan of Management ('POM) for the serviced apartments
  - POM for the proposed child care centre and consultants advice in relation to noise and substation placement;
  - Temporary relocation of Rex to 68 Robey Street;
  - A full set of revised architectural plans illustrating the following:-
    - a reduction in the overall height of the building by 0.5 metres and consequential changes to the RL's of each floor (except ground);
    - additional four (4) car parking spaces in basement via removal of surplus circulation space and minor changes to corridor space around pool voids, plant rooms and minor change to ramp in basement along western boundary;
    - additional set down/pick-up space in porte cochere;
    - changes to the floor plans for Level 1-4 and 5-6 including additional cleaner's room and circulation space (additional 22.4m<sup>2</sup>) and minor changes to the layout of the Level 7 penthouses with additional powder rooms in the lift lobbies (additional 5.34m<sup>2</sup>) resulting in an increase in total GFA of approximately 27.74m<sup>2</sup>;
    - walled enclosure added to rooftop central plant;
    - relocation of the building 600mm to the north to increase Baxter Road street setback for deep soil landscaping;
    - retention of additional tree along Robey Street (paperbark tree);
    - temporary use of No 68-70 as a Rex warehouse during construction;
    - Changes to some of the setbacks.
- On 9 March 2015, the applicant provided amended plans comprising:-
  - Deletion of the penthouses on Level 7 and lowering of the ceiling heights throughout the building (ground level ceiling height reduced by 500mm and 100mm on other floors) to achieve an overall height reduction to the top of the roof of 1.1 metres. The roof to the former penthouse level is retained and described as a roof feature with enclosed plant rooms with the overall height

- to the roof comprising 26.78 metres at RL 31.250 (4.78m above the maximum height limit);
  - Tree layouts and numbers updated to be consistent with Arborist report and landscape plan and Robey Street driveway moved further west by 1.5m to more adequately protect Tree 11;
  - Reduction of eight (8) units and modified unit mix to provide additional 3 bedroom units throughout building to allow for removal of penthouses (50 x studio (32.9%), 18 x 1 bed (11.8%), 72 x 2 bed (47.4%) and 12 x 3 bed units) (7.9%);
  - Reduction of two (2) car parking spaces in the basement, plant room added and minor change to the basement configuration on the south-western corner;
  - Signage wall added to central landscaping area along Robey Street;
  - Minor change to layout of sauna, amenities and plant rooms on ground floor and western cleaner's cupboards modified to electrical services cupboard in lift lobby (levels 1 to 4, 5-6); and
  - Rooftop garden space increased and roof top architectural feature detailing added.
- On 26 March 2015, the applicant provided amended plans comprising:-
    - Deletion of the child care centre, gym and games/library room on the ground floor and modification to the pool area. These areas now form an open outdoor undercover "residents activity area" and "pool lounge area", essentially large undercroft areas (727.5m<sup>2</sup> reduction in GFA, representing 84% of overall GFA reduction, without any change to building footprint except this area is now undercroft);
    - Minor change to layout of Levels 1 – 4 and Levels 5 -6 with reduction of 45m<sup>2</sup> over the 6 levels (representing 4.9% of overall GFA reduction);
    - Plant rooms added to Levels 2 and 3 of the warehouse/office building (53.8m<sup>2</sup> reduction in GFA representing 6.2% of overall GFA reduction without any change to building footprint) and reduction of 38.4m<sup>2</sup> on ground floor of warehouse/office building due to internal column layout modification;
    - Sculptural steel frame screening in lighter colour added in lieu of aluminium cladding/louvre elements on roof feature to provide shading and privacy for rooftop garden and screening plant and lift over runs;
    - FSR calculation reduced to 1.56:1 with assistance of increased site area of 55m<sup>2</sup> from Lot 281 which now forms part of the proposal following ownership problems which have been resolved (this was 33m<sup>2</sup> in original proposal); and
    - No changes made to building height or overall built form.

Council met with the applicant on 6 March 2015 to discuss the significant concerns with the proposal, including the significant variations to the FSR and maximum height of building development standards (outlined above). The consideration of the Clause 4.6 variations is in the context of the changes made in the amended proposal, which include the building height to the top of the buildings (in accordance with BBLEP 2013) and the additional FSR on the basis that no changes have been made to the built form from when the exceedance of GFA was 1,816m<sup>2</sup> since there has been no real change to the building form to that originally proposed.

The additional information responded to matters raised by Council Officers and did not warrant re-notification.

## 2. SITE DESCRIPTION AND SURROUNDING DEVELOPMENT

The site is located on the northern side of Baxter Road between O’Riordan to the west Street (approx. 300m) and Botany Road to the east (approx. 275m). The site is bound by Baxter Road to the south, Robey Street to the north, and residential and commercial premises to the east and west. The subject site is located approximately 1km north-east of Sydney Airport and approximately 200 metres from a strategic bus corridor along Botany Road. Mascot Railway Station is located 1.3km to the north of the site.

The site is a broadly rectangular-shaped parcel of land, with a total site area is 8,096m<sup>2</sup>. The site has primary street frontages along Baxter Road (southern) and a boundary to Robey Street (northern) of approximately 120 metres. The eastern and western side boundaries to adjoining development are approximately 59 metres in length.

The site is relatively flat with a slight fall of approximately 1.3 metres from the south-western corner along Baxter Road to the north-east corner along Robey Street. The site is currently largely vacant, with two single storey dwellings and two brick buildings comprising two (2) storeys existing on the site, which are proposed to be demolished under the proposal. A concrete stormwater channel currently exists in the north-eastern corner of the site, which is approximately 1 metre wide and 0.5 metre deep. Also in the north-eastern corner of the site, there is a vegetated depression, resulting in a small inundated area.

The site is covered with a combination of grass and weeds, gravel and exposed earth, with imported fill likely to have been used previously to level the site. While there is no significant vegetation located within the site, there are several significant street trees located along both street frontages, which need to be retained. The site is secured with chain link fencing along the northern and southern boundaries. The main use of the site is for car parking as well as by Rex for storage and business associated with their headquarters at the adjoining site (81-83 Baxter Road).

To the north of the site consists of residential properties on the northern side of Robey Street with John Curtain Memorial Reserve located beyond those residential properties. To the east, on the southern side of Robey Street, single and two storey dwellings exist. The adjoining land facing Baxter Road contains a commercial/industrial building with single and two storey residential developments located further east along Baxter Road.

To the south on the southern side of Baxter Road, there is currently an at-grade car parking area. Council has approved a multi-storey commercial car park on this land opposite the site. On land to the west of the site fronting Baxter Road contains a four storey commercial office building occupied by Rex (No 81-83 Baxter Road). Further to the west of the site, there are various commercial and industrial buildings. Commercial buildings exist to the west along Robey Street, including a car repair station at No 68 Robey Street. The building at No 72-76 Robey Street is occupied by *Pel Air* for staff training and storage purposes.



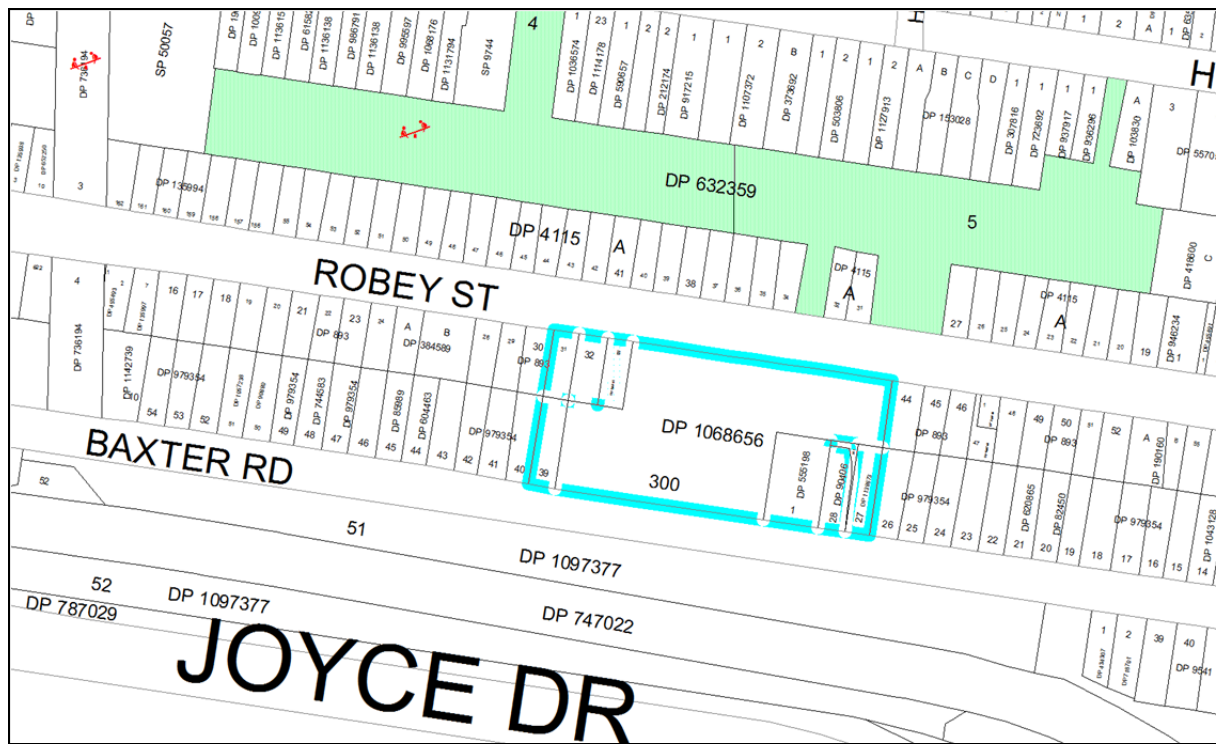


Figure 1 – The subject development site.



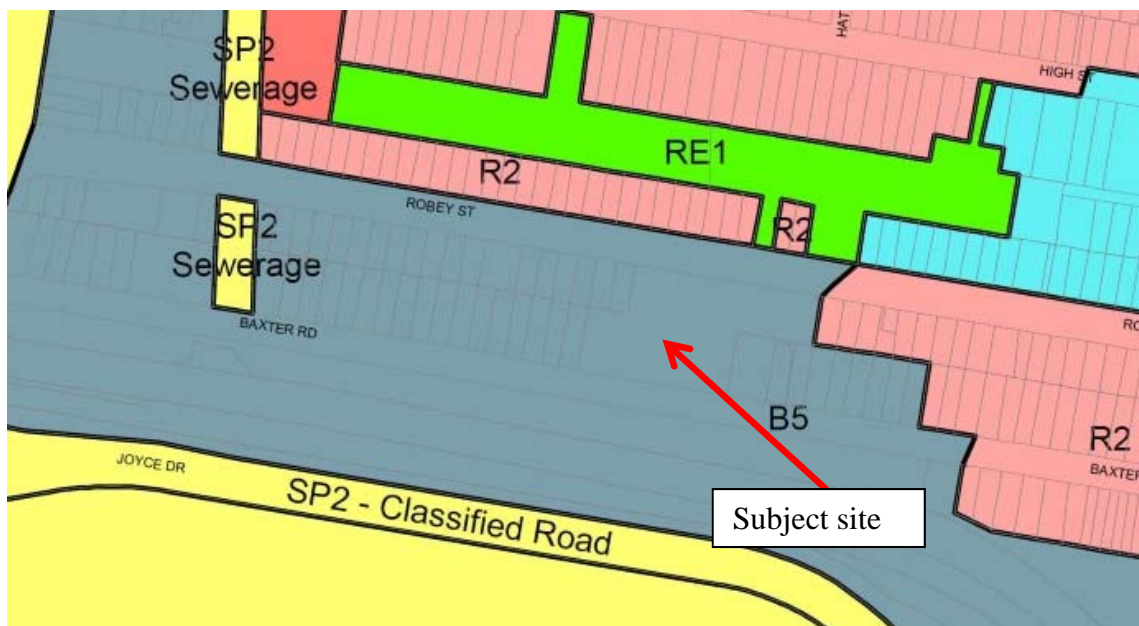
Figure 2 – Photos of the site – existing development from SE corner on Baxter Road



Figure 3 – Photos of the site – Looking south from Robey Street



Figure 4 – Photos of the site – South-western corner of site along Baxter Road (buildings to be demolished for construction of warehouse and office component of the proposal)





*Figure 5 – Zoning Map of the development site.*

### 3. DESCRIPTION OF THE DEVELOPMENT

The proposal involves the demolition of the existing buildings and structures on the site and the construction of an 8 storey serviced apartment complex above basement parking and new warehouse and office building. The proposal was amended on 26 March 2015 ('the amended proposal') which is assessed in this report.

The amended proposal comprises the following:-

- Demolition of existing buildings and structures (2 x single storey dwellings and 2 x 2 storey brick buildings);
- Construction of an 8 storey serviced apartment complex above basement parking:-
  - 152 serviced apartments comprising studio, 1 bed, 2 bed and 3 bed units over 6 levels;
  - Retail space (50m<sup>2</sup>), dining area, meeting room, sauna and swimming pool on the ground floor;
  - Loading dock, laundry, servicing areas, garbage areas and lobby areas on the ground floor; and
  - Rooftop gardens on Level 7.
- Loading dock accessed from Baxter Road;
- Car parking for 133 vehicles comprising basement parking for 115 cars and 18 at-grade parking along Robey Street frontage;
- Through-site pedestrian link between Baxter Road and Robey Street;
- Publicly accessible playground;
- Construction of a 3 storey warehouse/office building with mezzanine floor fronting Baxter Road and loading dock at ground level and connected single storey warehouse fronting Robey Street.
- Lot consolidation and subdivision into two (2) Torrens title allotments; and
- Associated landscaping and stormwater drainage works.

The original proposal involved 160 serviced apartments, including 2 x 3 bedroom penthouses on level 7, a 30 place child care centre and games/library room on the ground floor and 146 car parking spaces. The FSR of the original proposal was 1.72:1 (comprising 13,960.3m<sup>2</sup>) and proposing an overall height to the top of the penthouse level of up to 27.89 metres. The amended proposal forms the basis of this assessment. The amended proposal involves a reduction in GFA of 865.6m<sup>2</sup> from the previously amended proposal (9 March 2015) or 1,213m<sup>2</sup> which has mostly been achieved through the loss of several ground floor uses and penthouse GFA. The overall reduction in height achieved from the original to amended proposal is 1.11 metre given the excessive roof feature proposed (discussed in this report).

#### Serviced Apartments

The amended proposal is to provide short stay accommodation targeted at airline staff and visitors to Sydney arriving from the airport, in particular the business and corporate market. The development is generally orientated to the Robey Street frontage where significant deep soil landscaping, open space and entry areas have been located. The front entry provides a porte-cochere with drop-off and pick-up spaces for guest arrival and departures. The proposed serviced apartments include 50 Studio units (32.9%), 18 x 1 bed (11.8%), 72 x 2 bed units (47.4%) and 12 x 3 bed units (7.9%).

The main vehicular access to the site is from Robey Street. The basement car parking is provided via separate entry/exit driveways along Robey Street, separated by landscaping. These access points provide entry to the basement parking as well as the drop-off/pick-up zone at the front of the building and the at-grade car parking in the north-western corner of the Robey Street frontage. The basement car parking provides vehicle and bicycle spaces. A vehicular exit point from the basement parking level is also provided to Baxter Road. The loading dock and garbage collection is also located along the Baxter Road frontage.

The development has been designed in three distinct building forms, each separated by use of differential colours and materials. Façade articulation has been provided with the use of various different types of panels, balustrades and movable metal balcony screens. An articulated roof line is proposed given its proximity to the airport and likely view of the site from the air.

Various publicly accessible areas are proposed including a through-site link and a park in the northeast corner. Upgrading of the existing Council stormwater pipe/concrete drain is also proposed as part of this proposal.

#### Warehouse/Office

The proposal also provides for the construction of a 3 storey warehouse/office building for the Regional Express Group headquarters ('Rex'). This building, which adjoins the proposed serviced apartment building, will be used for warehousing, storage and administration. The ground floor is proposed to comprise a warehouse for the storage of documents, promotional material, staff uniforms and pre-packed, non-perishable foods with a mezzanine for storage. The first and second floors will comprise offices for administration purposes. A loading area is provided along the eastern boundary as a drive through facility from Baxter Road to Robey Street.

Car parking is proposed to be provided for the warehouse/office component within the basement level of the serviced apartments under a deed agreement (common ownership). A total of 28 spaces are provided for the proposed warehouse/office component. Only one (1) full-time staff member undertaking administrative duties will be on the site at any one time as well as two (2) drivers who will load and unload vehicles at the site. The proposed hours of operation for the warehouse are Monday to Friday 6am to 8pm and Saturday/Sunday 7am and 5pm. The office component proposes Monday to Friday 7am to 5pm and Saturday/Sunday 9am to 5pm.

#### Subdivision

The subject site currently comprises nine (9) separate allotments. The proposal involves the consolidation of these lots into one and the subdivision of that one large lot into two (2) separate lots such that the serviced apartments and the warehouse/office component are on separate lots. This is an acceptable outcome and relevant conditions are recommended to address the requirements for this proposed consolidation and subdivision on the site.

The total GFA of the amended proposal is **112,747.3m<sup>2</sup>** (1.56:1) and the maximum height (pursuant to definition in BBLEP 2013) is **26.78 metres** above natural ground level.

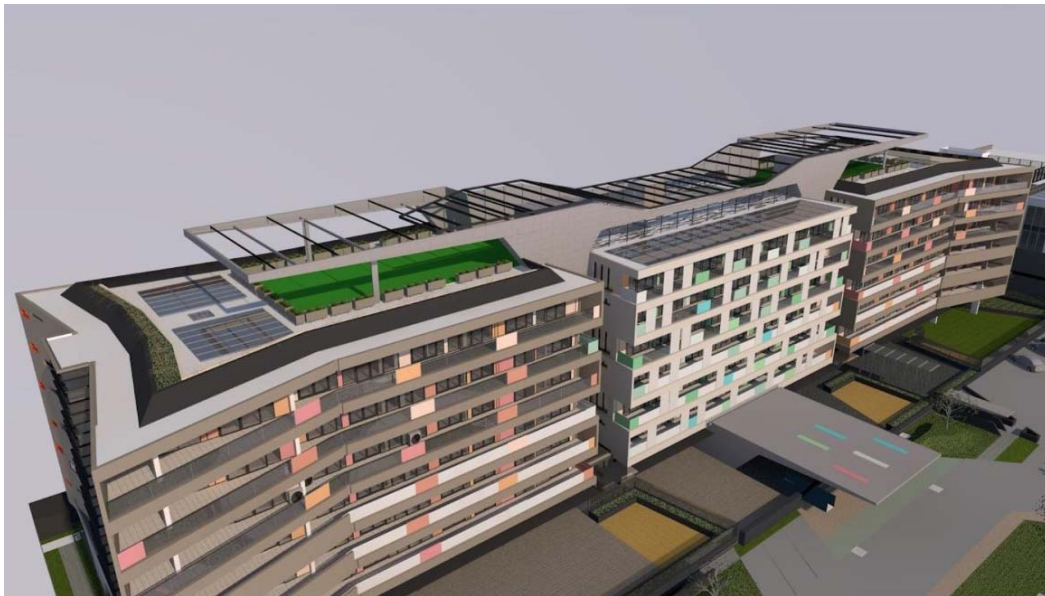


Figure 6 – Photomontage of the proposal looking from Robey Street

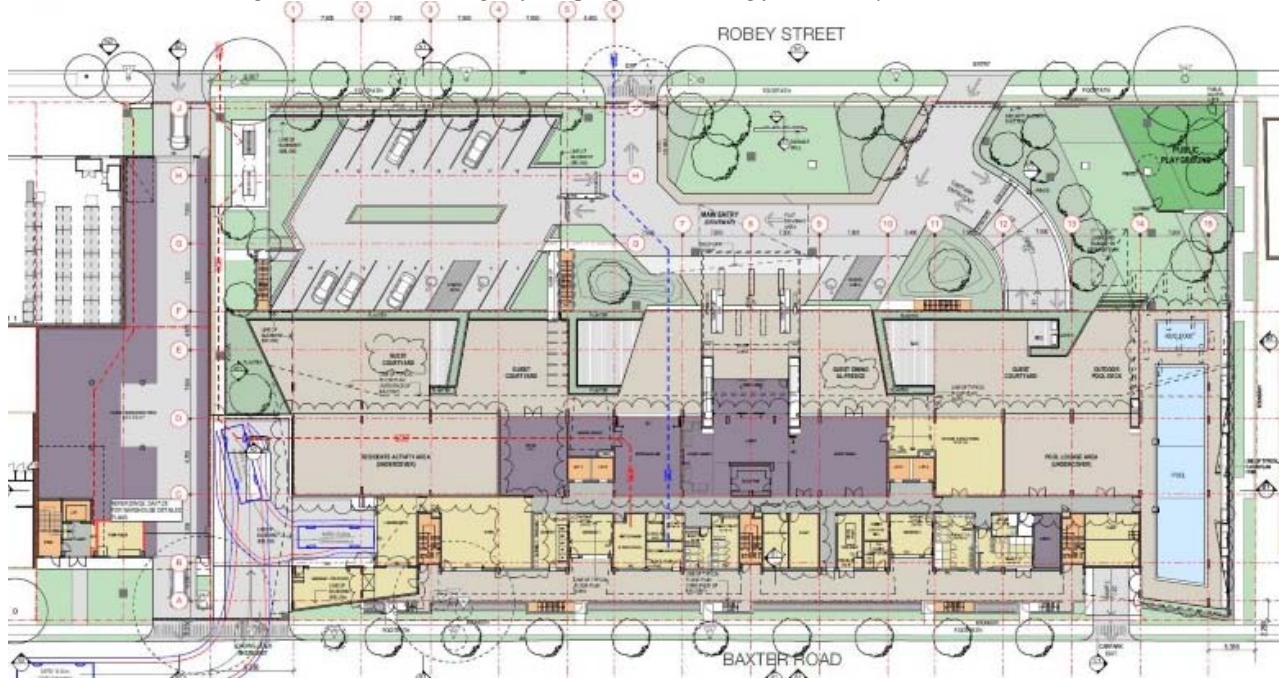


Figure 7 – Ground Floor





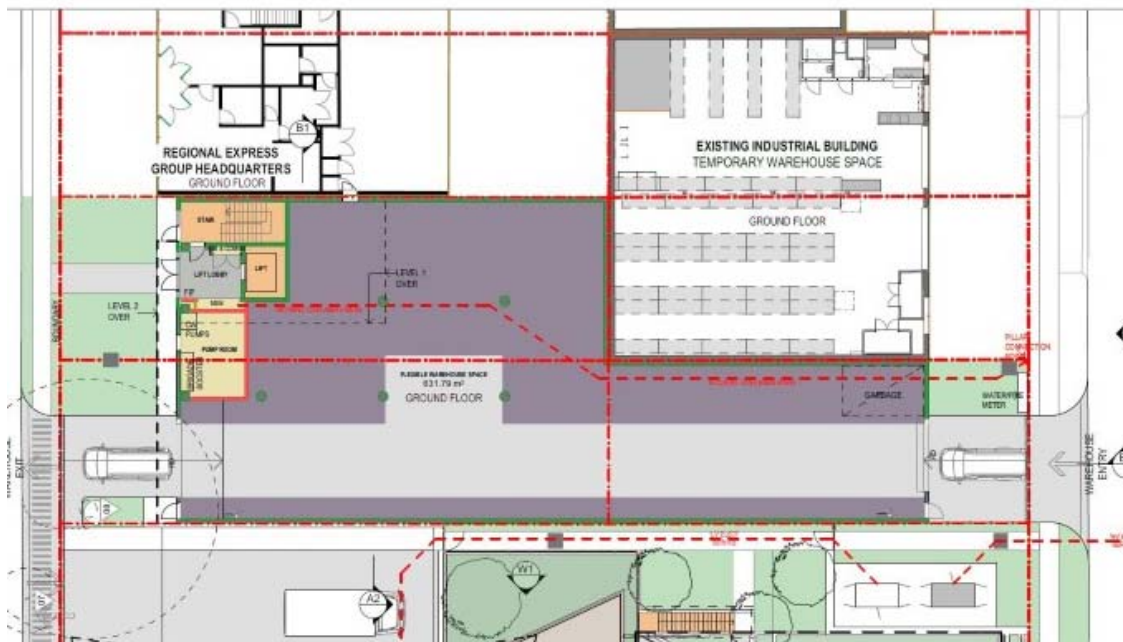
*Figure 8 – Typical floor plan (Levels 1 -4)**Figure 9 – Southern elevation (Baxter Road)**Figure 10 –Proposed Warehouse Ground Floor Plan*



Figure 11 –Layout of the proposed in relation to surrounding uses

A summary of compliance with the relevant environmental planning instruments and DCP is outlined in Table 1.

**Table 1 – Summary of Compliance**

Control	Required	Proposal	Complies
<b>Botany Bay LEP 2013</b>			
<b>Height (Cl 4.3)</b>	22 metres	26.78 metres (SE corner) to lift and plant room (per BBLEP 2013) – 4.78 metres over maximum height limit (main building face below height limit at eastern end by 202mm and above height limit at eastern end by 638mm).	<b>No – Clause 4.6 Exception submitted</b>
<b>FSR (Cl 4.4)</b>	1.5:1 (max GFA 12,226.5m <sup>2</sup> )	FSR 1.56:1 (GFA = 12,747.3m <sup>2</sup> ) Extent of non-compliance = 520.8m <sup>2</sup> (4.26% variation).	<b>No – Clause 4.6 Exception submitted</b>
<b>Architectural Roof Feature (Cl 5.6)</b>	Allowed to exceed height limit with consent subject to satisfaction of matters	The roof feature is reasonably capable of modification to include floor space area.	<b>No - fails Cl 5.6(3)(a)(iii).</b>
<b>Botany Bay DCP 2013</b>			
<b>Car Parking</b>	143 spaces with 5% accessible car spaces (Part 3A.2 of BBDCP 2013).	144 spaces (126 in basement and 18 at-grade) including 8 disabled spaces.	Yes
<b>Landscaping</b>	10% of site area for commercial (Part 6.3.21 of BBDCP 2013).	98.4m <sup>2</sup> or 10.4%	Yes

<b>Unit mix (serviced apartments)</b>	Max 60% studio or 1 bed units (where >20 serviced apartments in a building).	44.7% are studio & 1 bed units.	Yes
<b>Setbacks</b>	<p>Front – 3m (Landscape setback) and 9m (Building setback).</p> <p>Side – 2m (adjoining non-residential use/zone) – landscape &amp; building setback;</p> <p>Side (adjoining a residential use/zone) – landscape &amp; building setback – 3m.</p> <p>Rear – 0 to 3 metres (landscape &amp; building setback).</p>	<p><u>Front - Robey St</u> 36.55m (ground), 34.550m (levels 1 to 6) &amp; 41.75m (level 7);</p> <p><u>Side</u> West (adjoining non-res) – 9.38m (ground), 7m (levels 1 to 6) &amp; 21.68 (level 7); East (adjoining res) – 3.86m (ground), 2.750m (levels 1 to 6 – not adjoining residential, open space adjoins residential) &amp; 16.21m (level 7).</p> <p><u>Rear/front - Baxter Road</u>– 2.25m (basement), <b>2.05m</b> - ground floor terrace 5.7m -building front (ground), 3m (levels 1 to 6) 7.45m (level 7).</p>	<p>Yes (Baxter Rd discussed in DCP assessment)</p> <p>Warehouse satisfactory – refer to DCP assessment Table.</p>

#### 4. SECTION 79C CONSIDERATIONS

The proposed development has been assessed under the provisions of the EP&A Act. The matters below are those requiring the consideration of the JRPP. In considering the Development Application, the matters listed in Section 79C of the EP&A Act have been taken into consideration in the preparation of this report and are as follows:

- (a) **The provisions of any EPI and DCP and any other matters prescribed by the Regulations. (S.79C(1)(a)(i) and (iii) of the EP&A Act)**

##### **Integrated Development**

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

The subject application is Integrated Development under the provisions of Section 91 of the EP&A Act as the development involves temporary construction dewatering and therefore requires approval from NSW Office of Water. Before granting development consent to an application, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development.

In this regard, the application was referred to the NSW Office of Water. In a letter dated 2 December 2014, the clock was stopped on the assessment as the NSW Office of Water required an assessment of the volume of groundwater expected to be taken from the excavation to be quantified. This information was provided by the applicant on 28 January 2015. In a letter dated 10 February 2015, the NSW Office of Water provided its General



Terms of Approval for the proposed development and is attached to the schedule of consent conditions.

### **State Environmental Planning Policy (Infrastructure) 2007**

The development application was referred to the Australian Rail Track Corporation (ARTC) in accordance with Clause 86(2) of *State Environmental Planning Policy (Infrastructure) 2007* in relation to the proximity of the subject site to the rail corridor. The ARTC advised Council that it has no objections to the proposal subject to the consent authority being satisfied that the development satisfies the relevant acoustical standards. Recommended conditions have been included.

Pursuant to Clauses 87 and 102, consideration must also be given to the impact of road and rail noise and/or vibration on no-road and non-rail development. The Acoustic report considers this issue and concludes that the proposal is satisfactory subject to recommended mitigation measures. These mitigation measures are recommended to be imposed as conditions. The *Development near Rail Corridors and Busy Roads – Interim Guideline* prepared by the Department of Planning in December 2008 states that the vibration assessment zone for typical development sites adjacent to rail corridors or above rail tunnels is approximately 60 metres for most developments (apart from single dwellings). The existing railway line is approximately 50 metres to the nearest point of the subject site. Given the distance to the railway line and the lack of objection raised by the ARTC on the basis of vibration, it is considered that vibration will not adversely impact on the development. The proposal is considered to be consistent with this policy.

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

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

The signage is attached to a free standing wall which is approximately 5.8 metres long and 2 metre high along the Robey Street frontage and proposed to contain the words “THE BRANKSOME” with “SERVICED APARTMENTS” written in smaller letters below it. The large lettering of the “The Branksome” will be of a length of approximately 4.5m and height of 300mm while the smaller lettering will be of a length of approximately 3.4m and a height of 200mm. the proposed signage wall is to be setback 2.5 metres from the site boundary and surrounded by landscaping.

This signage is considered to be **building identification sign** as it identifies or names the building, and that may include the name of a business or building.

The proposed signage is considered appropriate for the context of the development site and satisfies the assessment criteria of SEPP 64 as it is compatible with the character of the area having been designed as part of the front landscaped area of the site. the integration of the proposed wall with the deep soil landscaping will ensure the wall is integrated into the surroundings and will not adversely affect visual amenity or road safety. There is no advertising proposed for the office./warehouse component of the proposed development. It is considered the proposal is consistent with SEPP 64.

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

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

The development application is accompanied by Stage 1 and Stage 2 Contamination Assessments as the proposed development involves excavation on a site that has previous industrial use. The Stage 2 assessment concluded that the contaminant concentrations in soil exceeding the health-based and ecological investigation levels were not considered to present an unacceptable risk to human health or the environment as they will be removed from the site as part of the excavation works associated with the proposed development. There was no visual or olfactory evidence of subsurface contamination noted on-site and there was no asbestos detected in the soil samples submitted for analysis.

Given the results of the Stage 2 assessment and following a request from Council, a Remedial Action Plan (RAP) has been prepared for the site to select the appropriate remediation goals and remediation options for the proposed land use, outline the preferred remediation option and outline the procedures for remediation, site control and management, as required.

Council's Environmental Scientist has reviewed the application and associated Contamination reports and has no objection to the proposal subject to recommended conditions relating to contamination and remediation. Recommended conditions are provided to ensure that site contamination is addressed and that a Site Audit Statement is issued prior to the issue of the Occupation Certificate that states that the site is suitable for the development. As such the site will be made suitable for the proposed development subject to the recommended conditions.

A *Pre - Demolition/Refurbishment Hazardous Materials Report (September 2014)* survey was undertaken to identify and locate any hazardous materials survey of the two commercial buildings at No 55-77 Baxter Road to enable removal prior to demolition / major refurbishment. At the time of the survey, no friable asbestos materials were identified, however damaged asbestos cement sheets and moulded asbestos cement products were identified with asbestos cement fragments found at ground surfaces. Sub-surface soils were not assessed at the time of the survey. Recommendations were made for the removal of hazardous materials from the site. Relevant conditions are recommended in the conditions. The proposal is considered to be consistent with this policy.

### Botany Bay Local Environmental Plan 2013

The provisions of the BBLEP 2013 have been considered in the assessment of this Development Application and the following information is provided:

**Table 2: BBLEP 2013 Compliance Table**

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Land Use Zone (Cl 2.2)	Yes	The site is zoned B5 Business Development.
Land Use Table (Cl 2.3)	Yes	The proposal is permissible with consent as serviced apartments (as a use not specified in

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		<p>items 2 or 4), office, warehouse, retail premises, neighbourhood shops and food and drink premises. Storage premises and residential accommodation are prohibited in the zone.</p> <p>The proposal is not for ‘storage premises’ which are prohibited, as the storage of materials (pre-packaged foods, uniforms etc) is ancillary to a business use. The proposal is not for residential development as the application clearly states it is for serviced apartments which is a tourist development.</p>
Zone objectives (Cl 2.3)	Yes	<p>The proposed development is consistent with the following zone objectives:</p> <ul style="list-style-type: none"> <li><i>To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.</i></li> </ul> <p>The proposal is considered to be consistent with this objective given the proposal will allow for the provision of a mix of business and warehouse uses on a site close to the centres of Mascot and the airport.</p> <p>The provision of a greater range of tourist accommodation and business uses close to the airport also ensures the objective is obtained by the proposal. The development serves both the local and regional populations with respect to short term accommodation and employment opportunities at the site. Public transport can be provided given the existing bus (O’Riordan Street and Botany Road services) and taxi facilities that are to be provided at the site under the proposal.</p>
Subdivision – consent requirements (Cl 2.6)	Yes	Subdivision is permissible with consent. The proposal seeks consent for lot consolidation and subdivision into 2 lots (serviced apartments and office/warehouse on separate lots). Standard subdivision conditions are therefore recommended for any approval.
Demolition requires development consent (Cl 1.7)	Yes	Demolition of the existing dwellings and buildings on the site is proposed. Conditions relating to demolition have been included.
<p>Height of buildings (Cl 4.3)</p> <p>What is the height of the building?</p> <p>Is the height of the building below</p>	<p><b>No –</b></p> <p><b>Refer to Clause 4.6 variation below</b></p>	<p>The maximum permitted height is 22 metres.</p> <p>The proposal seeks consent for a maximum height of <b>26.78m</b> (RL 31.25m) in the SE corner (4.78 metres above the maximum height) being the vertical distance between</p>

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
the maximum building height?		<p>ground level (existing) and the highest point of the building, including plant and lift overruns (as per BBLEP 2013).</p> <p>The roof of the main portion of the building (up to Level 6 (7<sup>th</sup> floor) is between 202mm under the maximum height limit at the NW corner to 638mm above the maximum height limit in the SE corner. The height to the top of plant/lift/roof garden on Level 7 (8<sup>th</sup> floor) exceeds the maximum height limit by between 3.948m (NW corner) to 4.78m (SE corner).</p> <p>The overall heights are 25.95m (NW), 25.97m (SW), 26.69m (NE) and 26.78m (SE) above natural ground level.</p> <p>An assessment under Clause 4.6 is provided below.</p>
<p>Floor Space Ratio (Cl 4.4)</p> <p>What is the proposed FSR?</p> <p>Does the FSR of the building exceed the maximum FSR?</p>	<p><b>No</b></p> <p><b>Refer to Clause 4.6 variation below</b></p>	<ul style="list-style-type: none"> <li>The total site area is 8,151m<sup>2</sup> (previously 8,096m<sup>2</sup> before Lot 281 was included). The max permitted FSR is 1.5:1 x 8,151m<sup>2</sup> = <b>12,226.5m<sup>2</sup></b>.</li> <li>The proposed gross floor area is <b>12,747.3m<sup>2</sup></b> and FSR is <b>1.56:1</b>.</li> <li>Extent of non-compliance is <b>520.8m<sup>2</sup> / 4.26%</b></li> </ul> <p>An assessment under Clause 4.6 is provided below.</p>
Is the site within land marked "Area 3" on the FSR Map (Cl 4.4A)	N/A	The subject site is not identified as being within "Area 3" on the FSR map.
Is the land affected by road widening or other purposes for acquisition? (Cl 5.1)	N/A	The subject site is not affected by road widening and is not noted for acquisition on the Land Acquisition Map.
Development near zone boundaries (Cl 5.3)	N/A	Not applicable to the development as the proposal is permissible with consent in the zone.
Architectural roof features (Cl 5.6)	<p><b>No –</b></p> <p><b>refer to Note 1</b></p>	<p>The objectives of this clause is to ensure that architectural roof features to which this clause applies are decorative elements only and that the majority of the roof is contained within the maximum building height standard.</p> <p>Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with consent.</p> <p>The proposal contains an architectural roof features which causes the building to exceed the building height and therefore this clause is a relevant consideration in this assessment.</p>

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		As outlined below, it is considered that the proposal does not satisfy this Clause.
Trees or vegetation not prescribed by development control plan (Cl 5.9AA)	Yes	There are three (3) significant trees to be removed for the proposal. There are a further eight (8) trees proposed to be removed from the site for the proposal designated as “unimportant” by the arborists while another 5 important trees may be affected by the proposed development. This issue is considered in more detail in this report.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area? (Cl 5.10)	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area. There are several items located within the boundaries of the airport including the Commonwealth Water Pumping Station and Sewage Pumping Station No 38 (Item I3), Ruins of the former Botany Pumping Station (Item I168) and Sydney (Kingsford Smith) Airport group (Item I170). Given the distance of the subject site to these items (beyond Joyce Drive), the proposal is unlikely to adversely affect the heritage value of these items.
Acid sulphate soils (Cl 6.1)	Yes	<p>The subject site is affected by Class 4 Acid Sulfate Soils (ASS) and there is excavation proposed for the basement.</p> <p>The Geotechnical report considered ASS and provided the following conclusion:</p> <p><i>The ASS Risk Map indicates that there is a low probability of occurrence of Acid Sulfate Soils at depths of 3m or greater at the site. As the site is underlain by sandy soils, not estuarine muds, and based on the laboratory test results ASS is not expected to be present at the site.</i></p> <p><i>Three SPOCAS tests were carried out on samples of the near surface soils and indicated relatively low pyrite content in all samples tested. A sample from BH3 had relatively low initial pH that dropped further when subject to oxidation. However the pyrite content of the sample was low and hence the soil is not an actual or potential Acid Sulphate Soil.</i></p> <p>It is therefore considered that there will be minimal impacts likely to result from ASS on the site; however, standard conditions are recommended in the event that during excavation ASS are encountered on the site. The development is considered to be consistent with this Clause.</p>

<b>Principal Provisions of BBLEP 2013</b>	<b>Compliance Yes/No</b>	<b>Comment</b>
Earthworks (Cl 6.2)	Yes	A basement parking level is proposed which includes excavation of approximately 3 metres. A Geotechnical report has been provided which concluded that the development is feasible subject to detailed design, including dewatering during construction and having regard to flood levels. Council's Engineer has considered the proposal and raises no objections subject to relevant conditions being imposed. These conditions have been recommended to be imposed. The development is considered to be consistent with this Clause.
Stormwater management (Cl 6.3)	Yes	An open concrete channel currently runs through the site from Robey Street to Baxter Road in the NE corner of the site (approx.. 1500mm wide and 750mm high). A box culvert is proposed to replace this open concrete channel. Council's Engineer has considered the proposal and raised no objections to the proposal, subject to the imposition of conditions. These conditions have been included in the conditions. The development is considered to be consistent with this Clause.
Airspace operations (Cl 6.8)	Yes	The site is 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 33 metres AHD, subject to conditions to be imposed on any consent. The development is considered to be consistent with this Clause.
Development in areas subject to aircraft noise (Cl 6.9)	Yes	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 this Clause.
Active Street frontages (Cl 6.15)	N/A	The site is not affected by the Active Street Frontages Map.
Design excellence (Cl 6.16)	No	This clause applies to land at Mascot Station Precinct, as shown edged heavy pink on the

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		<p>Key Sites Map. The site is located within this Precinct.</p> <p>The proposed design has been the subject of consideration by Council's Design Review Panel on 7 August 2014. The DRP was generally supportive of the proposal in terms of design, however, did not support the variations to height and FSR notwithstanding it considered there were no adverse impacts from such non-compliances.</p> <p>Council and the DRP made a number of recommendations, the majority of which have been incorporated in the design. The DRP also did not support the non-compliances with the height and FSR development standards nor did Council's Strategic planning officers. On this basis, it is considered that the applicant has not adequately addressed the recommendations of the DRP or the concerns of Council given the proposal still involves significant variations to these development standards.</p>

### Note 1 – Architectural roof features (Clause 5.6)

Clause 5.6(3) requires that development consent must not be granted to an architectural roof feature unless the consent authority is satisfied that:

- a) the architectural roof feature:
  - (i) comprises a decorative element on the uppermost portion of a building, and
  - (ii) is not an advertising structure, and
  - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
  - (iv) will cause minimal overshadowing, and
- b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

The architectural roof feature is not an advertising structure and will not cause any significant overshadowing and therefore Clause 5.6(3)(a)(ii) and (iv) are satisfied.

It is considered that the architectural roof feature is a significant structure, with enclosed walls and built form such that it appears as an additional storey to the building. The provision of the lift to this level as well as enclosed plant rooms results in this level being included in the overall height of the building and adding significant bulk to the building. It is therefore considered that this structure is not a 'decorative element' but rather it constitutes a level and cannot be considered as an architectural roof feature.

It is also considered that this top level is reasonably capable of modification to include floor space given the construction of the lift to this level, the ceiling height of 4.15 metres that could be achieved and that enclosed walls could be easily added around the roof

gardens to convert this level to penthouses (which were formally proposed in this location). The argument would be made that penthouses could be added without an increase to the overall height of the building. Such a modification would be contrary to the height development standard which seeks to ensure buildings do not exceed the maximum height for the site. Furthermore, the excessive height and scale of the roof feature adds to the overall bulk of the building such that the maximum height limit is further exceeded and adverse impacts from the excessive bulk and scale of the building are encountered for the nearby low density residential area.

The equipment for servicing the building, including plant and the lift, contained in or supported by the roof feature needs to be fully integrated into the design of the roof feature. It is considered that excessive bulk is added to the roof feature by incorporating this service equipment and the associated excessive screening required to hide this servicing equipment. Therefore, it is considered that it is not designed to be integrated within the proposed roof feature.

Accordingly, the architectural roof feature is inconsistent with Clause 5.6(3)(a)(i) and (iii) and (b) of BBLEP 2013.

#### **Clause 4.6 Exceptions to Development Standards (Height and FSR)**

Under the provisions of the BBLEP 2013, the site is zoned B5 - Business Development. The proposal is inconsistent with the height of buildings development standard pursuant to Clause 4.3 and the maximum floor space ratio (FSR) development standard pursuant to Clause 4.4 of the BBLEP 2013. The applicant has submitted variations to Clause 4.3 and 4.4 pursuant to Clause 4.6 requesting a greater height and FSR. These are 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 these development standards, as the height and FSR development standards are not expressly excluded from this Clause (Cl 4.6(2)). In assessing the proposed departures, 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) as outlined below.

The applicant has provided written requests justifying the contravention of the development standards pursuant to Clause 4.6(3) of BBLEP 2013 for the amended proposal, which are considered below. Clause 4.6 (6), (7) and (8) are not relevant to the current proposal.

### Clause 4.3 Height of Buildings

The maximum height of buildings that applies to the development site is 22 metres pursuant to Clause 4.3 of BBLEP 2013. The proposed maximum height is **26.78 metres** (RL 31.25m) in the SE corner. The extent of the height (to top of roof) non-compliance is **4.78 metres**.

The roof of the main portion of the building (up to Level 6 (7<sup>th</sup> floor)) is between 202mm below (NW corner) to 638mm (SE corner) above the maximum height limit. The height to the top of the penthouse level on Level 7 (8<sup>th</sup> floor) exceeds the height limit by between 3.948m (NW corner) to 4.15m (SE corner). The overall heights are 25.95m (NW), 25.97m (SW) and 26.69m (NE). the height variation is illustrated in **Figure 12** from the applicant's Clause 4.6 variation.

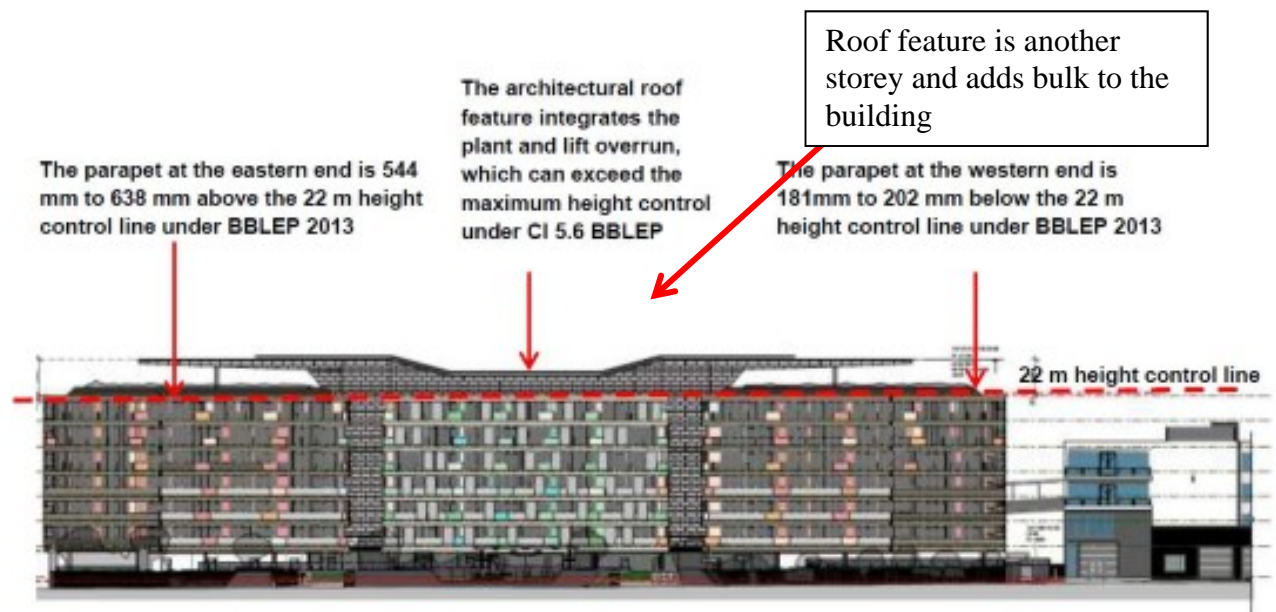


Figure 12: Height Exceedance (Source - Applicant's Cl 4.6 Variation)

### Applicant's Clause 4.6 Variation

The applicant has submitted a Clause 4.6 variation to Clause 4.3 requesting a greater height pursuant to Clause 4.6(3) of the BBLEP 2013 which provides the following justification:

- The proposal satisfies the first test set out in *Wehbe v Pittwater Council [2007] NSWLEC 827* for establishing whether a development standard is unreasonable or unnecessary in that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- There will be no adverse impacts on the amenity of adjoining residential development in that there will be no privacy or view loss or any significant overshadowing arising from the non-compliance;
- The building articulation and façade treatment ensures an appropriate visual relationship and treatment of interface with the residential area. The massing of the building to Baxter Road provides the opportunity for deep soil landscape treatments along the Robey Street frontage resulting in enhanced streetscape amenity.

- The building design is articulated into three separate forms to reduce its bulk and adopts a varied palette of colours to create visual interest when viewed from the public domain.
- The proposal is consistent with the desired future character of the area.
- The proposed height is not inconsistent with the extent of variations to which consent has previously been provided.
- The topography and flood constraints require the building floor level to be raised 700mm and the reduced footprint will minimise flooding impacts to other properties.
- There are sufficient environmental planning grounds for the non-compliance including the flooding constraints and the need to provide a large landscaped interface to Robey Street;
- The proposed development is in the public interest because it satisfies the zone objective which seek to support centres by providing airport related uses and employment opportunities close to Sydney Airport and the objectives of the height development standard as demonstrated in the Wehbe.
- The contravention of the development standard does not raise any matter of significance for State or regional environmental planning. The site does not set a precedent at the state and regional level.
- There is no public benefit of maintaining the standard given the significant improvements to the locality that will be achieved through the development, particularly the public pedestrian through-site link providing a connection for residents at the eastern end of Baxter Road to the John Curtin Memorial Reserve and the relocation and upgrade and of Council's stormwater infrastructure on the site.
- The proposal represents the optimum outcome for the site given a bulky goods warehouse is permissible which would result in an inferior design and greater impact on residential amenity.

It should be noted that this Clause 4.6 variation has been prepared on the basis of the variation to the height to the top of the parapet to Level 6 and ignores the height non-compliance of the rooftop garden level (Level 7) which contains a plant room and lift motor room.

Building height is defined in the Dictionary to BBLEP 2013 as “*the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like*”. Therefore, the height of the building is the measurement to the top of Level 7, which contains plant and lift overruns.

While the applicant appears to have relied on Clause 5.6 of BBLEP 2013 to justify the inclusion of the ‘roof feature’ and exempt it from the maximum building height, the proposed roof garden level (Level 7) does not achieve the objectives of Clause 5.6 which require that architectural roof features are decorative elements only and that the majority of the roof is contained within the maximum building height standard. The proposed Level 7 roof gardens are also of such a size and bulk, with solid walls and solid steel screening that it appears as another storey in structure and visual impact. This roof level is considered to be another storey and significantly adds bulk to the building. It is considered that this is not an ‘architectural roof feature’ (discussed further in the BBLEP 2013 assessment).

Accordingly the Clause 4.6 variation for maximum building height pursuant to Clause 4.3 is invalid and fails to adequately demonstrate that the development standard is

unreasonable or unnecessary in this case. Notwithstanding this assessment, a consideration of the applicant's Clause 4.6 variation is provided.

The applicant must adequately justify this departure from the development standard by demonstrating that the compliance with the development standard is unreasonable or unnecessary in the circumstance of the case and that there are sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3) of BBLEP 2013).

A. Compliance with the development standard is unreasonable or unnecessary in the circumstance of the case

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 standard is well founded. This test is outlined below for this variation to the maximum height.

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

The objectives of Clause 4.3 Height of Buildings of the Botany Bay LEP 2013 are:

- a) *to ensure that the built form of Botany Bay develops in a **coordinated and cohesive** manner,*
- b) *to ensure that taller buildings are **appropriately located**,*
- c) *to ensure that building height is **consistent with the desired future character** of an area,*
- d) *to minimise **visual impact, disruption of views, loss of privacy and loss of solar access to existing development**,*
- e) *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.*

The applicant contends that the proposal achieves the objectives of this development standard as outlined above. However, it is considered to be inconsistent with the objectives of the Height of Buildings development standard for the following reasons:-

- The additional height does not allow for development to proceed in a coordinated and cohesive manner, given the height limit is not complied with and the bulk and density of development is not in accordance with the LEP (zoning, height etc). A building almost 5 metres above the height limit does not represent coordinated and cohesive development;
- The “taller” building is not appropriately located adjoining a residential area, with areas within and surrounding town centres and along major roads more conducive locations for taller, non-compliant developments;
- The proposed development is not compatible with the bulk and scale of the existing development in the area and the future desired character of the locality, given the recently approved Baxter International Hotel and other recently approved or constructed projects are within the 44 metre height limit area and are located closer to the arterial roads and town centre. The existing Quest building on Robey Street provides relevant scale in terms of height and floor space, however, is also located in the 44 metre height limit area;

- The height of the development does not provide for a suitable transition between the existing low scale residential development to the east of the site along both Baxter Road and Robesey Street and the high density commercial developments to the west of the site comprising the Quest, Baxter and Stamford Hotel buildings and the various advertising and car parking structures (both existing and proposed) to the south of the site;
- There is unlikely to be any significant adverse impacts from the additional height proposed on the amenity of adjoining properties in terms of overshadowing, privacy or view loss, however, there is likely to be adverse impacts from the excessive bulk and scale of the proposed when viewed in context with the low rise low density adjoining residential development to the east on Baxter Road and Robesey Street.

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

The underlying objective and purpose of the Height of Buildings control has not been achieved as stated above, therefore the standard is relevant and relatively strict compliance with the numerical requirement being a maximum height of 22 metres is still necessary in this instance. The proposed development is incompatible with the desired future character and is not located within the 'gateway' area of increased height and FSR function of the western end of Baxter road denoted by the 44 metre height limit area.

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

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

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

The Height of Buildings control has been varied in the surrounding area in recognition of a need to meet the demands for housing and commercial development in the area. The proposed Height of Buildings variation is inconsistent with the extent of variations to which consent has previously been provided and such variations have been granted to a smaller extent and in areas closer to arterial roads and centres.

The applicant provided various examples of height exceedances granted approval by the Council, the NSW Land & Environment Court and the JRPP, however, the majority of these examples were approved under the former LEP (Botany bay LEP 1995), propose a small height variation (2.6 metres for 19-33 Kent Rd Mascot, 3.2m for 39 Kent Road and 2 metres for 581-587 Gardeners Road) and/or are located along major roads, in high density mixed use areas such as commercial/industrial areas. It is not considered that the development standards has been abandoned, only varied to minor extents in appropriate locations.

*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*

This reason has not been relied upon.

#### B. Sufficient Environmental Planning Grounds

As detailed in this report, there are not sufficient planning grounds arising from the proposal to warrant support of this variation to the height development standard given:-

- The proposed development is inconsistent with the development standards of the height control as outlined above;
- The proposed development is incompatible with the bulk and scale of the existing development in the area and the future desired character of the locality given the site has a 22 metre height control;
- The other variations granted in the area to the height development standard were much smaller (around 2 metres);
- There are no reasons why the proposal cannot be accommodated on the site within the height controls;
- The public benefits proposed in the development can be achieved with a compliant development, since the pathway and park are not necessarily linked to the height and FSR of the building;
- The acceptance of the proposal on the basis that a bulky goods development would be less desirable is not supported given any development on the site would need to be assessed on its merits and the maximum controls for the site may not necessarily be achieved on the site;
- The flooding constraint only adds an additional 500mm to the overall height of the building which could be supported in technical grounds;
- The non-compliance is inconsistent with the objectives of Clause 4.6 in that the variation does not represent an ‘appropriate’ degree of flexibility and a better outcome is not achieved via the non-compliance;
- The development standard is not unreasonable or unnecessary in the circumstances.
- The site is not suitable for the height of the development.

While the greater setback to Robey Street and the slender built form addressing Baxter Road are supported, such constraints may render the site unsuitable to achieve the maximum height and FSR development standards, which are maximums and cannot necessarily be achieved on every development site. Therefore, it is considered that there are not sufficient planning grounds for a variation to building height. Accordingly, it is considered that there is insufficient planning merit to justify the building height non-compliance.

#### C. Other Matters For Consideration

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)

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.*

### Summary

The rationale and argument presented in the Clause 4.6 variation is generally not agreed with and it is recommended that the development standard relating to the maximum height of buildings for the site as contained within Clauses 4.4 of the BBLEP 2013 should not be varied in the circumstances.

As discussed in this assessment, it has not been established that the proposed development is appropriate nor that strict adherence to the development standard in this instance is unreasonable and/or unnecessary. Maintaining and enforcing the development standard in this case is required to ensure the orderly and economic development of land.

It is considered that the applicant's Clause 4.6 is not well-founded and the departure is NOT in the public interest given the height of the building is inappropriate in this location. On the basis of this assessment, it is concluded that the variation cannot be supported.

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

The maximum floor space ratio (FSR) that applies to the development site is 1.5:1 pursuant to Clause 4.4 of BBLEP 2013, which results in a maximum gross floor area of **12,226.5m<sup>2</sup>** for the site. The proposed gross floor area is **12,747.3m<sup>2</sup>**, resulting in a total proposed FSR of 1.56:1. The extent of the non-compliance is **520.8m<sup>2</sup>**, representing a variation of **4.26%**. Accordingly, the proposal exceeds the permissible FSR. As outlined in this report, the proposed reduction in the FSR in the amended proposal does not result in any significant change to the building form and therefore the resulting bulk and scale is the same as that provided by the significant departure from the FSR development standard proposed in the original proposal (1,816.3m<sup>2</sup> - 14.96% variation).

### Applicant's Clause 4.6 Variation

The applicant has submitted a Clause 4.6 variation to Clause 4.4 requesting a greater FSR pursuant to Clause 4.6(3) of the BBLEP 2013 which provides the following justification:

- The proposal satisfies the first test set out in *Wehbe v Pittwater Council [2007] NSWLEC 827* for establishing whether a development standard is unreasonable or unnecessary in that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- The flexible application of the development standard is appropriate in this case because the additional floor space does not manifest itself in any impact to adjoining properties in terms of residential amenity, overshadowing or visual impact, it complies with the building envelope in terms of height except for a minor due to flood requirements, density is appropriate and in accordance with the desired future commercial character of the area, the additional floor space would not be noticeable on the surrounding road network and the apartment layout maximises solar access, cross ventilation and building depths to optimise the internal amenity

for future occupants. The development achieves a high quality design with careful form and siting with respect to site layout and represents the optimum development outcome (compared to bulky goods).

- The proposed development provides a high quality development that facilitates the orderly and economic development of land in a manner that is appropriate in the area.
- The proposal achieves the objectives of the development standard in that:-
  - the bulk and scale of the development is consistent with BBLEP 2013 and creates a suitable transition at the interface of the adjacent low scale residential area to the north and future buildings on the southern side of Baxter Road.
  - The proposal exhibits a high standard of architectural design that will provide an appropriate visual relationship with other new development in the area;
  - The building will achieve a superior design outcome by providing a generous setback and deep soil landscape along Robesy Street frontage
  - The building does not adversely affect the streetscape as it has an increased setback to Robesy Street, and is articulated into three separate forms to reduce its bulk and adopts a varied palette of colours to create visual interest when viewed from the public domain.
  - does not result in any additional environmental impacts in terms of solar access, privacy or view loss to adjoining properties.
  - The large size of the site and its dual street frontage together with no residential development to the south and west ensures that it is capable of accommodating the marginal degree of excess FSR.
  - The proposed development would facilitate economic growth in Botany Bay and the wider area due to the site's proximity to the domestic and international airport.
- There are sufficient environmental planning grounds to justify contravening the development standard, in that there will be no adverse environmental impacts including overshadowing, privacy or visual impacts to the surrounding area as a result of the minor variation to the development standard, the traffic generated by the additional floor space would not be noticeable on the surrounding road network, bulk and scale is consistent with the desired future character of the locality and respects the residential interface, the reduced footprint will minimise flooding impacts to other properties
- The proposed development is in the public interest because it satisfies the zone objective and the objectives of the FSR development standard
- The contravention of the development standard does not raise any matter of significance for State or regional environmental planning. The site does not set a precedent at the state and regional level.

The applicant must adequately justify this departure from the development standard by demonstrating that the compliance with the development standard is unreasonable or unnecessary in the circumstance of the case and that there are sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3) of BBLEP 2013).



A. Compliance with the development standard is unreasonable or unnecessary in the circumstance of the case

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.

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

The objectives of Clause 4.4 Floor Space Ratio of the Botany Bay LEP 2013 are:

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

The applicant contends that the proposal achieves the objectives of this development standard as outlined above. The proposal is considered to be inconsistent with the objectives of the FSR development standard for the following reasons:-

- The proposed development is incompatible with the bulk and scale of the existing development in the area and the future desired character of the locality as the FSR and height development standards are exceeded and there is likely to be an adverse visual impact for the adjoining residential properties due to the excessive height and bulk proposed in this development;
- The design of the development does not create a suitable transition between the existing low scale residential development to the east of the site along both Baxter Road and Robey Street and the high density commercial developments to the west of the site comprising the Quest, Baxter and Stamford Hotel buildings and the various advertising and car parking structures (both existing and proposed) to the south of the site;
- The proposed development is of a high quality and modern design, however, will not result in an appropriate visual relationship between new development and the existing character of the area. While the area to the west is undergoing a transition from a largely two storey character to 6 and 9 storeys in height and greater floor space, this area is largely contained in the 44 metre and 3:1 FSR areas noting their gateway locations and functions in close proximity to the airport and main roads (O’Riordan Street). The subject site is not intended to form part of this ‘gateway’

location given it has a lower height and FSR limit and adjoins a low density residential area.

- The breaking up of the building into three separate forms assist in reducing bulk and scale, however, the overall scale of the development is excessive and incompatible with its context of a transition zone;
- While the significant setback to Robey Street assists in reducing the built form's impact on the streetscape of Robey Street, there are no compelling planning reasons as to why a compliant development cannot also achieve such a setback.
- It is acknowledged that there is unlikely to be any significant adverse impacts from the additional floor space proposed on the amenity of adjoining properties, however, an adverse impact is likely to occur in terms of visual amenity given the excessive bulk and scale proposed.
- The proposal will adversely affect the streetscape in that the development is higher than surrounding buildings and away from main roads and gateway sites.
- The proposal fails to achieve an appropriate correlation between the size of a site and the extent of any development on that site given the additional FSR proposed.

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

The underlying objective and purpose of the Floor Space Ratio control has not been achieved as stated above, therefore the standard is relevant.

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

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

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

The FSR control has been varied in the surrounding area in recognition of a need to meet the demands for housing and commercial development in the area. The applicant provided various examples of FSR exceedances granted approval by the Council, the NSW Land & Environment Court and the JRPP, however, some of these examples were approved under the former LEP (Botany bay LEP 1995), propose a smaller FSR variation and/or are located along major roads, in high density mixed use areas such as commercial/industrial areas. It is not considered that the development standard has been abandoned, only varied to minor extents in appropriate locations. The only appropriate examples of variations granted to FSR are outlined in the table below.

**Table 3: DCP 2013 Compliance Table**

Address	FSR Control (BBLEP 2013)	Approved FSR	Approval Date	Approval Body
2-4 Haran Street	3.2:1	4:1	August 2013	JRPP
19-33 Kent Road	3.2:1	3.72:1	30 March 2014	JRPP

581-587 Gardeners Road	2.5:1	2.46:1	16 April 2014	JRPP
2-8 Sarah Street	3:1	3.19:1	22 July 2014	JRPP
13A Church Street	3.2:1	3.6:1	11 June 2014	Council
113-121 Baxter Road	3:1	3.48:1	3 September 2014	JRPP

- 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 inappropriate and strict adherence to the development standard in this instance is not unreasonable or unnecessary. There has been no justification provided as to why the benefits of the proposal (good design, flood proofed, landscaped setback to Robey Street and the through-site link) cannot be achieved by a compliant development.

Furthermore, while the additional floor space does not result in any significant impact to adjoining properties in terms of residential amenity, overshadowing or visual impact, there is an adverse visual impact arising from the inappropriate bulk and scale resulting from the additional FSR proposed.

The proposed development can provide a high quality serviced apartments and commercial development that facilitates the orderly and economic development of the land in a manner that is appropriate in the Precinct and which complies with the relevant development standards.

#### B. Sufficient Environmental Planning Grounds

As detailed in this report, there are not sufficient planning grounds arising from the proposal to warrant support of this variation to the FSR development standard given:-

- The proposed development is incompatible with the bulk and scale of the existing development in the area and the future desired character of the locality;
- The site is located within lower height and FSR area to that if sites comprising the gateway from Sydney Airport with such other sites warranting additional gross floor area to be tolerated;
- The proposal complies with the car parking controls;
- The additional floor area is largely attributable to the proposed level 7 which comprises a heavy, excessive roof feature that also houses plant and lift equipment and an enclosed, roofed garden area easily modified to floor area;
- The proposed design of the building form is of high quality and the breaking up of the building into three distinct parts assists in integrating the building into the site and surroundings, however, such benefits can also be achieved within a complaint building envelope;
- There is likely to be any adverse visual impacts arising from the proposed built form given the location and construction of the proposal is

- incompatible with the existing building form and residential zoning of the adjoining and nearby site.
- A significant and appropriate development can be achieved on the site within the FSR development standard.

Therefore, it is considered that there are not sufficient planning grounds for a variation to the FSR.

### C. Other Matters For Consideration

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)

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

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

While it is considered that the proposed development will achieve the strategic direction of the area in that tourist and commercial uses will be provided in close proximity to Sydney Airport, such a development can be achieved within a compliant building envelope. Employment and investment opportunities can also be achieved without adversely impacting on the visual amenity or the amenity of the area.

It is considered that the proposed development is not in the public interest as it does not satisfy the objectives of the development standard. Furthermore, the public benefits of the public pedestrian through site link, publicly accessible children's playground, upgrade of council's infrastructure and footpath, revitalisation of an underutilised and vacant site, and streetscape improvements can be achieved by a compliant proposal.

As outlined in this report, the proposed development is considered incompatible with the existing character of the area and there is likely to be adverse impacts to surrounding properties. Council officers agree that the proposal is also likely to create an undesirable precedent in the area.

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 rationale and argument presented in the Clause 4.6 variation is generally not agreed with and it is recommended that the development standard relating to the maximum FSR for the site as contained within Clauses 4.4 of the BBLEP 2013 not varied in the circumstances to allow the development.

As discussed in this assessment, it has not been established that the proposed development is appropriate and strict adherence to the development standard in this instance is reasonable and necessary. The departing floor space results in an adverse visual impact due to excessive bulk and scale and is not supported. Maintaining and enforcing the development standard in this case will not unreasonably prevent the orderly and economic development of this underutilised site as the site is capable of sustaining a compliant development.

It is considered that the applicant's Clause 4.6 is not well-founded and the departure is not in the public interest. On the basis of this assessment, it is concluded that the variation cannot be supported.

### Botany Bay Development Control Plan 2013 (BBDCP 2013)

The Botany Bay Development Control Plan 2013 (BBDCP 2013) is the comprehensive development guideline for the City of Botany Bay and was adopted by Council on 11 December 2013 in accordance with the provisions of the EP&A Act and the *Environmental Planning and Assessment Regulation 2000*. The applicable clauses of the DCP are considered in the assessment of the proposal and are addressed in Table 4 below.

**Table 4: DCP 2013 Compliance Table**

Part	Control	Proposed	Complies
<b>3A.2 Parking Provisions</b>	<p>C1 &amp; C3 - All required car and bicycle parking must be provided on-site.</p> <p>C2 Car parking shall be provided in accordance with Table 1– Specific Parking Requirements for specific land uses:-</p> <ul style="list-style-type: none"> <li>Serviced apartments – 1 space/1.5 units + 1 space/2 employees + 1 taxi pick-up/set down space/300 rooms;</li> <li>Warehouse – 2 spaces or 1/300m<sup>2</sup> (the greater) + 1/40m<sup>2</sup> ancillary office.</li> </ul> <p>C7 – Bicycle parking - 10% of required car parking (133 car spaces requires 15 bicycle spaces are required).</p>	<p><b>133</b> car parking spaces have been provided (115 basement &amp; 18 at-grade) including 8 disabled spaces at a rate of:</p> <p>s/apartments – 102 spaces (152 units/1.5) + 5 staff spaces (9 staff/2 space per employee) = <b>107 spaces for serviced apartments</b>;</p> <p>Warehouse – 389.3m<sup>2</sup>/300m<sup>2</sup> = <b>2 spaces</b></p> <p>Office - 944m<sup>2</sup>/40m<sup>2</sup> = <b>24 spaces</b></p> <p>The proposed retail space and guest dining area are for guest use only and are therefore ancillary to the use of the building as a serviced apartments building and are not assessed separately for car parking.</p> <p><b>133</b> car parking spaces required.</p> <p>16 bicycle spaces in basement (10% of 133 spaces = 14).</p>	Yes – Conditions required
<b>3A.3 General Requirements</b> <b>3A.3.1 Car Park Design</b>	<p>C1 – All off-street parking facilities designed in accordance with current Australian Standards AS2890.1 and AS2890.6 (for people with disabilities). The design of off – street commercial vehicles facilities (including parking) shall be in accordance with AS2890.2.</p>	<p>A traffic report prepared by Colston Budd Hunt &amp; Kafes P/L has been submitted. The report confirms that all car parking areas have been designed to comply with AS2890.1 and AS2890.6. A condition is recommended to ensure compliance is met. Council's Traffic Engineer has no objections subject to conditions.</p>	Yes - Conditions required

Part	Control	Proposed	Complies
		<p>There is adequate manoeuvring for all vehicles and proposed access points are appropriate for the site.</p> <p>Accessible parking spaces have been provided in accordance with these controls, 8 spaces are noted on the plans.</p>	
<b>3A.3.2 Bicycle Parking</b>	C1-C5 To comply with AS2890.3 & AUSTRROADS.	The proposal includes bicycle spaces (16) in the basement.	Yes
<b>3A.3.3 Traffic &amp; Transport Plans and Reports</b>	Traffic & Parking Assessment Report provided (Schedule 3 of Infrastructure SEPP).	A Traffic Impact Report has been provided.	Yes
<b>3A.3.4 – On Site Loading and Unloading</b>	<p>C1 - Service bays and parking area for commercial vehicles shall be designed in accordance with AS2890.2 and AUSTRROADS guidelines.</p> <p>C2 - The number of service bays shall be provided in accordance with Table 2.</p> <ul style="list-style-type: none"> <li>Industrial premises (&lt;8000m<sup>2</sup>) – 1 service bay for MRV</li> </ul>	<p>The proposal includes a loading dock on the Baxter Road frontage of the site which can cater up to medium rigid vehicles. A loading bay/dock is also provided along the eastern boundary of the proposed office/warehouse as a drive-through facility to Robey Street</p> <p>The loading areas will be sufficient to cater for the proposal. Delivery vehicles can enter and leave the site in a forward direction and can stand in the loading area when servicing the site.</p>	Yes - Conditions required
<b>3C Access &amp; Mobility</b>	<p><b>C1-C4</b> Compliance with DDA, AS4299.</p> <p>Commercial and industrial developments (including office premises, business premises, retail premises, industry and warehouses.) - Statement of consistency lodged with DA</p> <ul style="list-style-type: none"> <li>Appropriate access to and within all areas normally used by the occupants, designed in accordance with the BCA and relevant Australian Standards.</li> <li>General access for all persons to appropriate sanitary facilities and other common facilities including kitchens, lunch room, shower facilities, indoor and outdoor recreational facilities.</li> <li>5% of parking to be provided as accessible parking spaces.</li> </ul>	<p>Compliance with Australian Standards is demonstrated in Access Report prepared by Accessibility Solutions Pty Ltd dated 25 August 2014, which concluded:-</p> <p>5% of required spaces (133) to be accessible spaces – 8 provided.</p> <p>Relevant conditions to be provided to ensure compliance at CC stage.</p>	Yes – conditions required
<b>3E.2 Torrens Title Subdivision and Amalgamation</b>	<p>C1 Demonstrate proposed subdivision/amalgamation is consistent with Desired Future Character of area.</p> <p>C2 Subdivision/amalgamation must</p>	The proposed lot consolidation and subdivision is consistent with the existing lot layout in the area and there is adequate area for parking and manoeuvring.	Yes - Condition required

Part	Control	Proposed	Complies
	<p>not compromise any significant features of existing or adjoining sites (streetscape character, landscape features).</p> <p>C3 Proposed subdivision/amalgamation must have characteristics similar to prevailing subdivision pattern of lots fronting the same street, in terms of area, dimensions, shape and orientation.</p>		
<b>3E.2.3 Employment Zone Torrens Title</b>	<p>C1 Demonstrate proposed subdivision/amalgamation is consistent with Desired Future Character of area.</p> <p>C3 Vehicle access points, internal roads, driveways that require servicing each new lot to be shown.</p> <p>C4 Sufficient area to accommodate semi-trailers or delivery vehicles and their turning circles which may be permitted on the land.</p> <p>C6 Min lot size permitted for industrial Torrens title subdivision or amalgamation of land is 1,500m<sup>2</sup> (min lot width – 30m &amp; min depth - 50 metres).</p> <p>C7 Torrens title subdivision development with proposed lots &lt;1500m<sup>2</sup> or width &lt;30 metres must be accompanied by a conceptual plan for the industrial development.</p>	<p>There is sufficient room on each lot for parking and manoeuvring. The proposed lots have existing or proposed development on them and are therefore an acceptable layout and configuration.</p>	Yes
<b>3E.5 Connectivity and Future Development Potential</b>	<p>C2 Proposed subdivision must have characteristics similar to prevailing subdivision pattern of lots fronting the same street.</p> <p>C3 Subdivision of sites &gt;2,000m<sup>2</sup> with min 2 street frontages, must provide through site connectivity via pedestrian pathways, cycle ways or new streets within new subdivision.</p> <p>C6 Subdivision must not result in isolation of lots/reduce development potential of adjoining.</p>	<p>The proposed lot layout is consistent with the subdivision pattern in the area.</p> <p>A through-site pathway is provided along the eastern boundary of the site connecting Robey Street and Baxter Road.</p> <p>There are sufficient lots on all sides of the subject site to ensure there is no site isolation resulting from the proposal.</p>	Yes
<b>3G.2 Stormwater Management</b>	<b>C1-C6</b> Comply with Stormwater Management Technical Guidelines; Part 3G.5 Stormwater Quality.	<p>Council's Development Engineer has reviewed the plans and has recommended conditions which have been included.</p> <p>The site is affected by flooding, with the minimum floor level required being <b>RL6.10</b> for the apartment building ground floor and <b>RL 5.90</b> for the warehouse building ground floor. Due to the location of the basement ramp</p>	Yes – Conditions required

Part	Control	Proposed	Complies
		entries, a flood gate system will be required to be implemented to RL5.90. The implementation of the flood gate system will require a management plan and will be required to be compiled prior to the CC stage. Relevant conditions are recommended in the conditions.	
<b>3G.3 – Water Sensitive Urban Design</b>	C3 – All developments shall adopt an integrated approach on water management through a coordinated process to address water efficiency, water conservation, stormwater management, drainage and flooding.	The indicative ESD report prepared by SLR dated 14 August 2014 provides several initiatives for water sensitive design that can be implemented throughout the development. Flooding has been addressed above. Relevant conditions are recommended.	Yes
<b>3G.4 – Stormwater Quality</b>	C1 – Water quality objectives stated in “Botany Bay & Catchment Water Quality Improvement Plan (BBWQIP)” shall be satisfied.	The Stormwater plans prepared by Henry & Hymas include appropriate sediment and stormwater measures to ensure the quality of stormwater runoff meets the objectives of the BBWQIP. Council’s Engineer has recommended conditions which have been included.	Yes
<b>3H Sustainable Design</b>	C1 Buildings are to be oriented and designed to achieve optimum solar access and natural ventilation where practical.  C28 An ESD statement must be prepared by an accredited professional providing design evidence that the required NABERS rating can be achieved.	The indicative ESD report prepared by SLR dated 14 August 2014 provides several initiatives for sustainable design that can be implemented throughout the development. Recommended conditions have been included requiring the development to be consistent with these provisions.	Yes – Conditions required
<b>3I Crime Prevention Safety &amp; Security</b>	Site layout, design & uses; Building design; Landscaping & lighting; Public domain, open space & pathways; Car parking areas; Public Facilities.  C1 Building entrances shall be visible from the street and be clearly recognisable through design features.  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.  C9 For a mixed-use building, separate entrances shall be provided for residential and commercial/retail components.  C10 Entrances and exits of buildings shall be well lit, secure and highly visible to and from	Comments have been received from NSW Police which indicate the proposal has a medium level of crime risk. Relevant conditions have been provided by the NSW Police & have been included as recommended conditions.	Yes



Part	Control	Proposed	Complies
	public spaces, streets and adjoining buildings.		
<b>3L.5 Public Domain, Open Space and Pathways</b>	<p>C1 Public domain and open space shall be visible from the neighbouring buildings, surrounding streets and infrastructure (i.e. schools, library, etc.).</p> <p>C2 Min 3 sides of active frontages to be provided to public open spaces and playgrounds.</p> <p>C3 Solid fences are discouraged for new development or subdivision backing onto public domains and open spaces. Open fencing preferred.</p> <p>C4 Comfortable public places with high-quality public furniture, good shade and interesting outlooks within public domain and open space provided.</p> <p>C5 Landscaping must not obscure the lighting or sightline to the surrounding pedestrian/cycling paths and open space. Landscaping must be provided and designed accordingly.</p> <p>C6 Walking and cycling paths to be adequate width for both pedestrians and cyclists and comply with principles – Connection, Convenience, convivial, Comfortable and Conspicuousness.</p> <p>C7 Pedestrian and cycling paths - comply with AS 1428.</p>	<p>The proposed pathway along the eastern side boundary will be required to comply with the relevant Australian Standards.</p> <p>Recommended conditions are provided.</p>	Yes – refer to <b>Note 1.</b> conditions required
<b>3J.2 Aircraft Noise Exposure Forecast</b>	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.	<p>The site is within the 25-30 ANEF contour and proposes a hotel/motel development which is ‘conditional’.</p> <p>An Acoustic Report has been prepared by Acoustic Logic dated 12 August 2014 and concludes that provided the measures recommended are implemented aircraft noise emissions will comply with AS2021-2000.</p> <p>Comments from SACL have been provided and there are no objections subject to the height being limited to the height outlined on the plans. Recommended conditions are provided.</p>	Yes - Condition required
<b>3J.3 Obstacle Limitation Surfaces</b>	Aircraft height limits in prescribed zones.	SACL comments received – no objection.	Yes
<b>3K Contamination</b>	Consider SEPP 55 & Contaminated	The site has been used for	Yes –

Part	Control	Proposed	Complies
	Land Management Act 1997.	potentially contaminating activities in the past and a Stage 1 and Stage 2 Contamination Assessment has been carried out for the site. A Remedial Action Plan has also been undertaken. Recommended conditions are provided.	Discussed further in this report Conditions required
<b>3L Landscaping</b>	General Requirements; Planting design & species; Landscaping in car parks; Green roofs.	The proposal provides landscaping as outlined on the landscape plan. Council's Landscape Officer had some concerns which have been included as recommended conditions.	Yes – see <b>Note 1</b>
<b>3N Waste Minimisation &amp; Management</b>	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 <sup>2</sup> of floor area.	A Waste Management Plan has been prepared by SLR dated 19 August 2014. Recommended conditions have been provided.	Yes
<b>6.2.4 - Mascot Business Development Precinct</b>	C1 Development is to encourage a higher public transport (including walking and cycling) use and include strategies to encourage and promote car sharing and car pooling 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 proposal is located in close proximity to Sydney's Domestic and International Airports. The proposal's close location to Mascot Train Station (1200m north) encourages active transport modes such as walking and cycling. The site's location between O'Riordan Street and Botany Roads where a high volume of taxi transportation as well as bus services are available ensures that the site is well located with respect to public transport. The site's proximity to the airport for an airport-related use it ideal for the short trips to the Domestic and International Airport. It is noted that the Domestic Terminal Station is approximately 1km from the site. The proposal also provides a drop-off/pick-up zone which will allow taxis and shuttle buses to provide transport to the site which will lessen traffic demand on roads in the immediate area. Recommended condition has been provided which requires a Workplace Travel Plan to be provided prior to CC as this has not been provided. A shuttle bus is also to be provided as required by Council's Traffic Engineer. Relevant conditions have been recommended.	Yes – conditions required.
	C2 Developments, including alterations and additions shall: (i)	The proposal is consistent with SACL's requirements, who has	Yes

Part	Control	Proposed	Complies
	Improve the appearance of buildings, particularly along the roads which serve a gateway function to Sydney Airport and the Sydney CBD; and (ii) Comply with Sydney Airport's regulations in regard to safety, lighting and height of buildings.	raised no objections to the proposed maximum height of 33 metres, subject to conditions to be imposed on any consent (the maximum height is lower than this).	
	C3 Development which seeks maximum building height under BBLEP 2013 and is within land bounded by Coward Street, O'Riordan Street and Bourke Road; development along eastern side of O'Riordan Street; and development within land bounded by Baxter Road, O'Riordan Street, Joyce Drive and Botany Road, will penetrate the Obstacle Limitation Surface (OLS) and would need to be assessed by CASA, Air services Australia & the Airlines.	The proposal is consistent with SACL's requirements, who has raised no objections to the proposed maximum height of 33 metres, subject to recommended conditions to be imposed on any approval.  SACL were also satisfied with the Wind and Turbulence reports provided.	Yes
	C4 Redevelopment of property must take into account any road widening affectation.	The site is not affected by road widening.	N/A
	C5 Development must not adversely affect operation of duplication of Sydenham-Botany Good Railway Line.	The proposal does not affect this railway line. The ARTC raised no objection to the proposal subject to conditions.	Yes
	C6 Development within 25 metres of either side of the centre line of the Airport Line Tunnel is to be referred to RailCorp.	The proposal has been referred to ARTC, which raised no objection to the proposal subject to conditions.	Yes
	C7 Development shall be designed and constructed in accordance with Australian Standard AS 2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction). Note: Details to be included in the Development Application (refer to Part 3J - Development Affecting Operations at Sydney Airport).	An Acoustic Report prepared by Acoustic Logic was submitted with the application and made recommendations to ensure that the development when built complies with AS2021-2000.  SACL has raised no objection to the proposal subject to conditions.	Yes - Condition required
	C8 The introduction of noise abatement measure to achieve compliance with current AS 2021 must be done in a manner that does not compromise the architectural design of a building or impact on the character of an existing streetscape.	The proposed development incorporates noise abatement measures to achieve compliance with AS 2021-2000 without compromising the architectural design or impact on the character of the streetscape.	Yes
	C9 All development that is in, or immediately adjacent to, the rail corridor or a busy road must be designed in accordance with NSW Department of Planning 'Development Near Rail Corridors and Busy Roads - Interim	The proposed development has been designed in accordance with these guidelines.	Yes

Part	Control	Proposed	Complies
	<i>Guidelines, December 2008</i> .		
<b>6.3.1 Amalgamation and Subdivision</b>	C1 Development must comply with Part 3E - Subdivision and Amalgamation.	See above	Yes
	C3 Where development or use of a number of existing lots is proposed, the lots shall be consolidated into one parcel, and the plan of consolidation lodged with the Land and Property Information NSW Office prior to release of the Construction Certificate. Written notification as to the registration of the Consolidation Plan at the Land Titles Office is to be received by Council prior to the occupation of the premises or use of the site.	Lot consolidation is proposed and recommended conditions have been provided.	Yes Conditions required
<b>6.3.2 Building &amp; Site Layout</b>	C1 A site analysis plan required.	Provided.	Yes
	C2 Through careful site arrangements new building works must : (i) Address the street and highlight any non-industrial aspects (ie office section) of the development; (ii) Avoid long blank walls of warehouse units facing the street and long continuous roof lines; and (iii) Provide regular modulation to the façade or division of massing.	The proposed built form of the office/warehouse component of the development adequately addresses the street particularly the office portion of the proposal.	Yes
	C3 Floor space is to be distributed on the site to ensure the scale of the building reinforces the role of the street and buildings are arranged and aligned to create a pleasant working environment.	The floor space is distributed reasonably across the site for the component component of the development.	Yes
	C4 Setbacks are to be deep soil zones. No part of the building or structure (including basement car parks, driveways, or OSD/infiltration system) are to encroach into the setbacks.	The basement does encroach into the setbacks and deep soil planting is provided to Robey Street.	No – Refer to <b>Note 2</b>
	C5 Setbacks are to maximise the retention of existing trees and their root systems and may need to be variable to achieve this (includes trees on adjoining properties).	Some trees are to be removed from the street setback to allow for the vehicle entry points, however, the driveway entry on Robey Street has been modified to better ensure retention of Tree 11.	Yes
	C6 Internal spaces are to be designed to satisfy the operational requirements of the particular land use whilst proving a safe and convenient work environment.	The proposed office and warehouse has been designed to allow for the administration and storage requirements for Rex.	Yes – refer to <b>Note 3</b>
	C8 New buildings and the creation of new industrial units within close proximity to residential areas are to	There will be minimal adverse impacts to the adjoining residential development to the east of the site	Yes

Part	Control	Proposed	Complies
	be designed to minimise any adverse effects on the amenity of residential areas by way of overshadowing, overlooking, lighting, dust, noise or fumes.	given there are limited overlooking opportunities and overshadowing is largely confined to the road reserve of Baxter Road.	
	C9 Adequate waste removal handling and minimisation facilities are to be provided on site for all development to ensure these facilities are not utilising car parking areas.	There are adequate areas for waste storage separate to the car parking.	Yes
	C10 For new development all loading and unloading facilities and the majority of car parking required for the development is to be provided at the rear or at the side of any buildings. It is not to be provided at the front of buildings. Visitor car parking may be provided at the front of buildings behind the setback required in Part 6.3.5 - Setbacks.	Loading and unloading facilities have been provided along Baxter Road, which is considered acceptable on this site given this frontage has no residential immediately adjoining or opposite in which the amenity would be affected by service vehicles.	Yes
	C12 For sites with a road frontage to residential areas (ie Stephen Road, Denison Street, Rhodes, Erith, etc) new construction is to locate offices fronting the residential areas, with restricted access points. The warehouse/factory functions as well as car parking, manoeuvring areas, loading and unloading facilities are to be located away from the residential areas.	The office area is located along Baxter Road while the new office/warehouse building fronting Robey Street has windows and a door to this street. A drive-through loading facility is located between Robey Street and Baxter Road, however, this is consistent with this end of Robey Street where there are existing commercial and industrial land uses.	Yes – refer to <b>Note 3</b>
	C15 Building entrances are to be clearly defined and located so that visitors can readily distinguish the public entrance to each building. Access to each entrance is to be provided by a safe direct route, avoiding potential conflict with vehicles manoeuvring on site.	The entrances to the development are clearly identifiable for each portion of the proposal.	Yes
	C16 Site planning is to allow for the retention of significant trees and vegetation, particularly near the street frontage.	Some trees are to be removed for the purposes of vehicle access.	Yes – refer to <b>Note 1.</b>
<b>6.3.4 Building Design and Appearance</b>	C1 Max building height - Building Height Map (BBLEP 2013). C3 Compliance with Civil Aviation Safety Authority requirements. C4 Max height of building consistent with height of other buildings in immediate vicinity. Where heights of a proposed development are higher than surrounding development, a	The maximum height is discussed in the BBLEP 2013 assessment. SACL raises no objection to the proposal.	<b>No</b> – refer to C1 4.6 variation

Part	Control	Proposed	Complies
	submission is to be lodged with the Development Application giving reasons for supporting the height discrepancy.		
	C7 Schedule of finishes and detailed colour scheme. C8 External finishes must be robust and graffiti resistant	External colours and finishes have been provided and are considered to be acceptable in the context.	Yes
	C9 Where blank walls on street frontages are unavoidable they must be screened by landscaping or treated as sculptural elements incorporating murals reflecting modern architectural design. C10 Walls must use non-reflective colours and materials to avoid glare, max reflectivity of any glazing is not >20% to avoid nuisance from glare. C11 All elevations of a building fronting a public place, or rail line, public place or proposed road, must be constructed of face brickwork or other decorative facade treatment to Council's satisfaction. C12 Buildings should be of contemporary and innovative design. All public frontages should be specially articulated with brick, stone, concrete, glass (non-reflective), (not concrete render). C13 Open style or transparent materials encouraged on doors and/or walls of lifts and stairwells. C14 Building height, mass, and scale should complement and be in keeping with character of surrounding /adjacent development.	The proposal is considered to be contrary to the requirement that building height, mass, and scale should complement and be in keeping with character of surrounding /adjacent development. This is due to the non-compliance with the height and FSR development standards as discussed in this report.	No
	C15 New buildings design requirements.	The proposal is consistent with these controls.	Yes
	C16 Street number visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building. C23 Driveways must provide adequate sight distance for the safety of pedestrians using the footpath area in accordance with AS2890.1 and AS2890.2. C24 Pathways should provide direct access and any edgework should be low in height or not reduce visibility of the pathway.	The proposal is consistent with these controls. Relevant conditions have been recommended.	Yes

Part	Control	Proposed	Complies
	C25 Entry to basement parking areas should be through security access via the main building. This access should be fitted with a one way door (allowing for fire safety provisions) and allow only authorised access from the foyer into the basement.		
	C28 For new development provision must be made for connection to future underground distribution mains.  C29 Council may require bundling of cables surrounding the development to reduce visual impact of overhead street cables.	There is adequate servicing to the site.	Yes
	C30 Lighting must be provided to the external entry path, common lobby, driveway, and car park to a building using vandal resistant, high mounted light fixtures.  C31 The lighting in a car park must conform to AS1158.1, AS1680, and AS2890.1.	Lighting can be imposed as a condition.	Yes – Conditions required
	C34 Service areas including waste, recycling areas and external storage areas are to be located away from principal street frontages and screened from view.	The servicing areas are located along Baxter Road which is appropriate for this site.	Yes
	C35 Kerb and gutter, concrete footpath (or paved footpath) and any associated works along all street(s) frontage of a site shall be constructed and/or reconstructed of at the full cost of the developer.	Relevant conditions have been recommended.	Yes – Conditions required
<b>6.3.5 Setbacks</b>	Front: Landscape setback – 3m; Building setback – 9m.  Side (adjoining a non-residential use/zone) – landscape setback – 2m; building setback – 2m;  Side (adjoining a residential use/zone) – landscape setback – 3m; building setback – 3m.  Rear – nil to 3 metres (landscape and building setback) - The setback will depend on the character of the site and its surrounds. Please check with Development Assessment Officers. Rear boundary walls are to be treated aesthetically.	Front (Robey St) – 35.95m (ground), 33.95m (levels 1 to 6) & 41.15m (level 7);  Side (adjoining non-res to west) – 9.38m (ground), 7m (levels 1 to 6) & 21.68 (level 7);  Side (adjoining res to east) – 3.86m (ground), 2.750m (levels 1 to 6) & 16.21m (level 7). This portion of the building does not adjoin a residential zone or residential development. The open space area along Robey Street adjoins residential development to the east of the site and therefore complies with this side boundary setback requirement.  Front/Rear – Baxter Rd – 2.25m (basement), <b>2.05m</b> - ground floor terrace and 5.7m (to building face at	Yes – see <b>Note 2</b>

Part	Control	Proposed	Complies
		ground), 3m (levels 1 - 6) & 7.45m (level 7).  Warehouse – nil to side setback (consistent with existing commercial development in the street); 6.6m to Baxter Rd.	
<b>6.3.6 Parking and Vehicular Access</b>	Part 3A - Car Parking.	See above	Yes
<b>6.3.7 Signage</b>	Signage shall comply with Part 3D - Signage	See above	Yes
<b>6.3.9 Landscape</b>	<p>C1 Landscaping to ameliorate bulk and scale of industrial and business park buildings, to shade large pavement, to create a comfortably scaled environment for pedestrians in public domain or from within site and to screen utility areas.</p> <p>C2 Existing trees, including Council street trees and trees on neighbouring properties, retained and protected.</p> <p>C10 Not &lt;10% of site landscaped.</p> <p>C12 Underground parking beneath building footprint (deep soil).</p> <p>C13 Landscaped setbacks (side &amp; rear) – no access or fire egress paths.</p> <p>C14 no OSD in landscaped setback or underneath landscaping.</p> <p>C23 Fire booster valve assemblies, water tanks, electrical kiosks and waste storage areas not in landscaped areas or street setback.</p>	<p>There are some encroachments into the side setback for services and the basement.</p> <p>Landscaping – 23% (yes)</p>	<b>No</b> – refer to <b>Note 2.</b>
<b>6.3.21 Business Premises &amp; Office Premises in the B5 Business Development &amp; B7 Business Park Zones</b>	<p>C1 Façade modulation, roof silhouette, variety of contemporary materials and finishes.</p> <p>C2 Clearly delineated entranceway.</p> <p>C3 Signage minimum.</p> <p>C4 Vehicle manoeuvring, circulation, maximise landscaping.</p> <p>C5 Stormwater absorption basins planted with trees, not lawn.</p> <p>C6 Unit pavers, contrasting finishes to break up paving.</p> <p>C7 Balance between building footprint, parking/circulation and landscaping/open space.</p> <p>C8 Underground parking underneath building.</p> <p>C9 Underground OSD detention tanks not underneath landscaping.</p>	<p>These matters are covered in this DCP assessment.</p> <p>The landscape setback along the boundary setbacks are sufficient for the development given they are consistent with existing development in the area and are considered to allow the building to integrate into the surrounding area.</p> <p>Approximately 10% of the area of the site upon which the proposed commercial development is located is landscaped (98.4m<sup>2</sup> or 10.4%.)</p>	Yes – refer to <b>Note 3</b>



Part	Control	Proposed	Complies
	C14 Min landscaped setback – 3ms on all street frontages. C15 10% of site area landscaped.		
<b>Part 7L - Serviced Apartments</b> <b>7L.2 General Requirements</b>	C1 Max period for occupation of a serviced apartment is 3 months.	This is not contained in the Plan of Management ('POM') but is recommended as a condition of any approval.	Yes – condition required
	C2 Cannot use serviced apartment as permanent residential address.	See above.	Yes
	C3 Each bedroom –max 2 persons.	Recommended as a condition.	Yes – condition
	C4 If application proposes to convert a serviced apartment development or a building that has been used as serviced apartments to a residential building compliance with Clause 6.11 of BBLEP.	The proposed development is for serviced apartments.	N/A
	C5 Sleeping rooms to provide minimum 5.5m <sup>2</sup> /occupant where habitation is >28 consecutive days.	Bedrooms are generally between 9m <sup>2</sup> to 26m <sup>2</sup> , with an average bedroom size of 12m <sup>2</sup> -16m <sup>2</sup> .	Yes
	C6 Sleeping rooms to provide minimum 3.25m <sup>2</sup> /occupant where habitation is <28 consecutive days.	See above	Yes
	C7 The amenity of serviced apartments must be designed to address Design Quality Principles of SEPP 65.	The design/SEE considers the requirements of SEPP 65.	Yes
	C8 Where a development proposes serviced apartments in conjunction with a residential flat building the entire development must address the requirements of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.	Only serviced apartments are proposed, there are no residential flats proposed in this application.	N/A
	C10 Developments designed to minimise visual and acoustic privacy impacts to residential land uses within immediate vicinity.	The large setback and the landscaping along the Robey Street frontage ensures that the proposal will not directly overlook any residential development along Robey Street. This distance and landscaping also ensures that any potential noise from vehicles and pedestrians entering and leaving the proposal will not adversely affect the amenity of the residential areas to the east and west along Robey Street. The location of the loading docks on the opposite side to residential along Baxter Road allows amenity to be maintained for these residences.	Yes
	C11 The main access point is to be	The main vehicle access is from	Yes

Part	Control	Proposed	Complies
	located at the main street frontage of the property. Note: Access points apart from emergency exits should be avoided at the boundaries of the property where an amenity impact could be created to adjoining developments.	Robey Street with some minor exit and entry points for servicing the site from Baxter Road. This is appropriate in the context of the site given Robey Street is the main entry for the serviced apartments and is a wider road while Baxter Road has a greater mix of uses including commercial and industrial.	
	C12 Where >20 serviced apartments are proposed within a single building not >60% shall be studio or 1 beds.	Proposed unit sizes are:- – 50 x studios (32.9%) – 18 x 1 bed (11.8%) – 72 x 2 beds (47.4%) – 12 x 3 beds (7.9%). 44.7% are studio and 1 bed units.	Yes
	C13 Wash tub, washing machine and clothes drying facilities provided in each apartment. C14 Communal washing facilities, bathrooms and kitchen areas not permitted. C15 Refrigerator to maintain food <5°C provided in each apartment. C16 If cooking facilities and food preparation areas provided within individual apartments they must not be located in sleeping rooms. C17 Tiered sleeping facilities not permitted. C18 Garbage room & recycling provided in building/basement. C19 Storage facilities provided within each serviced apartment. C20 Toilet/shower - BCA.	There are no communal facilities proposed in this development. Each of the apartments is fully self-contained with laundries, kitchens, bathrooms etc.  There are no bunk beds proposed in the application.  A garbage room is provided on the ground floor.  Wardrobes are provided in each of the apartments to cater for clothing and luggage.  Compliance with the BCA is recommended as a condition of any approval.	Yes
	C21 Plan of Management (POM).	A POM has been provided.	Yes
	C22 Emergency Management and Evacuation Plan must be prepared.	To be provided at the CC stage, recommended as a condition.	Yes
	C23 Evacuation procedures displayed within each apartment, lobby and public circulation space.	To be provided at the CC stage, recommended as a condition.	Yes
	C24 The building to comply with Parts C, D and E of BCA. C25 Each serviced apartment is to comply with Parts C, D, E and F5 of BCA so as to ensure there is adequate fire safety and sound insulation between apartments.	Compliance with the BCA is recommended as a condition of any approval.	Yes

**Note 1 – Landscaping**

There were some concerns raised by Council's Landscape Officer including the loss of street trees, lack of information on the proposed public pedestrian link and public park and lack of deep soil planting in setbacks. The landscaping concerns are outlined below:-

- (a) The landscaped setback along Baxter Road is to incorporate some large canopy trees to provide amelioration of the building and improve the amenity of the streetscape. Additional shrubs should also be included for mid-level screening – it is considered that there is adequate landscaping along this elevation to ameliorate the bulk of the building on the streetscape (discussed below);
- (b) Landscaping must achieve a more layered approach in front of the warehouse to the south west of the site (fronting Baxter Road) with more groundcovers, shrubs and trees required in the deep soil setback (in place of turf) – such additional landscaping is warranted in this area;
- (c) Planters within the guest courtyard (northern elevation) should include additional small to medium sized tree species - such additional landscaping is warranted in this area;
- (d) Street trees are required to the west of the vehicular entry point along Robey Street to be consistent with the *Botany Bay City Council Street Tree Master Plan 2014* (STMP), which specifies *Shinus areira* (non-wire side) along Robey Street. Along Baxter Road, the nature strip is too narrow for street trees. The STMP recommends large tree planting in the setback – it is considered that such street tree planting is warranted given the removal of several significant street trees under the proposal;
- (e) Penthouse gardens to be increased – this is no longer relevant;
- (f) Landscaping, incorporating trees with a broad, leafy canopy, are required in the central planting strip within the car parking area (one (1) tree per 5 car spaces) to provide a 50% canopy coverage of the car park at maturity – this is considered to be warranted given the species current proposed in this area are small shrubs; and
- (g) Additional canopy trees are required in the following areas (Robey Street):
  - within and adjacent to proposed public park – there are 5 water gums proposed in the public park which is sufficient for landscaping as well as retaining casual surveillance of this area;
  - within through-site link – Coast tea-trees are proposed along this through-site link which are sufficient in terms of height to provide privacy to adjoining residential as they reach a height of approximately 2-5 metres. Higher levels will be screened with privacy screens on balconies to reduce overlooking. Any further planting in this area may compromise safety and therefore this is satisfactory;
  - within the landscaped area between vehicular entry /exit – there are 6 broad-leaf paperbark trees proposed in this location, which is sufficient;
  - beside ground level car park entry/exit – a cheese tree and large clumps of shrubs are proposed which is sufficient;
  - adjacent the warehouse access driveway (west of the car park) – an additional canopy tree should be provide in this location given only shrubs are proposed; a
  - within the mounded garden beds fronting the main building entry – the cheese tree is sufficient.

Recommended conditions are provided to be addressed in the final landscape plan

The proposed walkway and park are to be publicly available via an easement and shall comply with the relevant Australian Standards and Council policies. Recommended conditions have been provided to address these issues.

The proposal will result in the removal of three (3) high category trees (tree No 3, 8 and 13) and eight (8) low category trees (tree No1, 2, 4, 5, 6, 7 and 15). Six trees (tree No 9, 11, 14, 16, 17 and 10) will be retained by the proposal with a design to allow Tree 11 to be further protected. The loss of Trees 3, 8 and 13 is not desirable, however, compensatory planting will be undertaken for this tree removal as outlined in the landscape plan. Recommended conditions have also been imposed to ensure further tree planting in the final landscape plan.

### **Note 2- Setbacks**

The setbacks of the proposal generally comply with the DCP requirements, although the Baxter Road frontage should also be considered in the context of front setback controls. The setback to Baxter Road was amended in plans received in February with the building moved slightly closer to the Robey Street boundary, increasing the setback to Baxter Road by 600mm. No further setback to Baxter Road can be achieved due to the required ramp grades and entry to the basement parking along the Robey Street frontage.

The setback to Baxter Road at the ground floor is now between 2.050 metres to the ground floor terrace and 5.7 metres to the building face. The ground floor terrace involves a wall of approximately 2.1 metres high which is a combination of the roof of the basement and the podium of the ground floor terrace wall. The upper levels are setback between 3 metres and 7.45 metres. A cross section of this setback to Baxter Road is illustrated in **Figure 13**.

This setback to Baxter Road allows for significant tree planting as outlined in the cross section, totalling approximately 31 densely planted 5 metre high blueberry Ash trees in addition to other trees and shrubs and street trees within the Baxter Road footpath. While Council's Landscape Officer was concerned that this Baxter Road streetscape was not wide enough for street trees, the planting schedule proposed is considered to be suitable for its location and is supported. Taken together, this landscaping will assist in minimising bulk to the streetscape from the proposal. The resulting setback to Baxter Road is considered acceptable and is generally consistent with existing buildings on this street including the Rex building adjoining to the west.

The proposal includes various parts of the basement and other services being located within the landscape setbacks to Robey Street in the northwest corner of the site. In this portion, there are multiple services proposed including stormwater, electricity and gas. While this is contrary to the BBDCP 2013, it is considered that this is acceptable in this instance given there are other areas of significant deep soil planting and landscaping has been provided throughout the site, particularly in the front and side setback to the northwest. It is considered the setbacks for the proposal are acceptable.

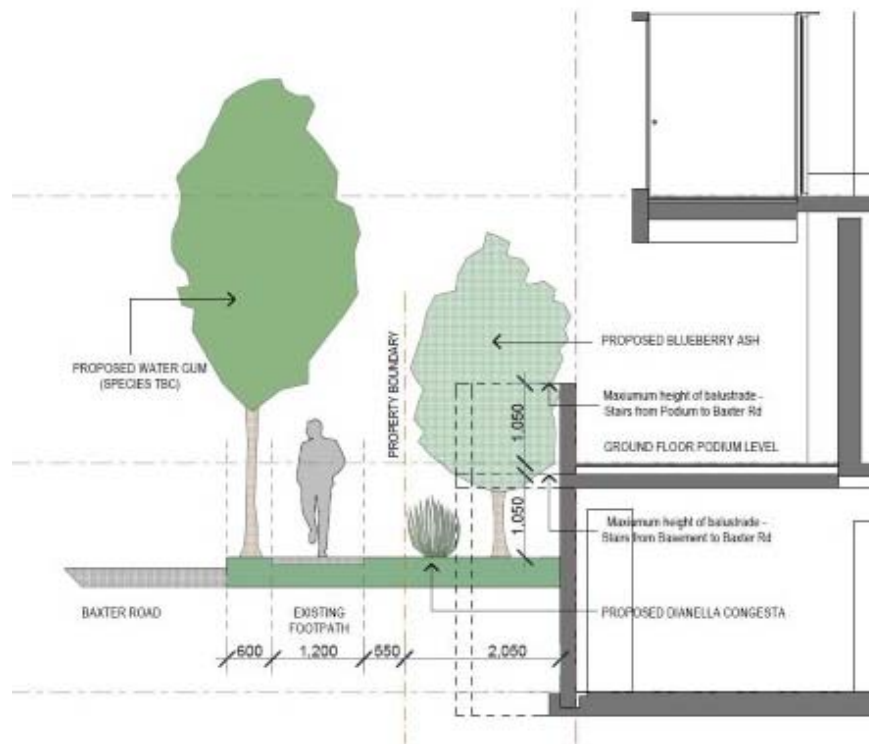


Figure 13 – Setback to Baxter Road

### **Note 3 – Commercial Use – Office/Warehouse**

The proposal includes a three storey plus mezzanine level office/warehouse building to be used for the purposes of storage and warehousing as well as office and administration functions. This building is to be located to the west of the proposed serviced apartments building and is to be joined by an access link bridge from level 2 (office) of the proposed warehouse building to Level 2 of the serviced apartments building. This building is to be used by Rex and will be used in association with the existing commercial building owned by Rex at No 81 – 83 Baxter Road, to the west of the proposed commercial building. The majority of staff involved in the operations of Rex work in this adjoining building at No 81-83 Baxter Road and therefore only a small number of staff will work in this proposed building. The necessary car parking for the proposed warehouse/office building is to be provided within the basement parking level of the serviced apartment building under a deed of agreement. This agreement will be required prior to the issue of an Occupation Certificate for the development and recommended conditions to this effect have been included.

The ground floor comprises a drive-through loading dock facility as well as flexible warehouse space which continues through to Robey Street. A void area continues through the length of the building with a small storage area in the southwest corner of the building (mezzanine). The upper floors (second and third floors) contain office space and amenities. All levels are serviced by a lift. The portion of the proposed building facing Robey Street is single storey with a full height void area allowing for the flexible warehouse space and loading dock.

It is considered that given the use of the adjoining lots in this portion of both Baxter Road and Robey Street contain a variety of commercial and light industrial uses, this proposed use and building is compatible with existing development in the area. There will be no manufacturing or processing at the site, only administration, storage and warehousing of items used by Rex in their airline operations. The hours of operation and the proposed use

of the buildings are consistent with its location within a mixed use area, largely commercial, but with some residential development. Recommended conditions have been included to ensure the amenity of the area is maintained, including hours of operation, car parking, loading and unloading and vehicles entering and leaving in a forward direction.

**(b) Impacts of the development (S79(c)(1)(b) of the EP&A Act)**

The consideration of impacts on the natural and built environments has been considered in the above assessment. It is considered that the proposed development is unlikely to have any minimal adverse environmental, social or economic impacts, however, is likely to have an adverse impact on the locality in terms of excessive bulk and scale as outlined above. The likely impacts of the proposed development have been considered in the assessment of this Development Application.

**(c) The suitability of the site for the development (S79C(1)(c) of the EP&A Act)**

The subject site is affected by a number of environmental hazards, including flooding, aircraft noise, contaminated land and construction dewatering due to a high groundwater table. These hazards have been considered in this assessment and Council's specialist officers have reviewed the application. Relevant conditions are recommended to be imposed on any consent as discussed in this report.

There are several strategic planning policies which are relevant to the proposal including the *Metropolitan Plan for Sydney 2036* establishes a long-term planning framework to manage Sydney's growth in a sustainable manner and strengthen its economic development whilst enhancing the unique lifestyle, heritage and environment of Sydney. The subject site is located within the "*Global Economic Corridor*", the *Metropolitan Strategy for Sydney to 2031*, and the *Draft East Subregional Strategy*. These documents variously place the subject site in the '*Global Economic Corridor* and the *Sydney Airport and Environs Specialised Centre*. Generally, the proposal is consistent with the strategic intent of these documents which is to encourage airport-related uses in this area, provide employment and investment opportunities and focus activity near centres. The proposal achieves these strategic objectives and is therefore consistent with the strategic planning for the area.

The *Botany Bay Planning Strategy 2031* also applies to the site, which establishes a framework for growth and development for the Botany Bay Local Government Area and addresses the draft East Subregional Strategy dwelling and job targets. The Strategy also provides the foundation for the development of the BBLEP 2013. The subject site is located within Area 1: Mascot Station and Sydney Airport. The proposal is consistent with the future directions of this area as the proposal will provide additional employment opportunities in an airport-related industry without increasing the resident population in the area affected by aircraft noise.

There is no adjacent land uses which is prohibitive of the proposal and there are limited vehicular access points which rationalises driveway crossings and reduces impacts on the streetscape. The scale of the proposal, however, is inconsistent with its location in a transition zone between low and high density areas (commercial).

Accordingly, it is considered that the site is suitable for the proposed development, subject to amendments to the height and FSR of the development.

(d) **Any submission made in accordance with the Act or Regulations (S79C(1)(c) of the EP&A Act)**

These matters have been considered in the assessment of the development application. In accordance with Part 2 of the BBDCP 2013 (Notification and Advertising), the development application was notified to surrounding property owners and occupants and advertised in the local newspaper (Southern Courier) from 12 November 2014 to 12 December 2014, and four (4) submissions were received raising the following issues:

- Traffic generation
- Construction of cul-de-sac
- Concerns with Traffic Report
- Car parking
- Inadequate Plan of Management
- Property depreciation
- Site not suitable for child care centre
- Height
- Baxter Road frontage
- Contaminated land
- Wind Assessment

Traffic Generation

**Objection:** The concerns raised included the cumulative impact of the recently approved developments in the area, coupled with the proposal, will increase traffic generation in the area. Concerns were raised regarding the likely increase in commercial, construction and heavy vehicle traffic using the residential end of Baxter Road. Concerns were outlined that there is a potential for vehicle damage from large trucks etc damaging parked cars due to the narrow road carriageway when cars were parked on both sides of Baxter Road.

There were also concerns raised with respect to construction traffic, where it was suggested that such traffic should only use O’Riordan Street for access. There were also concerns expressed with respect to the proposed future changes to the surrounding road network in relation to changes to O’Riordan Street, Robey Street and Qantas and Joyce Drives and surrounding streets which are proposed as part of Sydney Airport 5 Year Master Plan.

**Comment:** It is considered that this issue has been adequately addressed in the applicant’s traffic report and Council’s Traffic Engineer, who reviewed the proposal and raised no objections on traffic grounds, subject to recommended conditions. These conditions include car parking, access, deliveries and the provision of the proposed cul-de-sac to separate the commercial and residential traffic in Baxter Road. It is considered that this issue has been adequately considered in this assessment.

Construction of cul-de-sac

**Objection:** The objections stated that the construction of the cul-de-sac is needed prior to commencement of construction as it would limit both construction and operational traffic from the proposal to the western end of Baxter Road. Some of the submissions were generally supportive of the proposal subject to the construction of the cul-de-sac prior to works commencing on the site.

**Comment:** The separation of traffic between the residential and commercial/industrial ends of Baxter Road has significant merit and there has been several conditions imposed on various recently issued development consents requiring contributions towards this cul-de-sac. As recommended by Council's Traffic Engineer, recommended conditions for this cul-de-sac have been included consistent with other approval issued in the immediate locality.

#### Concerns with Traffic Report

**Objection:** There were concerns that the submitted Traffic Report contained numerous errors, including a mis-description relating to Baxter Road having a traffic lane and parking lane in each direction (it was stated that there was insufficient room for this to occur) and that traffic generation and distribution was based on the construction of the proposed cul-de-sac which has not occurred to date. Furthermore, it was considered that the traffic report failed to adequately consider the proposed changes to the surrounding road network envisaged by the Sydney Airport 5 Year Plan. It was also noted that the construction traffic plan didn't take into account the proposed cul-de-sac in Baxter Road.

**Comment:** The traffic report was amended in the applicant's submission dated 10 February 2015 addressing these issues. As outlined above, the traffic aspects of this proposal has been considered in this report and these matters have been adequately considered in this assessment.

#### Car Parking

**Objection:** There were concerns that there is currently a shortage of on-street car parking, with a significant amount of cars parked on the street arising from the commercial uses in Baxter Road and airport-related parking and that there are several cars often parked across the footpaths etc. There were also concerns that there was insufficient car parking provided within the proposed development and given the lack of accurate information particularly with respect to the child care centre and likely staff for administration and support staff, it was unclear of the exact parking provision required for the proposal.

**Comment:** The proposal has provided the appropriate number of car parking spaces as required by the BBDCP 2013 as outlined in this assessment.

#### Inadequate Plan of Management

**Objection:** There were concerns raised with respect to the Plan of Management for the proposal lodged with the application, in that there were a lack of details with respect to staff, deliveries, loading and unloading, security details, garbage details, vehicle routes in this plan.

**Comment:** The Plan of Management for the Serviced Apartments was updated in the amended information dated 10 February 2015 and a Plan of Management was provided for the proposed child care centre, which is now not relevant.

#### Property Depreciation

**Objection:** There were concerns raised that the proposal would devalue existing housing in Baxter Road.



**Comment:** This is not an issue which is required to be considered in this assessment.

#### Site Unsuitable for Child Care Centre

**Objection:** There were concerns raised that since the site was affected by flooding, contaminated land, was land located in an area affected by the ANEF contour of 25 or greater and was situated within 12 metres of 2 electrical substations, that the site was unsuitable for the proposed child care centre. It was also noted that child care centres are not permitted in cul-de-sacs (Part 7C of the BBDCP 2013).

**Comment:** The child care centre is no longer proposed.

#### Height and Scale

**Objection:** There were concerns raised that the proposal was over height and disproportionate to the residential end of Baxter Road and Robey Street, which is mainly comprised of one to two storey dwellings. If approved, the development will set a precedence for other developments over height in residential areas.

**Comment:** The height and scale of the development has been considered in detail in this assessment and found to be unacceptable (refer to Clause 4.6 variation consideration).

#### Baxter Road frontage

**Objection:** There were concerns raised that the proposal will present a “back end” to Baxter Road, comprising the loading zone for deliveries and waste collection, with limited screen planting proposed. It was suggested that additional high value landscaping of a height no less than 4 metres at the boundary and additional street tree planting would be beneficial in improving the aesthetics on the Baxter Road frontage.

**Comment:** The proposal has been amended to incorporate further screen planting along Baxter Road to ensure the proposal is integrated more effectively into the Baxter Road streetscape and a minor increase to the Baxter Road setback. This issue has been considered in detail in this assessment report.

#### Contaminated Land

**Objection:** There were concerns raised that the proposal has not adequately considered land contamination and that construction traffic using the eastern end of Baxter Road has the potential to spread contamination into residential areas.

**Comment:** Potential land contamination of the subject site has been considered in detail in this report. Appropriate conditions are recommended to be imposed.

#### Wind Assessment

**Objection:** There were concerns raised that the Qualitative Wind Assessment prepared for the proposal raises high wind speeds on Baxter Road, however, fails to recommend any mitigating measures.

**Comment:** This issue has been considered in this assessment.

**(e) The public interest (S79C(1)(c) of the EP&A Act)**

These matters have been considered in the assessment of the application. It is considered that approval of the proposed development is contrary to the public interest given the adherence to the planning controls is in the public interest which has not been achieved in this proposal. Furthermore, the adverse impact resulting from the excessive bulk and scale of the development to the adjoining low density residential development is contrary to the public interest.

## **5. Referrals**

### Internal Referrals

The development application was referred to the following Council Officers for specialist comment with their comments included in this report:-

- Engineering – no objections, recommended conditions included;
- Traffic – no objections, recommended conditions included;
- Strategic Planning – generally consistent with the strategic context of the area, however, considers that the FSR and height variations cannot be supported given the LEP is new and would set undesirable precedent; recommended conditions included;
- Environmental Health – Acoustic, food premises etc.
- Environmental Science – no objections, recommended conditions included;
- Landscaping – concerns with the loss of street trees, lack of information on public pedestrian link and Public Park and lack of deep soil planting setbacks, recommended conditions included.

Recommended conditions are included to address these referrals.

### Design Review Panel

The proposal was referred to the Design Review Panel (DRP) meeting of 7 August 2014, which concluded that whilst the design has considerable merit and has been thoughtfully developed, height and density in excess of the LEP standards cannot be supported. Provided that these and other issues raised above are addressed, the application promises to be of very good standard and one which potentially could be fully supported.

The main points of the DRP were:-

- The amenity of the apartments would fall well short of the solar access (large number of south-facing units) and cross ventilation standards (minimal units have cross-flow natural ventilation) expected were they standard residential flats and therefore their conversion to permanently occupied strata-titled units is not supported;
- A critical issue is the management of the interface between the very different scale and type of the adjoining low density residential immediately opposite the site in Robey Street and to the eastern end of both Baxter Road and Robey Street.
- Acoustic issues to be addressed in the final application, since it is highly desirable for residential units to be naturally ventilated and not to rely on air-conditioning.
- The proposed scale is generally acceptable as it appears that there would be no unacceptable adverse impacts due to its excess height and proposed building bulk.

However, the numerical height and FSR non-compliances cannot be supported as it would breach one of the key numerical controls of the BBLEP 2013 and would set an unacceptable precedent.

- Overall the strong articulation of the building into three separate forms, and the use of different colours on façade elements is supported.
- Built form is supported, however, the following changes should be incorporated:-
  - further strengthening and splaying out of the vertical breaks achieving separation between the three forms, colour and tonal variation of the solid façade elements;
  - introduction of screening devices;
  - some variation in the line of the top parapet, by way of perhaps making the top level on one of the three blocks less assertive in expression;
  - extensive introduction of large tree species to screen the development is highly desirable and should be native species (not exotic as indicated on preliminary landscape plan);
  - appropriate paving and street furniture for both street frontages;
  - natural light and ventilation should be provided to the two loft lobby spaces on each floor and desirably to both ends of the central corridors (with a small bay with seating). The three building forms could be emphasised by opening out the containing walls, rather than inclining them inwards, thus also enhancing the outlook from the lift lobbies;
  - Detailed design of balconies to include solid balustrades to lower level balconies for privacy;
  - Poor amenity of internal bedrooms;
  - Natural light and ventilation should be provided to basement car park (if possible).
  - Fencing at ground level between the site and the through-link as well as some of the lower level windows in the eastern apartments should be designed to ensure that there is good overlooking/passive surveillance of this area.

The following amendments were made to the proposal prior to lodgement to address the DRP comments:-

- The vertical slots between the three major blocks forming the building have been reinforced by reducing the angle of the alternate floor splays;
- Variations in the provision of solid and opaque glazed elements to the balconies has been introduced;
- The end blocks have been differentiated by changes in colours to the spandrel panels;
- The panellised material at the rear of the slots between the blocks has been darkened to ensure it is visually recessive, further reinforcing the primacy of the three blocks;
- Moveable balcony screens have been introduced to the central block;
- There are two lines of trees to the Robey Street boundary to assist in screening the development from view;
- PV cells are provided on both the serviced apartment and warehouse / office development and all toilets in the development are proposed to use recycled rainwater for flushing purposes. Extensive roof gardens and landscaping is proposed to provide additional insulation and shading benefit to the development

- A new window element has been introduced opposite the lifts on all serviced apartment floors to provide natural light and ventilation to the corridor areas;
- Residential development is strictly prohibited under the site's zoning and the development has been specifically designed for the serviced apartment market. The design nevertheless seeks to maximise the amenity for the serviced apartments. The units have been designed to achieve cross-flow ventilation (52% of units) and solar access (63 of units - all North, East and West facing apartments);
- Balcony design has been reviewed and amended to provide more solidity to lower level balconies (through solid and opaque glazing);
- The amenity of the internal bedrooms on the central 2-bedroom units is currently being reviewed to ensure compliant access to natural light and ventilation
- Natural ventilation is being provided wherever possible to the basement.

The non-compliance with the height and FSR development standards remain and is unacceptable.

### External Referrals

Numerous external referrals were made for the proposal which are summarised below:

- *NSW Office of Water*

The NSW Office of Water has provided the General Terms of Approval for the proposed development in a letter dated 10 February 2015 and have been included in the recommended conditions of approval. The issue of groundwater dewatering has been adequately addressed in this assessment.

- *Australian Rail Track Corporation*

The Australian Rail Track Corporation Limited (ARTC) in a letter received on 18 March 2015 raised no objection to the proposal subject to a condition that the consent authority be satisfied that appropriate measures will be taken to ensure that relevant acoustic levels are not exceeded. This condition has been included in the recommended conditions.

- *Ausgrid*

Ausgrid in an email dated 12 February 2015 advised that the applicant has submitted an application for connection to Ausgrid and a substation is to be installed within the development. Relevant conditions have been included.

- *Sydney Water*

Sydney Water advised in a letter dated 3 December 2014 outlining the water and wastewater requirements for the proposal. No objections were raised to the proposed development, subject to recommended conditions. These are included in the recommended conditions.

- *NSW Police Service*

NSW Police provided comments and conditions in a letter dated 17 December 2014 stating that the proposal had a medium crime risk rating and provided the following key recommendations:-

- Pedestrian access over Joyce Drive to the airport;
- Installation of CCTV cameras within and around the development;
- Improved lighting around the footpaths and car park areas within the development;
- Ensuring the building design minimises the potential for climbing onto balconies;
- Landscaping that promotes natural surveillance of common areas;
- Underground car park that does not have hidden areas or dark spots;
- Security measures in place for entry doors and lifts (security passes).

No objections were raised to the proposed development, subject to conditions relating to CPTED principles.

- *Sydney Airports Corporation Limited (SACL)*

The SACL in a letter dated 9 March 2015 raised no objection to the proposal subject to limitation of height to a maximum 33m AHD. The proposal is consistent with this height, being slightly less than this height.

## 6. Section 94 Contributions

In accordance with Council's Section 94 Contributions Plan, *City of Botany Bay Section 94 Contributions Plan 2005 – 2010* (the Contributions Plan) payment of a sum in the amount of **\$134,234.95** is to be paid prior to the issue of a Construction Certificate. The Contributions Plan applies to all types of development, including residential, industrial and commercial with the only type of development exempt from this plan being alterations and additions to existing dwellings (other than in the case of an attached dual occupancy creating an additional dwelling) pursuant to Clause 2.5 of the Contributions Plan. The Mascot Station Precinct Section 94 Contributions Plan does not apply to the subject site.

The updated contribution rates for employment development indexed to November 2014 pursuant to Table 7 of the Contributions Plan are:

- Community Facilities \$349.00 per worker
- Administration \$53.00 per worker
- Shopping Centre Improvements \$226.00 per worker
- Open Space & Recreation (outside Mascot Station Precinct) \$2,460.00 per worker
- Transport management (Mascot West Industrial Area) - \$9.23 per site square metre (only for the lots along Baxter Road).

The drainage provisions of the Contributions Plan do not apply to the subject site.

Table 8.2 of the Contributions Plan outlines employee occupancy which are used to calculate the number of workers associated with different commercial and industrial development types. For the current proposal, the application outlines that there will be 9 staff for the serviced apartments component of the development while the employee occupancy rate for the office/warehouse component is calculated using Table 8.2 as follows:-

- Modern Offices – 17.7m<sup>2</sup> GFA per employee; and
- Transport/storage/warehousing (in modern industrial building) - 66.5m<sup>2</sup> GFA per employee.

The subject site is partially located within the area for contributions relating to 'Precincts For Traffic Contributions – Industrial' pursuant to Figure 4 of the Contributions Plan. The subject site is located within the Mascot West Industrial Area, however, only the lots along Baxter Road are located within this Precinct and therefore affected by these contributions. The remainder of the site, being the lots facing Robey Street, are not within this Precinct. Therefore, the site area affected by these contributions is **4,807.6m<sup>2</sup>** (using Table 1 of the Statement of Environmental Effects and survey plans in Appendix A), with the relevant rate being \$9.23 per site square metre.

Accordingly, the Section 94 contribution is calculated based on:-

- Serviced apartments – 9 employees
- Office –  $944\text{m}^2/66.5\text{m}^2 = 14.2$  employees
- Warehouse –  $389.3\text{m}^2/66.5\text{m}^2 = 5.9$  employees
- Transport management - 4,807.6m<sup>2</sup> at \$9.23/site square metre

A total of **29.1 employees** result from the proposed development.

The Section 94 Contribution consists of the following:

- (i) Community Facilities \$10,155.90
- (ii) Administration \$1,542.30
- (iii) Shopping Centre Improvements \$6,576.60
- (iv) Open Space & Recreation \$71,586.00
- (v) Transport Management (Mascot West Industrial Area) - \$44,374.15

**Total \$134,234.95**

## 7. Conclusion

In accordance with Clause 3 of Schedule 4A of the EP&A Act, the Application is referred to the JRPP Sydney East Region for determination.

The proposed development has an FSR of 1.56:1 which exceeds the maximum FSR of 1.5:1 under the BBLEP 2013. The applicant has submitted a Clause 4.6 Variation, however, it is considered that this variation does not satisfy the underlying objectives of the FSR control and it is considered that the proposal will not result in an improved planning outcome for the site. The variation to the maximum FSR is not considered to be well founded and the variation to the FSR controls is not supported by Council in this case.

Similarly, the proposed variation to the maximum height of buildings from 22 metres to 26.78 metres is also not supported. It is considered that this variation is invalid in that it has not included the height to the top of the building (lift and plant rooms) as required by BBLEP 2013. It is considered that this variation does not satisfy the underlying objectives of the building height development standard and it is considered that the proposal will not result in an improved planning outcome for the site. The variation to the maximum building height is not considered to be well founded and therefore this variation is not supported by Council in this case.

A total of four (4) submissions were received as a result of the public exhibition process and matters raised have been addressed in this report and conditions (where relevant).

The proposal has been assessed in accordance with Section 79C of the EP&A Act and the BBLEP 2013. The proposal is permissible in the B5 Business Development zone, however, the current design of the proposal is considered to deliver a development which is unsuitable in the context.

The assessment concludes that the proposal is generally acceptable in terms of the use of the site, car parking and access, landscaping, contamination, dewatering and subdivision, however, the bulk and scale of the proposal is not supported and needs to be reduced to be consistent with BBELP 2013 for Council to support the development.

It is therefore recommended that the Panel defer determination of the application subject to submission of amended plans. The conditions in the attached schedule are recommended to be imposed on any consent issued for the proposal once the height and FSR issues have been resolved.

### **RECOMMENDATION**

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

- (a) Defer determination of Development Application No. 14/207 for a proposed serviced apartments and warehouse/office development at 53 – 79 Baxter Road & 62 – 66 Robey Street Mascot, subject to the submission of amended plans which generally comply with the development standards for Height (Clause 4.3) and FSR (Clause 4.4) of the *Botany Bay Local Environmental Plan 2013*; and
- (b) Following submission of amended plans to the satisfaction of Council, that a Supplementary Report be prepared for the Joint Regional Planning Panel with the attached schedule of conditions to be imposed on any development consent.

**Premises: 53 -79 Baxter Road & 62 – 66 Robey Street Mascot****DA No: 14/207/1****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.

<b>Drawing No.</b>	<b>Author</b>	<b>Date &amp; Issue</b>
<b>Architectural Plans</b>		
DA01 – Locality/Context Plan	Clarke Keller/dwp suters	26 March 2015/B
DA02 – Site Location & Analysis Plan	Clarke Keller/dwp suters	26 March 2015/B
DA02a – Pedestrian Link Plan	Clarke Keller/dwp suters	26 March 2015/C
DA03 – Site Plan	Clarke Keller/dwp suters	26 March 2015/H
DA04 – Site Demolition Plan	Clarke Keller/dwp suters	26 March 2015/D
DA05 –Street Elevations Plan	Clarke Keller/dwp suters	26 March 2015/G
DA06 – Basement Plan	Clarke Keller/dwp suters	26 March 2015/D
DA07 – Ground Floor Plan	Clarke Keller/dwp suters	26 March 2015/J
DA08 – Typical Floor Plan Levels 1- 4	Clarke Keller/dwp suters	26 March 2015/F
DA09 – Typical Floor Plan Levels 5- 6	Clarke Keller/dwp suters	26 March 2015/E
DA10 – Level 7 Floor Plan	Clarke Keller/dwp suters	26 March 2015/E
DA11 – Roof Plan	Clarke Keller/dwp suters	26 March 2015/E
DA12 – North & South Elevations	Clarke Keller/dwp suters	26 March 2015/G
DA13 – East & West Elevations	Clarke Keller/dwp suters	26 March 2015/F
DA14 – Building Sections	Clarke Keller/dwp suters	26 March 2015/F
DA15 – Sun & Shadow Studies	Clarke Keller/dwp suters	26 March 2015/B
DA16 – Materials & Finishes Schedule	Clarke Keller/dwp suters	August 2014/A
DA16a – Signage Elevation	Clarke Keller/dwp suters	9 March 2015/A
DA16b – Architectural Roof Feature – 3D Perspective	Clarke Keller/dwp suters	26 March 2015/B
DA16c – Baxter Road/Podium	Clarke Keller/dwp suters	9 March 2015/A



Drawing No.	Author	Date & Issue
Interface		
DA17 – Warehouse – Ground Floor Plan	Clarke Keller/dwp suters	26 March 2015/C
DA18 – Warehouse – First Floor Plan	Clarke Keller/dwp suters	26 March 2015/C
DA19 – Warehouse – Second Floor Plan	Clarke Keller/dwp suters	26 March 2015/B
DA20 – Warehouse – Third Floor Plan	Clarke Keller/dwp suters	26 March 2015/B
DA21 – Warehouse – Overall Roof Plan	Clarke Keller/dwp suters	26 March 2015/B
DA22 – Warehouse – North Elevation	Clarke Keller/dwp suters	26 March 2015/B
DA23 – Warehouse – South Elevation	Clarke Keller/dwp suters	26 March 2015/B
DA24 – Section A1	Clarke Keller/dwp suters	26 March 2015/B
DA25 – Section B1	Clarke Keller/dwp suters	26 March 2015/B
<b>Landscape Plans</b>		
L1 - Landscape Layout Plan	Nicholas Bray Landscapes	3 September 2014 (DA-B)
L2 - Landscape Planting Plan	Nicholas Bray Landscapes	3 September 2014 (DA-B)
L3 - Landscape Schedule & Construction Details	Nicholas Bray Landscapes	3 September 2014 (DA-B)
L4 - Landscape Themes	Nicholas Bray Landscapes	3 September 2014 (DA-B)
L5 - Landscape Elevations	Nicholas Bray Landscapes	15 August 2014 (DA-A)
<b>Civil Engineering Works Plans</b>		
13958_DA_C000 – Locality Sketch	Henry & Hymas	19 August 2014/Rev 02
13958_DA_C100 – Detail Plan – Ground Floor Level	Henry & Hymas	19 August 2014/Rev 02
13958_DA_C101 – Detail Plan – Basement Level 1	Henry & Hymas	19 August 2014/Rev 02
13958_DA_C110 – Detail Plan – Typical Channel Section 1-1	Henry & Hymas	23 July 2014/Rev 01
13958_DA_C200 –	Henry & Hymas	19 August

Drawing No.	Author	Date & Issue
Stormwater Miscellaneous Details & Pit Lid Schedule		2014/Rev 02
13958_DA_C210 – Stormwater Sections & Details	Henry & Hymas	23 July 2014/Rev 01
13958_DA_C211 – Stormwater Sections & Details	Henry & Hymas	23 July 2014/Rev 01
13958_DA_C250 – Music Modelling Catchment Plan	Henry & Hymas	19 August 2014/Rev 02
13958_DA_C251 – Stormwater Catchment Plan	Henry & Hymas	19 August 2014/Rev 02

Reference Document(s)	Author	Dated
Statement of Environmental Effects	Plandev Urban Planning	September 2014
Clause 4.6 Exceptions to Development Standards Report	Plandev Urban Planning	October 2014 (amended)
Traffic Impact Assessment Report	Colston Budd Hunt & Kafes Pty Ltd	August 2014 (Ref 9214/2); amended 3 February 2015 (Ref JH/9214/jj)
DA Noise Impact Assessment	Acoustic Logic	Ref: 20140829.1/1208A/R2/BW; Addendum 19 January 2015 (Ref: 20140829.1/1901A/RO/BW)
Plan of Management – Serviced Apartments	No author	August 2014 and amended January 2015
Plan of Management – Child Care Centre	No author	February 2015
Accessibility Report	Accessibility Solutions (NSW) Pty Ltd	25 August 2014
Arboricultural Impact Appraisal and method Statement	Naturally Trees	19 January 2015
Stormwater Issues and Design Summary	H & H Consulting Engineers Pty Ltd	14 August 2014
Quantity Surveyors Report	Zauner Constructions	18 August 2014

Reference Document(s)	Author	Dated
Indicative Ecological Sustainable Development Report	SLR	14 August 2014 (Ref 610.13572-R2)
Architectural Response to Design Review Panel Report	Clarke Keller/dwp suters	undated
Stage 1 Preliminary Contamination Assessment	Coffey	14 November 2013 (Ref:GEOTLCOV2 4802AA-AC)
Stage 2 Contamination Assessment	Coffey	11 November 2014 (amended) (Ref ENAURHOD0469 9AA-R01 rev 1)
Pre-Demolition/Refurbishment Hazardous Materials Report	Coffey	9 September 2014 (Ref ENAURHOD0469 9AA-R01 rev 1)
Geotechnical Investigation	Coffey	28 July 2014 (Ref GEOTLCOV24802 AB-AB rev 1)
Qualitative Wind Assessment	SLR	15 August 2015 (Report No: 610.13572-R1)
Construction Management Plan	Zauner Constructions	18 August 2014
Construction Traffic Management Plan	Sydney Traffic Control	-
Waste Management Plan	SLR	19 August 2014 (Report No: 610.13572-R1)
Services Report	Simpson Kotzman	15 August 2014, Addendum 3 February 2015

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

- 2 This Consent relates to land known as No **53 -79 Baxter Road & 62 – 66 Robey Street Mascot**, and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public works required and as otherwise permitted by this consent.
- 3 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.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 5 Only the signage wall along Robey Street is approved. No further signage, other than signage permitted as exempt or complying development, shall be installed or displayed at the premises without a development application being lodged with Council and consent thereto being given by Council in accordance with Council's guidelines and *State Environmental Planning Policy No. 64 – Advertising and Signage*.
- 6 This consent is for serviced apartments and does not authorise the permanent residential occupation of the building and prohibits any permanent strata-titling of the building as residential flats. Each bedroom in the serviced apartments shall not accommodate more than 2 persons.

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

- 7 The following conditions are imposed by **NSW Office of Water** as General Terms of Approval for construction dewatering:

##### **General**

- 1) An authorisation shall be obtained from NSW Office of Water for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified in the authorisation.
- 2) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be in contact with groundwater watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for reasonably foreseeable high water table elevations to prevent potential future inundation.
- 3) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

Prior to excavation

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

During excavation

- 10) Engineering measures designed to transfer groundwater around the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

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

#### Following excavation

- 17) All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.
- 8 The following condition is imposed by **Ausgrid** and is to be complied with:
- (a) Provision shall be made for accommodation for an electricity substation within the premises.
- 9 The following condition is imposed by **Sydney Water** and are to be complied with:-
- (a) Water
    - (i) The proposed development is within the Mascot Station Urban Activation Precinct.
    - (ii) The 100mm drinking water main in Baxter Road fronting the proposed development 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. Therefore

the developer will be required to amplify the existing system to a 150mm water main frontage to service the proposed development.

- (iii) Preliminary investigation shows that the preferred option would be to amplify the existing 100mm drinking water main in Baxter Road to a 150mm water main off the existing 150mm main in O’Riordan Street to provide full frontage to the proposed development.
  - (b) Wastewater
    - (i) The proposed development can connect to the 225mm wastewater main located in Baxter Road.
  - (c) Section 73 Compliance Certificate  
A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water.
- 10 The following conditions are imposed by the **Australian Rail Track Corporation Limited** and must be complied with:
- The consent authority must be satisfied that appropriate measures will be taken to ensure that the following LAeq acoustic levels are not exceeded:-
- (i) In any bedroom in the building: 35dB(A) at any time 10pm – 7am;
  - (ii) Anywhere else in the building (other than a garage, kitchen, bathroom or hallway): 40dB(A) at any time.
- 11 The following conditions are imposed by the **Sydney Airport Corporation Limited** (SACL) and must be complied with:
- (a) The property development at 53-79 Baxter Road MASCOT lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
  - (b) The Civil Aviation Safety Authority (CASA) have no objection to the proposed development to a maximum height of 33 metres above Australian Height Datum (AHD).
  - (c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
  - (d) Should you wish to exceed 33 metres above AHD , a new application must be submitted. 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.
  - (e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. SACL advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by SACL prior to any approval is to include:

- (i) the location of any temporary structure or equipment, ie. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
  - (ii) the swing circle of any temporary structure/equipment used during construction;
  - (iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
  - (iv) the period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
- (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

- (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, ie site is kept clean regularly, refuse bins are covered, and detention ponds netted. All trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.

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

- 12 The City of Botany Bay being satisfied that the proposed development will increase demand for services and facilities within the area. Therefore, the Section 94 Contributions are required to be paid in accordance with Council's Section 94 Contribution Plans 2005-2010 a sum of **\$134,234.95** listed below towards the provision of services is to be paid to Council prior to the issuing of a Construction Certificate.

- (i) Community Facilities \$10,155.90
- (ii) Administration \$1,542.30
- (iii) Shopping Centre Improvements \$6,576.60
- (iv) Open Space & Recreation \$71,586.00
- (v) Transport Management (Mascot West Industrial Area) - \$44,374.15

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



- 13 Prior to the issue of any Construction Certificate, the applicant must pay the following fee:-
- (i) Development Control \$12,300
- 14 Prior to the issue of any Construction Certificate, the applicant shall pay the following amount towards the construction of a cul-de-sac at the eastern end of Baxter Road:-
- (i) Construction of cul-de-sac in Baxter Road - \$30,000.
- 15 Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$696,000.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
- 16 A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. Building plans must be lodged at Sydney Water Quick Agent for approval prior to commencement of works.
- 17 Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
- 18 Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Utility Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
- 19 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004) and submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.

- 20 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP) prior to the release of the construction certificate. This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 21 A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:-
- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
  - (b) The proposed phases of construction works on the site and the expected duration of each construction phase.
  - (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
  - (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process.
  - (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
  - (f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
  - (g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
  - (h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent.
  - (i) Proposed protection for Council and adjoining properties.
  - (j) The location and operation of any on site crane.
  - (k) The location of any Work Zone (if required) approved by Council's Engineering Section, including a copy of that approval.
- 22 A detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:

- (a) be prepared by a RMS accredited consultant.
- (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
- (c) if required, implement a public information campaign to inform any road changes well in advance of each change.

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

- 23 The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development. A dilapidation survey of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the release of the Construction Certificate.
- 24 Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50 metres from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
- 25 Prior to the release of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Principal Certifying Authority, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.
- 26 To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:-
  - (a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
  - (b) Negotiate with the utility authorities (e.g. Ausgrid, Sydney Water and Telecommunications Carriers) and Council in connection with:-
    - i) The additional load on the system; and
    - i) The relocation and/or adjustment of the services affected by the construction.

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

The above details are to be submitted to the Principal Certifying Authority prior to the prior to the Construction Certificate.

- 27 Prior to the issue of the Construction Certificate detail plans are to be submitted demonstrating that 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 particular to all the overhead service cables on the Baxter Road and Robey Street frontage to be undergrounded.

All existing Street lights located within the footpath reserve along the entire Baxter Road and Robey Street frontages of the development site shall be replaced with new street lights in accordance with the requirements of Australian/New Zealand Standard AS/NZS 1158-1997 “Public Lighting Code” and the requirements of the Roads and Traffic Authority details to be submitted with the Construction Certificate.

- 28 An Acid Sulphate Soils Management Report (prepared by a suitably qualified and experienced environmental/geotechnical consultant) shall be submitted to the Principal Certifying Authority, prior to the issue of the Construction Certificate. This report shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The report shall provide details of the following:

- (a) Site specific mitigation measures to both minimise the disturbance of acid sulphate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
- (b) Management of acid sulphate affected excavated material;
- (c) Measures taken to neutralise the acidity of any acid sulphate soil affected material; and
- (d) Run-off control measures for the acid sulphate affected soil.

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

- 29 Plans and specifications for the storage room for waste and recyclable materials to allow for on-site waste and recyclable collection shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:

- (a) The rooms for the storage of garbage and recyclable materials shall be:
  - (i) fully enclosed;
  - (ii) adequately ventilated;
  - (iii) Constructed with a concrete floor, concrete or cement rendered walls covered to the floor;
  - (iv) 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.

- (v) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
  - (b) The area can be serviced easily accessed and serviced by a garbage truck or MRV.
- 30 A Waste Management Plan prepared in accordance with Part 3N - Waste Minimisation and Management of *Botany Bay Development Control Plan 2013* shall be submitted to the Council for approval prior to the release of the Construction Certificate. The Waste Management Plan shall include the size and storage of bins, the collection point for the waste contractor recycling contractor, maintenance of the bins and the provision of recycling and composting facilities. Waste collection must occur on the site.
- 31 The development shall make provision for a total of **144** car parking spaces, including eight (8) additional accessible parking spaces in accordance with Part 3C of the BBDCP 2013 and relevant Australian Standards. All staff and visitor spaces must be signposted and marked, including two (2) parking spaces to be designated as drop-off/pick up spaces for the Child care centre. These requirements shall be reflected on the Construction Certificate plans. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.
- 32 Prior to the issue of Construction Certificate, a Workplace Travel Plan is required to be submitted to Council in accordance with Clause 6.2.4 of BBDCP 2013 to encourage higher public transport (including walking and cycling) use and include strategies to encourage and promote car sharing and car pooling strategies.

The plan shall generally include but not limited to the following:

  - (a) Prepare Transport Access Guides (TAGs) for staff and occupants about information on how to reach the site via public transport, walking or cycling;
  - (b) Encourage staff to cycle and/or walk to the workplace;
  - (c) Encourage staff to use public transport to travel to workplace by providing financial incentive;
  - (d) Adopt car sharing and /or car pool scheme;
  - (e) Provide priority parking for staff with car pool;
  - (f) Establish measurable targets on the number of staff travel to work by public transport, cycling and walking.

This Workplace Travel Plan must include a pedestrian connectivity assessment as well as a traffic assignment diagram between the subject site and the domestic airport (having regard to the Airport Master plan with Robey Street being left only at O’Riordan Street).
- 33 Prior to the release of the Construction Certificate the following required section(s) are to be submitted to and approved by the Principal Certifying Authority.
  - (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements, including but not limited to, Section 8(v) of the DCP Stormwater Management Technical Guidelines.

- (b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 34 Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Principal Certifying Authority:
- (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.2 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
  - (b) All service vehicles shall enter the property front in/front out,
  - (c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
  - (d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
  - (e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 35 Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Private Certifying Authority:
- (a) Disabled car parking spaces shall be provided and clearly marked in accordance with Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
  - (b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
- 36 The proposed traffic movements and parking arrangements within and adjoining the development shall conform with Australian Standard AS2890-1, Australian Road Rules and the NSW Road Transport (Safety and Traffic Management) Regulation (and any other relevant legislation) unless otherwise stipulated by another condition of this Consent. Details to be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.
- 37 Bicycle storage racks/spaces capable of accommodating a minimum of 16 bicycles must be provided in the basement on the site. This on-site bicycle storage area shall conform to AS 2890.3:1993. Details to be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
- 38 Any wall or fence or solid object on either side of the driveway/vehicular crossings where it meets the Council's road reserve at the boundary must comply with sight distances stipulated in Australian Standard AS 2890.1. Details shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

- 39 The gradient for all disabled access ramps shall not exceed a maximum of one (1) (vertical) in fourteen (14) (horizontal) pursuant to *Australian standard 1428.1(2001)– design for access and mobility– general requirements for access– new building work*. The final design of the proposed disabled access ramps shall be submitted to council or the principal certifying authority prior to the release of a construction certificate.
- 40 Toilet facilities shall be provided for disabled persons in accordance with the design criteria in AS 1428.1(2001)– design for access and mobility– general requirements for access– new building work. this requirement shall be submitted to council or the principal certifying authority prior to the release of a construction certificate.
- 41 Detailed plans for the approved development shall be submitted in accordance with the requirements of AS 1428 Part 1 prior to the release of a Construction Certificate, showing detailed levels, ramp slopes, door widths, and circulation spaces, including for the proposed child care centre.
- 42 Signs incorporating the international symbol of access for disabled persons must be provided to identify each accessible entrance, lift or bank of lifts; and sanitary facility. This requirement shall be submitted the principal certifying authority prior to the release of a construction certificate.
- 43 Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1 and AS1668.2. Details are to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate.
- 44 The applicant shall submit to Council details of the construction and fit out of the food premises. Such details must demonstrate compliance with the following requirements:-
- (a) the *Food Act 2003*,
  - (b) *Food regulations 2004*;
  - (c) the Food Standards Code as published by food standards Australia and New Zealand; and
  - (d) *AS 4674 – 2004: Construction and Fit Out Of Food Premises*.
- 45 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the adjacent Council drainage pipeline. The camera and its operation shall comply with the following:
- (a) The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner,
  - (b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
  - (c) Distance from the manholes shall be accurately measured, and
  - (d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council prior to the commencement of any works. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

*Note: If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the applicants expense.*

- 46 Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval.

The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.

The plans shall incorporate but not be limited to the following:

- (a) Provision made in the Civil Engineering Works Drawings by Henry & Hymas, dated 19 August 2014,
  - (b) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
  - (c) A pump-out can only be utilized to dispose runoff that may enter the basement car park from driveway access to the basement, and
  - (d) The submission to Council, detailed calculations including computer modelling supporting the design.
- 47 Prior to the issue of a Construction Certificate, details of the flood gate system for the basement, including a management plan for the this system, shall be submitted to the Principal Certifying Authority and Council for approval. This flood gate system is to be generally in accordance with the requirements of the Stormwater Report prepared by H & H Consulting Engineers Pty Ltd dated 14 August 2014 and Council's specifications.
- 48 The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction* and the requirements of the *DA Noise Impact Assessment* prepared by Acoustic Logic dated 12 August 2014. Details and building plans endorsed with the required acoustical measures prepared by a practicing professional acoustical consultant are to be provided on the Construction Certificate plans. The building shall be constructed in accordance with these details.
- 49 A report prepared by a suitably qualified and experienced energy efficiency consultant is to be submitted to the Principal Certifying Authority, prior to the issue of the Construction Certificate. The report is to confirm that the design of the building meets the Energy Efficiency provisions pursuant to Part 3H of the *Botany Bay Development Control Plan 2013* as outlined in the *Indicative Ecological Sustainable Design Report* (Report No 610.13572-R2) prepared by SLR dated 14



August 2014. Details are to be indicated on the Construction Certificate plans and all works shall be completed prior to the issue of the Occupation Certificate.

- 50 Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with *AS4282-1997 Control of the obtrusive effects of outdoor lighting*; and the installation of solar power to external space lighting. Details are to be submitted to the Principal Certifying Authority prior to the release to the Construction Certificate.
- 51 Prior to the release of the Construction Certificate, an Emergency Management and Evacuation Plan must be prepared for the serviced apartments in accordance with Part 7F.2 (c22) the *Botany Bay Development Control Plan 2013*.
- 52 Prior to the issue of the Construction Certificate, a final landscape plan shall be submitted to and approved by Council. The final landscape plan is to be generally in accordance with the approved landscape plan and demonstrate compliance with the following requirements:-
  - (a) Additional landscaping including:-
    - Landscaping must achieve a more layered approach in front of the warehouse to the southwest of the site (fronting Baxter Road) with more groundcovers, shrubs and trees required in the deep soil setback (in place of turf);
    - Planters within the guest courtyard (northern elevation) should include additional small to medium sized tree species;
    - Street trees are required to the west of the vehicular entry point along Robey Street to be consistent with the *Botany Bay City Council Street Tree Master Plan 2014* (STMP), which specifies *Shinus areira* (non-wire side) along Robey Street;
    - Trees with a broad, leafy canopy are required in the central planting strip within the car parking area (one (1) tree per 5 car spaces) to provide a 50% canopy coverage of the car park at maturity;
    - Additional canopy trees are required adjacent to the warehouse access driveway (west of the car park) on Robey Street;
    - There shall be no plant species used on the site that are toxic, dangerous and the like particularly around the child care centre.
  - (b) A site plan showing building envelopes, paved areas and areas to be landscaped.
  - (c) A planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be a dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas.
  - (d) A plant schedule listing all plants by botanical name, total plant numbers, plant spacing, pot sizes and staking.
  - (e) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hard works such as retaining walls.
  - (f) Areas of paving, schedule of materials, edge treatments and sectional construction details.
  - (g) All fencing, privacy screening and pergolas – elevations and materials.

- (h) Details of other landscape elements such seating and furniture, pedestrian lighting, sculpture and water features. Provide sectional construction details and elevations where required.
- (i) Planter box on slab sectional details – drainage, waterproofing, sediment barrier, irrigation, planting substrate and so on. Planter boxes shall be of adequate dimensions (area and depth – min. 900mm) for growing medium sized trees (12 metres high).
- (j) Show the location of underground stormwater/rainwater tanks, maximising landscape area availability. Comply with Council's Engineering Services Stormwater Guidelines, conditions and requirements in this regard.
- (k) Show the location of any electrical substations and fire booster valves required. Comply with conditions relating to their location. Any electrical kiosks or fire booster valve is to be located in unobtrusive location toward site boundaries and away from entrances into the site. Utilities shall be softened with landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape.

The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP.

- 53 Prior to the issue of the Construction Certificate, a detailed plan for the publicly-accessible park and through-site link shall be prepared by a suitably qualified Landscape Architect to accompany the landscape documentation for approval by Council. The Plan shall include, but is not be limited to, the following requirements:-

- (a) Proposed street trees, paving, furniture/seating, other landscaping, irrigation and lighting;
- (b) Fencing - solid fences are discouraged for new development or subdivision backing onto public domains and open spaces. Open fencing preferred.
- (c) Walking /cycling paths, which are to be an adequate width for both pedestrians and cyclists and comply with principles – Connection, Convenience, convivial, Comfortable and Conspicuousness;
- (d) Compliance with relevant Australian Standards including AS 1428;
- (e) Detailed sections to be provided indicating changes in level and treatments.

The Plan shall be in accordance with Council's requirements. Civil drawings shall also be submitted providing levels and detailed footpath construction sections in accordance with Council's requirements.

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

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

- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
- (b) Permit to construction works, place and/or storage building materials on footpaths, nature strips

- (c) Permit for roads and footways occupancy (long term/ short term)
- (d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve
- (e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
- (f) Permit to place skip/waste bin on footpath and/or nature strip
- (g) Permit to use any part of Council's road reserve or other Council lands
- (h) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area (It should be noted that the issue of such permits may involve approval from RTA and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.)
- (i) Permit to establish "Works Zone" on public roads adjacent to the development site, including use of footpath area.

Application(s) shall be submitted a minimum of one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Engineers for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s). It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.

- 55 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*.

- (a) Level Restrictions  
Construction period of 4 weeks and under:  
the L<sub>10</sub> sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).  
Construction period greater than 4 weeks and not exceeding 26 weeks:  
the L<sub>10</sub> sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- (b) Time Restrictions  
Construction/demolition work shall be limited to the following hours:  
Monday to Friday: 07:00 am to 06:00 pm  
Saturday: 07:00 am to 01:00 pm  
No Construction to take place on Sundays or Public Holidays.
- (c) Silencing  
All possible steps should be taken to silence construction site equipment.

- 56 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*.

- 57 For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

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

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

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

These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

- 60 The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.

- 61 Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.

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

- (a) Erection of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
- (b) Each toilet provided:
  - (i) must be standard flushing toilet; and,
  - (ii) must be connected:
    - (1) to a public sewer; or
    - (2) if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,

- (3) if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
  - (iii) The provisions of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- 63 A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
  - (a) stating that unauthorised entry to the work site is prohibited;
  - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
  - (c) the Development Approval number;
  - (d) the name of the Principal Certifying Authority including an after-hours contact telephone number; and
  - (e) any such sign is to be removed when the work has been completed.
- 64 All works carried out on the public roads shall be inspected and approved by Council. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
  - (a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
  - (b) Prior to placement of concrete (kerb and gutter and footpath);
  - (c) Prior to construction and placement of road pavement materials; and
  - (d) Final inspection.

**Note:** Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.
- 65 The applicant shall conduct all construction and related deliveries wholly on site or shall make a separate application to Council for a "Work Zone" adjacent to the development site. This application should be submitted one (1) month prior to the planned commencement of works on the development site. Application forms are available at Council's Customer Service Counter.
- 66 Prior to the commencement of any demolition work, a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority.

The statement must be in compliance with: *AS 2601-1991 Demolition of Structures*," the requirements of WorkCover Authority and conditions of the this approval, and must include provisions for:

- (a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
  - (b) Induction training for on-site personnel;
  - (c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
  - (d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
  - (e) Disconnection of Gas and Electrical Supply;
  - (f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
  - (g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
  - (h) Waterproofing of any exposed surfaces of adjoining buildings;
  - (i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the *Protection of the Environmental Operations Act 1997*;
  - (j) Working hours, in accordance with this Development Consent;
  - (k) Confinement of demolished materials in transit;
  - (l) Proposed truck routes, in accordance with this Development Consent;
  - (m) Location and method of waste disposal and recycling in accordance with the *Waste Minimisation and Management Act 1995*;
  - (n) Sewer – common sewerage system;
  - (o) On site monitoring both during asbestos removal and the remainder of demolition activities.
- 67 Demolition work shall be carried out in accordance with AS 2601-1991 *Demolition of Structures*, the requirements of the NSW WorkCover Authority and the *Pre - Demolition/Refurbishment Hazardous Materials Report* prepared by Coffey dated 9 September 2014.
- 68 The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant’s own expense. A certificate from the Applicant’s insurers to this effect is to be **LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED**. The amount of Common Law liability shall be unlimited.

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

### **DURING WORKS**

- 70 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:
- (a) Approved Erosion and Sediment Control Plan;
  - (b) Approved Traffic Management Plan and;
  - (c) Approved Construction Management Plan.
- 71 Inspections must be conducted by Council's Engineer at the following occasions:
- (a) Formwork inspection of driveway layback prior to laying of concrete,
  - (b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
  - (c) Formwork inspection of Council's footpath prior to laying of concrete,
  - (d) Inspection of Council's stormwater pit prior to concrete pour / backfill,
  - (e) Inspection of stormwater pipe / culvert prior to backfill,
  - (f) Inspection of road pavement following prior to laying of new asphalt,
  - (g) Final inspection of driveway layback,
  - (h) Final inspection of Council's kerb and gutter,
  - (i) Final inspection of Council's footpath,
  - (j) Final inspection of Council's stormwater inlet pits, and
  - (k) Final inspection of new road pavement.
- 72 The approved Waste Management Plan for the site shall be complied with at all times during demolition works and construction works.
- 73 All remediation work must be carried out in accordance with: -
- (a) NSW Office of Environment and Heritage (OEH) '*Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites*';
  - (b) NSW Environment Protection Authority (NSW EPA) guidelines under the *Contaminated Land Management Act 1997*;
  - (c) *State Environmental Planning Policy 55 (SEPP 55) – Remediation of Land*, including *Managing Land Contamination: Planning Guidelines SEPP 55 Remediation of Land*; and

- (d) The Remedial Action Plan - 53 – 79 Baxter Road and 62 – 66 Robey Street, Mascot NSW' prepared by Coffey Environments Pty Ltd (Report No. ENAURHODO4699AA-R02 rev 1) dated 20 January 2015.
- 74 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 construction works.
- 75 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.
- 76 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- (a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.
  - (b) *Protection of the Environment Operations Act 1997*;
  - (c) *Protection of the Environment Operation (Waste) Regulation*; and
  - (d) *DECC Waste Classification Guidelines 2008*.
- 77 The management of potential and actual acid sulfate soils shall be conducted in accordance with the approved Acid Sulfate Soils Management Plan, required to be submitted prior to the construction certificate including:
- (a) Site specific mitigation measures to both minimise the disturbance of acid sulphate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
  - (b) Management of acid sulphate affected excavated material;
  - (c) Measures taken to neutralise the acidity of any acid sulphate affected material; and
  - (d) Run-off control measures for the acid sulphate affected soil.
- 78 For water to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Freshwater. If the groundwater from dewatering does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
- 79 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Office of Environment and Heritage (OEH) *Waste Classification Guidelines* (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 80 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified and shall be validated in accordance with the
- (a) Office of Environment and Heritage (OEH) approved guidelines;
  - (b) *Protection of the Environment Operations Act 1997*; and



(c) *Protection of the Environment Operations (Waste) Regulation 2005.*

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

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

- (a) The Soil and Water Management Plan (SWMP);
- (b) “*Managing Urban Stormwater - Soils and Construction*” (2004) Landcom (‘The Blue Book’); and
- (c) *Protection of the Environment Operations Act 1997.*

- 82 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.

- 83 The following shall be complied with at all times:-

- (a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council’s road reserve is required, approval and permits shall be obtained from Council.
- (b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council’s lands.
- (c) Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (eg wheelbarrows) on Council’s road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- (d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council’s Engineer.

- 84 During Demolition, Excavation and Construction, care must be taken to protect Council’s infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be 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.

- 85 If the work involved in the construction of a building:

- (a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
- (b) involves the enclosure of a public place:

a hoarding or fence must be erected between the work site and the public place.

If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place. Any such hoarding, fence or awning is to be removed when the work has been completed. Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.

- 86 If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- (a) Must preserve and protect the building/ fence from damage; and,
  - (b) If necessary, underpin and support such building in an approved manner;
  - (c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
  - (d) Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
  - (e) If the soil conditions required it:
    - (i).. Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided, and
    - (ii). Adequate provision must be made for drainage.
- 87 Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
- 88 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.
- 89 During construction works, the applicant / builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.

- 90 All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 91 All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
- 92 The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council approval.

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

- 93 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the *Environmental Planning and Assessment Act 1979*.
- 94 A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- (a) NSW Office of Environment and Heritage (OEH) ‘*Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites*’; and
  - (b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the *Contaminated Land Management Act 1997*; and
  - (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

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

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

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and SAS prior to issuing the occupation certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

- 96 Prior to the issue of the Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that all of the car parking spaces and areas, loading areas and bays, driveways

entrances, ramps and egresses have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6 requirements. The internal parking facilities shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standards.

- 97 Prior to the issue of the Occupation Certificate, a deed of agreement for the provision of 28 marked car parking spaces within the basement car parking level of the serviced apartment complex for the warehouse/office component must be provided. Documentary evidence of this deed of agreement must be provided to the Principal Certifying Authority.
- 98 Prior to the issue of the Occupation Certificate, the Workplace travel Plan needs to be updated to address its implementation strategy and success measures.
- 99 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.
- 100 Prior to the issue of the Occupation Certificate, street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
- 101 Prior to the release of the Occupation Certificate all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
- 102 Prior to the issue of the Occupation Certificate, all services (Utility, Council, etc) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
- 103 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 all the overhead service cables on the Baxter Road and Robey Street frontage to be undergrounded.

Existing street lights located within the footpath reserve along the entire Baxter Road and Robey Street frontages of the development site shall be replaced with new street lights in accordance with the requirements of Australian/New Zealand Standard AS/NZS 1158-1997 "Public Lighting Code" and the requirements of the Roads and Traffic Authority.

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

- 104 Any damage not shown in the photographic survey submitted to Council before site works commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be

rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.

- 105 At the completion of all construction works, a qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the adjacent Council drainage pipeline. The camera and its operation shall comply with the following:

- The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
- The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
- Distance from the manholes shall be accurately measured, and
- The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council for review. Any damage to the culvert/pipeline since the commencement of construction on the site shall be repaired in full to the satisfaction of Council. A written acknowledgement shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

- 106 Prior to the issue of the Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.

- 107 Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:

- (a) All reduced levels shown upon the approved plans, in relation to the parapets, towers, lift enclosures, drainage, boundary and road reserve levels, have been strictly adhered to; and
- (b) A Floor Space Ratio and a maximum height (top of parapet in accordance with *Botany Bay Local Environmental Plan 2013*) as approved under this Development Consent No. 14/207 have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
- (c) The development as built, stands within 53 – 79 Baxter Road and 62-66 Robesey Street Mascot.

- 108 The consolidation of all allotments, comprising Lots 39 & 40 in DP 979354, Lot 300 DP 1068656, Lot 1 DP 555198, Lot 28 DP 90406, Lot 27 DP 979354, Lot 281 DP 1138673, Lot 31 & 32 DP 893 and Lot B DP 305901, into one title must be undertaken. Details demonstrating compliance with this requirement are to be submitted to the satisfaction of the Principal Certifying Authority prior to the release of the Occupation Certificate. Evidence of registration shall be submitted to Council or the Principal Certifying Authority prior to occupation and use of the building.

- 109 Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88E of the *Conveyancing Act 1919* and lodged with the NSW Land and Property Information:

- (a) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

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

- 110 Prior to the issue of an Occupation Certificate, a restriction on Use of Land shall be imposed on the development. The following covenants shall be imposed under Section 88B of the *Conveyancing Act 1919* and lodged with the NSW Land and Property Information:

- (a) The maximum period for occupation of a serviced apartment is 3 months.

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

Any Section 88B Instrument creating restrictions as to user which benefit Council shall contain a provision enabling such restrictions to be revoked, varied or modified only with the consent of Council.

- 111 Prior to the issue of the Occupation Certificate, extinguish any existing Council “Easement for Stormwater” and create a 3.5 metre wide “Easement for Stormwater” over the new stormwater culvert traversing the site.
- 112 Prior to issue of the Occupation Certificate, high-level overflows from the swimming pool shall be gravity fed and connected to Sydney Water’s sewer via an approved system. The connection must not directly vent the receiving sewer. Upon completion, certification from a licence plumber shall be submitted to the Principal Certifying Authority certifying that the connection has been made in accordance with the Sydney Water’s requirements and the current plumbing codes.
- 113 Prior to issue of the Occupation Certificate, the Principal Certifying Authority shall confirm the deck or concourse area surrounding the swimming pool have been constructed at minimum 1.0% grade towards the pool to prevent surface water overflowing into the adjoining properties.
- 114 Prior to issue of the Occupation Certificate, the Principal Certifying Authority shall confirm that all the safety barriers enclosing the new swimming pool are installed and satisfy *AS1926.1 Swimming Pool Safety – Safety Barriers for Swimming Pools*.

- 115 Prior to issue of the Occupation Certificate, the Principal Certifying Authority shall confirm that a pool cover is installed across the entirety of the swimming pool to minimise evaporation rates.
- 116 Prior to the issue of an Occupation Certificate, certification from an appropriately qualified and practicing energy efficiency consultant shall be submitted to the Principal Certifying Authority and the Council to the effect that the energy efficiency measures required in the development for compliance with Part 3H of the *Botany Bay Development Control Plan 2013* have been implemented.
- 117 Prior to the issue of the Occupation Certificate, documentation from a practising and qualified acoustic consultant must be submitted to the Principal Certifying Authority certifying that the buildings have been constructed generally in accordance with the approved acoustic report, this development consent and all relevant standards.
- 118 Prior to the issue of the Occupation Certificate, documentation from a practising and qualified Hydraulic consultant must be submitted to the Principal Certifying Authority certifying that the flood gate system for the basement has been constructed generally in accordance with the approved stormwater report, this approval and all relevant standards.
- 119 Prior to the release of an Occupation Certificate, the landscaping shall be installed in accordance with the approved final landscape plan. The landscaped areas on the site shall be maintained in accordance with the landscape documentation, the conditions of consent and Council's Landscape DCP at all times.
- 120 Prior to the issue of the Final 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.
- 121 Prior to the issue of the Final Occupation Certificate, the applicant shall carry out the following works:
- (a) On Robey Street, adjacent to development, demolish all redundant vehicular road crossings (driveway) and construct new concrete footpath and new kerb and gutter in accordance with Council's Infrastructure Specifications,
  - (b) On Baxter Road, adjacent to development, demolish all redundant vehicular road crossings (driveway) and construct new concrete footpath and new kerb and gutter in accordance with Council's Infrastructure Specifications,
  - (c) On Robey Street, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications,
  - (d) On Robey Street, adjacent to development, demolish existing concrete footpath and construct new concrete footpath in accordance with Council's Infrastructure Specifications,
  - (e) On Baxter Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications,

- (f) On Baxter Road, adjacent to development, demolish existing concrete footpath and construct new concrete footpath in accordance with Council's Infrastructure Specifications,
  - (g) Demolish existing box culvert and channel traversing the site and construct new 2750x750 box culvert on proposed new location as per the Civil Engineering Works Drawings by Henry & Hymas, dated 19 August 2014,
  - (h) On Baxter Road, demolish the existing box culvert crossing the road and extend the new 2750x750 box culvert from the development site to the southern kerb and gutter on Baxter Road and connect to the existing 1200 diameter pipe,
  - (i) On Baxter Road, over the new box culvert construct two (2) new inlet pits with minimum 3.6 metre lintel and a hinged galvanised grate in accordance with Council's Infrastructure Specifications,
  - (j) On Robey Street, adjacent to the development, demolish existing stormwater inlet pits and construct new inlet pits with minimum 2.4 metre lintel and a hinged galvanised grate in accordance with Council's Infrastructure Specifications,
  - (k) On Baxter Road, adjacent to the development, demolish existing stormwater inlet pits and construct new inlet pits with minimum 2.4 metre lintel and a hinged galvanised grate in accordance with Council's Infrastructure Specifications,
  - (l) Construct new public pedestrian pathway connecting Robey Street and Baxter Road, along the eastern boundary of the property as per the Landscape Layout Plan by Nicholas Bray Landscapes, dated 3 September 2014 and Council's Infrastructure Specifications,
  - (m) On Robey Street, adjacent to the development, reconstruct half road pavement by milling 50mm of the existing road pavement and laying AC10 50mm thick in accordance with Council's Infrastructure Specifications, and
  - (n) On Baxter Road, adjacent to the development, reconstruct half road pavement by milling 50mm of the existing road pavement and laying AC10 50mm thick in accordance with Council's Infrastructure Specifications.
- 122 Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied. A copy of the approved public domain civil works plans showing Work-as-Executed details (together with an electronic copy) prepared by a registered surveyor are to be provided to the Principal Certifying Authority.

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

- 123 To enable registration of the plan of subdivision at NSW Land and Property Information Office, a Subdivision Certificate must be obtained under section 109J of the *Environmental Planning and Assessment Act 1979*.
- 124 Prior to the issue of Subdivision Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority showing all the structures are wholly located within the property boundary.



125 The following works shall be completed on site and documentation submitted prior to the issue of the Subdivision Certificate:

- (a) Construction Requirement - The serviced apartment building and warehouse/office building shall be built and completed in accordance with the conditions of this Development Consent;
- (b) Compliance - Full compliance with all conditions of this Development Consent prior to release of the linen plans;
- (c) Letterboxes and Street Numbering installed;
- (d) A Final Fire Safety Certificate shall be obtained to comply with the conditions of this development consent and submitted to Council;
- (e) Occupation Certificate - An interim or final Occupation Certificate shall be obtained from the Principal Certifying Authority and submitted to Council; and
- (f) Compliance Certificate from Sydney Water - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. The Section 73 Certificate must be submitted to Council.

126 A final plan of subdivision plan shall be prepared by a registered surveyor and include (but not limited to) the following:-

- (a) Easements required by this development consent;
- (b) Creation of Restriction of Use of the Land, and Positive Covenants pursuant to Section 88B of the *Conveyancing Act, 1919* required by this development consent.

The City of Botany Bay Council is to be nominated as the Authority to release, vary or modify any Covenants.

127 To enable registration of the plan of subdivision at NSW Land and Property Information Office, the applicant must submit the following: -

- (a) Application for Subdivision Certificate form completed with payment of fees current at lodgement;
- (b) Six (6) copies of the final plan of subdivision prepared by a Registered Surveyor;
- (c) The Original Deposited Plan Administration Sheet(s) plus one (1) copy;
- (d) The Original of any relevant 88B instrument plus one (1) copy;
- (e) A copy of the Interim or Final Occupation Certificate for the development obtained from the Principal Certifying Authority;
- (f) A copy of the Final Fire Safety Certificate for the construction works for this development;
- (g) Certification from the Registered Surveyor that all services (including but not limited to stormwater drainage, gas, electricity, telephone cable) as constructed or to be constructed are/will be contained within each lot and/or within the necessary easements to accommodate such services;
- (h) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision; and
- (i) All engineering or surveyors certification required by this development consent.

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

- 128 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, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
- 129 No offensive odour from any process shall be detected outside the premises by an authorised Council Officer as defined in the *Protection of the Environment Operations Act 1997*.
- 130 The use of the premises shall not give rise to air impurities in contravention of the *Protection of the Environment Operations Act 1997* and shall be controlled in accordance with the requirements of this Act.
- 131 The operation of the premises shall be conducted in a manner that does not pollute waters as defined by the *Protection of the Environment Operations Act 1997*.
- 132 Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with AS4282-1997 *Control of the obtrusive effects of outdoor lighting*.
- 133 The hours of operation of the office/warehouse are restricted to the following:-
- (a) Office – 7.00am to 5.00pm Monday to Friday and 9.0am to 5.00pm Saturday and Sunday;
  - (b) Warehouse – 6.00am to 8.00pm Monday to Friday and 7.00ma to 5.00pm Saturdays and Sundays.
- 134 Prior to commencing trading all new food businesses must register the food premises with Council and register with the New South Wales Food Authority (contact details for registration for the Food Authority NSW are <http://www.foodnotify.nsw.gov.au/nafris> or by telephone 1300 650 124).
- 135 All parking bays shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.
- 136 The pick-up/drop-off zones at the front of the development along Robey Street shall be marinated for this use at all times. No vehicles are permitted to park in these areas.
- 137 All vehicles shall enter and exit the premises in a forward direction.
- 138 All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within the dedicated loading dock/area, which is wholly within the building.

- 139 A shuttle bus required to service the serviced apartments must be provided to transport occupants to and from the serviced apartments to Sydney airport.
- 140 Waste collection must occur on the site.
- 141 The operation of the development and movement of vehicles shall comply with the following requirements:-
- (a) The largest size of vehicle accessing the development shall be restricted to MRV;
  - (b) Garbage collection and loading and unloading activities associated with deliveries shall take place wholly within the loading dock;
  - (c) Qualified traffic controllers shall be present when the delivery/service vehicle reverses into the loading dock;
  - (d) No deliveries to the premises shall be made from a public places, public streets or any road related areas (e.g. footpaths, nature strip, road shoulder, road reserve etc);
  - (e) Vehicle manoeuvring area shall be kept clear at all times. All vehicles shall be parked in the marked parking bays.;
  - (f) Maximum number of delivery vehicles on site shall be limited to one for the serviced apartments.
- 142 The operation of the site must at all times fully comply with the requirements of the approved Plans of Management for the Serviced Apartments and the Child Care Centre.
- 143 Any graffiti or similar vandalism to the external fabric of the buildings or walls to landscaped areas shall be removed within seven (7) days and the surface returned to its original condition.
- 144 The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and plans, the conditions of development approval at all times. The Landscape Contractor shall be engaged weekly for a minimum period of 6 weeks from completion of the landscape installation to maintain the landscaping. After that time monthly maintenance is required.
- 145 The operation of all plant and equipment shall not give rise to an equivalent continuous ( $L_{Aeq}$ ) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background  $L_{A90}$  level (in the absence of the noise under consideration).
- The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds  $L_{Aeq}$  50dB(A) day time and  $L_{Aeq}$  40dB(A) night time. The operation of all plant and equipment when assessed an any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds  $L_{Aeq}$  65dB(A) day time/night time.
- For assessment purposes, the above  $L_{Aeq}$  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.

- 146 All waste and recycling containers shall be stored in the designated waste storage area. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The occupier shall be responsible for cleaning the waste storage area, equipment, and waste collection containers.
- 147 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
- 148 The owner of the pool shall display a notice showing:
- (a) Appropriate instructions of artificial resuscitation methods.
  - (b) A warning stating ‘YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL’.
- Note: This notice shall be kept in a legible condition and at the pool side.
- 149 The pool filtering equipment shall be encased by a soundproof cover and shall be located as far as is practical from adjoining premises. Pool equipment shall not operate between 10.00pm and 7.00am.
- 150 The commercial swimming pool/spa pool operation shall comply with the NSW Public Health Act and (Swimming Pools and Spa Pools) Regulation and Guidelines
- 151 Prior to use or operation of the swimming pool, any filtration equipment or pump(s) shall be enclosed with appropriate sound insulation materials to ensure noise levels do not exceed 5dBA above the ambient background noise level when measured at the side and rear boundaries of the property.
- 152 This consent does not authorise the use or operation of the premises as a Child Care Centre, except where the operator and all employees are in possession of a current valid license from the NSW Department of Community Services.
- 153 The hours of operation of the child care centre are 7.00am to 6.00pm Mondays to Fridays. The centre shall be closed on public holidays.
- 154 The final design and operation of the child care centre is to be in accordance with the National Quality Framework and other relevant Government regulations.
- 155 The number of children in the approved child care centre on the premises is not to exceed **30** children at any one time, and is to comply with the following ratios:
- (a) 0-2 years 8 children
  - (b) 2-3 years 10 children
  - (c) 3-5 years 12 children

Relevant applicable staff to children ratios are to be complied with at all times. Any alterations to the above will require further development approval.

- 156 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. 14/207 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

### **ADVISORY NOTES**

- A1 The following requirements are imposed by the **NSW Police Service**:

#### **Surveillance**

- (a) As the proposed development may be exposed to break enter and steals, stealing, Steal from persons, malicious damage, and steal from motor vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 needs to be implemented to receive, hold or process data for the identification of people involved in anti-social or criminal behaviour. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation..
- (b) This system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas which are difficult to supervise.
  - Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas.
  - One or more cameras should be positioned at the entry and exit points to monitor these areas (underground 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:-
  - Shrubs, bushes, plants should remain under 900mm in height;
  - Branches of large trees should start at a height of two (2) metres and higher;

This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
- (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 are 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 'left over 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, inset 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.

#### Lighting

- (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) Improve 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.

#### Territorial Reinforcement

- (r) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with the *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 a corporation. The number should be in contrasting colours to building materials and be a minimum height of 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.

Warning, trespassers will be prosecuted

Warning, these premises are under electronic surveillance

- (t) Directional signage should be posted at decision making points (e.g. entry/egress points) to provide guidance to the users 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 and 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 exist to assist occupants to identify exists in emergency situations.
- (w) Signage needs to be provided to assist staff and customers to identify fire suppression equipment, e.g. extinguishes, 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) **Graffiti resistant materials** and anti-graffiti coating should be utilised throughout the development.

#### Space/Activity Management

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

#### Access Control

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

- (cc) 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 lock and associated furniture are included. Certain area may require higher level of locking devices not referred to in this standard (e.g. locking bars, electronic locking devices and detection devices). **Dead lock are required for residential units.**
- (dd) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space. The doors in the required exits must be readily open-able without a key from the side that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor.
- (ee) **Any sliding doors MUST be fitted with lockable bolts in the bottom and top of the door frame.**
- (ff) 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** 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 set 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).
- (gg) 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 form the car park should have striker plates installed to minimise chance of tampering.
- (hh) The main entry/egress doors to the development should have an electronically operated lock which require security swipe pass for entry. The lifts operating in the building should have the same security swipe pass technology. When an occupant buzzes in a visitor the lift should recognise the floor the occupant resides and only allow the visitor access to that floor in the lift.