

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SCL020
DA Number	14/306/02
LGA	Bayside Council
Proposed Development	S96(AA) application to modify Development Consent No. 14/306, which is for the demolition of existing structures and erection of a 12 storey hotel building containing 150 rooms over eight levels and four levels of car parking for 60 vehicles (one at grade and three above ground). To convert the plant rooms on the car park levels 2 and 3 to a gym (for hotel guests only) and a staff room respectively.
Street Address	113-121 Baxter Road, Mascot
Applicant	The Baxter International Hotel c/o- Fox Johnston Level 1, 268 A Devonshire Street, Surry Hills NSW 2010
Date of DA lodgement	13 September 2016
Number of Submissions	Nil
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	Section 96AA Application to modify a consent determined by the NSW Land and Environment Court, pursuant to Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • List all of the relevant environmental planning instruments: s79C(1)(a)(i) <ul style="list-style-type: none"> ◦ Botany Bay Local Environmental Plan 2013. • List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii); <ul style="list-style-type: none"> ◦ Nil • List any relevant development control plan: s79C(1)(a)(iii); <ul style="list-style-type: none"> ◦ Botany Bay Development Control Plan 2013. • List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv); <ul style="list-style-type: none"> ◦ Nil • List any coastal zone management plan: s79C(1)(a)(v) <ul style="list-style-type: none"> ◦ Nil • List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> ◦ Nil
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural plans prepared by Fox Johnston
Report prepared by	Katerina Lianos – Development Assessment Planner
Report date	15 May 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Not
Applicable –
S96**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

**Not
Applicable**

Conditions

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes

SYDNEY CENTRAL PLANNING PANEL PANEL DETERMINATION MEETING

Panel Reference	2017SCL020
DA Number	14/306/02
Local Government Area	Bayside Council
Proposed Development	S96(AA) application to modify Development Consent No. 14/306, which is for the demolition of existing structures and erection of a 12 storey hotel building containing 150 rooms over eight levels and four levels of car parking for 60 vehicles (one at grade and three above ground). To convert the plant rooms on the car park levels 2 and 3 to a gym (for hotel guests only) and a staff room respectively.
Street Address	113-121 Baxter Road, Mascot
Applicant	The Baxter International Hotel c/o- Fox Johnston
Owner	The Baxter International Hotel
Date of DA lodgement	13 September 2016
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the EP&A Act)	Section 96AA Application to modify a consent determined by the NSW Land and Environment Court, pursuant to Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • List all of the relevant environmental planning instruments: s79C(1)(a)(i) <ul style="list-style-type: none"> ◦ Botany Bay Local Environmental Plan 2013. • List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii); <ul style="list-style-type: none"> ◦ Nil • List any relevant development control plan: s79C(1)(a)(iii); <ul style="list-style-type: none"> ◦ Botany Bay Development Control Plan 2013. • List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv); <ul style="list-style-type: none"> ◦ Nil • List any coastal zone management plan: s79C(1)(a)(v) <ul style="list-style-type: none"> ◦ Nil • List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> ◦ Nil
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural plans prepared by Fox Johnston

Report prepared by	Katerina Lianos – Development Assessment Planner
Report date	15 May 2017

RECOMMENDATION

It is recommended that the Sydney Central Planning Panel resolve in pursuant to Section 96(AA) of the Environmental Planning and Assessment Act 1979, in respect of Development Consent No. DA-14/306 for the demolition of existing structures and erection of a 12 storey hotel building containing 150 rooms over eight levels and four levels of car parking for 60 vehicles (one at grade and three above ground) at 113-121 Baxter Road, Mascot. To convert the plant rooms on the car park levels 2 and 3 to a gym (for hotel guests only) and a staff room respectively.

EXECUTIVE SUMMARY

The Development Application was subject to a Land and Environment Court appeal against Councils deemed refusal. An amended proposal was presented to the Joint Regional Planning Panel (JRPP) for determination, the Panel approved the amended proposal on 4 May 2015. The proposal was scheduled for a Section 34 consolidation conference on 6 May 2015, the matter was resolved on 6 May 2015 and sealed orders were provided on 25 May 2015. The Joint Regional Planning Panel approved the revised proposal being demolition of existing structures and erection of a 12 storey building containing an eight storey hotel with 150 rooms and four levels of car parking for 60 vehicles (one at grade and three above ground).

The subject Section 96(AA) to DA-14/306 is to convert the plant rooms on the car park levels 2 and 3 to a gym (for hotel guests only) and a staff room respectively for the approved hotel. The application was notified for 14 days from 5 October 2016 to 19 October 2016, no submissions were received.

The key issue relates to the increase in the overall floor area by 97.87m², this will result in an exceedance to the approved FSR from 3.13:1 to 3.19:1. As the subject application is a Section 96 modification, the applicant is not required to provide a Clause 4.6 variation. As there is no change to the external building footprint, the variance is supported.

SITE DESCRIPTION

The subject site is located on the northern side of Baxter Road with O’Riordan Street (State classified road) being located approximately 78m to the west of the site and Botany Road, being located approximately 575m to the east of the site. The subject site is currently under construction for the approved proposal. The site has a total area of 1,481m² and is generally rectangular in shape. The site has a primary Southern frontage of 45.95m along Baxter Road and a northern boundary of 42.37m in length which partially abuts the existing Quest Hotel to the north. The western boundary is approximately 33.385m with the eastern boundary of 34.01m in length.

Immediately to the east of the site is Sydney Water land and further to the east along Baxter Road is residential development, typified by residential development of newer

To the west of the site along the northern side of Baxter Road is a mixture of commercial development including a car repair, vacant lot and two single level dwellings and smaller industrial/commercial buildings. Given the proximity of the subject site to the airport, development in the local area is mixed, commercial development – including hotel/motel accommodation is predominately located along to the west of O’Riordan Street whilst residential development is located to the east of O’riordan Street



- Conversion of approved plant room to staff room.

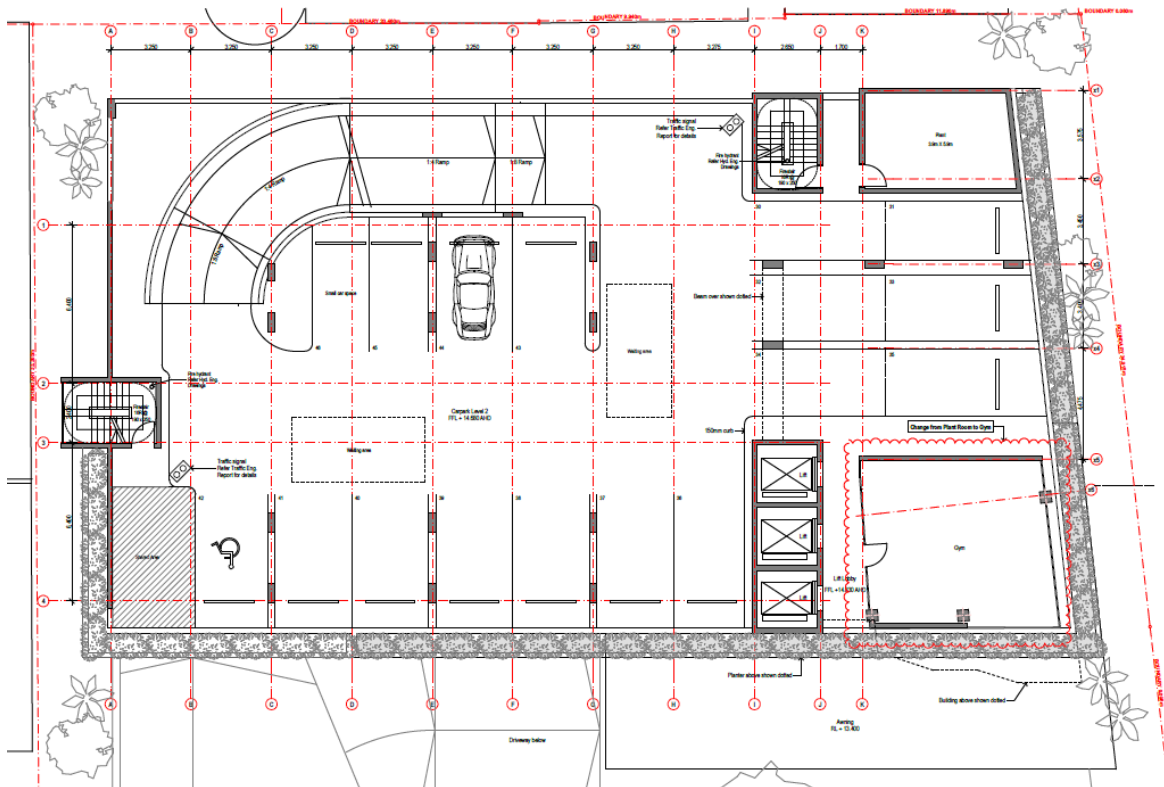


Figure 3: Carpark Level 2 floor plan extract

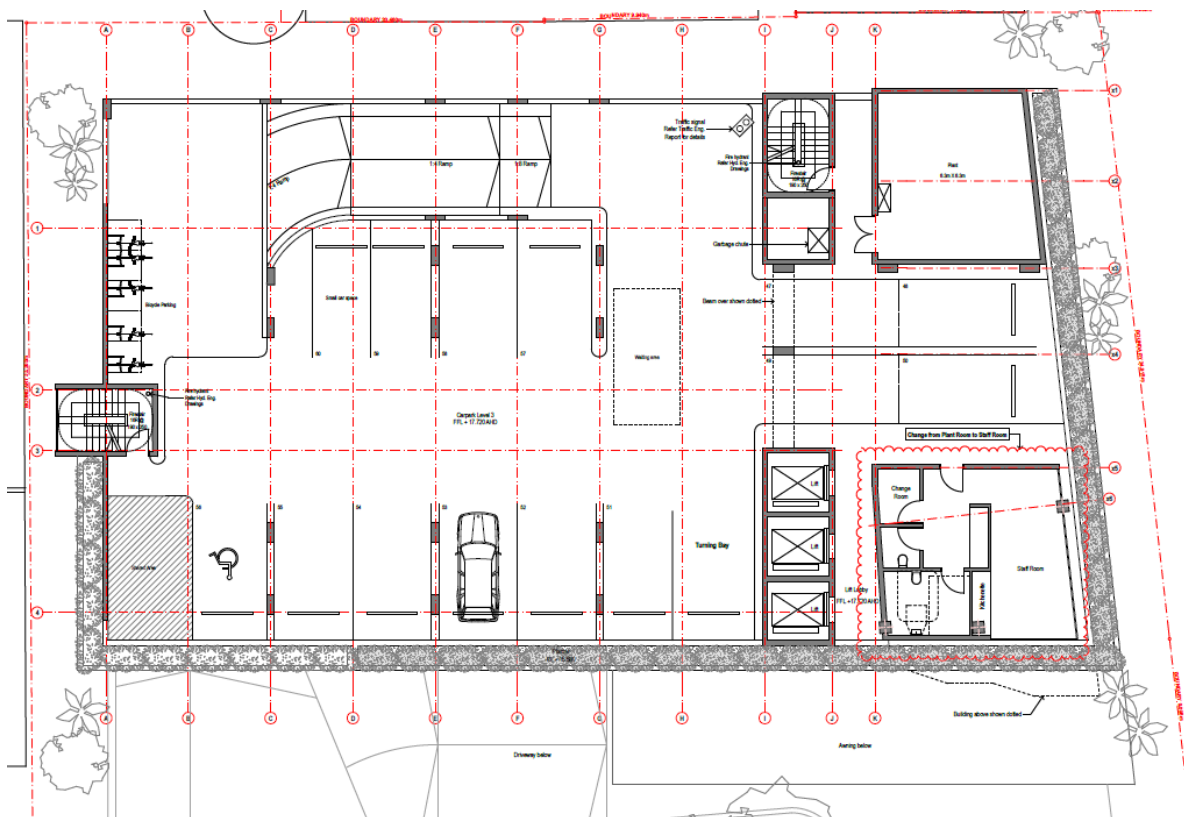


Figure 4: Carpark Level 3 floor plan extract

ASSESSMENT OF THE MODIFICATION

The applicant seeks to convert the existing plant rooms on the car park levels 2 and 3 to use these as a gym room for hotel guests and a staff room respectively. The applicant has advised that:

“Car park levels 2 and 3 have plant rooms approved in the north eastern and south eastern corners to which the northern plan rooms are adequate for the containment of plan and equipment required. The inclusion of these rooms within the overall gross floor area represents an increase from 4636.55m² (approved) to 4734.42m² (proposed) is 97.87m². This equates to a new FSR of 3.19:1 from the approved 3.13:1. In respect to operations and occupancy of these room changes, the gym room will only be used by hotel guests and will not operate commercially. Being for the use of guests only, there will be no intensification on parking requirements”.

The approved proposal did not accommodate a gym (for hotel guests only) or a staff room, as such the proposed modification will provide greater amenities to the hotel guests and staff. As there is no change to the building footprint or building façade, no objection is raised to this modification.

SECTION 79C CONSIDERATIONS

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

Botany Bay Local Environmental Plan 2013

The BBLEP define gross floor areas as:

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

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

The proposed modifications seek to change the use of the existing plant rooms (not defined as GFA under the BBLEP 2013) to a gym and staff room (defined as GFA), this will subsequently increase the overall floor area by 97.87m² resulting in an exceedance to the approved FSR from 3.13:1 to 3.19:1. As the subject application is a Section 96 modification, the applicant is not required to provide a Clause 4.6 variation. No changes are proposed to the building footprint or façade. The proposed modifications do not raise any concern or affect compliance in regards to the BBELP 3013.

Botany Bay Development Control Plan 2013

In accordance with the provisions of Part 7F Hotel and Motel Accommodation there are no controls that require proposal to provide gym and staff amenities. As such the proposed amendments will provide additional amenities to guests and staff within the existing envelope. The development shall remain compliant with the parking provisions of the DCP. The proposed modifications do not raise any concern or affect compliance in any way with the BBDCP 2013.

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

Although the proposed development seeks to increase the floor area for the approved development, no changes are proposed to the building footprint or façade. The proposed modifications will provide greater services for the hotel guests and improve staff amenities, and the additional floor area created by the conversion of the plant rooms will not increase the intensity of the use of the from that already approved.

(c) The suitability of the site for development.

The proposed modifications will provide additional services and amenities to guests and staff that were not previously provided in the original application. The changes will generate additional floor area within the existing building envelope. The site remains suitable for the proposed development.

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

In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the development application was notified for 14 days from 5 October 2016 to 19 October 2016.

(e) The public interest.

The proposal remains in the public interest.

SECTION 96 (AA) CONSIDERATIONS

In considering the Section 96(AA) Application, the matters listed in Section 79C and Section 96(AA) of the *Environmental Planning and Assessment Act 1979* have been taken into consideration in the preparation of this report as follows:

(a) The modification is of minimal environmental impact;

The subject application seeks to make internal modifications to the approved building to provide greater services and amenities to guests and staff respectively. The proposal seeks to retain the approved number of rooms as such no additional parking or traffic will be generated by the proposal. In addition no changes are proposed to the building footprint or façade. The environmental impacts as a result of the modification are minimal and acceptable.

(b) The modification results in substantially the same development as originally approved;

The development as originally approved is for a the erection of a 12 storey building containing an eight storey hotel with 150 rooms and four levels of car parking for 60 vehicles (one at grade and three above ground). The proposed modifications seek to amend the use of the existing floor area from plant rooms (not defined as GFA) to a gym and staff room (defined as GFA). In accordance with the definition of *Gross Floor Area* under the BBLEP 2013 the proposed modifications will generate additional 97.87m² floor area to the approved development.

As the proposed changes are within the existing building envelope, do not increase the number of approved rooms, the intensity of the use, or amend the façade of the building, the proposed modifications, will result in a development that is substantially the same as that which was originally approved.

(c) The modification is notified in accordance with the regulations or the DCP;

In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the development application was The application was notified for 14 days from 5 October 2016 to 19 October 2016.

(d) Any submissions have been considered

No Submissions were received.

CONCLUSION

The Section 96(AA) application seeking to modify Development Consent No. 14/306 to convert the plant rooms on the car park levels 2 and 3 to a gym (for hotel guests

only) and a staff room respectively is supported. The additional floor area generated by the proposed changes is within the existing envelope and as such will have minimal impact. The application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval.

RECOMMENDATION

It is recommended that the Panel resolve in pursuant to Section 96(AA) of the Environmental Planning and Assessment Act 1979, in respect of Development Consent No. DA-14/306 for the demolition of existing structures and erection of a 12 storey hotel building containing 150 rooms over eight levels and four levels of car parking for 60 vehicles (one at grade and three above ground) at 113-121 Baxter Road, Mascot resolve to approved the following:

1. Amend Condition 1, to refer to the modified plans; and
2. Amend Condition 75, to refer to the subject application.

Premises: 113-121 Baxter Road, Mascot

DA No: 14/306/02

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

Drawing No.	Author	Dated Received by Council
Architectural Plans, Elevations and Sections and Drawing No.:	Fox Johnston	25 March 2015
DA0.00 Cover Sheet (Issue B)	Fox Johnston	25 March 2015
DA0.01 Site Analysis & Demolition Plan (Issue A)	Fox Johnston	25 March 2015
DA0.02 Site Plan (Issue B) (Issue C)	Fox Johnston	25 March 2015 15 September 2016 (DA-14/306/02)
DA1.01 Ground Floor Plan (Issue C)	Fox Johnston	25 March 2015
DA1.02 Level 1 Carpark (Issue C)	Fox Johnston	25 March 2015

Drawing No.	Author	Dated Received by Council
DA1.03 Level 2 Carpark (Issue C) (Issue D)	Fox Johnston	25 March 2015 15 September 2016 (DA-14/306/02)
DA1.04 Level 3 Carpark (Issue B) (Issue C)	Fox Johnston	25 March 2015 15 September 2016 (DA-14/306/02)
DA1.05 Level 1 (Issue C)	Fox Johnston	25 March 2015
DA1.06 Level 2-6 Typical Plan (Issue C)	Fox Johnston	25 March 2015
DA1.07 Level 7 (Issue C)	Fox Johnston	25 March 2015
DA1.08 Sky Lobby(Issue C)	Fox Johnston	25 March 2015
DA1.09 Roof Plant (Issue B)	Fox Johnston	25 March 2015
DA1.10 Roof Plan (Issue C)	Fox Johnston	25 March 2015
DA2.01 Section AA (Issue C)	Fox Johnston	25 March 2015
DA2.02 South Elevation (Issue B) (Issue C)	Fox Johnston	25 March 2015 15 September 2016 (DA-14/306/02)
DA2.03 East Elevation (Issue B) (Issue C)	Fox Johnston	25 March 2015 15 September 2016 (DA-14/306/02)
DA2.04 North Elevation (Issue B)	Fox Johnston	25 March 2015
DA2.05 West Elevation (Issue B)	Fox Johnston	25 March 2015
DA2.06 Façade Sections (Issue B)	Fox Johnston	25 March 2015
DA3.02 Shadow Diagram 9am Jun21 Proposed (Issue B)	Fox Johnston	25 March 2015
DA3.04 Shadow Diagram 12pm Jun21 Proposed (Issue B)	Fox Johnston	25 March 2015
DA3.06 Shadow Diagram 3pm Jun21 Proposed (Issue B)	Fox Johnston	25 March 2015
DA4.01 Schedule of Finishes	Fox Johnston	25 March 2015
S34 Modifications Condition 22(e)	Fox Johnston	10 May 2015

Drawing No.	Author	Dated Received by Council
and (f)		
Landscape Plans DA01 – Ground Floor DA02 – Car park level 2 Typical Level & Schedule DA-03 – Elevation and Plant Schedule	JILA	16 December 2014
Stormwater Drainage Plans, Drawing Nos.: STW - 001 Stormwater Service Ground Level Rev 01 STW 002 Roof Level Rev 01 STW 003 Detail Sheet Rev 01 SW04 Concept Stormwater Design Details Rev A	IGS	16 December 2014

Document(s)	Author	Date received by Council
Statement of Environmental Effects	ABC Planning	16 December 2014
Construction Management Plan/ Traffic Management Plan	Construction rescue Services	16 December 2014
Waste Management Plan	Baxter International Hotel	16 December 2014
Environmental Site Assessment Report No E1909 AA Rev 2 dated 18 June 2014	Environmental Investigations Australia	16 December 2014
BCA Capability Report	Vic Lilli & Partners	16 December 2014
Traffic Impact Assessment	Traffix	16 December 2014
Acoustic Report	Acoustic Logic	16 December 2014
ESD & Energy Efficient Report	SLR	16 December 2014

Document(s)	Author	Date received by Council
Reflectivity Assessment	SLR	16 December 2014
Qualitative Wind Turbulence Report (1 report, 1 Letter) Dated 4 December 2014	SLR	16 December 2014
Clause 4.6 Variation	ABC Planning	16 December 2014

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

2. This Consent relates to land in Lot 620 DP1031958 and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public works required by this consent.
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.
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia; and
 - b) The limitations of the BCA Performance Provision FP1.5 do not apply to the Class 7 part of the building.
5. No additional signage, other than signage permitted as exempt or complying development, shall be installed or displayed at the premises without a development application being lodged with Council and consent thereto being given by Council in accordance with Council's guidelines and SEPP 64.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

6. The following conditions are imposed by the Ausgrid:

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

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

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

- a) The PROPERTY DEVELOPMENT at 113 BAXTER ROAD MASCOT lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of this Corporation.
- b) The Civil Aviation Safety Authority (CASA) have no objection to the proposed development to a maximum height of 48.050 metres above Australian Height Datum (AHD).
- c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
- d) Should you wish to exceed the above height, a new application must be submitted. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. SACL advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by SACL prior to any approval is to include:
 - i) the location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
 - ii) the swing circle of any temporary structure/equipment used during construction;
 - iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;

- iv) the period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
- e) Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.
- f) For further information on Height Restrictions please contact Mr Peter Bleasdale on 02 9667 9246.
- g) Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by a fine of up to 50 penalty point.
- h) The height of the prescribed airspace at the site is 51.0 metres above Australian Height Datum (AHDO). In accordance with Regulation 9 of the Airports (Protection of Airspace) regulations Statutory Rules 1996 No 293, “a thing to be used in erecting the building, structure or thing would, during the erection of the building, structure or thing, protrude into PANS OPS airspace for the Airport, cannot be approved.

Bird and Obstacle Hazard Management

- i) The area in which the proposed development is located is in the vicinity of Sydney (KS) Airport. To minimise the potential for bird habitation and roosting, the Proponent must ensure that non-bird attracting plant species are used in any landscape design.
- j) Any landscaping design must minimise the attractiveness for foraging birds, i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted.
- k) All trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.

Planning for Aircraft Noise and Public Safety Zones

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

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

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

8. The applicant must prior to issue of the Construction Certificate, pay the following fees:

a) Builders Security Deposit	\$137, 865.00;
b) Development Control	\$1,350.00
c) Tree Maintenance Bond	\$6,000.00
d) Section 94 Contribution	\$192,782.86
e) Construction of Cul-de-sac	\$30,000.00

9. Prior to the issue of any Construction Certificate, the applicant shall pay \$30,000 towards the construction of a cul-de-sac at the eastern end of Baxter Road.

10. Section 94 Contributions are required to be paid in accordance with Condition 8(d) above, The City of Botany Bay being satisfied that the proposed development will increase demand for services and facilities within the area, and in accordance with Council's Section 94 Contribution Plans 2005-2010 a sum of **\$192,782.86 (indexed as of April 2015)** listed below towards the provision of services is to be paid to Council prior to the issuing of an Construction Certificate.

i) Community Facilities	\$20,242.00
ii) Administration	\$3,074.00
iii) Shopping Centre Improvements	\$13,108.00
iv) Open Space & Recreation	\$142,680.00
v) Transport Management	\$13,678.86

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

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

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a

distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

12. Prior to the issue of a Construction Certificate and subject to the approval of the Civil Aviation Safety Authority (CASA), the applicant is to provide roof-mounted solar collector panels below a height of RL48.050m AHD to the rooftop area of the building. The collectors shall collect sufficient electricity to supply at least 20% of the building's energy requirements. Details of the panel system are to be provided with the Construction Certificate, including the approval of CASA.
13. A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:
 - a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) Access to and egress can only be obtained from O'Riordan Street to Baxter Road and at no times shall construction vehicles approach the site from Botany Road to Baxter Rd.
 - c) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - d) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
 - e) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - f) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
 - g) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
 - h) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,

- i) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- j) Proposed protection for Council and adjoining properties, and
- k) The location and operation of any on site crane.

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

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

14. A detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:

- a) be prepared by a RMS accredited consultant,
- b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police,
- c) during construction, access can only be obtained to Baxter Road from O'Riordan Street.
- d) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

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

15. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:

- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1.
- b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.

16. Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.
17. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval.

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

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

- a) Provision of an On-site Infiltration system in accordance with but not limited to Part 5 of the SMTG. A part infiltration, part OSD system may be considered in exceptional circumstances when it can be demonstrated to Council that all other options to regulate the discharge from the site have been exhausted,
- b) Infiltration rates shall be determined by a suitably qualified geotechnical engineer and shall be part of the geotechnical report submitted to Council or alternatively the rate of 0.25L/m²/s shall be used,
- c) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of Botany Bay’s SMTG,
- d) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a “fully tanked” structure,
- e) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- f) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater infiltration system,
- g) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay’s SMTG,
- h) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- i) Any proposed discharge to Council and/or RMS Kerb and Gutter shall be limited to 10L/s. If a higher rate is proposed, a connection shall be made to RMS/Council’s underground stormwater drainage system. Any

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

- j) The submission of detailed calculations including computer modelling where required to support the proposal
18. The measures in the acoustical report prepared by Acoustic Logic, received by Council 12 December 2013, shall be undertaken in accordance with the provisions of AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.
19. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to the release of the construction certificate.

This plan shall incorporate and reference the construction environmental management plan and address site limitations

20. Should any excavation occur at a level equivalent to 5m below existing ground level at the lowest point of the site an Acid Sulfate Soils Management Plan (prepared by a suitably qualified and experienced environmental/geotechnical consultant) shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
 - b) Management of acid sulfate soil affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate soil affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.

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

21. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,

- b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:

- i) The additional load on the system, and
- ii) The relocation and/or adjustment of the services affected by the construction.

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

22. The landscape areas shown on the concept plan by *JILA, DA01-DA03, Rev 00 dated 25 November 2014* shall be the subject of detailed landscape construction documentation (plans and specifications) submitted to and approved by the City of Botany Bay's Landscape Architect. The landscape documentation is to be prepared by a suitably qualified landscape architect, in accordance with DCP 2013. The detailed (construction level) plan shall include, but not be limited to:

- a) A detailed planting plan at 1:100 scale showing all plant locations, centres, numbers and pot sizes. there is to be a dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas.
- b) All trees shall be min. 100 litre.
- c) Details of the proposed climbing frame/trellis for all areas proposed.
- d) Details for landscaping at the rear boundary and planter boxes required.
- e) Relocation of the fire hydrant booster assembly and gas meter/regulator assembly in the front setback to alternative location out of the setback or within the basement/level 1 as per other utilities as indicated on the plan prepared by Fox Johnston, titled S34 Modifications – Conditions 22(e) and (f), dated 8 May 2015.
- f) An increase in width to the main planter in the front setback to achieve DCP compliance of 3m where it doesn't interfere with turning paths. as indicated on the plan prepared by Fox Johnston, titled S34 Modifications – Conditions 22(e) and (f), dated 8 May 2015.
- g) areas of paving, schedule of materials, edge treatments and sectional construction details.
- h) all fencing, privacy screening and pergolas – elevations and materials.
- i) Planter box on slab sectional details. Planter box depths to be in accordance with Council's DCP which requires 900mm soil depth for planting trees.
- j) Trees shall be used extensively throughout the site and be of an appropriate scale to ameliorate and soften buildings and provide a

measure of screening and privacy for adjoining landuses. Deep soil zones (side/rear setbacks) must include larger canopy trees. Trees to be predominantly native, evergreen species.

23. A public domain improvements plan shall be submitted for approval by Council for the length of the frontage of the site on the northern side of Baxter Road. The plan shall be undertaken by a suitably experienced landscape architect and shall include, but not be limited to, new street tree planting, incorporation of existing street trees, upgrading full width segmental footpath paving with tree pit cut outs (to Council specification), street tree pit treatments and tree guards (where required). The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications only. Pavers shall be ordered accounting for adequate lead time for manufacture.

The plan shall be in accordance with Council specification and requirement. Civil drawings shall be included providing levels and detailed footpath construction sections in accordance with Council's engineering and landscape requirements and are required to align with the landscape drawings.

24. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743.
 - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
25. 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) (a) the Food Act 2003,
- b) (b) Food Regulations 2004;
- c) (c) the Food Standards Code as published by Food Standards Australia and New Zealand; and
- d) (d) the Australian Standard AS 4674-2004: Construction and fit out of food premises.

Details to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

- 26. 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.
- 27. Prior to the issue of the construction certificate, amended plans showing a widened vehicle crossing to at least 12.5m with swept path diagrams to show the bus can manoeuvre on site through the utilisation of the loading dock to turn be submitted to Council and the Principal Certifying Authority.

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

- 28. The Development is to be constructed to meet the requirements detailed in the approved acoustic report (Acoustic Logic, Council Dated 16 December 2014), and the following construction noise requirements:
 - a) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guidance 2009 and the *Protection of the Environment Operations Act 1997*.
 - b) Time Restrictions
 - i) Monday to Friday 07:00 am to 06:00 pm
 - ii) Saturday 07:00 am to 04:00 pm
 - iii) No Construction to take place on Sundays or Public Holidays.
 - c) All possible steps should be taken to silence construction site equipment.
 - d) Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A free copy of the sign is available from Council's Customer Service Counter.

29. 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 three (3) month period after the completion of the development, where necessary.

30. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
31. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

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

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

32. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate:
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
 - c) Permit for roads and footways occupancy (long term/ short term);
 - d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve;

- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever;
- f) Permit to place skip/waste bin on footpath and/or nature strip;
- g) Permit to use any part of Council's road reserve or other Council lands;
- h) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area;

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

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

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

33. 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;
 - i) Each toilet provided:
 - ii) must be standard flushing toilet; and,
 - iii) 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.
- b) The provisions of toilet facilities in accordance with this clause must be completed before any other work is commenced.

34. To ensure that the 2 existing Council street trees are protected during construction, the following is required :

- a) Prior to commencing demolition the trees are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence hessian to form the tree protection zone (TPZ). the fence shall remain in place until construction is complete. fencing shall be erected to ensure the public footway is unobstructed.
- b) All detailed construction certificate plans shall show trees to be protected and the TPZ.
- c) The TPZ's are a "no-go" zone. there shall be no access to the property, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, no excavation or filling, no service trenching.
- d) where unavoidable foot access is required in the tpz, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- e) Excavation within the canopy dripline or within an area extending 1 metres outward of the canopy dripline shall be carried out manually using hand tools to minimise root damage. Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's tree officer.
- f) Ensure that there is no damage to the canopy, trunk or root system of any tree. There shall be no canopy pruning unless approval has been granted by council's tree officer under separate application.
- g) There shall be no trenching for new subsurface utilities within the primary root zone of any street tree. Any such structures in close proximity to trees must accommodate tree roots without damage or pruning.

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

35. 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.

36. All works carried out on the public roads shall be inspected and approved by Council's Engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
- a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
 - b) Prior to placement of concrete (kerb and gutter and footpath);
 - c) Prior to construction and placement of road pavement materials; and
 - d) Final inspection.

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

DURING WORKS

37. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist and must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation
 - d) DECC Waste Classification Guidelines 2008.
38. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
39. The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Acid Sulfate Soil Management Plan required to be submitted prior to the construction certificate including:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil; and
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and

- d) Run-off control measures for the acid sulfate affected soil.
40. 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.
41. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
42. During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
43. 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.
- 44. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
- 45.
 - a) All imported fill shall be validated in accordance with Department of Environment and Conservation approved guidelines to ensure that it is suitable for the proposed development from a contamination perspective. Imported fill shall be accompanied by documentation from the supplier, which certifies that the material is suitable for the proposed residential/recreational land use and not contaminated based upon analyses of the material;
 - b) Any soil disposed of offsite shall be classified in accordance with the procedures in the Department of Environment and Climate Change Waste Classification Guidelines (2008), prior to being disposed of to a NSW approved landfill or to a recipient site;
 - c) Any material containing asbestos found on site during excavation shall be removed and disposed of in accordance with:
 - i) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10sqm of bonded asbestos and/or any friable asbestos;
 - ii) Protection of the Environment Operations Act 1997;
 - iii) Protection of the Environment Operations (Waste) Regulation;
 - iv) DECC Waste Classification Guidelines 2008.

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

- 46. All construction works of the new driveways shall be undertaken in accordance with the approved Engineer design as identified in Condition No. 31 and shall be completed to the satisfaction of the Engineering and Regulatory Services Department at no cost to Council.
- 47. Prior to the issue of the Occupation Certificate:
 - a) Replace all the existing above ground electricity and telecommunication cables to underground cables that adjoin the frontage of the site and road reserve area on the northern side of Baxter Road in accordance with the

guidelines and requirements of the relevant utility authorities and Ausgrid. The applicant shall bear all the cost of the construction and installation of the below ground cables and any necessary adjustment works. These works and payments shall be completed prior to the issue of the Occupation Certificate; and

- b) Provide appropriate and suitable street lighting to a high decorative standard to the street frontage of the site (northern side of Baxter Road) together with those internally publicly accessible paths, spaces and corridors, so to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements.
48. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
49. 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.
50. Prior to the issue of the Occupation Certificate the Workplace Travel Plan needs to be updated to address its implementation strategy and success measures.
51. Prior to the issue of the Occupation Certificate the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustical assessment report prepared by Acoustic Logic Consultancy Pty Ltd, updated and received by Council 16 December 2014 have been carried out and certify that the construction meets AS2021-2000 and AS3671-1989 and specified indoor sound levels. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australia Acoustical Consultants).
52. Prior to the issue of the Occupation Certificate, documentation from a suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying that the loading dock, pick-up/drop-off zone, car parking areas (including queuing area, turning area and disabled parking area), driveways and vehicular access paths have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6 requirements. The internal parking facilities shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standards.
53. Prior to the issue of the Occupation Certificate, minimum of **sixty (60)** off-street car parking bays shall be provided to the development in accordance with the approved architectural plans.

54. Prior to the issue of the Occupation Certificates, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
55. Prior to the issue of Occupation Certificate, the applicant shall carry out the following works:
- On Baxter Road frontage to development on the northern side of Baxter Road, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications,
 - On Baxter Road frontage to development on the northern side of Baxter Road, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications, and
 - On Baxter Road, frontage to the development on the northern side of Baxter Road, reconstruct road asphalt damaged as a consequence of the development works, in accordance with Council's Infrastructure Specifications.
56. Prior to the issue of the Occupation Certificate a sign shall be erected within or adjacent to the garbage room encouraging residents/guests to recycle and not place recyclables into waste bins. The sign shall be a minimum of A3. Details of an acceptable wording for the sign are available from Council's Internet site at <http://www.botanybay.nsw.gov.au>.
57. Prior to the issue of the Occupation Certificate the operator shall enter into a commercial contract for the collection of trade waste and recyclables arising from the premises. A copy of all contracts and receipts shall be kept on the premises and made available to Council Officers on request.
58. In order to ensure that the constructed rainwater re-use and OSD/absorption system will be adequately maintained, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. The relative location of the system, in relation to the building footprint, shall be shown on a scale sketch, attached as an annexure to the plans/ forms. Proof of lodgement shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate. The applicant shall not withdraw the application without the prior approval of Council.
59. Prior to the issue of the Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.

60. Prior to the issue of the Occupation Certificate the applicant is responsible for the installation and protection of all regulatory/parking/street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
61. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and to council's satisfaction at all times.
- a) An experienced landscape contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to council requirements.
 - b) The contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
 - c) At the completion of landscaping on the site, the applicant is required to obtain a certificate of compliance from the landscape consultant to certify that the landscaping has been installed in accordance with the council approved landscape plan. The certificate is to be submitted to the City of Botany Bay Council prior to the issue of an occupation certificate.
62. The public domain works in front of the development site (the northern side of Baxter Road) is subject to construction hold points and council inspections at the following points :
- i) after formwork installation and to prior pouring the concrete blinding slab,
 - ii) at the commencement of paving works, and
 - iii) at final completion.

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

63. Prior to the issue of the Occupation Certificate:
- a) Lighting (lux) levels for this development including the Porte Cochere area must include the installation of low glare/high uniformity lighting levels in line with Australian Standard AS:1158. Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens). The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis.

- b) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill; and,
- c) All lighting shall comply with AS4282-1997 Control of the obtrusive effects

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

- 64. A shuttle bus required to service the Hotel must be provided to transport occupants to and from the development site to the Sydney Airport. Should the shuttle bus no longer be provided, for whatever reason a separate development application shall be submitted to Council to provide an alternative travel and parking arrangement for the use.
- 65. The bus zone and pick-up/drop-off zone shown on the approved architectural plans shall be set aside for bus and pick-up/drop-off purpose only and shall not be used for other purposes. No vehicles shall be permitted to park in these areas.
- 66. The operations of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
- 67. 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.
- 68.
 - a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA₉₀ level (in the absence of the noise under consideration).
 - b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 69. All waste and recycling containers shall only be collected during daylight hours.

70. 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.

71.

- a) The approved Waste Management Plan for the site prepared by (Fox Johnston, dated 16 December 2014) shall be complied with at all times during demolition works, construction works, and use of the premises; and
- b) The building owner shall be provided with at least one copy of the waste management plan. The approved Waste Management Plan shall be complied with at all times.

72. The operation of the development and movements of vehicles shall comply with the following requirements:

- a) The largest size of vehicle accessing the development shall be restricted to HRV;
- b) Garbage collection and loading and unloading activities associated with the delivery shall take place wholly within the loading dock;
- c) Qualified traffic controllers shall be present when the delivery/service vehicle reverses to the loading dock;
- d) No deliveries to the premises shall be made direct from a public places, public streets or any road related areas (eg. footpath, nature strip, road shoulder, road reserve etc);
- e) Vehicular manoeuvring area shall be kept clear at all times. All vehicles shall be parked in the marked parking bays;
- f) Maximum number of delivery vehicles on-site shall be limited to one (1).
- g) The loading dock must be clear of delivery or any other vehicles when the shuttle bus is manoeuvring on site.

73.

- a) The operations of the site must at all times fully comply with the requirements of the approved Plan of Management for the site; and
- b) At all times the approved Workplace Travel Plan shall be fully complied with.

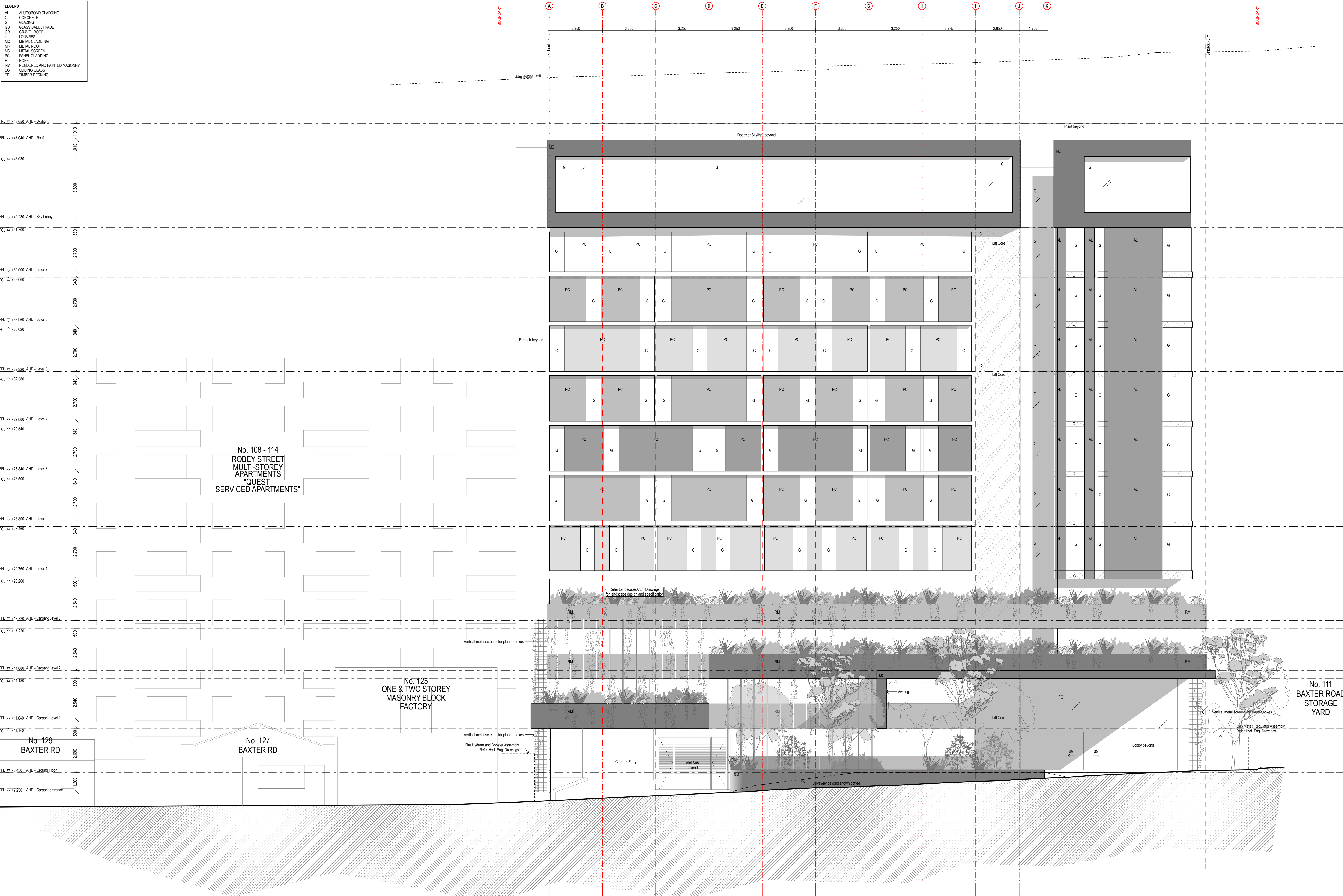
- c) The sub-leasing of car parking spaces is strictly prohibited.
- 74. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or similar vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.
- 75. 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. 14/306 dated as 16 December 2014, ***and as amended by Section 96(AA) application No. 14/306/02 dated 13 September 2016*** and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

Advisory Note

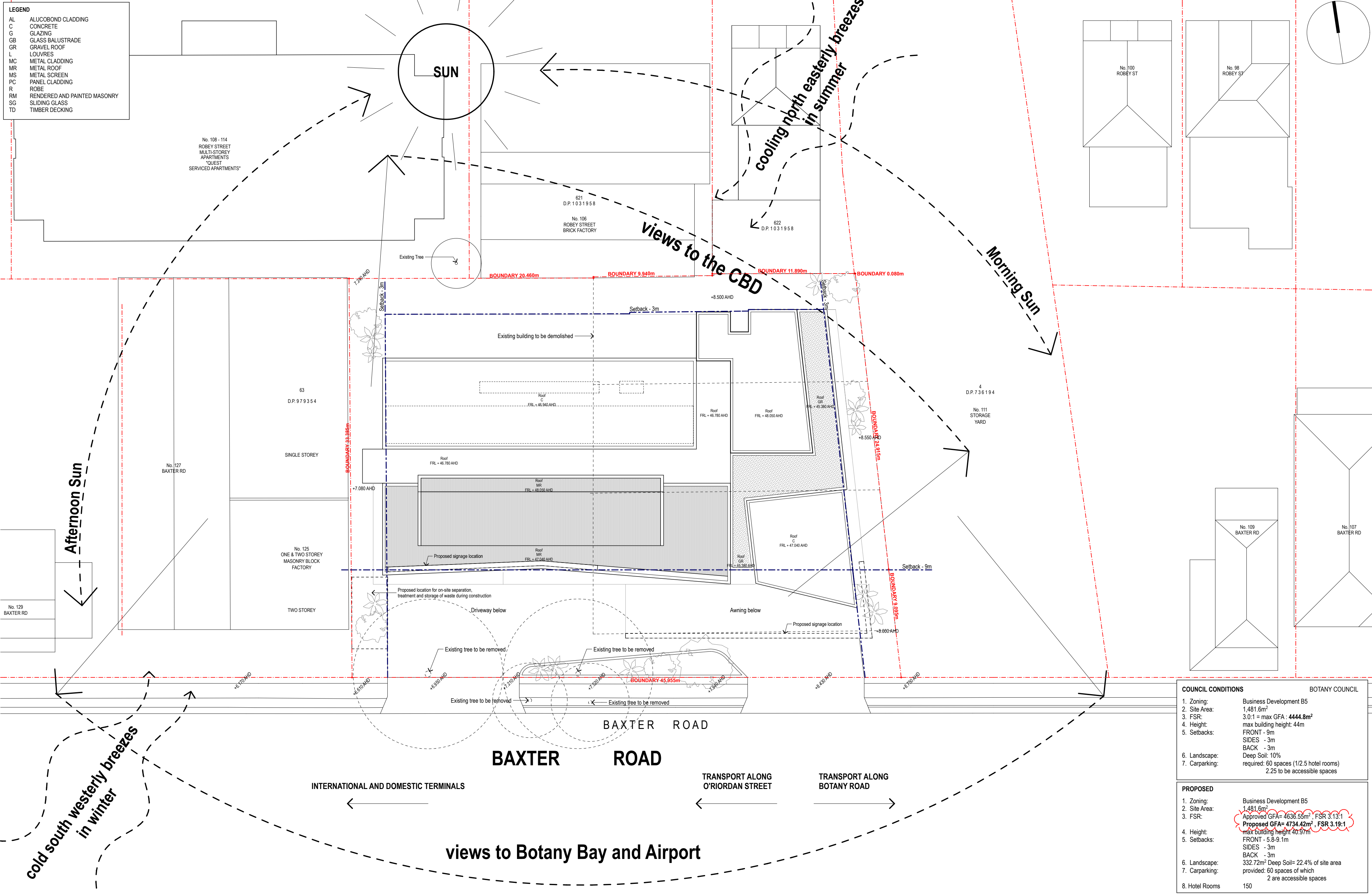
The following is advice by the NSW Police Service:

- a) As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
- b) The CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas that are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or more cameras should be strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance);
- c) Any proposed landscaping and vegetation should adhere to the following principles:
 - i) Shrubs bushes, plants should remain under 900mm in height;
 - ii) Branches or large trees should start at a height of two (2) metres and higher;
 - (a) This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
- d) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime;

LEGEND	
AL	ALUCOBOND CLADDING
C	CONCRETE
G	GLAZING
GB	GLASS BALUSTRADE
GR	GRAVEL ROOF
L	LOUVRES
MC	METAL CLADDING
MR	METAL ROOF
MS	METAL SCREEN
PC	PANEL CLADDING
R	ROBE
RM	RENDERED AND PAINTED MASONRY
SG	SLIDING GLASS
TD	TIMBER DECKING



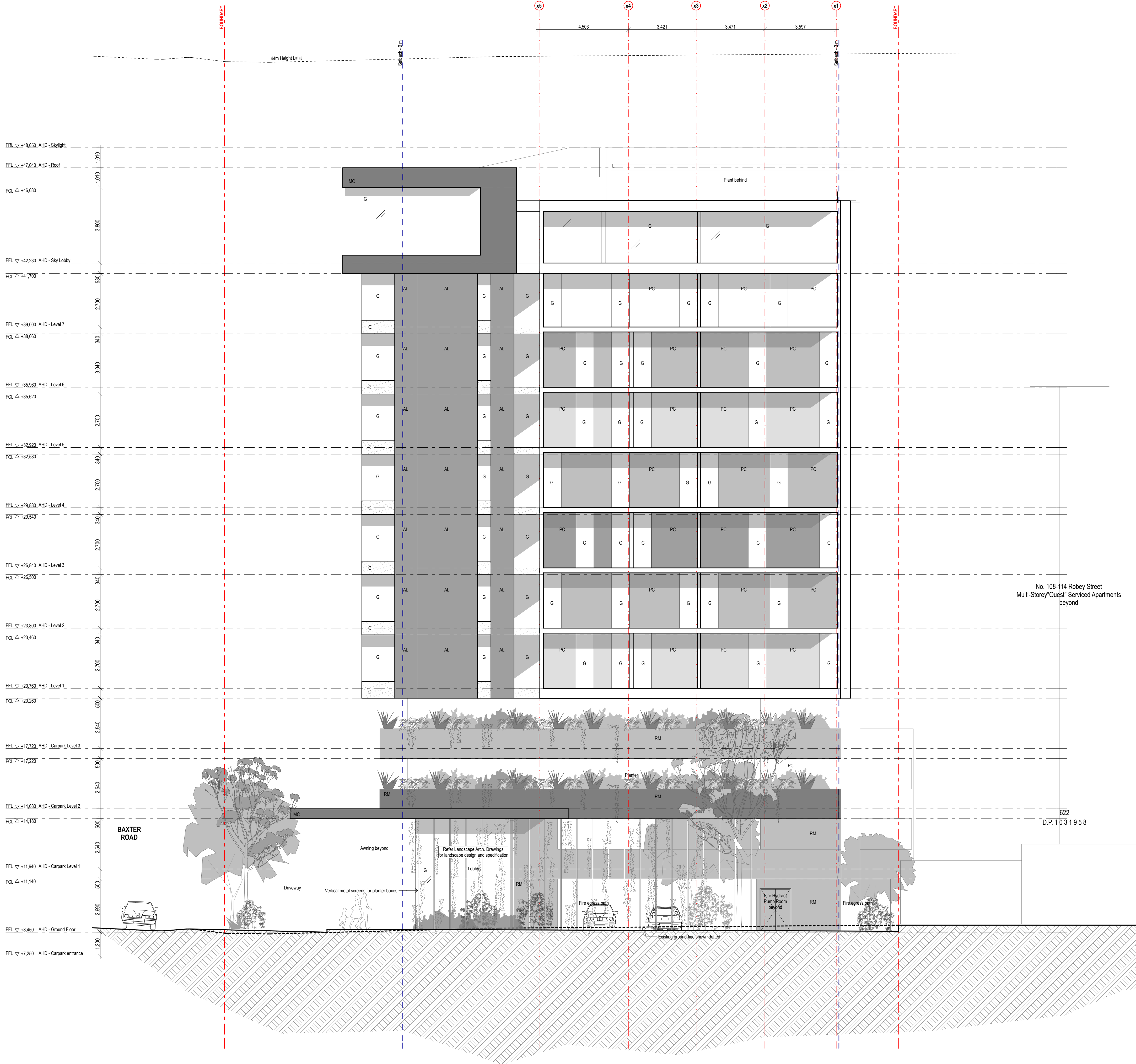
LEGEND	
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C	CONCRETE
G	GLAZING
GB	GLASS BALUSTRADE
GR	GRAVEL ROOF
L	LOUVRES
MC	METAL CLADDING
MR	METAL ROOF
MS	METAL SCREEN
PC	PANEL CLADDING
R	ROBE
RM	RENDERED AND PAINTED MASONRY
SG	SLIDING GLASS
TD	TIMBER DECKING



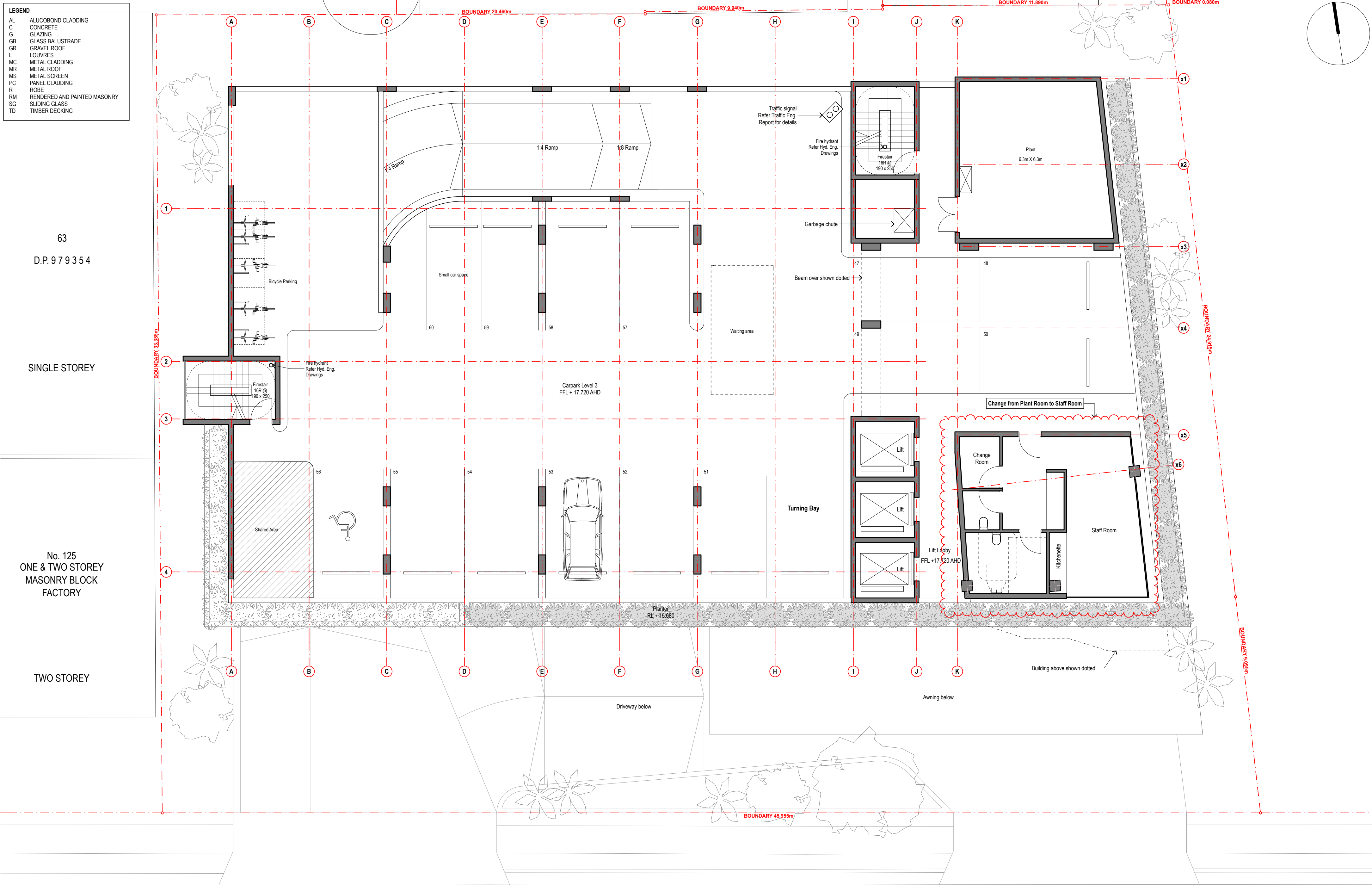
COUNCIL CONDITIONS		BOTANY COUNCIL	
1. Zoning:	Business Development B5	1. Zoning:	Business Development B5
2. Site Area:	1,481.6m ²	2. Site Area:	1,481.6m ²
3. FSR:	3.0:1 = max GFA: 4444.8m ²	3. FSR:	Approved GFA= 4636.55m ² , FSR 3.13:1
4. Height:	max building height: 44m	4. Height:	max building height: 40.97m
5. Setbacks:	FRONT - 9m SIDES - 3m BACK - 3m	5. Setbacks:	FRONT - 5.8-9.1m SIDES - 3m BACK - 3m
6. Landscape:	Deep Soil: 10%	6. Landscape:	332.72m ² Deep Soil= 22.4% of site area
7. Carparking:	required: 60 spaces (1/2.5 hotel rooms) 2.25 to be accessible spaces	7. Carparking:	provided: 60 spaces of which 2 are accessible spaces
8. Hotel Rooms	150	8. Hotel Rooms	150

<div>Fox Johnston</div>	<div>Level 1, 268A Devonshire Street, Surry Hills NSW 2010 Australia foxjohnston.com.au</div>	<div>T + 61 2 92112700 ABN - 63111324353 contact@foxjohnston.com.au</div>	<div>Client Baxter International Hotel Pty Ltd</div>	<div>Rev</div> <div>Description</div> <div>Drawn/Checked</div> <div>Date</div>	<div>ALL LEVELS TO AUSTRALIAN HEIGHT DATA IT IS THE CONTRACTORS RESPONSIBILITY TO CONFIRM ALL MEASUREMENTS ON SITE PRIOR TO COMMENCEMENT OF WORK. DRAWINGS SHOULD NOT BE SCALED. WRITTEN DIMENSIONS ONLY SHOULD BE TAKEN FROM DRAWINGS. DESIGN AND DRAWINGS REMAIN COPYRIGHT OF FOX JOHNSTON</div>	<div>Project The Baxter International Hotel</div>	<div>Job No.</div> <div>1304</div>	<div>Dwg No.</div> <div>Rev.</div>	<div>DA 0.02 C</div>
				<div>A</div> <div>DA Application</div> <div>BP/CJ</div> <div>31/10/14</div>			<div>Scale</div> <div>1:200 @ A2</div>		
				<div>B</div> <div>Revised DA</div> <div>SJ/CJ</div> <div>23/03/15</div>			<div>Date</div> <div>November 2013</div>		
				<div>C</div> <div>Section 96- Change to GFA</div> <div>SJ/CJ</div> <div>07/09/16</div>			<div>Drawn/Checked</div> <div>SJ/CJ</div>		
				<div></div> <div></div> <div></div> <div></div>					

LEGEND	
AL	ALUCLAD CLADDING
C	CONCRETE
G	GLAZING
GR	GRASS BALUSTRADE
GR	GRAVEL ROOF
L	LOUVRES
MC	METAL CLADDING
MR	METAL ROOF
MS	METAL SCREEN
PC	PANEL CLADDING
R	ROBE
RM	RENDERED AND PAINTED MASONRY
SG	SLIDING GLASS
TD	TIMBER DECKING



LEGEND	
AL	ALUCOBOND CLADDING
C	CONCRETE
G	GLAZING
GB	GLASS BALUSTRADE
GR	GRAVEL ROOF
L	LOUVRES
MC	METAL CLADDING
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Level 1, 268A Devonshire Street,
Surry Hills
NSW 2010 Australia
foxjohnston.com.au

T + 61 2 92112700
ABN - 63111324353
contact@foxjohnston.com.au

Client
Baxter International Hotel Pty Ltd

Rev	Description	Drawn/Checked	Date
A	Revised DA	SJ/CJ	20/03/15
B	Revised DA	SJ/CJ	23/03/15
C	Section 96 - Change of Plant to Staff Room	SJ/CJ	07/09/16

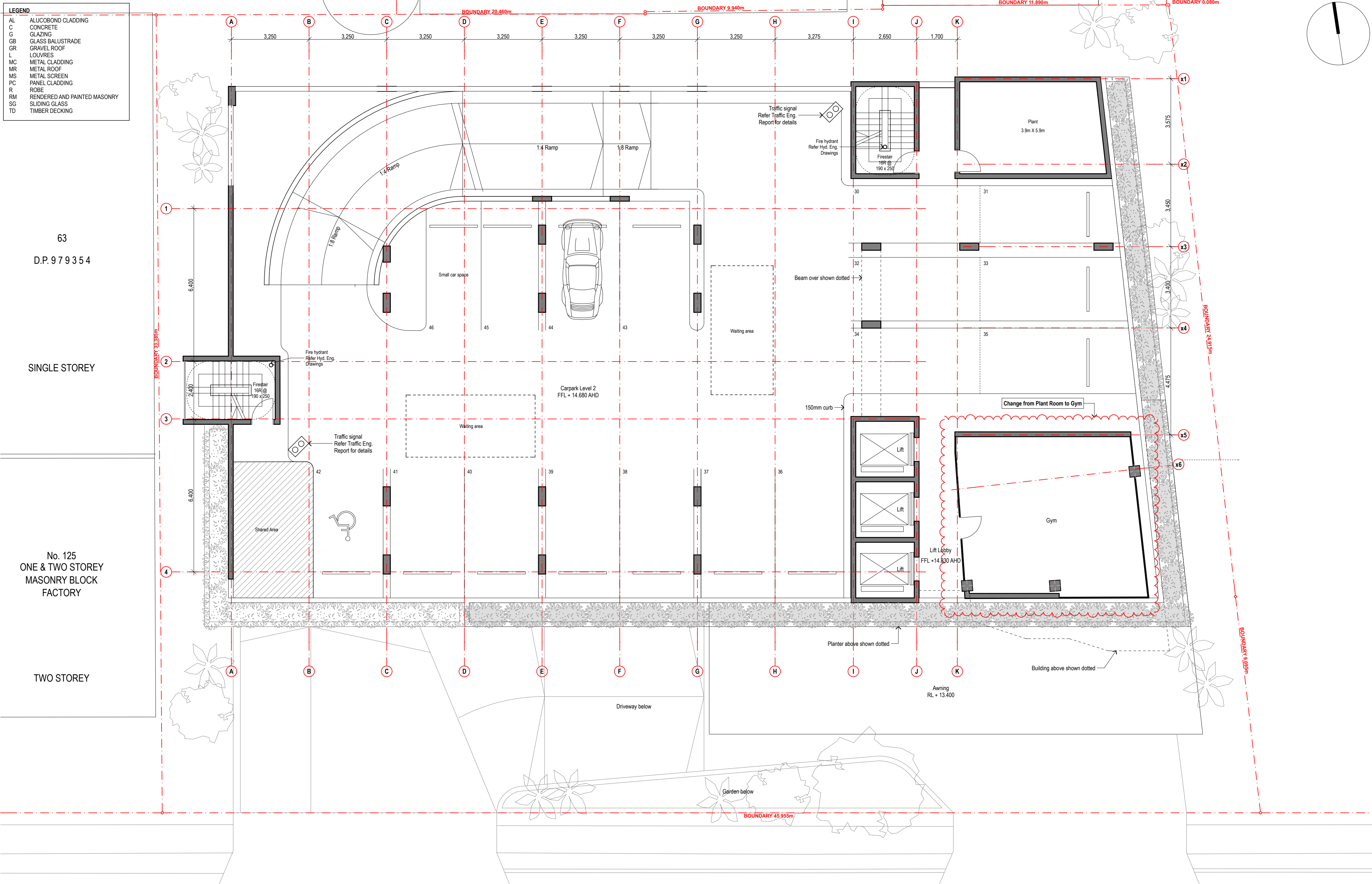
BAXTER ROAD

ALL LEVELS TO AUSTRALIAN HEIGHT DATA
IT IS THE CONTRACTORS RESPONSIBILITY TO CONFIRM ALL MEASUREMENTS ON SITE
PRIOR TO COMMENCEMENT OF WORK. DRAWINGS SHOULD NOT BE SCALED.
WRITTEN DIMENSIONS ONLY SHOULD BE TAKEN FROM DRAWINGS.

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Project	The Baxter International Hotel	Job No.	1304	Dwg No.	Rev.
Scale	1:100 @ A2	Date	October 2014	DA 1.04 D	
Title	Carpark Level 3	Drawn/Checked	BP/CJ		

LEGEND	
AL	ALUCOBOND CLADDING
C	CONCRETE
G	GLAZING
GB	GLASS BALUSTRADE
GR	GRAVEL ROOF
L	LOUVRES
MC	METAL CLADDING
MR	METAL ROOF
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<div>Fox Johnston</div>	<div>Level 1, 268A Devonshire Street, Surry Hills NSW 2010 Australia foxjohnston.com.au</div>	<div>T + 61 2 92112700 ABN - 63111324353 contact@foxjohnston.com.au</div>	<div>Client Baxter International Hotel Pty Ltd</div>	<div>Rev</div> <div>Description</div> <div>Drawn/Checked</div> <div>Date</div>	<div>ALL LEVELS TO AUSTRALIAN HEIGHT DATA IT IS THE CONTRACTORS RESPONSIBILITY TO CONFIRM ALL MEASUREMENTS ON SITE PRIOR TO COMMENCEMENT OF WORK. DRAWINGS SHOULD NOT BE SCALED. WRITTEN DIMENSIONS ONLY SHOULD BE TAKEN FROM DRAWINGS. DESIGN AND DRAWINGS REMAIN COPYRIGHT OF FOX JOHNSTON</div>	<div>Project The Baxter International Hotel</div> <div>Title Carpark Level 2</div>	<div>Job No.</div> <div>1304</div>	<div>Dwg No.</div> <div>Rev.</div> <div>DA 1.03 D</div>
				<div>A</div> <div>DA Application</div> <div>BP/CJ</div> <div>31/10/14</div>			<div>Scale</div> <div>1:100 @ A2</div>	
				<div>B</div> <div>Revised DA</div> <div>SJ/CJ</div> <div>20/03/15</div>			<div>Date</div> <div>October 2014</div>	
				<div>C</div> <div>Revised DA</div> <div>SJ/CJ</div> <div>23/03/15</div>			<div>Drawn/Checked</div> <div>BP/CJ</div>	
				<div>D</div> <div>Section 96- Change of Plant to Gym</div> <div>SJ/CJ</div> <div>07/09/16</div>				